

**Water Economics and Governance**  
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**Lecture – 56**  
**Water Dispute Management: Interstate Water Dispute Resolution**

Hi, everyone. In this session we are going to talk about the resolution of interstate water disputes primarily focusing on what are the constitutional provisions on that and what kind of practices has been involved in the resolution of the major interstate water disputes. So, that is what we will be discussing in about next half an hour.

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**Inter-State Water Disputes Resolution**

**Article 262 of Indian constitution:**

- 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.
- 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.

Source: <https://www.clearias.com/inter-state-river-water-disputes-india/>

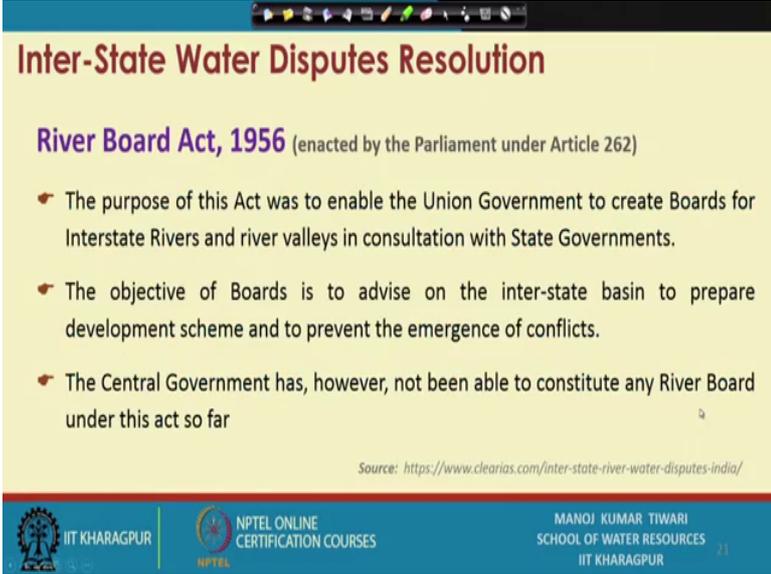
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To begin with the article 262 of our constitution says that parliament may by law provide for the adjust adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any interstate river or river valley.

So, the right to basically look after the disputes or interstate disputes are realized to the union. The government the central government has that power now 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.

So, these things were taken out of the jurisdiction of the court and the parliament was given authority by law to look after the adjudication of such disputes or complaints arising over the interstate river or river valleys. So, this was the article 262 of the Indian constitutions which provide the union government or central government the right to look after the disputes.

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**Inter-State Water Disputes Resolution**

**River Board Act, 1956** (enacted by the Parliament under Article 262)

- The purpose of this Act was to enable the Union Government to create Boards for Interstate Rivers and river valleys in consultation with State Governments.
- The objective of Boards is to advise on the inter-state basin to prepare development scheme and to prevent the emergence of conflicts.
- The Central Government has, however, not been able to constitute any River Board under this act so far

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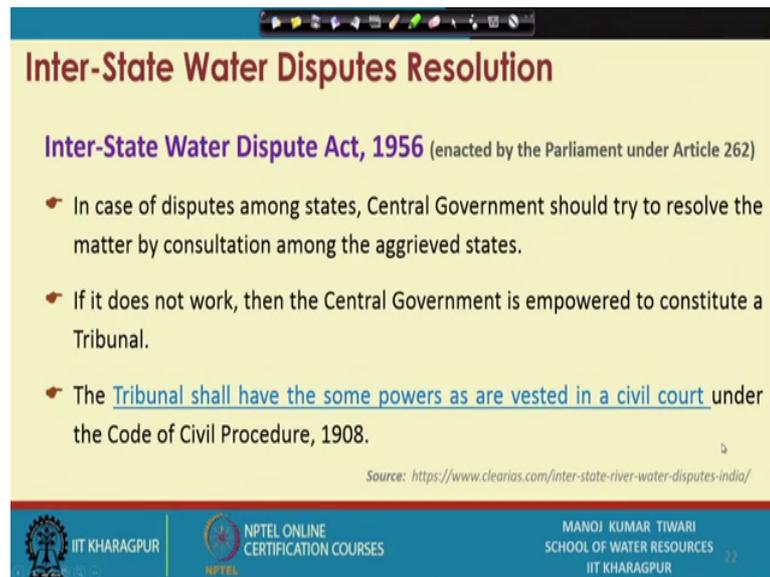
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Then the under this act under this article 262, a river board act was passed in 1956, which proposed that the union government will create boards for interstate river and river valleys in consultation with state governments. So, the river board acts was primarily about creating or establishing river boards for particularly for interstate rivers.

The objective of river board was to advise on interstate basin to prepare development schemes and to amicably see out the sharing of water in such a way that conflicts does not arise, ok. So, the idea was that such board will act accordingly. So, that the number of conflicts or number of interstate conflicts could be reduced or could be minimized.

However under this act sort of no river board has been formed or has been constituted so far. So, although this act was passed, but not used much there has been attempts being made to basically form a river board a few times, but again it could not formalized because of various issues.

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**Inter-State Water Disputes Resolution**

**Inter-State Water Dispute Act, 1956** (enacted by the Parliament under Article 262)

- In case of disputes among states, Central Government should try to resolve the matter by consultation among the aggrieved states.
- If it does not work, then the Central Government is empowered to constitute a Tribunal.
- The Tribunal shall have the some powers as are vested in a civil court under the Code of Civil Procedure, 1908.

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Then, under that article 262 only the power which was given to the parliament the interstate water dispute act was passed in 1956. Now, this act has sort of been a key player or key act in order to dealing with such interstate water dispute cases. How successful this has been that is a big question though, but at least there has been attempts been made under this act to tackle or to observe to consider the these such disputes on a union government level.

So, what is there in this act? Well, this act suggest that in case of disputes among states the central government should try to resolve the matter by consultation among the aggravated states. So, I had suggest that the government can basically help or facilitate consultation process between the state and if that does not work, then the central government is empowered to constitute a tribunal.

So, this tribunal shall have same powers as are in a civil court under the code of civil procedures 1908 and this tribunal will then consider will then take care of the case and eventually will analyze the case will try to understand the system try to see what are the demands what are the realistic scenarios what are the issues and problems with the participating states and based on that it will give its sort of word it is final decision about the resolution of the dispute or sharing of the water because all such interstate water disputes primarily over the sharing of water in the different trans different interstate river basins.

The tribunal actually acts like a code and it was given power also as good as a code. So, that when it says that it has a power that are wasted in the civil code so, that means, it can someone anyone it can basically call anyone it can it can basically sort of do all the things that code can do a civil code can do.

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**Inter-State Water Disputes Resolution**

**Inter-State Water Dispute Act, 1956** (enacted by the Parliament under Article 262)

- Tribunal shall investigate the matters referred and should give a decision (award) on the issue.
- The Tribunal consists of a Chairman and two other members, nominated in this behalf by the Chief justice of India, from judges of the Supreme Court or of a High Court.
- The decision of the Tribunal is final and binding on the parties. The parties must give effect to it. Supreme Court shall not question the Award or formula given by tribunal but it can question the working of the tribunal.

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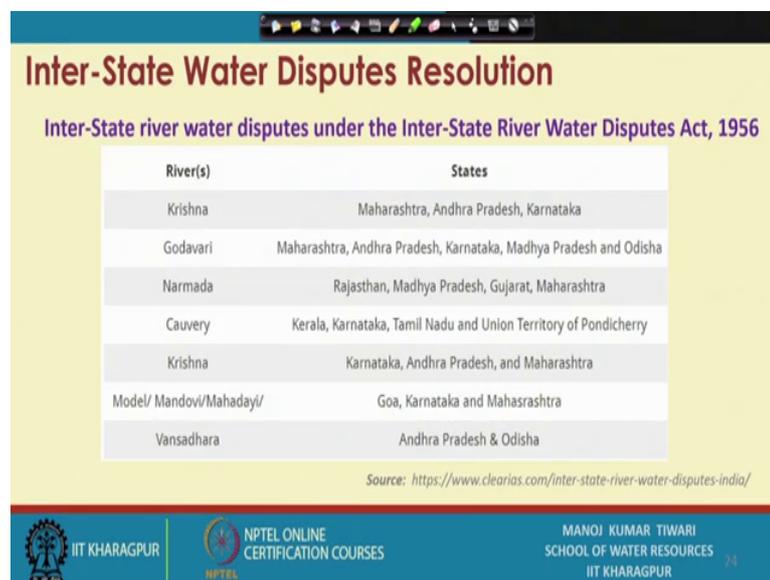
Now, this tribunal basic role was to investigate the matter refer to it and give a decision which was also called award. So, give a award on the issue,. Tribunal consists of a chairman and two other member. So, as per this interstate dispute act of 1956 a tribunal will have three members one chairman and two other members and will be nominated in this behalf by the chief justice of India and who are going to be the member the members are going to be the judges from the supreme court or of a high court. So, tribunal was basically constituted by the government, but the members are nominated by the court and from within the community of the judges from the supreme court or are of high court.

Now, this decision of this tribunal is final and binding on the parties. So, parties were sort of liable to follow whatever the decision or award has been given by the tribunal, ok. The parties has to give effect to it means they have to give at the time of constitution or tribunal they have to basically agree that they will abide by the decisions or award being given by the tribunal. Supreme Court will not question the judgment of the tribunal will not question will not have an authority to question the decision of a tribunal or the formula that tribunal suggests for resolution of the issue resolution of this dispute.

However, it can question the working of the tribunal whether tribunal is working fine or not or who are the parties in the tribunal on the timeline thing. So, all the other things it can basically question people can go as Supreme court parties can go to the supreme court and question that.

However by law of the this dispute act Supreme Court has no authority to question the final decision or award or the formula for the dispute resolution proposed by the tribunals.

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**Inter-State Water Disputes Resolution**

Inter-State river water disputes under the Inter-State River Water Disputes Act, 1956

River(s)	States
Krishna	Maharashtra, Andhra Pradesh, Karnataka
Godavari	Maharashtra, Andhra Pradesh, Karnataka, Madhya Pradesh and Odisha
Narmada	Rajasthan, Madhya Pradesh, Gujarat, Maharashtra
Cauvery	Kerala, Karnataka, Tamil Nadu and Union Territory of Pondicherry
Krishna	Karnataka, Andhra Pradesh, and Maharashtra
Model/ Mandovi/Mahadayi/	Goa, Karnataka and Maharashtra
Vansadhara	Andhra Pradesh & Odisha

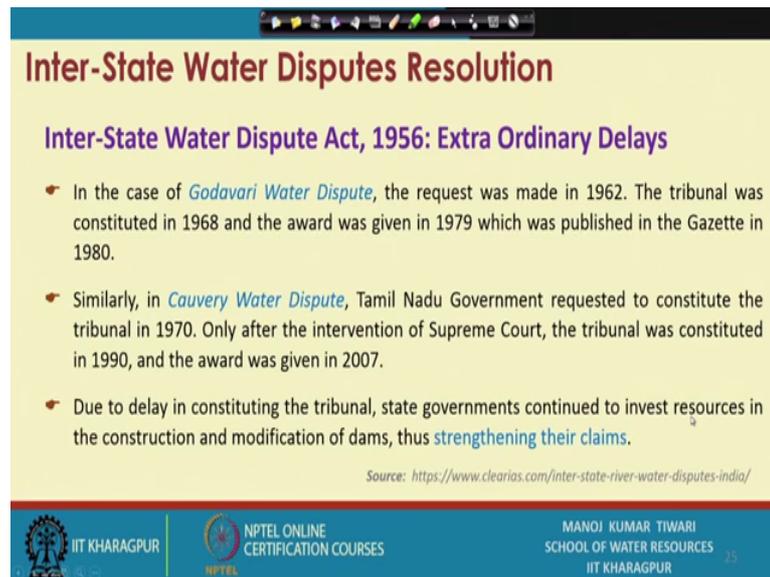
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So, we have several tribunals constituted of this effect and the major some of the major interstate river water disputes which were attempted to consider under the interstate water dispute act 1956 are listed here. So, we had Krishna which is one of the major disputes between Maharashtra, Andhra Pradesh and Karnataka. There was Godavari then Narmada dispute where Rajasthan, MP, Gujarat and Maharashtra were the party we had Kaveri dispute, ok. The Kerala, Karnataka, Tamil Nadu, main is the Karnataka and Tamil Nadu, but Kerala and the Pondicherry are also the parties then there is Mandovi or Mahadayi Nadi so, that Goa, Karnataka and Maharashtra and then Vansadhara between Andhra Pradesh and Odisha.

So, these are the major disputes which has been considered and then under the interstate water dispute act.

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**Inter-State Water Disputes Resolution**

**Inter-State Water Dispute Act, 1956: Extra Ordinary Delays**

- In the case of *Godavari Water Dispute*, the request was made in 1962. The tribunal was constituted in 1968 and the award was given in 1979 which was published in the Gazette in 1980.
- Similarly, in *Cauvery Water Dispute*, Tamil Nadu Government requested to constitute the tribunal in 1970. Only after the intervention of Supreme Court, the tribunal was constituted in 1990, and the award was given in 2007.
- Due to delay in constituting the tribunal, state governments continued to invest resources in the construction and modification of dams, thus **strengthening their claims**.

Source: <https://www.clearias.com/inter-state-river-water-disputes-india/>

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There were certain issues with this act or so, in case of Godavari water dispute the request was made in 1962, the tribunal was constituted in 1968, the 6 year after the request has been made and final award came in 1979 around 11 years after the tribunal was constituted, and that further got Gazette in the government of India's Gazette in 1980.

So, the delays are very quite apparent in such cases in Kaveri water dispute it was even more delayed. So, Tamil Nadu government requested to constitute the tribunal in as early as around 70 then only after the intervention of supreme court the tribunal was constituted in 1990, almost 20 years after and the award of the tribunal or the decision of the tribunal was given in 2007.

Similar, delays has been in many other cases ok. So, the tribunals take some 10 year, 15 year or higher period for giving their decisions the problem is that if there is delay in the constitution or tribunal or award of the tribunal. So, state governments in the meantime can carry on their investment in the resources or can carry on basically the construction and modification through dams and this kind of things.

So, that further strengthens their claim in the tribunal also that ok, I have constructed at I am now I have to basically operate these catchment of the dam is or the minimum threshold storage of this has to be maintained. So, I can release water only which is above this water below this is not practically possible to release until unless that dam is destroyed so, our decommissioned.

So, those kind of cases are quite apparent,. Ah, there has been many such attempts has been made in the quite a few water disputes that by the time the dispute is under the consideration the further developments keeps on taking place at a state level and that aggravates problem to a larger degree at times.

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**Inter-State Water Disputes Resolution**

**Inter-State Water Dispute Act, 1956: Amendments to the Act in 2002**

- It has also been mandated that the tribunal should give the award within 3 years. In certain situations, two more years can be given. Thus maximum time period was 5 years within which the tribunal should give the award.
- Concerned parties may seek clarification within 3 months of the award.
- It has also been clarified that the Tribunal Awards will have the same force as the order of the Supreme Court. The award shall be final and beyond the jurisdiction of Supreme Court.

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There has been amendments in this interstate water dispute act of 1956 which was done in 2002. So, this amendment one amendment that was important amendment that was made was that this tribunal should give award within 3 years and in certain situations when there is let us say unforeseen chances or there are unavoidable delays occurring. So, 2 more years can be given to the tribunal for giving decision. So, the maximum time period of 5 years were sort of fixed for the tribunal to give the award. So, the tribunal has to basically give it is decision within a period of 5 years.

The concerned parties may seek clarification within 3 months of the award. So, in order to expedite the process it says that if the parties has any concern or parties are sort of not agree. So, they can file a review petition or they can file a case for within the tribunal for the review within 3 months of the award.

Ah it also clarified that tribunal awards will have the same force as the order of the Supreme Court, ok. So, that means, the award shall be beyond the jurisdiction of the Supreme Court, because if the tribunal award is as good as in order of Supreme Court so, Supreme Court does not consider it reconsidered generally it is own order, ok. And, that

is why moreover if you see the structure of the tribunal so, tribunal is to be framed by the judges from the Supreme Court bench of the Supreme Court or high court. So, it is a kind of judiciary only because the decisions are being given by the judges panel of three judges with one chairman and two other judges. So, when this kind of judiciaries involved in decision making there is no point in basically taking that further to the court to the bench of another judges and those kind of problem.

So, that is why it was mentioned that award shall be final and beyond the jurisdiction of Supreme Court.

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The slide is titled "Inter-State Water Disputes Resolution" in a large, bold, dark red font. Below the title, the subtitle "Inter-State Water Dispute Act, 1956: Issues" is written in a smaller, purple font. The main content consists of three bullet points, each preceded by a red arrowhead. The first bullet point states that although the award is final and beyond the jurisdiction of courts, either states approach the Supreme Court under Article 136 (Special Leave Petition) or private persons approach the Supreme Court under Article 32 linking the issue with the violation of Article 21 (Right to Life). The second bullet point notes that the composition of the tribunal is not multidisciplinary and consists only of persons from the judiciary, thus there is not much difference between the tribunal and the Supreme Court Bench. The third bullet point mentions that the work of tribunals gets delayed due to the lack of availability of data. At the bottom of the slide, there is a source link: <https://www.clearias.com/inter-state-river-water-disputes-india/>. The slide footer contains logos for IIT Kharagpur and NPTEL, along with the name of the presenter, Manoj Kumar Tiwari, and his affiliation with the School of Water Resources at IIT Kharagpur.

However, there are variety of issues are there even after that amendment also that although the award was considered final and beyond the jurisdiction of the courts, but what has been often observed that the either states means whosoever are the party any state which is a party can approach supreme court under article 136 which is the Special Leave Petition.

So, an SLP can be filed and the decision of the tribunal can be basically questioned or can be challenged under in SLP. Further even the private person can also approach to the supreme court under Article 32 linking issue with the violation of Article 21 which is right to life. So, it is like let us say court gives a decision to a state A that released this much of water to state B. Now, a person from state A files a PIL, Public Interest Litigation that if state gives this much of water to the next to the subsequent or lower

riparian states so, then what will happen that our demands are not getting fulfilled and we are getting basically the water which is important thing under the right to life will be basically withdrawn on will be taken from us and those sort of issues can arise.

So, although the act says that the award is beyond the jurisdiction of the court, but that is actually not the case ok, because the state has authority to go to the court under SLP or even a private person or even a NGO can file PIL or can file a basically petition under Article 32 linking with the violation of right to life. So, in such cases this becomes very difficult.

There are other issue is that the composition of tribunal is not multidisciplinary. So, a tribunal which looks after the case has only people from the judiciary. They are not the experts there is no one to basically look at the actual field condition or may not have that understanding of a prospective of a water resources person or a hydraulic hydraulics engineer or a sociological activist. So, the idea is that like the constitution of the tribunal which is from the judges. So, this is not much difference then a Supreme Court bench because Supreme Court bench could also have 3 judges, 5 judges those sort of things can be there and tribunal also constituted only of the judges. So, it was definitely not the multidisciplinary and many times the prospective field prospective and real prospective are not that well communicated or not that well understood by the tribunals.

Further tribunal works were delayed due to the lack of availability of data, ok, because any decision any such decision has to be made let us say let us say a tribunal is looking after the case of water dispute between two states it will like to know that what is the catchment area of the two states under this river basin how much the water inflow is in the two basins. Now, these numbers particular catchment area is fine, but how much water in flows in the river is the number which changes from year to year month to month there cannot be just one single data,.

Further what are the irrigated area what is the population living what is the demand from the population what is demand from the industries what is demand from the irrigation sector so, all this information must be made available to the tribunal or to the expert committee in order to take a decision. In a decision taken without having adequate amount of data may not actually may not be in the line of the social equity principles.

So, the data or the importance of the hydrological data is very important in making such decisions and because river boards were not established because there are not as such mechanism, central mechanism which can collect and which can share the data so, a state may give their own data which can be like at times overestimated or underestimated depending on the what kind of advantages they want to take or what kind of projections they want to make. So, those kind of issues were also there and since there is no central agency or no one single agency or one nodal agency which keeps a track or which keeps a record of the data it becomes very much difficult for the tribunal to get hold of the true data.

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**Inter-State Water Disputes Resolution**

**Inter-State Water Disputes (Amendment) Bill, 2017**

- Bill was introduced in Lok Sabha by the Minister of Water Resources, River Development and Ganga Rejuvenation, on March 14, 2017. The Bill seeks to amend the Inter-State River Water Disputes Act, 1956.
- The Bill proposes a **Single Standing Tribunal** (with multiple benches) instead of existing multiple tribunals, which shall consist of one Chairperson, one Vice-Chairperson and not more than six other Members.
- Bill also provides for the **appointment of Assessors** to provide technical support to the tribunal. They shall be appointed from amongst experts serving in the Central Water engineering Service not below the rank of Chief Engineer.
- Under the Bill, the proposed tribunal has to give its decision on a dispute **within a period of two years**. This period is **extendable by a maximum of one year**.

Source: <http://pib.nic.in/newsite/PrintRelease.aspx?relid=159201>

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So, to overcome some of these points there has been a bill proposed to the parliament it has actually been proposed to the Lok Sabha last year only. So, it is a recent bill which is interested water dispute amendment bill 2017. So, this bill was introduced in the March 14, 2017. Although it has not passed yet from both the houses, , but it was introduced in the Lok Sabha and by the Minister of Water Resources, River Development and Ganga Rejuvenation.

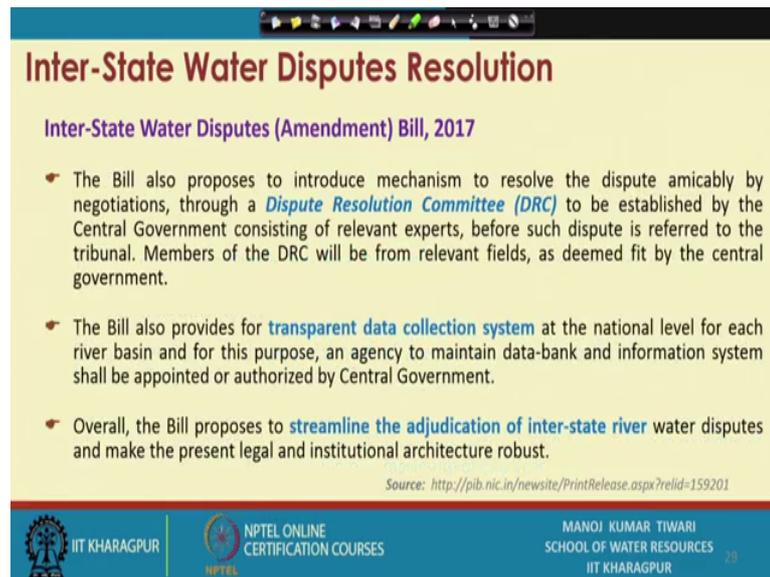
This bill proposes a Single Standing Tribunal with multiple benches instead of existing multiple tribunals. So, so far under the interstate water dispute act the provision is that for each dispute for each conflict there will be a tribunals there is a possibility of setting up a tribunal. So, if we are having let us say 10 number of river disputes coming in so,

we have to set 10 number of tribunals. So, this the proposed bill gets away with that idea, it says that there has to be a single standing tribunal with multiple benches instead of like existing multiple tribunals. So, instead of having many number of tribunals the government shall have a single tribunal which works for all such cases. this tribunal shall consist of one Chairperson, one Vice-Chairperson and not more than six other members. So, the size of tribunal hel has also been increased. So, there has to be one Chairperson, one Vice-Chairperson and there has to be some around five-six members not more than six members.

The tribunal which is Single Standing Tribunal can have like the part of the tribunal or this can have one, but there could be different experts for the different cases can be bought in. So, bill also provides in opportunity to for the appointment of an assessor to provide technical support to the tribunal. So, for helping in the decision making to the tribunal independent assessor can be appointed who provides the technical support. Now, this independent assessor has to be amongst the expert serving in these central water engineering services. So, has to be basically a well educated well trained expert not below the rank of a chief engineer, ok. So, that was the sort of proposition done under this amendment bill.

Then the bill also proposes the tribunal has to be given a decision on dispute within a period of 2 year. So, earlier there was sort of with the original bill it used to take long than the 2002 amendment suggested that it has to give a decision in the period of 3 years and which can at max be extended up to 2 years so, still got a 5 year window, but this amendment will suggest that the decision has to be basically given in a period of 2 year and this period is acceptable by maximum of one year. So, in a total span of a period of 3 years the decision has to come, ok. So, that was the that was the one of the ideas of this amendment bill to basically expedite the process so that the process should not take too long in that sense.

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**Inter-State Water Disputes Resolution**

**Inter-State Water Disputes (Amendment) Bill, 2017**

- The Bill also proposes to introduce mechanism to resolve the dispute amicably by negotiations, through a **Dispute Resolution Committee (DRC)** to be established by the Central Government consisting of relevant experts, before such dispute is referred to the tribunal. Members of the DRC will be from relevant fields, as deemed fit by the central government.
- The Bill also provides for **transparent data collection system** at the national level for each river basin and for this purpose, an agency to maintain data-bank and information system shall be appointed or authorized by Central Government.
- Overall, the Bill proposes to **streamline the adjudication of inter-state river** water disputes and make the present legal and institutional architecture robust.

Source: <http://pib.nic.in/newsite/PrintRelease.aspx?relid=159201>

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Then the bill also proposes to introduce the mechanism to resolve the dispute amicably by negotiations through a Dispute Resolution Committee. So, the bill says that the central government can constitute a Dispute Resolution Committee consisting of relevant experts before such disputes goes to the tribunal. So, it is not necessarily that any dispute is directly sent to the tribunal a Dispute Resolution Committee is specific to a case of dispute can be set up which can actually see the possibility of the negotiation possibility of the amicable negotiation for resolving that dispute and if that dispute is resolved through negotiation there is no requirement of sending that dispute to the tribunal.

So, members of this dispute resolution committee has to be a relevant field expert and basically as suppose as the appointment is to be done by the central government. So, it is under the jurisdiction of the government that whom they appoint, but the idea is to have a field expert or experts from the field to be basically part of this dispute resolution committee and try to resolve the dispute in a scientific or social way or through just negotiations.

The new bill also proposes to basically provide for transparent data collection system because that is one of the major challenges in front of the tribunal because they do not get hold of the real data in timely manner and that makes it difficult for them to basically arrive at a decision quickly. So, the bill says that there has to be a transparent data collection system at national level for each river basin for this purpose. So, agency that

maintains the data bank and information system shall be appointed or authorized by the central government. So, central government will have a right to authorize or appoint a committee or basically a agency for collecting the data managing the data and putting that in a basically information system for which can be used for helping resolution of such disputes.

So, overall if we see the bill proposes to streamline the sort of resolution of these interstate water disputes and present a legal and institutional architecture robust, ok. So, with the like a specific dispute resolution committee then timely manner decision transparent data collection system. So, all those things were in order to basically improve the bill looking at it is earlier shortcoming and that is how these was sort of frame.

So, this way the our constitutional provisions suggest for the resolution of disputes we will end this session here and in next session we will see we will take up a case study and see how the resolution takes place or how the disputes are basically managed under such conditions. So, that we will discuss in the next session.

Thank you.