

**19**

**STANDING COMMITTEE ON WATER RESOURCES**

**(2016-2017)**

**SIXTEENTH LOK SABHA**

**MINISTRY OF WATER RESOURCES, RIVER DEVELOPMENT AND GANGA  
REJUVENATION**

**THE INTER-STATE RIVER WATER DISPUTES (AMENDMENT) BILL, 2017**

**NINETEENTH REPORT**



**LOK SABHA SECRETARIAT**

**NEW DELHI**

August, 2017 / Shravana, 1939 (Saka)

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*Presented to Lok Sabha on 10.08.2017*

*Laid on the Table of Rajya Sabha on 10.08.2017*



**LOK SABHA SECRETARIAT**  
**NEW DELHI**

August, 2017 / Shravana, 1939 (Saka)

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COMPOSITION OF THE STANDING COMMITTEE ON WATER RESOURCES  
(2016-17)

Shri Hukum Singh - *Chairperson*

MEMBERS

**LOK SABHA**

2. Shri Radheshyam Biswas
3. Shri Devusinh Jesingbhai Chauhan
4. Shri Sudhir Gupta@
5. Shri Prakash B. Hukkeri\*
6. Shri B. Vinod Kumar
7. Shri Mohanbhai Kundariya#
8. Shri Maganti Murali Mohan
9. Shri Sidhant Mohapatra
10. Shri Abhijit Mukherjee
11. Shri Subhash Patel
12. Shri Sanjaykaka Ramchandra Patil
13. Shri Vijaysinh Mohite Patil
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16. Shri S. P. Y. Reddy
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20. Shri Liladharbhai Vaghela
21. Smt. Dimple Yadav

**RAJYA SABHA**

22. Sardar Balwinder Singh Bhunder
23. Shri Harshvardhan Singh Dungarpur
24. Mir Mohammad Fayaz
25. Dr. Bhushan Lal Jangde
26. Shri Sanjiv Kumar
27. Shri Hishey Lachungpa
28. Shri Ananda Bhaskar Rapolu
29. Shri Sanjay Seth
30. Shri A.V. Swamy
31. Shri Pradeep Tamta

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@ Nominated w.e.f. 19.10.2016.

\* Nominated w.e.f. 23.11.2016.

# Nominated w.e.f. 19.10.2016.

SECRETARIAT

1.	Shri Shiv Kumar	-	<i>Joint Secretary</i>
2.	Smt. Rita Jaikhani	-	<i>Director</i>
3.	Shri Kushal Sarkar	-	<i>Additional Director</i>
4.	Smt. Rinky Singh	-	<i>Sr. Committee Assistant</i>

## INTRODUCTION

I, the Chairperson, Standing Committee on Water Resources (2016-2017) having been authorized by the Committee to submit the Report on their behalf, present the Nineteenth Report on "The Inter-State River Water Disputes (Amendment) Bill, 2017."

2. The Bill was introduced in Lok Sabha on 14.03.2017 and was referred by the Hon'ble Speaker to the Standing Committee on Water Resources on 25.05.2017 for examination and Report.

3. During the examination of the Bill, the Committee took oral evidence of the representatives of the Ministry of Water Resources, River Development and Ganga Rejuvenation and Central Water Commission on 16.06.2017, 30.06.2017 and 10.07.2017. The Committee also sought written information on various aspects of the Bill from the Ministry including the consultation held by the Ministry with various State Governments / UTs, other Ministries, etc.

4. The Committee considered and adopted the Report on the Bill at their sitting held on 08.08.2017.

5. The Committee wish to express their thanks to the representatives of the Ministry of Water Resources, River Development and Ganga Rejuvenation and Central Water Commission, who appeared before the Committee and placed their considered views and also for furnishing written notes and information as desired by the Committee - in connection with the examination of the Bill. The Committee also wish to express their thanks for furnishing valuable inputs and offering suggestions on the Bill.

6. For facilitation of reference and convenience, the observations and recommendations of the Committee have been printed in bold in Part-II of the Report.

**NEW DELHI**  
**04 August, 2017**  
**13 Shrawana, 1939(Saka)**

**HUKUM SINGH,**  
***Chairperson,***  
***Standing Committee on Water Resources***

# REPORT

## CHAPTER I

### A. Background

1.1 India is blessed with many rivers. There are 20 major Inter-State River Basins in India. Most of the major rivers in India are inter-State in character having catchments / watersheds in two or more States. Sharing of water amongst riparian States has always been an issue of contention. Often water disputes arise amongst the basin States with regard to the use, distribution or control of the waters - in respect of these Inter-State Rivers/River valleys or in the interpretation of the terms of any agreement relating to the use, distribution or control of such water or in the implementation of any such agreement. Inter-state river water disputes are on the increase on account of increase in water demands in various Sectors. The sharing of Inter-State River waters is either through concurrence of the States or through adjudication of disputes through Tribunals.

1.2 The Constitutional provisions with respect to Water are as follows:

- (i) Article 246, Seventh Schedule List-I - Union List, at Entry 56: *'Regulation and development of inter-State rivers and river valleys to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest'*.
- (ii) List-II – State List, at Entry 17: *'Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power subject to provisions of entry 56 of List-I.'*
- (iii) 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 waters of, or in , any inter-State river or river valley.'*  
(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)."*



1.3 For adjudication of disputes relating to waters of Inter-State Rivers and River valleys 'The Inter-State River Water Disputes Act, 1956' (The ISWRD Act, 1956), was originally enacted by the Parliament in 1956, under Article 262 of the Constitution of India. In view of the Sarkaria Commission recommendations, the said Act was Amended and the amendments came into force from 6<sup>th</sup> August, 2002. The Amendments included time frame for constitution of the Inter-State Water Disputes Tribunals as also the time limit for the Tribunals to give their Awards . The details of the Tribunals functioning under the 1956 Act and details of Chairmen and Members of those Tribunals are given at **Annexure-I**.

**B. Drawback, in 'The Inter-State River Water Disputes Act, 1956'**

1.4 According to the Ministry of Water Resources, River Development and Ganga Rejuvenation (M/o WR, RD and GR), a review of the functioning of the system of Tribunals under the ISRWD Act, 1956 reveals following drawbacks:

- (i) There is no strict time limit for conclusion of adjudication by a Tribunal. Under the provision of Section 5(2) of the Act, a Tribunal is required to give its Report within a maximum period of five years. Further, under Section 5(3) of the Act, one year time limit has been fixed for giving further Report . Nevertheless, under the provisions thereto, the Central Government may extend the period indefinitely, till the Report is submitted. The tenure of a Tribunal also gets extended indefinitely, as more explicitly mentioned in the Annexure-II. The Cauvery Water Disputes Tribunal (CWDT) (setup in June, 1990) and Ravi Beas Water Tribunal (RBWT) (setup in April, 1986) have now come to a standstill because of legal hurdles. However, expenditure continues to be incurred on maintenance of their staff and other infrastructure/logistics.
- (ii) At present there is no time limit for publishing the Report of a Tribunal under Section 6 of the Act.
- (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) As per Section 5(A) of the present Act, if for any reason a vacancy (other than a temporary absence) occurs 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 only after the vacancy is filled up. The process of nomination of new Chairman / Member of the Tribunal thus requires considerable time which results in delay in the work of the Tribunal.

- (v) Considerable time is taken for a Tribunal to establish itself and start working. This problem is compounded by the lack of General Pool Accommodation for the locating the Tribunal."

1.5 Further as regards the tendency of the Tribunals to prolong the issuance of final Award , under 'The ISWRD Act, 1956', the Ministry of Water Resources, River Development and Ganga Rejuvenation during evidence on 16.06.2017, furnished details of the time taken so far by the Tribunals before the Committee as follows:

(i) Godavari WDT	–	11 years, 3 months
(ii) Krishna WDT-I	–	7 years, 1 month
(iii) Narmada WDT	–	10 years, 2 months
(iv) Ravi-Beas WDT	–	31 years till now.
(v) Cauvery WDT	–	27 years till now.

### **C. Chronology of events in bringing 'The ISRWD (Amendment) Bill, 2017'**

1.6 The chronology of events in drafting, vetting, and approving of 'The Inter-State River Water Disputes (Amendment) Bill, 2017' is as follows:

- (i) Draft cabinet Note was circulated for Inter-Ministry consultations on 16.11.2011
- (ii) After vetting by Ministry of Law and Justice (MoLJ), the Cabinet Note was approved by the Minister (WR). Then it was referred to PMO and Cabinet Secretary for their comments on 31.08.2012.
- (iii) PMO on 9.11.2012 directed the Ministry that matter required further scrutiny and consultations before it is taken up by Cabinet.
- (iv) A meeting of irrigation Secretaries of States/UTs was held on 21.1.2013.
- (v) The draft was modified and circulated to the States/ UTs for their comments in February, 2013.
- (vi) The comments received from States/UTs were compiled in the draft amendment Bill and same along with the Cabinet Note was sent to MoLJ in July, 2013.
- (vii) Modified draft Bill was received from MoLJ for confirmation of the MoWR on 24.02.2014.
- (viii) The same was approved by Hon'ble Minister (WR, RDand GR) and same along with draft Cabinet Note was sent to MoLJ.
- (ix) MoLJ with the approval of their Hon'ble Minister (Land J) sent the vetted draft Cabinet Note and the Amendment bill, 2014 to MoWR, RDand GR.

- (x) The draft Note for the Cabinet was circulated to the concerned Ministries and the PMO on 14.1.2015.
- (xi) A meeting of officials of MoLJ and MoWR, RD and GR held on 16<sup>th</sup> July, 18/19/20<sup>th</sup> Oct, 2015 to discuss necessary Amendments in the draft Bill.
- (xii) The draft Amendment Bill accordingly modified and approved by Hon'ble Minister for Law and Justice.
- (xiii) Draft Cabinet Note was circulated again to the concerned Central Ministries on December.
- (xiv) On direction of PMO, NITI Aayog took Inter-State Secretary level meeting along with representatives of concerned Central Ministries on 28.01.2016.
- (xv) PMO forwarded copy of comments received from NITI Aayog on 11.04.2016.
- (xvi) Draft Cabinet Note submitted to Cabinet secretariat and PMO on 4.7.2016.
- (xvii) Final Cabinet Note was submitted to Cabinet Secretariat on 17.8.2016.
- (xviii) PMO directed to present the Cabinet Note to group of Ministers.
- (xix) Meanwhile with consent of PMO a proposal of further changes in draft Bill was submitted to MOLJ. GOM approved the Bill.
- (xx) The vetted draft Bill approved by the Hon'ble Minister of Law and Justice was received on 3.11.2016.
- (xxi) Cabinet Note was sent for consideration of the Cabinet on 06.12.2016.
- (xxii) Cabinet Note was approved on 07.2.2017.

[Ref: pg. 39 to 43 of PPT]

#### **D. Introduction of The Inter-State River Water Disputes Bill, 2017' in Lok Sabha**

1.7 'The Inter-State River Water Disputes Bill, 2017' was introduced in Lok Sabha on 14.03.2017. The Speaker, Lok Sabha, referred the said Bill to the Standing Committee on Water Resources on 24.05.2017 for detailed examination and Report.

#### **E. Amendments proposed by 'The Inter-State River Water Disputes (Amendment), Bill 2017' – in Brief**

1.8 'The Inter-State River Water Disputes (Amendment) Bill, 2017' seeks to amend 'The Inter-State River Water Disputes Act, 1956' and addresses the drawbacks witnessed in resolving Inter-State River water disputes under the 1956 Act. The Amendments proposed, by the Ministry, in the ISRWD Act, 1956 are:

- (i) There shall be established a single Tribunal, for adjudication of inter-State river water disputes, to be called the Inter-State River Water Disputes Tribunal, in place of multiple Tribunals.
- (ii) All existing Tribunals shall stand dissolved and the water dispute pending adjudication before such existing Tribunals shall stand transferred to the Tribunal.

The Chairmen and other Members of the existing Tribunals who have attained the age of 70 years as on the date of commencement of the Inter-State River Water Disputes (Amendment ) Act, 2016 shall cease to hold office on the expiry of three months from the date of such commencement.

(iii) As and when any request under Section 3 of the Act is received from any State

Government in respect of any water dispute, the Central Government shall set up a Dispute Resolution Committee (DRC), consisting of relevant Members from such relevant fields, as deems fit, for resolving dispute amicably. The DRC shall try to resolve dispute by negotiations within a period of one year which may be extended to a further period of six months. The DRC shall submit a Report containing the stand taken by each State Government, views of Members on such stand and all relevant facts, information and data.

(iv) Any dispute which cannot be settled by negotiations shall be referred by Central Government by notification, to the Tribunal for its adjudication within a period of three months from the date of receipt of Report of DRC.

(v) The Tribunal shall consist of one Chairperson and one Vice-Chairperson and not more than six other Members, to be nominated by Chief Justice of India from amongst persons who at the time of such nominations are Judges of the Supreme Court or a High Court.

(vi) The Chairman and other Members of the existing Tribunal (other than Members who have ceased to hold office under the third proviso of Section 4) shall be nominated by the Chief justice of India as Chairperson, Vice Chairperson and Members of the Tribunal and they shall continue as Members of the Tribunal till they attain the age of 70 years.

(vii) The Chairperson shall hold office for a period of five years or till he attains the age of 70 years, whichever is earlier. The term of office of Vice Chairperson and other Members of the Tribunal shall be co-terminus with the adjudication of water dispute and they shall cease to hold office upon dissolution of the Bench by the Central Government on the recommendation of the Chairperson.

(viii) The jurisdiction of the Tribunal may be exercised by the Benches thereof. The Chairperson may constitute a Bench with three Members, out of which the senior most Member shall preside over the Bench. Provided that a Member of a Bench may also be a Member of another Bench.

(ix) The Benches of the Tribunal shall ordinarily sit at New Delhi or at such other places as the Chairperson may decide.

(x) When a dispute is referred by the Government, it shall be assigned by the Chairperson of the Tribunal to a Bench of the Tribunal for adjudication.

(xi) The Bench of the Tribunal, before investigating the water dispute referred to it, shall take into consideration the Report submitted by DRC.

(xii) The Bench of the Tribunal shall forward to the Central Government its detailed Report , under Section 5(2) of the Act, setting out the facts as found by it and

giving its decision on such dispute within a period of two years extendable by not exceeding one year in case of unavoidable circumstances.

(xiii) The Bench of Tribunal shall forward its 'Further Report', under Section 5(3) of the Act, to the Central Government in one year extendable by a period of not exceeding six months.

(xiv) The Central Government may, appoint two experts serving in the Central Water Engineering Service not below the rank of Chief Engineer as Assessors for each dispute to advise the Bench on the proceedings before it.

(xv) The term of Assessors appointed shall be co-terminus with the adjudication of the dispute and they shall cease to be Assessors after the dispute is adjudicated and final Report is forwarded to the Central Government.

(xvi) In the event of occurrence of vacancy in the office of the Chairperson by reason of death, resignation or otherwise, the Vice-Chairperson shall act as the Chairperson until the date on which a new Chairperson is nominated.

(xvii) When any Member of a Bench of the Tribunal is unable to discharge his functions owing to absence, illness or any other cause, the Chairperson may assign the work of such Member to any other Member of the Tribunal till such Member resumes his work.

(xviii) The decision of the Bench of Tribunal shall be final and binding on the parties to the dispute and shall have the same force as an order or decree of the Supreme Courts.

(xix) The Central Government shall appoint or authorise an agency to maintain a data-bank and information system at the national level for each river basin, which shall maintain data containing such particulars and in such manner, as may be prescribed.

(xx) After any water dispute assigned to a Bench of the Tribunal is adjudicated and it submits its decision or Report, the Central Government shall, on the recommendation of Chairperson, dissolve that Bench. The Members of that Bench (excluding Chairperson) shall vacate their respective offices. However, in case, if any Member of that bench is also Member of another bench of the Tribunal which is still adjudicating a water dispute, he shall continue to be the Member of such Bench.

(xxi) The balance work of the 'Ravi-Beas Water Tribunal' shall be dealt by the Bench of Tribunal to whom that dispute may be assigned.

(xxii) The Central Government, may, by notification in the official Gazette, make rules to carry out the purposes of the Act.

## **F. Consultation with State Governments / UTs / other Ministries**

1.9 Besides taking oral evidence of the Ministry of Water Resources, River Development and Ganga Rejuvenation, the Committee also obtained written replies to the list of important

points which the Committee deemed fit for detailed examination of the Bill in the Ministry. On being asked by the Committee about the comments / views of the States/UTs as obtained by the Ministry on the proposed 'The Inter-State River Water Disputes (Amendment) Bill 2017', the Ministry furnished the following information before the Committee:

**Table 1: Details of the States/UTs who have offered/not offered their views/comments or have 'No' objection at all on the proposed 'The ISRWD (Amendment) Bill, 2017'.**

Sl. No	States/UTs who have submitted their views/comments – Clause-wise	States/UTs who have not offered any comment	States/UTs who have 'No' objection at all on the proposed "The ISRWD (Amendment) Bill, 2017
1.	Bihar	Andaman and Nicobar Islands	Chhattisgarh
2.	Telangana	Arunachal Pradesh	Nagaland
3.	Punjab	Assam	Haryana
4.	Maharashtra	Jammu and Kashmir	Jharkhand
5.	Goa	Manipur	Mizoram
6.	Kerala	NCT of Delhi	Sikkim
7.	Karnataka	Puducherry	Tripura
8.	Rajasthan	Uttar Pradesh	West Bengal
9.	Madhya Pradesh	Uttarakhand	Meghalaya
10.	Andhra Pradesh	Chandigarh	
11.	Odisha	Dadra and Nagar Haveli	
12.	Tamil Nadu	Daman and Diu	
13.	Himachal Pradesh	Lakshadweep	
14.	Gujarat		

1.10 Commenting on 'The Inter-State River Water Disputes (Amendment) Bill 2017' the Government of Tamil Nadu has stated that the Amendments proposed by the Government of India in the Draft Bill may kindly be dropped as there is no need to establish a permanent Inter-State River Water Disputes Tribunal for the following reasons:

- (i) As designated Water Disputes Tribunals are already functioning, the establishment of a Permanent Tribunal will be impracticable and ineffective.

(ii) River Basins differ widely in terms of total availability, utilization and the nature of use of water, besides other socio-economic conditions and parameters that need to be considered in allocating water resources.

(iii) Each River Basin is unique and disputes that arise are complex.

1.11 Responding to comments of the Government of Tamil Nadu, the Ministry stated:

“The objection of Government of Tamil Nadu may not be acceptable. The purpose of amendment to existing ISRWD Act, 1956 is to further streamlining the adjudication of inter-State river water disputes by constituting a standalone Tribunal with permanent establishment and permanent office space and infrastructure so as to obviate the need to set up a separate Tribunal for each water dispute which is invariably a time-consuming process.”

1.12 When the Committee desired to know about the efforts made by the Ministry to bring all the State/UT Governments on board on the standalone Tribunal, who did not respond to Bill at all, the Ministry in their written reply stated:

“At the outset, it is pointed out that under Article 262 of the Constitution the Parliament has the power to make this law. Though it is not essential, extensive consultations were held with States on the proposed Bill as abundant precaution and to keep States on Board. The proposed Inter-State River Water Disputes Bill was circulated to all States/UTs for their comments/views *vide* letter dated 27.12.2012, followed by a reminder dated 07.01.2013. Subsequently, then Secretary (WR) held a meeting of Irrigation Secretaries of States/UTs on 21.01.2013 to discuss the issue. The proceedings of this meeting was again shared with all the States/UTs *vide* letter dated 06.02.2013 for furnishing their comments/views. Further, in accordance to the directions of PMO, NITI Aayog prepared a brief note on the Amendments proposed to the existing Inter-State River Water Disputes (ISRWD) Act, 1956 and circulated to States/UTs in November, 2015 for their comments. This was followed by a consultative Inter-State Secretary Level meeting along with representatives of concerned Central Ministries on 28.01.2016 under the Chairmanship of Chief Executive Officer, NITI Aayog. The provisions of the Bill were discussed threadbare in the meeting. Thus sufficient efforts were made to bring all parties on Board.”

1.13 The Ministry of Water Resources, River Development and Ganga Rejuvenation also circulated the draft Cabinet note, including the draft Bill to the concerned Ministries for seeking their views/comments. The comments of the Ministries consulted are given at **Annexure II**. The Ministry, in this regard, informed the Committee that all the line Ministries and NITI Aayog have supported the Bill. In this regard, the Ministry have further stated that the procedures of

processing of Cabinet Note requires that a copy of the final note is only required to be shared with those Ministries on the basis of whose suggestions some changes were required in the draft Bill. Besides, as none of suggestions from Central Ministries mandated any change in the Bill, it was not required to share the final copy of the Draft Cabinet Note/Bill with them.

1.14 'The ISWRD Act, 1956' (as amended upto 6<sup>th</sup> August, 2002) is at **ANNEXURE III** and 'The ISRWD (Amendment) Bill, 2017' is at **Annexure IV**. After incorporating the provisions of 'The ISRWD (Amendment) Bill, 2017' the amended ISRWD Act, 1956 would read as provided at **Annexure V**.



## CHAPTER – II

### CLAUSE-BY-CLAUSE EXAMINATION BY THE COMMITTEE

#### I. Statement of Objects and Reasons:

2.1 The Statement of Objects and Reasons of 'The ISRWD (Amendment) Bill, 2017' as furnished by the Ministry is as follows:

“On account of increase in demand for water by the States, the inter-State river water disputes are on the rise. Though the Inter-State River Water Disputes Act, 1956 (33 of 1956) provides for a legal framework to address such disputes, it suffers from many drawbacks. Under the said Act, a separate Tribunal has to be established for each inter-State river water disputes. Only three out of eight Tribunals have made Awards which are accepted by the States. Though the Cauvery and Ravi Beas Water Disputes Tribunals have been in existence for over 26 and 30 years respectively, they have not been able to make any successful Award till date. Further, there is no provision in the Act fixing time limit for adjudication by a Tribunal or for any upper age limit for the Chairman or a Member of a Tribunal. There is no mechanism for continuation of work on occurrence of any vacancy in the office of the Chairman or a Member of a Tribunal nor is there a time limit for publishing the Report of the Tribunal. All these drawbacks are causing delay in the adjudication of water disputes.

2. The Inter-State River Water Disputes (Amendment) Bill, 2017 seeks to streamline the adjudication of inter-State river water disputes and make the present legal and institutional architecture robust. The Bill proposes to introduce a mechanism to resolve the water dispute amicably by negotiations through a Disputes Resolution Committee, to be established by the Central Government consisting of experts from relevant fields, before such dispute is referred to the Tribunal.

3. The proposed Bill further seeks to provide for a single standing Tribunal (with multiple Benches) instead of multiple Tribunals, which shall consist of one Chairperson, one vice-Chairperson and not more than six Members. While the term of office of the Chairperson is five years or till he attains the age of seventy years, whichever is earlier, the term of office of Vice-Chairperson and other Members of the Tribunal shall be co-terminus with the adjudication of the water disputes. It is also proposed that the Assessors, who provide technical support to the Tribunal, shall be appointed from amongst experts serving in the Central Water Engineering Service not below the rank of Chief Engineer. The total time period for adjudication of a water dispute has been fixed at a maximum of four and half years. The decision of the Bench of the Tribunal shall be final and binding on the States concerned, with no requirement of its publication in the Official Gazette.

4. The proposed Bill also seeks to provide for transparent data collection system at the national level for each river basin and for this purpose, an agency to maintain databank and information system shall be appointed or authorized by the Central Government.

5. The Bill seeks to achieve the above objectives.”

**II. Clauses I : Short title and commencement**

2.2 Clause I (1) and (2), which provides for short title and commencement of ‘The ISRWD

(Amendment) Bill, 2017, read as follows:

“1. (1) This Act may be called the Inter-State River Water Disputes (Amendment) Act, 2017.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.”

**III. Clause 2 : Amendment of Section 2**

2.3 Clause 2, which seeks to amend Section 2 of the ISRWD 1956 Act, reads as follows:

“2. In the Inter-State River Water Disputes Act, 1956 (hereinafter referred to as the principal Act), in Section 2, -

(i) for clause (a), the following clauses shall be substituted, namely:-

(a) “Chairperson” means the Chairperson of the Inter-State River Water Disputes Tribunal referred to in Section 4B;

(aa) “existing Tribunal” means a Water Disputes Tribunal constituted prior to the date of commencement of the Inter-State River Water Disputes (Amendment) Act, 2017;

(ab) “Member” means a Member of the Inter-State River Water Disputes Tribunal and includes the Chairperson and Vice-Chairperson;

(ac) “notification” means a notification published in the Official Gazette;

(ad) “prescribed” means prescribed by rules made under this Act;

(ii) for Clause (b), the following clauses shall be substituted, namely:-

‘(b) “Tribunal” means the Inter-State River Water Disputes Tribunal established under Section 4;

(ba) “Vice-Chairperson” means the Vice-Chairperson of the Tribunal referred to in Section 4B;”

2.4 The Government of Bihar, Kerala, Karnataka, Odisha, Rajasthan, Telangana, Madhya Pradesh and Andhra Pradesh have accepted the amendment proposed *vide* Clause 2 in the proposed Bill, 2017. However, the Government and Punjab has stated that ‘Inter-State River’ should be clearly defined to cover only the Riparian States i.e. the States, through the territories of which the river flows.

2.5 In response to the comments of the Government of Punjab, the Ministry have stated that the suggestion of Government of Punjab cannot be accepted because Article 262 of the constitution of India which empowers the Parliament to make law on the subject or Section 2 of ISRWD Act, 1956 which defines what “water dispute” is, does not distinguish between Riparian & Non-Riparian State. Further, the Central Government does not intend to amend the definition of “water dispute” in the existing Act.

2.6 On being asked by the Committee for the reason for not accepting the recommendation of the Government of Punjab, the Ministry, in their written reply, submitted:

“x...x..x...x... While the position of the State of Punjab on applicability of the Act to the Riparian States may not be agreed to, as on date except for Ravi Beas Water Tribunal (RBWT) the party states to any of the existing Tribunals are basin States only.”

**IV. Clause 3 : Substitution of new Sections 4, 4A, 4B, 4C and 4D for Section 4**

2.7 Clause 3, which provides for (i) establishment of Inter-State River Water Disputes Tribunal, (ii) Dispute Resolution Committee, (iii) Composition of Tribunal (iv) Term of Office and (v) Benches of Tribunal by substitution of new Sections 4, 4A, 4B, 4C and 4D for Section 4, have been dealt in the following paragraphs.

2.8 The response of the State Governments / UTs along with the comments of the Ministry of Water Resources, River Development and Ganga Rejuvenation on the clause 3 are:

**Table 2 : Comments of State Governments/UTs, on Clause 3, and the response of the M/o WR,RD and GR thereto.**

<b>Comments of the State Governments/UTs</b>	<b>Response of the MoWR,RDand GR</b>
<p><b>Government of Bihar</b> In time bound manner, duration should be followed strictly. Section 4C (1) (b): Multiple Memberships should be avoided. Section 4D (2): Concerned State representative should be included in the Dispute Resolution Committee. Central Government should share its Report s with State Government for their opinion.</p>	<p>The recommendation for Tribunals to be multidisciplinary bodies presided over by a judge is acceptable. In fact the water Tribunals constituted under ISRWD Act consists of a Chairman nominated in this behalf by Chief Justice of India from amongst the persons who at time of such nominations are Judge of a Supreme Court or a High Court. Thus, the</p>

	<p>Tribunal is already presided over by a Judge. Further, the Act provides that the Central Government may in consultation with the Tribunal appoint two or more persons as Assessors to advise the Tribunal in the proceeding before it. Thus, a provision exist for appointment of Assessors who are experts drawn from various fields as per the requisition of the Tribunal. Further, mere Amendments in ISRWD Rules, 1959 will suffice, hence no modification in this regard is required within Act.</p>
<p><b>Government of Goa</b> To reconsider Section 4 of the proposed Amendment Bill to Inter State River Water Disputes Act, 1956 to exclude the Mahadayi Water Dispute Tribunal that had already progressed with substantial business from the purview of the proposed amendment.</p>	<p>Objection of Goa may not be agreed to as the Chairman Tribunal will assign the work initially to existing Members only.</p>
<p><b>Government of Kerala</b> 4, 4A, 4B (1) and (2) and 4C (2) can be accepted. 4 C (1) b: Members of bench shall not be from party States. Section 4(D)(1) may be modified as follows: “As and when any request under Section 3 is received from State Government in respect of any water dispute, the Central Government shall set up a Dispute Resolution Committee, consisting of competent Members from such relevant fields, as it deems fit, for resolving the dispute amicably within a period of three months from the date of receipt of the request under sub-Section (1) and Members of the Committee shall not be from party States. Section 4(D)(2): The proposed Amendments in Section 4(D) (2) may be accepted. The following may be added as a Sub-Section of 4(D) (2):- “The Dispute Resolution Committee shall hear all the party States orally and shall receive written submissions from them during negotiations before submitting its Report . Section 4(D)(3): Can be Accepted</p>	<p>Objection of Kerala on Dispute Resolution Committee may also be not agreed to as the sufficient time of 6 months is required to study the case and get the Report finalized on basis of inputs from the State Governments.</p>
<p><b>Government of Karnataka</b> (i) Neither the establishment of the permanent</p>	<p>Government of Karnataka objection to age of 70 years to Chairman and</p>

<p>Tribunal nor the continuation of the Chairman and Members of the existing Tribunals until they reach the age of 70 years, is unjustified. However, it is advisable that – if a provision is made for extending the services of the Chairman and Members of the existing Tribunals for some period not exceeding two years for completing the adjudication of water dispute referred to the Bench. But, no extension be given to Chairman or Members who have crossed the age of 80 years of age.</p> <p>(ii) The constitution of DRC is consistent with modern trends in the adjudication of water disputes. However, there must be a specific provision for hearing of States by the DRC before submitting its Report . Further, there must be provision for appeal or reference to the Supreme Court for the aggrieved State to challenge the Report of the DRC. (iii) The Chairman, Vice Chairman or Member of the permanent Tribunal should be barred from hearing or deciding the water disputes, if he or she was or is an inhabitant of a party State, unless the opposite party State(s) expressly consents. (iv) The composition of the Tribunal should be multi-disciplinary.</p>	<p>Member is also not acceptable as MoL &amp; J already bringing a legislation for unified age of Chairman and Members of all the Tribunals and the current proposal is in line of that only.</p>
<p><b>Government of Rajasthan</b></p> <p>Section 4 and 4 A – In general, the amendment may be accepted but in case of Ravi-Beas, the Tribunal has given its decision for sharing of water among partner States. States have already given their objections on the decision of the Tribunal. Meanwhile, Punjab Termination of Agreements Act, 2004 passed by Punjab Assembly has been referred to the Hon'ble Supreme Court. The bench of this Tribunal cannot have further hearings and give final decision. Since the Ravi-Beas Tribunal has already given its decision, therefore, there is no need of the separate Bench for this issue. The Ravi-Beas Tribunal should continue and on other issues, the amendment may be accepted. Section 4B (1) and 4 B (2) – Agreed. Section 4C (1) (a) – Since the Ravi Beas Tribunal has already given its decision, therefore, there is no need of the separate Bench for this issue. The Ravi-Beas Tribunal should continue and on other issues, the amendment may be accepted. Section 4C (1) (b) – The constitution of</p>	<p>As far as objection from Government of Rajasthan is concerned, the matter will be transferred to a Bench, which will further decide the matter as currently neither Chairman nor Members are there in the Ravi and Beas Water Tribunal. And the Chairman/Members of the Tribunal/Bench will be decided / nominated by Chief Justice of India as per the Act.</p>

<p>the Bench should be such that the Member of the Bench should not belong to the States among which disputes arise. Section 4 (C) (2) – Agreed Section 4D (1) – The matters related to sharing of remaining waters of interstate rivers among the States only be referred to Tribunal for adjudication. The existing agreements for sharing of waters of interstate rivers among States should not be reopened by Tribunal. Chairman, Central Water Commission or his representative may be permanent invitee in the proceedings of Tribunal for providing technical inputs. Section 4D (2) and 4 D (3) – Agreed</p>	
<p><b>Government of Telangana</b>  Section 4 and provisions below it – Acceptable, Provided:  (1) Disputes which are new disputes having not been referred earlier, can be gone into and decided.  (2) The disputes which had been referred to the previous Tribunal but remained undecided or had not been settled finally. (3) Disputes which had been referred earlier but have been decided in part or partially leaving the remaining part undecided. It may be in relation to the substance or the subject matter of the dispute. (4) Disputes decided in part in reference to time factor namely upto some period of time where after at the instance of the any party it can be referred again considering the significant material changes on account of a long interval of time, resulting in new facts, circumstances and developments coming into existence having material effect on the merit of the case namely equitable distribution of the water. It may be equated with a new dispute. Section 4A, 4B, 4C and provisions below them – Acceptable Section 4D (1), 4D(2) and 4D(3) This Section needs to be modified. In view of Government of Telangana, the dispute resolution Committee should also be a permanent body. Its constitution should not wait for receiving references from the State Government. It is also proposed that the assessors be associated with the Tribunal should also be involved in the proceedings of the dispute resolution Committee. In case a dispute is not resolved within a period of six months, the matter should invariably be referred to the Tribunal. Involvement of assessors in the proceedings of dispute resolution Committee will lead to their better</p>	<p>--</p>

appreciation of facts and relative positions of contending States.	
<p><b>Government of Madhya Pradesh</b></p> <p>The permanent Tribunal should not have all Members from judiciary but from varied related fields. The permanent Tribunal may be headed by a serving or retired Supreme Court judge with Members having experience in the field of (a) administration, (b) water resources projects, (c) sociology, (d) economic development, and € finance, etc. A mechanism needs to be put in place to provide quick and effective remedy in case of failure to abide by the Award of a Tribunal and/or Inter-state agreement. An overseeing body under the permanent Tribunal could be considered towards this end.</p>	--
<p><b>Government of Andhra Pradesh</b></p> <p>Section 4- Accepted; except the first provision below 4(1) which needs to be modified as below: <i>Provided that any dispute settled by a Tribunal, prior to the establishment of the Tribunal under sub Section (1); shall not be re-opened;</i></p>	--

2.9 The reason for making various changes / Amendments *vide* Clause 3, as provided by the Ministry, are :

“4 - Constitution of a single Tribunal with different benches as envisaged in the proposed amendment will result in about 25% reduction in staff and the consequent reduction in expenditure.

4A (1) to (4) - This provision has been kept for carrying out effective negotiations as first tier of Dispute Resolution through Dispute Resolution Committee.

4B - These provisions are kept for implementation of proposed changes in the Act

4C (1) to (2) - Age limit is provided to check anomaly in the existing Act wherein no age limit is provided and the Chairman/Members of the Tribunal continue till they wish or resign or in the event of death.

4D - These provisions are kept for implementation of proposed changes in the Bill.  
Explanation: A new Tribunal with permanent establishment and its own permanent office space and infrastructure will obviate the need for establishing a separate Tribunal for each water dispute, a process which has invariably been found to be time consuming.”

#### **IV (A). Establishment of Inter-State River Water Disputes Tribunal**

2.10 For establishment of Inter-State River Water Dispute Tribunal Clause 3 reads as follows:

“For Section 4 of the principal Act, the following Sections shall be substituted, namely:-

‘4. With effect from such date as the Central Government may, by notification, appoint, there shall be established a Tribunal, to be called the Inter-State River Water Disputes Tribunal, for the adjudication of water disputes:

Provided that on and from the date of establishment of the Tribunal, all existing Tribunals shall stand dissolved and the water disputes pending adjudication before such existing Tribunals shall stand transferred to the Tribunal:

Provided further that the Chairmen and other Members of the existing Tribunals who have attained the age of seventy years as on the date of commencement of the Inter-State River Water Disputes (Amendment) Act, 2017 shall cease to hold office on the expiry of three months from the date of such commencement:

Provided also that a dispute which has already been adjudicated and settled by an existing Tribunal prior to the date of commencement of the Inter-State River Water Disputes (Amendment) Act, 2017 shall not be re-opened.”

2.11 The Ministry, in their Background note, have also stated that the new Tribunal with permanent establishment and its own permanent office space and infrastructure will obviate the need for establishing a separate Tribunal for each water dispute, a process which has invariably been found to be time-consuming.

2.12 The Committee desired to know as to why the Chairmen and other Members of the existing Tribunals, who have attained the age of seventy years as on the date of commencement of ‘The Inter-State River Water Disputes (Amendment) Act, 2017’ have been asked to leave the office with immediate effect, instead only after the expiry of three months from the date of such commencement. To this, the Ministry, in their written reply, stated:

“Three months were provided for transition from existing set-up to the proposed set-up wherein records etc can be transferred from existing Tribunals to Standalone Tribunal.

Further, it is now proposed to keep age limit for Chairperson to be 70 years and that of Vice-Chairperson / Members to be 67 years to keep it harmony of the provisions under Finance Act, 2017.”

2.13 The Committee when further asked the Ministry to clarify as to which office the Chairmen and other Members of the existing Tribunals will continue to hold during those 3 months i.e. as a Member of the Tribunal under ‘The ISWRD Act, 1956’ or the proposed ‘The



ISWRD (Amendment) Act 2017' particularly during the time from the date of establishment of the new Tribunal when all the existing Tribunals would stand dissolved and the Water Disputes pending adjudication before such existing Tribunals would be transferred to the new Tribunal, to this, the Ministry, in their written reply, stated:

“As on date of notification of the new Tribunal, existing Tribunals shall stand dissolved, they will hold office on notional basis in the new Tribunal. They are expected to participate in the transition during these 3 months from existing set-up to the proposed set-up wherein records etc., can be transferred from existing Tribunals to Standalone Tribunal.”

### **Clause 3 (cont:)**

#### **IV B. Disputes Resolution Committee (DRC)**

2.14 A Disputes Resolution Committee (DRC) has been envisaged in the proposed Section 4A under Clause 3 of the Bill, 2017, which reads as follows:

“4A. (1) As and when any request under Section 3 is received from any State Government in respect of any water dispute, the Central Government shall set up a Disputes Resolution Committee, consisting of Members from such relevant fields, as it deems fit, for resolving the dispute amicably.

(2) The Disputes Resolution Committee shall try to resolve a water dispute by negotiations within a period of one year which may be extended to a further period of six months and submit its Report to the Central Government.

(3) The Report submitted by the Disputes Resolution Committee shall contain details of-

(a) the stand taken by each State Government during negotiation;

(b) the views of Members of the Committee on such stand; and

(c) all relevant facts, information and data relating thereto.

(4) Any water dispute which cannot be settled by negotiations shall be referred by the Central Government, by notification, to the Tribunal for its adjudication within a period of three months from the date of receipt of the Report under sub-Section (2).”

2.15 The two levels of Dispute Resolution, as provided by the Ministry, are as follows:

#### **“First Level – Dispute Resolution Committee (DRC)**

Immediately on receipt of complaint under Section 3 received from any State Government, the Central Government shall set up a Dispute Resolution Committee, consisting of Members from such relevant fields, as it deems fit, for resolving the

dispute amicably.” (The composition of DRC will be as per Rules made under this Act)

Timeline- The DRC shall try to resolve a water dispute by negotiations within a period of **one year** which may be extended to a further period of six months and submit its Report to the Central Government. **(Maximum 1year, 6months)**

**Second Level - Adjudication by Bench of Tribunal**

Any water dispute which cannot be settled by negotiations shall be referred by Central Government, by notification, to the Tribunal for its adjudication within a period of three months from date of receipt of Report of DRC. (Maximum 3months)

On receipt of a reference from the Central Government, the Chairperson shall assign such dispute to a Bench of the Tribunal to its adjudication.

The Bench of the Tribunal will consider the Report of the DRC, investigate the water dispute and forward to the Central Government its detailed Report and decision on such dispute within a period of **two years**. Provided that if the Report cannot be given within a period of two years for any unavoidable reasons, the Central Government may extend such period to a further period not exceeding **one year**. (Maximum 3 years)

If, upon consideration of the decision of the Tribunal, the Central Government or any State Government is of opinion that anything therein contained requires explanation or that guidance is needed upon any point not originally referred to the Tribunal, the Central Government or the State Government, as the case may be, within **3 months** from date of the decision, again refer the matter to the Tribunal for further consideration, and on such reference, the Bench of the Tribunal concerned may forward to the Central Government a further Report within one year from 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. Provided that the Central Government may extend the period of one year to a further period not exceeding six months. (Maximum 1 year, 6months).”

2.16 When asked for the Ministry’s opinion on having a Three-tier mechanism for dispute resolution where DRC would be at the first tier, the Tribunal at the second tier and an Appellate Tribunal as the third and the final tier so that dispute reaches finality pending any further appeal, the Ministry, in their written reply, stated:

“To give effect to above provisions of the Constitution, it is provided under Section 6 of the Principal Act, that the decision of the Bench of the Tribunal shall be final and binding on the parties to the dispute and shall have the same force as an order or decree of the Supreme Court. Thus having an Appellate Tribunal may go against the spirit of the provision of the Constitution.

Further, it is felt that there is no need for Three-tier mechanism as Hon’ble Supreme Court in Civil Appeals of 2007 filed by Cauvery basin States has noted that a decision of Tribunal can be challenged before it by invoking Article 136 of the

Constitution. The relevant extract from judgement dated 9.12.2016 of Hon'ble Supreme Court is reproduced below

65. In this context, the term 'adjudication' becomes extremely significant. In Black' Law Dictionary (6th Edn.) at p. 42 'adjudication' is defined as: 'Adjudication — The legal process of resolving a dispute. The formal giving or pronouncing a judgment or decree in a court proceeding; also the judgment or decision given. The entry of a decree by a court in respect to the parties in a case. It implies a hearing by a court, after notice, of legal evidence on the factual issue(s) involved.

66. The purpose of referring to the aforesaid definition is to arrive at the conclusion that once a water dispute, as follows Article 262(1) read with provisions of the 1956 Act is adjudicated by the Tribunal, it loses the nature of dispute. A person aggrieved can always have his remedy invoking the jurisdiction under Article 136 of the Constitution of India. We have not a scintilla of doubt in our mind that the founding fathers did not want the Award or the final order passed by the Tribunal to remain immune from challenge. That is neither the express language of Article 262(1) nor it impliedly so states. Thus, the contention of the Union of India with regard to maintainability of the appeal by special leave under Article 136 of the Constitution of India on this score stands repelled."

2.17 When further asked about the experience of DRC for resolving Inter-State River water disputes, the Ministry, in their written reply, stated:

"There have been instances in the past where negotiations have led to non referral of inter-State river water dispute to a Tribunal. It may be noted that Government of Bihar had requested in the year 2013 to MoWR, RD and GR for constitution of a Tribunal under Section-3 of Inter-State River Water Dispute (ISRWD) Act, 1956 to settle the Sone River water dispute among the co-basin States. Inter-State meetings on Sone river dispute were held under chairmanship of the Chairman, CWC with the officials of Governments of co-basin states and it was finally concluded that the two states U.P and Bihar would meet periodically and try to solve the issues bilaterally. MoWR, RD and GR has informed CWC that there is no imminent need for referring the matter to Tribunal under ISRWD Act, 1956. Inter-State river water sharing issues solved through negotiations have resulted in sharing of river waters between UP and MP on Betwa and Ken rivers, between MP, UP and Bihar in Bansagar (Sone) and Upper Yamuna river waters, etc.

Many inter-State river water sharing matters have been settled by negotiations/agreements like Betwa River, Bansagar etc."

2.18 Adding further on this issue, the Ministry, in their post-evidence reply further clarified that in a recent case of Sone River Dispute, negotiations were successfully coordinated by Chairman, CWC and there was no need to set-up Tribunal.

2.19 When the Committee asked the Ministry to categorically clarify the position as obtaining about the composition of DRC, the Ministry, in their written reply, stated that it is proposed to provide the same in ISRWD Rules which would be framed as part of Sub-ordinate Legislation under the proposed ISRWD Act.

2.20 Responding to the concern of the Committee regarding the composition of DRC comprising of only technical Members, the Secretary, MoWR, RD and GR, during evidence held on 30.06.2017 submitted:

“One suggestion which has been made is that we should not only have the dispute resolution mechanism which we had proposed in this, the advice is that the dispute resolution mechanism has become too technical. There are only engineering parts, data and other aspects. If possible, it should be a political process where people at the level of Chief Minister and others are involved and relevant people in the Government are involved so that, politically also, an effort is made to get consensus. It was a suggestion in the last meeting also. So, the DRC process should be widened a little. While the DRC gives all the data and technical advice, an effort should be made at the political level also to get a consensus between the disputing States. I think that is something which we need to look at.”

2.21 On being asked by the Committee as to who would decide regarding the Members of the DRC, the Ministry, in their written reply, stated:

“As per the Bill, Central Government has to decide on the composition of DRC. Accordingly Ministry of Water Resources, River development and Ganga Rejuvenation after careful examination will decide on the composition of DRC. It is proposed to provide the composition of DRC in ISRWD Rules that would be framed as part of sub-ordinate legislation under the proposed ISRWD Act so that there is no ambiguity and fit persons are made Members of the DRC.”

2.22 Further, when enquired about the existence of any Constitutional provision/Law which mandates that all the Members of such body / Tribunal should be judges of Supreme Court / High Court, the Ministry, in their written reply, submitted before the Committee:

“There are no such provisions. Though CIC or CVC handles administrative matters, the Inter-State Water Tribunals essentially deal in serious techno-judicial matters. The water disputes referred to the Tribunals are not purely technical matters but involve ascertaining validity of the inter-state water sharing agreements arrived at in

the past on account of various factors such as being very old, change in the parties due to territorial changes, being in conflict with other provisions of the Acts enacted by the Parliament etc. All Tribunals in the past have necessarily dealt with such issues. On technical matters the Tribunals are assisted by two or more Assessors who are expert in the field of water resources.”

2.23 Responding to the concern raised by the Committee regarding the transparency in the entire process of adjudication particularly in collecting data, role of CWC or DRC, Report of DRC, etc., the Secretary, Ministry of during evidence held on 30.06.2017 submitted that it will be in the public domain.

2.24 Further, the Ministry during evidence held on 16.06.2017 also stated that the basic principles of Helsinki / Berlin Rules can guide the Disputes Resolution Committee (DRC). In this regard, the Committee have also been informed that the basic doctrine accepted by Helsinki/Berlin rules is that every Basin State is entitled to a reasonable and equitable share in the beneficial uses of the waters of a trans-boundary basin. When asked to clarify further, the Ministry, in their written reply, have stated that it will not be mandatory for the DRC to follow the guidelines of the Helsinki/Berlin rules while settling the disputes, but the Berlin rules can guide the DRC/Tribunals in coming to a fair Assessment /Awards.

2.25 In addition, as regards the International practices being followed for resolving of water disputes the Ministry, in their post-evidence reply, have stated that this can be taken into account by Dispute Resolution Committee.

### **Clause 3 (cont:)**

#### **IV C. Composition of Tribunal**

2.26 Clause 3 provides for the composition of the Tribunal, as proposed under new Section 4B, which reads as follows:

“4B. Subject to the provisions of Section 12, 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 nomination are Judges of the Supreme Court or of a High Court:

Provided that the Chairmen and other Members of the existing Tribunals (other than Members who have ceased to hold office under second proviso to Section 4) shall be nominated by the Chief Justice of India as Chairperson, Vice-Chairperson and Members of the Tribunal and they shall continue as such, subject to the provisions of Section 4C.”

2.27 When asked to provide justification for making only one person i.e. Chief Justice of India as the sole authority for nominating the Chairperson, Vice-Chairperson and other Members of the Tribunal, instead of having a comprehensive body / panel of Members on the line of Central Information Commission (CIC) / Central Vigilance Commission (CVC) for doing so, the Ministry, in their written reply, stated:

“The selection of CIC or CVC cannot be compared with the selection of Chairperson, Vice-chairperson and Members of the Tribunals as they are required to perform judicial functions and the judgement pronounced by them is to have an effect of a Supreme Court Decree as per provision of Article 262(2) of the Constitution. This provision exists in the exiting ISRWD Act also wherein the Chairman and Members of the Tribunals are nominated by Chief Justice of India (CJI) . The Ministry agrees that the CJI should not be the sole person to nominate Chairperson/ Vice-Chairperson/Members of the Tribunal. The Ministry is open to suggestion of selecting the Chairperson, Vice-Chairperson and Members from a panel provided by the Ministry of Law and Justice (MoLJ) from among serving judges of the Supreme Court or High Court. For each position, it is suggested that MoLJ may forward three nominations and one among them is selected.”

2.28 The Ministry further, in their post-evidence reply, elaborated on the subject as follows:

“The Chairperson and Members of the Tribunal are required to be appointed from amongst the sitting judges of Supreme Court / High Court. Accordingly, there was a provision of their nomination by Chief Justice of India. However, the suggestion for having a Collegium can also be accepted.”

2.29 Elaborating further on the Tribunal, the representative of the Ministry, during an evidence held on 10.07.2017, submitted :

“We also are acceptable to the idea that experts assist the Tribunal in case the Tribunal wants certain information on agriculture, economics or how livelihood and Rand R is affected.....x.....x.....x.....x.... The Tribunal can be assisted by Rand R, CWC assessor and also environment.”

2.30 When asked for the rationale for having all the Members of the Tribunal as Judges of Supreme Court / High Courts, the Ministry, in their written reply, stated:

“Article 262(1) of the Constitution provides that 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.

The water disputes are referred to the Tribunals for adjudication when disputes cannot be resolved through other methods like agreements or negotiations. Under present set-up, Chairman and two Members who at the time of nomination are sitting judges of the Supreme Court or of a High Court and may continue after retirement adjudicate on the matter with support of renowned advocate hired by party States. The water disputes referred to the Tribunals are not purely technical matters but involve ascertaining validity of the inter-state water sharing agreements arrived at in the past on account of various factors such as being very old, change in the parties due to territorial changes, being in conflict with other provisions of the Acts enacted by the Parliament etc. All Tribunals in the past have necessarily dealt with such issues. As they are required to perform judicial functions and the judgement pronounced by them is to have an effect of a Supreme Court decree as per provision of Article 262(2) of the Constitution, it is essential to have Members from Supreme Court / High Courts. On technical matters the Tribunals are assisted by two or more Assessors who are expert in the field of water resources/agriculture. Besides party States also hire renowned experts as witness, and as standing technical personal to guide and facilitate their advocates in explaining and presenting their cases before the Tribunals.”

2.31 The Ministry, in their written reply, have also suggested for having that an Administrative Officer to act as the Secretary to the Tribunal who would not be below the rank of the Joint Secretary to the Government of India. Elaborating further it has been stated that he would be the bridge between the MoWR, RD and GR and the Tribunal and shall be responsible for all administrative and non-judicial matters of the Tribunal. He will be supported by adequate administrative staff provided by the Ministry and the functions, powers and appointment of the Administrative Officer shall be elaborated in the Rules framed under this Act.

**Clause 3 (Cont:)****IV D. Benches of Tribunal**

2.32 With respect to the Benches of Tribunal, the proposed new Section 4D under Clause 3 reads as follows:

“4D.(1) Subject to other provisions of this Act, —

- (a) the jurisdiction of the Tribunal may be exercised by the Benches thereof;
- (b) the Chairperson may constitute a Bench with three Members, out of which the senior-most Member shall preside over the Bench.

Provided that a Member of a Bench may also be a Member of another Bench

Explanation.— For the purposes of this Clause, the term “senior-most Member” means that a Judge of the Supreme Court shall always be senior to a Judge of a High Court and their seniority shall be determined from the date of their respective appointment as the Judge of the Supreme Court or of a High Court.

(2) The Benches of the Tribunal shall ordinarily sit at New Delhi or at such other places as the Chairperson may decide.”

2.33 When the Committee asked to clarify whether the proposed number of staff will be able meet the requirement especially in view of the fact that multiple Benches are proposed to be formed under the new single Tribunal. In this context, the Ministry, in their written reply, provided details of the existing combined Staff strength of the 5 Tribunals and Staff strength in the Proposed Tribunal which is reproduced as follows:

**Table 3: The Existing combined Staff strength of the 5 Tribunals and Staff strength in the Proposed Tribunal**

Sl. No.	Name of the Post	No. of Posts in Krishna, Cauvery, Ravi Beas Mahadayi and Vanshadhara Water Disputes Tribunal**	No. of Post in Proposed Tribunal
1	Chairperson	5	1
2	Vice Chairperson (1) / Member (6)	10	7
3	Assessor	10	10
4	Registrar	5	1



5	Assistant Registrar	5	3
6	Executive Engineer	6	5
7	Principal Private Secretary	15	8
8	Court Master	10	4
9	Section Officer	4	3
10	Private Secretary	12	11
11	Administrative Officer	4	1
12	Assistant	11	5
13	Personal Assistant	5	8
14	Driver	3	8
15	Upper Division Clerk	2	5
		107	80

2.34 Further, the Committee sought clarification regarding sharing / recruitment of new staff for the Tribunal / Benches in case multiple Benches come into existence simultaneously. Responding to this, the Ministry, in their written reply, stated that the above staff is proposed considering 5 Benches. However, in case more than 5 Benches are required at one time following additional staff per Bench may be required:

- (i) Assessor -2
- (ii) Executive Engineer -1
- (iii) Private Secretary-2

2.35 The Committee asked about the staffing pattern of the new Tribunal in case, at any given point, if all Benches cease to be in existence and only the Chairperson remain in position of the Tribunal. The Ministry, in their written reply, clarified that the staffing pattern would be elaborated in the Rules made under this Act and it would depend on the load and demand on the Tribunal. The Rules will also cater to the minimum work load and skeletal staff. They further stated that the proposed staffing pattern is as follows:

**Table 4 : Staffing pattern of the new Tribunal in case all Benches cease to be in existence**

<b>Sr. No.</b>	<b>Name of the Post</b>	<b>Scale</b>	<b>No. of Post Proposed in New Tribunal</b>
1	Chairperson	90000	1
2	Vice-Chairperson (1) / Member (6 nos)	80000 / 90000 *	0
3	Assessor	HAG 67000-79000 /PB-4 (37400-67000)+GP-10000/-	0
4	Registrar	PB-3 (15600-39100) +GP-7600/-	1
5	Assistant Registrar	PB-3 (15600-39100) +GP-6600/-	3
6	Executive Engineer	PB-3 (15600-39100) +GP-6600/-	0
7	Principal Private Secretary	PB-3 (15600-39100) +GP-6600/-	1
8	Court Master	PB-3 (15600-39100) +GP-6600/-	0
9	Section Officer	PB-2 (9300-34800) +GP-4800/-	3
10	Private Secretary	PB-2 (9300-34800) +GP-4800/-	1
11	Administrative Officer	PB-3 (15600-39100) +GP-5400/-	1
12	Assistant	PB-2 (9300-34800) +GP-4200/-	5
13	Personal Assistant	PB-2 (9300-34800) +GP-4200/-	3
14	Driver	PB-1 (5200-20200) +GP-1900/-	1
15	Upper Division Clerk	PB-1 (5200-20200) +GP-2400/-	5
		Total	25

The Tribunal can consolidate on information and data base of the Awards given for use in future disputes.”

2.36 Responding to a query whether the same Bench will adjudicate upon only one dispute or more than one, the Ministry, in their written reply, stated:

“One Bench will adjudicate one dispute but Member of One Bench can also be Member of other Bench. After any water dispute assigned to a Bench of the Tribunal is adjudicated and it submits its decision or Report, the Central Government shall dissolve that Bench.”

2.37 To a query by the Committee as to whether there is provision of any majority in the Bench to come to a decision. The Ministry, in their written reply, stated that the provision of majority decision already exists in the Act and the same is proposed to be continued.

**V. Clause 4 : Amendment of Section 5**

2.38 Clause 4 seeks to amend Section 5 of the Act and it reads as follows:

“In Section 5 of the principal Act, —

(a) for sub-Sections (1) and (2), the following sub-Sections shall be substituted, namely:-

(1) On receipt of a reference in respect of any water dispute from the Central Government, the Chairperson shall assign such dispute to a Bench of the Tribunal to its adjudication.

(2) The Bench of the Tribunal shall, before investigating the water dispute referred to it under sub-Section (1), take into consideration the Report submitted by the Disputes Resolution Committee under sub-Section (2) of Section 4A, and forward to the Central Government its detailed Report setting out the facts as found by it including on yield, efficiency in the use of water and such other matters as may be prescribed, and giving its decision on such dispute within a period of two years:

Provided that such Report shall also provide for the distribution of water during distress situations arising from shortage in the availability of water in such manner as may be prescribed:

Provided further that if the Report cannot be given within a period of two years for any unavoidable reasons, the Central Government may extend such period to a further period not exceeding one year.”;

(b) in sub-Section (3), —

(i) for the words “on such reference, the Tribunal may”, the words “on such reference, the Bench of the Tribunal concerned may” shall be substituted;

(ii) for the proviso, the following proviso shall be substituted, namely: -

Provided that the Central Government may extend the period of one year to a further period not exceeding six months.”

2.39 The reason for making changes / Amendment *vide* Clause 4, as furnished to the Committee by the Ministry, are as follows:

“Effective and efficient management of water resources is the ultimate objective of the process and it is imperative to mention it in the statute itself. Most of the water disputes arise due to utilization of inter-State River water during distress situations and thus, disputes referred to the Tribunal needs to be examined from this point of view as well.”

## **VI. Clause 5 - Substitution of new Sections 5A and 5B for 5A**

### **VI A. Appointment of Assessors**

2.40 For appointment of Assessors Clause 5 provides for new Section 5A, in ‘The ISRWD (Amendment) Bill, 2017’, which reads as follows:

“5A. (1) The Central Government may appoint two experts serving in the Central Water Engineering Service not below the rank of Chief Engineer as assessors for each water dispute to advise the Bench in the proceedings before it.

(2) The term of the assessors appointed under sub-Section (1) shall be co-terminus with the adjudication of the dispute and they shall cease to be assessors after the dispute is adjudicated and the final Report is forwarded to the Central Government.”

2.41 The reason for making changes / amendment *vide* Clause 5, as provided by the Ministry, are:

“Major work of the Tribunal, related to adjudication of disputes, is already taken care of while giving Award under Section 5(2) of the Act. Further reference under Section 5(3) thus needs to be made time-bound.”

2.42 The response of the Government of Bihar, Andhra Pradesh, Kerala, Karnataka, Rajasthan and Telangana on Clause 5 along with the comments of the Ministry thereto have been given below:

**Table 5: Comments of the States/UTs, on Clause 5, and response of the Ministry thereto**

<b>Comments of the State Governments/UTs</b>	<b>Response of the MoWR, RD and GR</b>
<p><b>Government of Bihar and Andhra Pradesh</b> Accepted</p> <p><b>Government of Kerala</b> Clauses 5 (a) (1), 5 a (2) ; 5 (b) (1), 5 b (2) can be accepted.</p> <p>Section 5(A): Proposed new Sections 5A (1) and 5A (2), which specify the method of appointment of assessors, can be accepted subject to the condition that they are not from the party States.</p> <p>Section 5(B): Section 5B (1), (2) and (3) deal with the method of filling vacancies (other than a temporary absence) of Chairperson, Vice-Chairperson, and other Members and can be accepted.</p> <p><b>Government of Karnataka</b> The assessors should be appointed in consultation with the concerned States.</p> <p><b>Government of Rajasthan</b> Section 5A (1) – The assessors should not belong to the States among which disputes arise</p> <p><b>Government of Telangana</b> Section 5 A (1) – The role of Assessors under Section 4 (3) of the ISRWD Act, 1956 be extended in the adjudication process to all the technical matters and the studies made by the Assessors shall be made available to party States to express their views and comments for better transparency in adjudication of water disputes.</p>	<p>The recommendation regarding Assessors should not be from the party States may not be agreed to. As per the Act, the Assessors would be appointed by the Central Government on recommendation of the Tribunal i.e. on recommendation of Chairman of the Tribunal. Further, as per the Act, the function and responsibility of the Assessors is to advise the Tribunal in respect of deposition of the witnesses of the party States mainly on technical issues. Assessors have to examine all the technical aspects of the Statement of cases filed by the party states and all other related documents. As such, Assessors are already entrusted to deal with all the technical matters related to proceeding of a Tribunal. The decision has to be taken on that basis by Chairman/Members of the Benches which give its decision on basis of their discretion and are happen to be neutral.</p>

2.43 Responding to the aforesaid suggestion by the Government of Rajasthan, the Ministry have stated that the recommendation regarding Assessors should not belong to the Party States may not be agreed to. However, latter in their post-evidence reply, the Ministry have also submitted that a provision can be inserted in the ISRWD Rules for Assessor not to be domicile for party States.

2.44 As regards the experience/exposure of Assessors to be appointed in the Tribunal the Ministry, in their post-evidence reply, have submitted that the Assessors are proposed to be experts from Central Water Engineering Services not below the rank of Chief Engineer. These officers have a rich experience / exposure in the related matters.

**Clause 5 (Cont:)**

**VI B. Filling of vacancies, temporary, absence, etc.**

2.45 For filling of vacancies, temporary, absence, etc., Clause 5 provides for new Section 5B, in 'The ISRWD (Amendment) Bill, 2017, which reads:

“5B.(1) Subject to the provisions of this Act, if for any reason, a vacancy (other than a temporary absence) occurs in the office of the Chairperson, Vice-Chairperson or any other Member of the Tribunal, such vacancy shall be filled by a person to be nominated in this behalf by the Chief Justice of India in accordance with Section 4B.

(2) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Vice-Chairperson shall act as the Chairperson until the date on which a new Chairperson, nominated in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(3) When any Member of a Bench of the Tribunal is unable to discharge his functions owing to absence, illness or any other cause, the Chairperson may assign the work of such Member to any other Member of the Tribunal till such Member resumes his work.”

2.46 The reasons for making the changes / amendment in Section 5A, by substituting new Section 5A and 5B in the proposed Bill, 2017, as furnished to the Committee by the Ministry are as follows:

“Effective and efficient management of water resources is the ultimate objective of the process and it is imperative to mention it in the statute itself.

Most of the water disputes arise due to utilization of inter-state river water during distress situations and thus, disputes referred to the Tribunal needs to be examined from this point of view as well.

These provisions are kept to ensure faster and timely adjudication of water disputes and establish a robust institutional architecture for the purpose.

Major work of the Tribunal, related to adjudication of disputes, is already taken care of while giving Award under Section 5(2) of the Act. Further reference under Section 5(3) thus needs to be made time-bound.

These provisions are kept for implementation of proposed changes in the Act.”

2.47 On being questioned by the Committee about the envisaged implications of the change/Amendment proposed to be made under Clause 5, the Ministry stated:

“Adjudication of disputes referred to the Tribunal with reference to Effective and Efficient management of water resources and utilization of water during distress situations would make the Award of the Tribunal more palatable to the party States which in turn would facilitate easier implementation of the Award by the Tribunal.

This will result in effective implementation of new provisions proposed in the Bill.”

2.48 When the Committee, in particular, asked for the prescribed timeline for replacing the temporary Member with that of appointing a regular or permanent Member, the Ministry, in their written reply have stated that they are open to the suggestion that the persons should be nominated by the Ministry of Law and Justice (MoLJ) and the filling up of the vacancy should be done within three months.

#### **VI C. Removal / Resignation of Chairperson and other Members of Tribunal and Benches**

2.49 While observing that “The ISRWD (Amendment) Bill, 2017” does not contain any provision regarding the ‘Resignation / Removal’ of Chairperson and other Members of the Tribunal and the Benches to be formed under the Tribunal, the Committee specifically desired to know the Ministry’s view in this regard. To this, the Ministry in their written reply have submitted before the Committee:

“The Ministry supports the proposal for “removal” of the Chairperson/Vice-Chairperson/Member on account of ‘ill-health, incapacity or non-performance’. The

Clause of “removal’ may be added as there are strict timelines in the Bill for adjudication and Members have to be subject to discipline. The authority which appointed them be empowered to remove them.”

## **VII. Clause 6 - Substitution of new Section for Section 6**

### **Decision of Bench of Tribunal binding on parties**

2.50 Clause 6 of the proposed Bill, 2017 provides for the decision of the Bench of the Tribunal to be binding on the parties and it reads as follows:

“For Section 6 of the principal Act, the following Section shall be substituted, namely:–

6. The decision of the Bench of the Tribunal shall be final and binding on the parties to the dispute and shall have the same force as an order or decree of the Supreme Court.”

2.51 The reasons forwarded by the Ministry for substitution of a new Section for Section 6 in the proposed bill, 2017, which makes decision of the Bench of the Tribunal binding on the parties, are:

“It has been observed over period of time that, at times the Central Government is refrained, through Court intervention, from publishing final Award given by Tribunals in the Official Gazette, which in turns prevents implementation of the Award and the water dispute technically remained unresolved.”

2.52 The Committee asked about the envisaged implications of the changes/Amendment made under Clause 6. The Ministry have stated that this will result in effective implementation of the Awards given by the Tribunal.

2.53 The comments / views expressed by the State Governments / UTs on Clause 6 of the proposed Bill, 2017 along with the response of the Ministry thereto are reproduced below:

**Table 6: Comments / views expressed by the State Governments / UTs, on Clause 6, along with the response of the Ministry thereto.**

<b>Comments of the State Governments/UTs</b>	<b>Response of the MoWR, RD and GR</b>
<b>Government of Bihar and Rajasthan</b> Accepted	The recommendation regarding appeals to the



**Government of Kerala**

This amendment states that the decision of the Bench of the Tribunal shall be final and binding on the party States to the dispute and shall have the same force as an order or decree of the Supreme Court. It is true that the Tribunal is appointed by the Supreme Court. But it cannot prevent the party States from approaching Supreme Court for redressing genuine grievances, if any. Hence, provision is to be given in the amended principal Act permitting the aggrieved party State to seek redressal by the Supreme Court. A Sub-Clause to this effect may be included in the proposed Amendment: If an aggrieved party State to the dispute finds the Award of the Tribunal unacceptable on genuine grounds of error committed on the face of records and / or on misconduct of the Members of the Tribunal, the party State can approach the Supreme Court for justice.

**Government of Odisha**

If any of the contesting parties or States is not satisfied with the Judgment order passed by the Tribunal, the concerned party State may be allowed to appeal before the Hon'ble Supreme Court.

**Government of Telangana**

The decision of bench of the Tribunal shall come into force only after expiry of the process of seeking clarifications under Section 5 (3) of the Act (for the Report of the Tribunal).

**Government of Punjab**

The proposal as per the amended bill to dispense with the publication of the decision of the Tribunal in official gazette by the Central Government is not as per the sound principles of jurisprudence. Rather, the provision of grant of an official hearing to all stakeholders by the Central Government with regard to the finding of the Tribunal before taking a decision to publish or not to publish the decision of the Tribunal in the official gazette should be incorporated.

(b) Appeal to the Supreme Court against the decision of the Tribunal should be prescribed under the statute.

**Government of Andhra Pradesh**

Section 6- To be modified as follows: The

Supreme Court may not be agreed to. At present, the Act puts a bar of jurisdiction of Supreme Court and other Courts in respect of any water dispute which may be referred to a Tribunal under this act. Further, Article 262(2) of the Constitution of India provides that neither the S.C. nor any other Court shall exercise jurisdiction in respect of any such dispute or complaint as referred to in Article 262(1). The Tribunals are intended to provide timely adjudication of the water disputes referred to them. If the matter is to be referred to the Supreme Court which is already heavily burdened and may take a much longer time for adjudication of these disputes then the whole purpose of setting up these Tribunals would be defeated.

<p>decision of the Bench of the Tribunal shall be final and binding on the parties to the dispute and shall be given effect to by them and shall have the same force as an order or decree of the Supreme Court. Where the decision means the decision of Bench of the Tribunal after its adjudication under 5(3) and in case no reference petition filed by party State or Government of India within stipulated period of 3 months , the decision under Section 5(2).</p>	
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2.54 As regards the finality of the Award of the proposed Tribunal, few States like Punjab, Andhra Pradesh, Kerala and Odisha have proposed for having a provision to appeal against the decision of the Tribunal for redressing genuine grievances. However, the Ministry have not agreed to this suggestion.

2.55 When the Committee desired the Ministry to substantiate their stand, the Ministry, in their written reply, have submitted:

“The stand of Ministry is consistent to the provisions in the Constitution wherein Article 262(2) of the Constitution of India provides that neither the Supreme Court nor any other Court shall exercise jurisdiction in respect of any such dispute or complaint as referred to in Article 262(1).

Ministry wants to bring some finality in the Inter-State river water disputes. We don't want the litigation to go endlessly.”

2.56 The Committee desired to know about the situation wherein the Tribunal would take time to settle the dispute beyond the stipulated period prescribed in this provision of the Bill. To this, the Ministry, in their written reply have stated that there does not exist any such provision in the Bill and the Bench of the Tribunal has to complete the adjudication within stipulated time.

2.57 The Committee thereafter desired to have information about the precedents relating to the success of implementation of the Awards given by the past Tribunals, the Ministry, in their written reply, have stated that so far work of 3 Tribunals have been completed in totality and the status of the implementation of the Awards is as follows:

**Table 7: Status of the implementation of the Awards by the previous Tribunals**

<b>S. No</b>	<b>Name of Tribunal</b>	<b>Created on</b>	<b>States concerned</b>	<b>Present Status</b>	<b>Outcome</b>
1.	Godavari Water Disputes Tribunal	April, 1969	Maharashtra, Andhra Pradesh, Karnataka, Madhya Pradesh and Orissa	Award given on July, 1980	Riparian States are following the allocations as per Award
2	Krishna Water Disputes Tribunal -I	April, 1969	Maharashtra, Andhra Pradesh and Karnataka	Award given on May, 1976	Allocations as per Award followed by riparian States
3	Narmada Water Disputes Tribunal	October, 1969	Rajasthan, Madhya Pradesh, Gujarat and Maharashtra	Award given on December, 1979	Basin Developments activities / Institutions (NCA, SSCAC), taken up as per Award .

2.58 On being asked for the provision to deal with the situation where the States/UTs fail to abide by the Award of the Tribunal, on this quite pertinent issue, the Ministry, in their written reply have submitted before the Committee:

“They can be persuaded to abide by the Award. Party States are expected to abide by the Awards or else it amounts to breakdown of the Constitutional Machinery. There are provisions in the constitution to deal with such eventuality.”

2.59 The Committee desired to know about the ramifications in case, of re-organisation of the States/UTs involved in the original disputes, for which a Bench of the Tribunal had given its Award and accepted by the un-bifurcated / parent States. The Ministry on this issue, in their written reply have submitted:

“With respect to other States they are required to abide by such Awards. With respect to each other provision generally exists in the State Reorganisation Acts where water resources are also divided along with land, as in case of A.P. Reorganisation Act and U.P. Reorganisation act. Any residual issues they can decide based on mutual agreement or can request Central Government to establish Tribunal/Bench under the ISRWD Act.”

2.60 When the Committee further desired to know about the Constitutional provision/mechanism which would entitle the States to approach the Supreme Court for the review of an Award of the Tribunal or make an appeal against it (including SLP), the Ministry, in their written reply have stated:

“Though Section 262(2) of the Constitution debars, the Supreme Court nor any other court shall exercise jurisdiction in respect of any such dispute or complaint under ISRWD Act, the Supreme Court has been exercising its jurisdiction under Articles 131 (Original Jurisdiction) and 136 (Grant SLP) of the Constitution for considering the matters related to Awards on inter-State rivers.”

2.61 On being asked by the Committee as to how the aforesaid two conflicting provisions of the Constitution can be reconciled so that a finality can be given to the Award of the Tribunal without Supreme Court entertaining any Review Petition or Special Leave Petition (SLP), the Ministry in this connection, in their written reply have submitted before the Committee:

“This issue has been under consideration of Attorney General of India. However, no fool-proof mechanism has so far been suggested. Supreme Court has taken different view on its jurisdiction to entertain Civil Appeals at different points of time.”

2.62 The Committee, thereupon, asked the Ministry to elaborate upon the Agency which would be responsible for the implementation of the Award, the Ministry in their written reply have submitted:

“The Awards are to be given effect to by the party States. There is also a provision under Section 6A in the Act, the Central Government may, by Notification in the Official Gazette, frame a scheme or schemes whereby provision may be made for all matters necessary to give effect to the decision of a Tribunal. The Central Government expects party States to be responsible legal entities.”

### VIII. Clause 7 - Substitution of new Section for Section 9A

#### Maintenance of Data Bank and information

2.63 Clause 7 of the proposed Bill, 2017, which seeks for maintenance of Data Bank and information, reproduced below:

“For Section 9A of the Principal Act, the following Section shall be substituted, namely:-

9A. (1) The Central Government shall, for the purposes of maintaining a data bank and information system at the national level for each river basin, appoint or authorize an agency which shall maintain data relating to water resources, land, agriculture and such other matter, containing such particulars and in such manner, as may be prescribed.”

(2) As and when required by the Central Government, the State Government shall make available the data relating to any of the matters referred to in sub-Section (1) to the Central Government or to the agency appointed or authorised under sub-Section (1)

(3) The Central Government or the agency referred to in sub-Section (1) shall have powers to summon and verify any data, record or other relevant information received from the State Government.”

2.64 The response of the States/UTs on Clause 7 of the proposed Bill along with the remarks of the Ministry thereto are reproduced below:

**Table 8: Comments / views expressed by the State Governments / UTs, on Clause 7, along with the response of the Ministry thereto.**

<b>Comments of the State Governments/UTs</b>	<b>Response of the MoWR, RD and GR</b>
<p><b>Government of Rajasthan, Telangana, and Andhra Pradesh</b> Accepted</p> <p><b>Government of Bihar</b> Section 9A (1) Data management should be provided only to Government or public sector agency or data can be managed by IWRIS and SWRIS.</p> <p>Section 9A (2) The Centre should share its data bank with the State in mutual term. The State shall make available data as per requirement.</p> <p><b>Government of Kerala</b> Section 9A(1) : As the name implies, the Inter State River Water Disputes Act is for resolving disputes concerning</p>	<p>The recommendation regarding data bank as proposed under Section 9-A to be a Government functionary is acceptable. In fact, National Data Informatics Centre (NDIC) is proposed to be created under Nation Hydrology Project (NHP) under Central Government Plan Scheme and thus, Central Government would be the custodian.</p>

interstate river waters. Hence it is to be clearly stated that the data bank proposed in Section 9A(1) pertains specifically to that of interstate rivers and basins. Section 9A(1) shall be modified as follows: "The Central Government may, for the purpose of maintaining a data bank and information system at the national level for each interstate river basin/river, appoint or authorize an agency which shall maintain data relating to water resources, land, agriculture and such other matter of interstate river basins/rivers, containing such particulars and in such manner, as may be prescribed.

**Government of Odisha**

**Section 9 (A) (1):** Agency shall function under MoWR. The States should have the discretionary power not to share such data, which may lead to public outrage/ law and order situation.

**Section 9 (B) (2):** Same as above, as for Section 9 (A) (1)

**Section 9 (B)(3):** Same as above, as for Section 9 (A)(1)

**Government of Madhya Pradesh**

The draft proposes for maintenance of data bank and information system by the Central Government. However, the provision makes it obligatory on States to collect, compile, maintain and provide data, and summon State Governments towards this end. This interferes with subjects allotted to the States under the State List in the Constitution. Summoning State Governments under the law is not a noble idea. It needs to be appreciated that States are not subordinate bodies to the Central Government.

**Government of Punjab**

Agency for maintenance of data bank as proposed under Section 9-A should be a Government functionary. The provision of sub Section 3, which gives the right to the Union Government to rework the States' data so that the Union's data will become authoritative, is not acceptable.

2.65 On being asked by the Committee to elaborate upon the data monitoring mechanism and its verification process, the Ministry, in their written reply, have stated:

“The water availability data is mostly collected by CWC and to a small level by States. The utilization data is mostly available with States. If there is any discrepancy in any data, it may result in non-equitable allocation of water. It is therefore very important that any authority which is responsible for data, should be able to ensure that any data which is to be utilized by Tribunal is authentic and correct. Hence these provisions have been kept in the Bill. The details of monitoring mechanism, etc are required to be prescribed in the ISRWD Rules as part of sub-ordinate legislation.”

2.66 Informing the Committee regarding the overall supervisory Authority over the data Bank and information system the Ministry, in their written reply, further stated:

“As per provisions of the Bill, Central government is required to appoint or authorize any agency for this purpose. The Central Government will authorize CWC, Central Ground Water Development Board, IITs, IISc, National Institute of Hydrology for this purpose.”

2.67 When the Committee sought clarification as to whether all the disputes will be settled on the basis of empirical data to be provided by the Data Bank only or any other parameters would be considered as well, the Ministry, in their written reply, submitted before the Committee:

“The water disputes referred to the Tribunals are not purely technical matters but involve ascertaining validity of the inter-state water sharing agreements arrived at in the past on account of various factors such as being very old, change in the parties due to territorial changes, being in conflict with other provisions of the Acts enacted by the Parliament etc. All Tribunals in the past have necessarily dealt with such issues. On technical matters the Tribunals are assisted by two or more Assessors - who are experts in the field of water resources. The data provided by the Authorized agency will help in providing the just Awards acceptable to party States.”

2.68 Responding to the concern raised by the Committee regarding Water Disputes arising due to non-availability of correct water availability data, the Ministry, in their post-evidence reply, have submitted:

“The water disputes arise due to various factors; important among them being apprehension by one State about executive and legislative actions being taken or proposed to be taken by other State in alleged violation of provision of existing inter-

state agreement or decision of the Tribunal or detrimental to the existing projects of that State. Further disputes arise due to reorganisation of an existing State into two or more States, due to extensive territorial changes brought about by general reorganisation of States. Also aspirations of existing basin States for undertaking developmental activities in the basin is also a cause for water disputes.

However, to adjudicate a river water dispute, the importance of correct availability of water data cannot be overemphasized. Mindful of this, a provision exists in the Bill (Clause 9A) where an agency will be authorised to maintain data bank and information system relating to each river basin including water availability data. It is proposed to update water availability data every 10 years.”

2.69 In this regard, the former Secretary, Ministry of Water Resources, River Development and Ganga Rejuvenation, during the evidence held on 30.06.2016, also informed the Committee:

“Disputes are always on the quantum of water sharing. Whatever be the yield of the river, unless we have correct data of rainfall, the contribution of each catchment in the river, the geomorphology, the hydrology and the yield, we cannot do it. The DRC will have all these data. And taking into account the yield and the contribution by different States, once it passes order, the quantity will significantly get reduced. Thereafter, the Tribunal will have only a small role to adjudicate. The most important thing in this entire process is that as to how you collect data which is transparent and which is irrefutable. What has been provided for in the amendment is the online collection of data so that nobody disputes. So, data collection becomes the most important thing.

One very important point has been raised is that we do not have a River Basin Authority today. We have the River Board Act of 1956 which unfortunately is recommendatory in nature. Today, what the Secretary is saying and what has been supported by Shri Mahapatra is to give a legal status to that so that it is able to implement the Award and it is also able to resolve disputes at the local level.”

2.70 Adding to this, the Secretary, Ministry of Water Resources, River Development and Ganga Rejuvenation, during the evidence held on 30.06.2016, submitted before the Committee:

“We need to work on River Basin Authorities. There should be a River Basin Authority, which takes care of disputes at the local level.”



**IX. Clause 8 – Substitution of new Section for Section 10**

**Terms and Conditions of service of Members and Assessors**

2.71 Clause 8 of the proposed Bill, 2017, which provides for terms and conditions of service of Members and assessors, reads as follows:

“For Section 10 of the principal Act, the following Section shall be substituted, namely:-

10. The salary and allowances payable to, and the other terms and conditions of service of, the Chairperson, Vice-Chairperson, other Members and assessors shall be such as may be prescribed.”

2.72 When asked by the Committee for the criteria to be followed in prescribing the Salary and Allowances for the Chairperson, Vice-Chairperson, other Members and assessors, the Ministry, in their written reply, have stated:

“This is required to be provided under ISRWD Rules (sub-ordinate legislation). Presently service rules for Chairman and Members provide that if they have retired from Supreme Court, rules applicable to Supreme Court Judges would apply. If they have retired from High Court, the rules applicable to High Court Judge would apply. In case of Assessors, rules applicable to Government of India Officers of equivalent rank would be applicable. The same is proposed to be continued.”

**X. Clause 9 – Substitution of new Section 12 and 12A for Section 12**

**Dissolution of Bench**

2.73 Clause 9 of the proposed Bill, 2017, which provides for ‘Dissolution of Bench’, reads as follows:

“For Section 12 of the principal Act, the following Sections shall be substituted, namely:-

“12. (1) After any water dispute assigned to a Bench of the Tribunal is adjudicated and it submits its decision or Report, the Central Government shall, on the recommendations of the Chairperson, dissolve that Bench.

(2) Upon dissolution of the Bench under sub-Section (1), the Members of that Bench (excluding Chairperson) shall vacate their respective offices:

Provided that where a Member of a Bench is also a Member of another Bench, such Member shall continue as a Member of such other Bench.”

2.74 As regards the aforesaid Clause 9 of the proposed Bill, 2017 the Ministry have informed that it has been accepted by all the States/UTs.

2.75 The Committee desired to know, if the same Member is also the Member of another Bench then how will he/she be able to do to justify the term of time allocation to each Bench.

On this issue, the Ministry, in their written reply, submitted:

“It is felt that in case of Members, the adjudication of only one dispute leave them with lot of spare time. Generally hearing takes place only for 3 to 5 days in a month of one dispute. As in Courts, they can be involved in more than one case (Disputes).”

#### **XI. Clause 10 – Amendment of Section 13**

2.76 Clause 10 seeks to amend Section 13 of the Principal Act and it reads as follows:

“In Section 13 of the Principal Act, in Sub-Section (2), for Clauses (a) to (f), the following

Clauses shall be substituted, namely:-

- (a) the form and the manner in which a complaint as to any water dispute may be made by any State Government under Section 3;
- (b) the other matters, and the manner of providing for distribution of water during stress situations arising from shortage in the availability of water under sub-Section (2) of Section 5;
- (c) the other matters in respect of which the Tribunal may be vested with the powers of a civil court under Clause (d) of sub-Section (1) of Section 9;
- (d) the procedure to be followed by the Tribunal under sub-Section (4) of Section 9;
- (e) the other matters in respect of which data is to be maintained, the particulars thereof, and the manner of maintaining such data under sub-Section (1) of Section 9A;
- (f) the salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson under Section 10;
- (g) the allowances or fee payable to, and other terms and conditions of service of, the Vice-Chairperson, other Members and assessors under Section 10;
- (h) the manner in which the staff of the dissolved Bench shall be dealt with under sub-Section (1) of Section 12A;
- (i) any other matter which has to be, or may be, prescribed.”

2.77 The reason put forward by the Ministry for making changes / Amendment *vide* Clause 10 is that this provision has been kept for effective implementation of new provisions proposed in the Bill.

2.78 The response of the States/UTs on Clause 10 along with the remarks of the Ministry thereto are reproduced below:

**Table 9: Comments / views of the State Governments/UTs, on Clause 10, along with the response of the Ministry thereto.**

<b>Comments of the State Governments/UTs</b>	<b>Response of the MoWR, RD and GR</b>
<p><b>Government of Rajasthan</b> Accepted</p> <p><b>Government of Bihar</b> Clause 13 (2) (h) – need to be discussed</p> <p><b>Government of Kerala</b> Section 13(1) may be modified as follows for definiteness: “The Central Government, after consultation with the State Government, shall notify the Award in the Official Gazette and make rules to carry out the purpose of the Act within a period of six months from the date of receipt of the Tribunal Award .</p> <p><b>Government of Telangana</b> Section 13 (2) – Acceptable</p>	<p>The experience in River Board Act, 1956 that River Basin organization be created after consultation with States is very bad. So far no RBO could be created. Hence, the discussion/ consultation with the State Government before officially notifying the Award will never reach to its logical end if conflicting views of the States emerged. Hence, not agreeable.</p>

## **XII. Clause 11 – Substitution of new Section for Section 14**

### **Matters relating to the Ravi and Beas Water Tribunal (RBWT)**

2.79 Clause 11 of the proposed Bill, 2017, which is related to the Ravi and Beas Water Tribunal, reads:

“For Section 14 of the principal Act, the following Section shall be substituted, namely:-

14. The Ravi and Beas Waters Tribunal constituted prior to the date of commencement of the Inter-State River Water Disputes (Amendment) Act, 2017 shall stand dissolved and the water disputes pending adjudication before it shall stand transferred to the Tribunal:

Provided that the concerned Bench shall proceed to deal with such dispute from the stage at which it was so transferred.”

2.80 While noting that as per Clause 3 of the proposed Bill, 2017 all the existing Tribunals would stand dissolved and the Water Disputes pending adjudication before such existing Tribunals would be transferred to the Tribunal, the Committee desired to know the reasons for

having a separate Clause (ii) for the Ravi and Beas Water Tribunal. To this, the Ministry, in their written reply have stated as under:

“The Ravi Beas Water Tribunal (RBWT) was not established as per usual provisions of Inter State Disputes Act wherein the Tribunals are established after requests are received from the State Government(s). But it was established to give effect to Punjab Settlement. And accordingly, a separate provision was inserted in year 1980 as Clause No. 14 of the Act. The same has been continued and accordingly finding mention in the present Bill also.”

2.81 When asked to clarify the exact position of Ravi and Beas Water Tribunal (RBWT) and the Award given by it, the Ministry, in their written reply, have submitted before the Committee as follows:

“RBWT has given its Report and decision under Section 5(2) in April, 1987. Clarification/explanation sought from the Tribunal under Section 5(3) of the said Act by the party States. The Report on the same is yet to be given. Presidential Reference 1 of 2004 was made on the Punjab Termination of Agreements Act, 2004. The Hon’ble Supreme Court has pronounced the judgement on Presidential Reference in negative. Further, Government of Haryana has filed IA No. 6 of 2016 in OS No. 6 of 1996 in the matter. The matter is *sub-judice*.”

2.82 Adding further on the Ravi Beas Water Tribunal (RBWT), the Ministry, in their written reply, stated:

“The Ravi Beas Water Tribunal (RBWT) was established to give effect to Punjab Settlement, where one of the beneficiary State was Rajasthan though it is not a strictly a riparian State. Though Ravi and Beas rivers are not mutual tributaries to each other, but tributaries to a larger river Indus which is considered to have its drainage area in the State of Rajasthan. After enactment of amended ISRWDT Act, the dispute pending before RBWT shall also stand transferred to a Bench of the Tribunal. And if we accept the change proposed by Punjab that ‘party States’ be replaced by ‘riparian States’, a doubt may be raised about claims of Rajasthan under RBWT Award .”

2.83 The response of the States / UTs on Clause 11 along with the Ministry’s remarks thereto are reproduced as under:

**Table 10 : Comments / views of the State Governments/UTs, on Clause 11, along with the response of the Ministry thereto.**

Comments of the State Governments/UTs	Response of the MoWR,RD and GR
<p><b>Government of Bihar, Telangana, Andhra Pradesh</b> No comments to offer</p> <p><b>Government of Kerala</b> Substitution of new Section for Section 14: Time limit for finalizing the Award by the new Tribunal constituted, to which the pending adjudication as per the Inter State River Water Disputes Act 2015 is entrusted, shall be specified.</p> <p><b>Government of Rajasthan</b> Section 14 – In general, the amendment may be accepted but in case of Ravi-Beas, the Tribunal has given its decision for sharing of water among partner States. States have already given their objections on the decision of the Tribunal.</p> <p>Meanwhile, Punjab Termination of Agreements Act, 2004 passed by Punjab Assembly has been referred to the Hon<sup>ble</sup> Supreme Court. The bench of this Tribunal cannot have further hearings and give final decision. Since the Ravi Beas Tribunal has already given its decision, therefore, there is no need of the separate Bench for this issue. The Ravi-Beas Tribunal should continue and on other issues, the amendment may be accepted.</p> <p><b>Government of Punjab</b> The State of Punjab supports the dissolution of Ravi-Beas Waters Tribunal. However, the concerned Bench of the Tribunal under the amended Bill should consider the matter under fresh Terms of Reference and not from the stage at which it was left by the Ravi-Beas Waters Tribunal.</p>	<p>The proposal/suggestion of Govt. of Rajasthan/Punjab is not agreeable. The dissolution of Ravi and Beas Water Tribunal is being done to transfer the disputes to a new Bench, as no Chairman and Members are currently there, further no new terms of reference can be given to Ravi and Beas Bench till the Ravi and Beas Water Tribunal is closed u/s 12 of the ISRWD Act, 1956.</p>

### **XIII. FINANCIAL IMPLICATION**

2.84 The 'Financial Memorandum' as provided in 'The ISRWD (Amendment) Bill, 2017 is as follows:

"Clause 3 of the Bill seeks to substitute new Sections 4, 4A, 4B, 4C and 4D for Section 4 of the Inter-State River Water Disputes Act, 1956. The proposed Section 4 seeks to establish a single standing Inter-State River Water Disputes Tribunal with multiple Benches, which shall initially be constituted by merging of existing five Tribunals. As existing premises with necessary furniture are already available, no new premises or furniture are required for establishing the office of the new Standing Tribunal. Therefore, no non-recurring expenditure would be involved.

It is proposed to establish a single standing Tribunal with multiple Benches, instead of multiple Tribunals, by merging existing five Tribunals. The new Tribunal shall consist of one Chairperson, one Vice-Chairperson and not more than six Members. Further, after the new Tribunal is established, the 107 sanctioned posts in the existing Tribunals are proposed to be reduced to 80 posts. Therefore, on establishment of proposed new Tribunal, the estimated annual recurring expenditure is likely to be reduced from existing Rs.8 Crore to Rs.5.5 Crore, thereby saving Rs.2.5 Crore per annum.

The Bill, if enacted, therefore, does not involve any recurring or non-recurring expenditure."

2.85 As regards the financial implications caused due to 'The ISRWD (Amendment) Bill, 2017', the Ministry during their evidence on 16.06.2017 submitted before the Committee as follows:

- “(i) The existing accommodation / infrastructure / vehicles of the Tribunals is proposed to be utilised for New Proposed Standing Tribunal.
- (ii) Existing 107 sanctioned posts of Tribunals will come down to 80.
- (iii) There would be overall saving in proposed set-up.”

## Part II

### Observations / Recommendations

#### Genesis of the Bill

1. 'The Inter-State River Water Disputes (Amendment) Bill, 2017' (The ISRWD Bill, 2017) was introduced in Lok Sabha on 14.03.2017 and the Speaker, Lok Sabha referred the said Bill to the Standing Committee on Water Resources on 24.05.2017 for detailed examination and Report. The proposed Bill seeks to amend 'The Inter-State River Water Disputes (ISRWD) Act, 1956' by addressing some of its drawbacks viz.

- (i) Absence of upper age limit for the Chairman and other Members of a Tribunal
- (ii) Absence of strict time limit for conclusion of any Tribunal's work. i.e. under Section 5(3) of the Act, there is no maximum time limit upto which Central Government can extend the term of the Tribunal for giving a further Report for explanation and guidance
- (iii) Absence of time limit for publishing the Report of a Tribunal by the Government under section 6 of the Act
- (iv) Considerable time is taken for a Tribunal to establish itself and start work
- (v) The tenures of the Tribunals tend to get extended indefinitely for sundry reasons
- (vi) On occurrence of a vacancy matter referred to the Tribunal will be taken up by the Tribunal after the vacancy is filled leading to considerable delay and
- (vii) No thrust on data collection of yield, its correlation with rainfall, existing use, their efficiency levels as also there being no provision for e-flows and contribution of a state to Hydrology.

The Committee note that the proposed ISRWD Bill, 2017 seeks to streamline the adjudication of inter-State river water disputes and make the present legal and Institutional architecture robust. The Bill proposes to introduce a mechanism to resolve

the water disputes amicably by negotiations through a Disputes Resolution Committee before such dispute is referred to the Tribunal. The Bill also seeks to provide for a single standing Tribunal (with multiple Benches) instead of multiple Tribunals and the proposed Tribunal shall consist of one Chairperson, one Vice-Chairperson and not more than six Members. The term of office of the Chairperson is five years or till she/he attains the age of seventy years, whichever is earlier, and the term of office of Vice-Chairperson and other Members of the Tribunal, shall be co-terminus with adjudication of the water disputes. The Bill also proposes that there shall be the post of Assessors to provide technical support to the Tribunal who shall be appointed from amongst experts serving in the Central Water Engineering Service and shall not be below the rank of Chief Engineer. The total time period for adjudication of a water dispute by the Tribunal has been fixed at a maximum of four and half years and the decision of the Bench of the Tribunal shall be final and binding on the States concerned and removing requirement of publication of its decision in the Official Gazette. The Bill also seeks to provide for transparent data collection system at the National level for each river basin and for this purpose, an agency to maintain databank and information system shall be appointed or authorized by the Central Government.

The Committee note that before introducing the ISRWD Bill, 2017 in Lok Sabha, the Ministry have circulated the Draft Cabinet Note to the Central Ministries concerned and to all States/UTs for seeking their comments. The Ministry have also sent it to PMO, NITI Aayog, etc. and have got it vetted by the Ministry of Law and Justice. It was approved by the Minister of Water Resources, River Development and Ganga Rejuvenation and finally after modifications the Cabinet Note was approved on 07.02.2017 and then introduced in Lok Sabha on 21.03.2017.



Against this backdrop, the Committee, while appreciating the initiatives and efforts taken by the Ministry of Water Resources, River Development and Ganga Rejuvenation to bring the ISRWD Bill, 2017, recommend the Ministry to be very meticulous in finalising the ISRWD Bill, 2017 particularly because it is envisaging a National Tribunal for resolving all the Inter-State River Water disputes. The Ministry should also incorporate the changes/modifications suggested by this Committee and take care of the lacunae observed and highlighted in the following paragraphs of this Report so as to make the Bill fool-proof. The Committee would like to be apprised about the changes incorporated and desire to have the copy of the final modified ISRWD Bill, 2017 before it is laid again in the House.

**Clause 2: Amendment of Section 2**

2. The Committee note that Clause 2 of the proposed ISRWD (Amendment) Bill, 2017 seeks to amend Section 2 of the Principal Act of 1956 by substituting / inserting the definitions for (a) Chairperson, (aa) existing Tribunal, (ab) Member, (ac) notification, (ad) prescribed, (b) Tribunal and (ba) Vice-Chairperson. The Committee also note that the proposed Bill contains both the terms 'Chairperson' and 'Chairmen'. Further, the Committee have been informed that while offering its comment on this Clause, the Government of Punjab has suggested for clearly defining the term 'Inter-State River' so as to cover only the Riparian States i.e. the States through the territories of which the river flows. The Committee note that, responding to the view of Government of Punjab, the Ministry have stated that while the position of the State of Punjab regarding applicability of the term only to the Riparian States may not be agreed to because as on

date, except for the Ravi Beas Water Tribunal (RBWT), the party States to any of the existing Tribunals are Basin States only. With regard to the usage of two different terms for the same post the Committee recommend the Ministry to ensure usage of same and uniform terminology throughout the proposed Bill as well as to use gender neutral terms in all the places possible. For instance, the term 'Chairperson' should be used throughout the Bill instead of the term 'Chairmen' which has been used in Clause 3 of the Bill. The Committee also recommend the Ministry to have a relook at all the definitions and the terminologies used in the proposed Bill so as to have an impeccable Bill leaving no vagueness either in the usage or definition of the terms.

**Clause 3: Substitution of new Sections 4, 4A, 4B, 4C and 4D for Section 4**

Clause 3 of the ISRWD (Amendment) Bill, 2017 provides for (i) Establishment of Inter-State River Water Disputes Tribunal, (ii) Dispute Resolution Committee, (iii) Composition of Tribunal (iv) Term of Office and (v) Benches of Tribunal by substitution of new Sections 4, 4A, 4B, 4C and 4D for Section 4 of the Principal Act. Each of the new Section proposed under Clause 3 have been commented upon in the following paragraphs.

**Establishment of Inter-State River Water Disputes Tribunal**

3. The Committee note that Clause 3 of the Bill, 2017 seeks for establishment of Inter-State River Water Tribunal. On and from the date of establishment of the new Tribunal, all the existing Tribunals shall stand dissolved and the water disputes pending adjudication before such existing Tribunals shall stand transferred to the new Tribunal. The Committee also note that, under this Clause, the Chairperson and other members of

the existing Tribunals who have attained the age of Seventy years, as on the date of commencement of the Inter-State River Water Disputes (Amendment) Act, 2017, shall cease to hold office on the expiry of three months from the date of such commencement. The Ministry, in this regard, during deliberations have proposed to keep age limit for Chairperson as 70 years while for the Vice-Chairperson and other Members as 67 years so as to have harmony of the provisions under the Finance Act, 2017. Further, with regard to the three month time given for the Chairperson and Members to leave the office, the Committee have been informed that they are expected to participate in the transition from existing set-up to the proposed set-up wherein records etc. can be transferred from the existing Tribunals to the proposed stand alone Tribunal. As regards the office that the Chairmen and other Members of the existing Tribunals will continue to hold during the three month transition period the Committee note that they will hold office on notional basis in the new Tribunal. The Committee, however, do not agree with this contention of the Ministry. According to them, it would not serve any public interest by retaining, even notionally, the Chairpersons and the Members of the existing tribunals, which would stand dissolved on and from the date of the establishment of the new Tribunal, who otherwise do not have the requisite qualification / eligibility for holding offices in the changed set up. Under the Inter-State River Water Disputes (Amendment) Bill, 2017, the Ministry have proposed for having a post of 'Administrative Officer' to act as the Secretary of the Tribunal. With the dissolving of the existing tribunals, their Records and properties would become property of the new Tribunal and a transition from the present to the new dispensation is expected to be smooth which would be facilitated by the Administrative Officer of the new Tribunal. The Committee, therefore, recommend that provision for 03 months 'notional' retention of

the non-eligible Chairperson, Members of the existing Tribunals should be deleted from the Bill and Clause No. 3 of the Bill in this regard modified suitably. Further, regarding limiting of age for Chairperson as 70 years and for the Vice-Chairperson and other Members as 67 years, the Committee endorse the change proposed by the Ministry and recommend the Ministry to adhere to the proposed amendments to the new Section 4 under Clause 3.

Clause 3 (cont:)

Disputes Resolution Committee (DRC)

4. The proposed Section 4A (1) to (4) under Clause 3 of the Bill, 2017 envisages a 'Disputes Resolution Committee' (DRC), to resolve the water disputes amicably by negotiations, before such dispute is referred to the Tribunal. With regard to the composition of DRC, the Committee note that the proposed Section 4A (1) entails that as and when any request under Section 3 is received from any State Government in respect of any water dispute, the Central Government shall set up a Disputes Resolution Committee, consisting of members from such relevant fields, as it deems fit, for resolving the dispute amicably. The Committee are also given to understand that the composition of DRC will be provided under the ISRWD Rules - which would be framed as part of Sub-ordinate Legislation under the proposed ISRWD Act, 2017. Considering that this provision has been kept for carrying out effective negotiations through Dispute Resolution Committee, which would act as first tier of dispute resolution, the Committee are of the firm opinion that the composition of the Disputes Resolution Committee needs to be prescribed in the Act itself so that no lacuna is left at this initial stage of dispute resolution. For this, the Committee recommend that the Disputes Resolution Committee

should consist of a Chairperson and three Members (as experts) along with one Member each from the States who are party to the dispute. The Chairperson can be a serving/retired Bureaucrat not below the Rank of Secretary preferably having experience in the relevant fields or the Water sector. The four Members can be (i) One expert from Social Science sector, but not below the rank of Engineer-in-Chief, (ii) One expert from technical background working/having experience in the Water sector (iii) One expert / eminent person from civil society, working in the Water sector and (iv) One member each to be nominated by respective States who are party to the dispute. For the sake of transparency, the Committee also recommend that findings of the DRCs should be brought invariably in the public domain through Electronic and Print Media and for this purpose, if required a new Clause can be added under the Section mentioned ahead.

5. The Committee note that under the proposed Section 4A(4), if any water dispute cannot be settled by negotiations then it shall be referred by the Central Government, by a Notification, to the Tribunal for its adjudication within a period of three months from the date of receipt of the Report under Sub-section (2). With regard to the time period for referring the dispute to the Tribunal, the Committee are of the view that in case the water dispute cannot be settled by negotiations, then, the time period of three months may be reduced to one month. Further, taking into cognizance the experience of Disputes Resolution Committee so far in resolving Inter-State River water disputes, wherein many Inter-State river water sharing matters have been settled by negotiations/agreements like Bansagar, Betwa and Ken rivers, etc including the recent case of the Sone River Dispute where negotiations were successfully coordinated and there was no need to set-up Tribunal, the Committee appreciate its role and significance

as the first tier of dispute resolution and recommend the Ministry to continue putting efforts for minimal referral of disputes to the Tribunal. Besides, the Committee, while appreciating the fact that the basic principles of Helsinki / Berlin Rules can guide the Disputes Resolution Committee while settling the disputes, recommend for following other well establish National and International best practices for resolving the water disputes.

### Clause 3 (Cont:)

#### Composition of Tribunal

6. The Clause 3 of the ISRWD Bill, 2017, which provides for the 'Composition of the Tribunal' by substitution of new Section 4B, states that subject to the provision of Section 12, the Tribunal shall consist of a Chairperson, Vice-Chairperson and not more than six members to be nominated by the Chief Justice of India from amongst persons who at the time of such nomination are Judges of the Supreme Court or of a High Court. On being specifically enquired by the Committee about the reason for making only one person i.e. Chief Justice of India as the sole Authority for nominating the Chairperson, Vice-Chairperson and other Members of the Tribunal, the Committee have been informed that this provision also exists in the existing ISRWD Act, 1956. However, the Ministry have also informed the Committee that they are open to having a 'Collegium' for nominating them. In addition to the Composition of the Tribunal, the Ministry have as well proposed for having a post of 'Administrative Officer' to act as the Secretary of the Tribunal and who would be not below the rank of Joint Secretary. The proposed 'Administrative Officer' would act as the bridge between the Ministry of Water Resources, River Development and Ganga Rejuvenation and the new Tribunal and

she/he shall be responsible for all the administrative and non-judicial matters to be dealt with by the Tribunal. It is also proposed that the 'Administrative Officer' will be supported by adequate administrative staff provided by the Ministry and the functions, powers and appointment of the Administrative Officer shall be elaborated in the Rules framed under the ISRWD Act, 2017. The Committee endorse the proposal of the Ministry for having an Administrative Officer, not below the rank of Joint Secretary, Ministry of Water Resources, River Development and Ganga Rejuvenation, to act as a bridge between the Ministry and the Tribunal. Further, while noting the provisions of the Bill, 2017 for nominating the Chairperson, Vice-Chairperson and other Members, the Committee are of the well considered opinion that having a 'Panel / Collegium' for nominating / selecting the Chairperson / Vice-Chairperson / Members of the Tribunal would not only make the Tribunal more comprehensive and inclusive in nature but also give it a look of a balanced body. The Committee, therefore, recommend for having a 'Collegium of four Members', for selecting the Chairperson/Vice-Chairperson/members of the Tribunal, comprising of (i) The Prime Minister or his nominee (ii) The Chief Justice of India or his nominee from Judges of Supreme Court, (iii) The Leader of Opposition and (iv) The Minister of Water Resources, River Development and Ganga Rejuvenation.

The Committee also recommend following as the Composition of the new Tribunal:

"The Tribunal shall consist of a Chairperson, Vice-Chairperson and not more than six members wherein the Chairperson would be the sitting Supreme Court Judge to be nominated by the Chief Justice of India and the Vice-Chairperson would be a sitting Supreme Court Judge/High Court Judge, also to be nominated by Chief Justice of India. The other six members shall have expertise in the Water sector. Out of the six members at least 3 should have sufficient experience / be an expert from water related field and remaining three members of the Tribunal can be (i) a senior Bureaucrat, having expertise/experience in

water related field (ii) an expert from social sciences background and (iii) an expert on Hydrology.

**Clause 3 (Cont:)**

**Benches of Tribunal**

7. The proposed new Section 4D(1), under Clause 3 of the ISRWD Bill, 2017 states that subject to the provision of the Act, the jurisdiction of the Tribunal may be exercised by the Benches. It also states that the Chairperson may constitute a Bench with three Members out of which the Senior-most Member shall preside over the Bench provided that a Member of a Bench may also be a Member of another Bench. Further, under Section 4D(2) the Benches of the Tribunal shall ordinarily sit at New Delhi or at such other places as the Chairperson may decide. The Committee note that the staff of the proposed Tribunal has been reduced from 107 (the combined Staff Strength of the 5 Tribunals) to 80 (the proposed staff of the Tribunal) and this would cater to the requirement of the Benches to be formed under the new Tribunal. On seeking clarification from the Ministry regarding sharing of staff of the Tribunal / Benches in case the multiple Benches come into existence simultaneously, the Committee have been informed that in case more than 5 Benches are required at one point in time, then, the additional staff per Bench may be required which will include two Assessors, one Executive Engineer and two Private Secretary. While appreciating a slimmer staff strength proposed for the new Tribunal, the Committee recommend that sufficient staff should be provided for proper data collection, management and analysis. Further, with respect to the Composition of the Benches of the Tribunal, the Committee endorse the new Section 4D(1) which states that the Chairperson may constitute a Bench with three members, out of which the Senior-most member shall preside over the Bench.



**Clause 4 – Amendment of Section 5**

8. The Committee note that Clause 4 of the ISRWD Bill, 2017 seeks to amend Section 5 – which covers ‘Adjudication of Water disputes’ under the ISRWD Act, 1956. The Committee note that in the existing ISRWD Act, 1956 under Section 5(2) a Tribunal investigates the matter referred to it and forward its Report to the Central Government within a period of *three years* and in case the decision cannot be given for unavoidable reasons, then, the Central Government may extend the period not exceeding *two years*. Further, if the decision of the Tribunal is again referred to the Tribunal under Section 5(3) the Tribunal may forward to the Central Government a further report within *one year* from the date of such reference - 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, for such further period as it considers necessary. Thus, the Committee note that under Section 5(2) of the 1956 Act, a Tribunal is required to give its Report within a maximum period of six years. Nevertheless, under the provisions thereto, the Central Government may extend the period indefinitely, till the Report is submitted. It is therefore, apparent that no strict time limit was there for conclusion of adjudication by a Tribunal under the 1956 Act. The Committee further note that in ‘The ISRWD Bill, 2017’ the aforesaid period has been reduced to two years and one year respectively and under the new Section 5(3), on further referral the Central Government may extend the period for one year, further extendable not beyond six months. While noting and appreciating the effort of the Ministry to reduce the time period for adjudication to four and half years, the Committee find that effectively it would take six years (DRC 1 year and 6 months and Tribunal 4 years and 6 months) before the final

verdict is given on a dispute. The Committee are of the opinion that even six years' period is too longer under the given circumstances, especially when the DRCs would have already deliberated on the issues extensively and their Report (materials on record) will be the very basis on which the Tribunal would adjudicate upon the dispute(s). The Committee, therefore, recommend that the time period for adjudication of Water disputes by the Tribunal should further be reduced to a maximum of two years. Further, the Committee are of the firm opinion that the findings / conclusion of the Tribunal / Benches cannot be classified as 'Report' as has been done in the Bill, since it is the culmination of a judicial process - which has to come out in the form of an 'Order' or 'Award'. The Committee, therefore, recommend that the expression 'Report' should be substituted with a suitable judicial word / terminology which would bring the decision of the Tribunal / Benches on the same footing as the decree of a Court. The Committee also recommend the Ministry to ensure timely implementation of the decision / Award once it is made.

#### Clause 5 – Substitution of new Section 5A and 5B for 5A

##### Appointment of Assessors

9. The Committee note that for the appointment of Assessors, new Sections 5A and 5B will be substituted for Section 5A of the ISRWD Act, 1956. The proposed Section 5A(1) states that the Central Government may appoint two experts, serving in the Central Water Engineering Service not below the rank of Chief Engineer, as Assessors for each water dispute to advise the Bench in the proceedings before it. Section 5A(2) provides for the term of Assessors appointed under sub-Section (1) which shall be co-

terminus with the adjudication of the dispute and they shall cease to be Assessors after the dispute is adjudicated and the final Report is forwarded to the Central Government. The Committee note that some of the States Governments like Bihar, Andhra Pradesh, and Kerala have accepted this Clause. However, State of Kerala and Rajasthan have stated that Assessors should not belong to the States which are party to the disputes, whereas the Government of Karnataka has stated that the Assessors should be appointed in consultation with the concerned States. The Committee, while appreciating the role to be played by the 'Assessors' as envisaged in the Bill in advising the Tribunal in the proceedings, feel that the Ministry/Government should be cautious in appointing the Assessors so as to maintain the trust and faith of the States in the adjudication. The Committee also recommend that to avoid conflict of interest, the 'Assessors' should not belong to the States which are party to a particular dispute.

#### Clause 5 (Cont:)

##### Filling of vacancies, temporary, absence, etc

10. The Committee note that the Clause 5 provides for new Section 5B for 'Filling of vacancies, temporary, absence, etc. and Section 5B(1) states that if a vacancy (other than a temporary absence) occurs in the office of the Chairperson, Vice-Chairperson or any other Member of the Tribunal, such vacancy shall be filled by a person to be nominated in this behalf by Chief Justice of India in accordance with Section 4B. Further, if the office of the Chairperson falls vacant due to death / resignation / otherwise, then, the Vice-Chairperson will act as the Chairperson until the date for nominating a new Chairperson. With regard to the timeline for replacing the temporary Member with that of appointing a regular or permanent Member, the Ministry informed that they are open to the suggestion for person being nominated by the Ministry of Law

and Justice for filling up the vacancy within three months. The Committee, in this regard, recommend that even for filling up the vacancies (other than a temporary absence) of the Chairperson / Vice-Chairperson or any other Members, the same Panel / Collegium (as suggested at Para 6 of Part II of this Report), which had initially nominated / selected them, should also select / nominate the persons for filling up of such vacancies. The Committee further recommend that it should be done on Top Priority basis in order to ensure that no time is wasted in the process. Hence, instead of waiting for three months for filling up the vacancies, the Committee recommend that it should be done within one month of the post falling vacant.

#### Removal / Resignation of Chairperson and other Members of Tribunal and Benches

11. The Committee note that “The ISRWD (Amendment) Bill, 2017” does not contain any provision regarding the ‘Resignation / Removal’ of Chairperson and other Members of the Tribunal and the Benches to be formed under it. The Committee, therefore, recommend that the Ministry should add a provision in the Bill to address the issue. The Panel / Collegium which initially selected / nominated them should also be vested with the powers for such removals whenever the situation warranted so. The Committee feel that this Clause holds immense significance in addressing the cases of ill-health / incapacity / non-performance of the Chairperson / Vice-Chairperson / Member (s) of the Tribunal / Benches.

**Clause 6 – Substitution of new Section for Section 6****Decision of Bench of Tribunal binding on parties**

12. The Committee note that Clause 6 of the Bill, 2017, provides for substituting Section 6 of the Principal Act (ISRWD Act, 1956) with a new Section 6, which entails that the decision of the Bench of the Tribunal shall be final and binding on the parties to the dispute and shall have the same force as an order or decree of the Supreme Court. About the provision to deal with the situation where the States / UTs fail to abide by the award of the Bench / Tribunal, the Ministry have informed that they can be persuaded to do so. Besides, the Party States are expected to abide by the Awards or else it amounts to breakdown of the Constitutional Machinery and there are provisions in the constitution to deal with such eventuality. The Committee note that though Section 262 (2) of the Constitution debars the Supreme Court or any other Court to exercise jurisdiction in respect of any such dispute or complaint under ISRWD Act, yet the Supreme Court has been exercising its jurisdiction under Articles 131 (Original Jurisdiction) and 136 (Grant SLP) of the Constitution for considering the matters related to Awards given on inter-State river water disputes. The Committee, therefore, endorse this Clause - which seek giving finality to the Award of the Tribunal so as to avoid the endless litigation on the disputes. However, the Committee would refrain from interpreting any Constitutional Provision in this regard.

**Clause 7 – Substitution of new Section for Section 9A****Maintenance of Data Bank and Information**

13. The Committee note that the Clause 7 of the proposed Bill, 2017, which seeks to substitute Section 9A(1) to (3) for Section 9 of Principal Act, provides that the Central Government shall, for the purposes of maintaining a data bank and information system at the national level for each river basin, appoint or authorize an agency which shall maintain data relating to water resources, land, agriculture and such other matter, containing such particulars and in such manner, as may be prescribed and the data relating to any of the matter referred in Section 9A(1) shall be provided by the State Government to the Central Government or to the agency appointed or authorised. Besides, under Section 9A (3) the Central Government or the agency referred to in Sub-section(1) shall have powers to summon and verify any data, record or other relevant information received from the State Government. The Committee note that responding to the Bihar Government's suggestion that the Data Management should be done only by the Government functionary or a Public Sector Agency the Ministry have proposed National Data Informatics Centre (NDIC) to be created under the National Hydrology Project (under the Central Government plan scheme) so as to make the Central Government as the custodian. The Committee also note that the Central Government will authorise CWC, CGWB, IITs, IISC, National Institute of Hydrology, etc. with overall supervisory authority for the Data Bank and information system. Further, the Committee are given to understand that the details of the monitoring mechanism, etc. are required to be prescribed in the ISRWD Rules as part of Sub-ordinate legislation. The Ministry have also informed that there is no River Basin Authorities today and for the present there exists only the River Board Act of 1956 for the purpose which is

recommendatory in nature. On the issue of authenticity of local data and related matters, the Committee have also been informed that there is a need to work on River Basin Authorities so as to take care of disputes at the local level. While considering that data holds immense significance as a vital input in resolution of the inter-State River dispute, the Committee recommend the Ministry to have a fool-proof Data Management and Information System so that the data utilised by the Tribunal is authentic, correct and irrefutable. Further, the Committee strongly recommend that this is high time to work on River Basin Authorities and in this regard, the Committee would like to reiterate their recommendation made in the Sixteenth Report (16<sup>th</sup> Lok Sabha) on Demands for Grants (2017-18) wherein the Committee had deplored the delay in the formation of River Basin Authority, and had strongly recommended to establish the same at the earliest which has not been the case so far.

#### Clause 8 – Substitution of new Section for Section 10

##### Terms and Conditions of Service of Members and Assessors

14. The Committee note that Clause 8 of the Bill, 2017 provides for Section 10 and it states that the Salary and Allowances payable to, and the other terms and conditions of service of, the Chairperson, Vice-Chairperson, other Members and Assessors shall be such as may be prescribed under the ISRWD Rules (Sub-ordinate legislation). The Committee, while endorsing the change proposed under this Clause recommend the Ministry to amend it further in accordance with the changes suggested by them regarding the Composition of Dispute Resolution Committee and the Tribunal.

**Clause 9 – Substitution of new Section 12 and 12A for Section 12**

**Dissolution of Bench**

15. Clause 9 of the proposed Bill, 2017, which provides for 'Dissolution of Bench' by Substitution of new Section 12 and 12A for Section 12, states that after any water dispute assigned to a Bench of the Tribunal is adjudicated and it submits its decision or Report, the Central Government shall, on the recommendations of the Chairperson, dissolve that Bench. Upon dissolution of the Bench under Section 12(1), the Members of that Bench (excluding Chairperson) shall vacate their respective offices provided that where a Member of a Bench is also a Member of another Bench, such Member shall continue as a Member of such other Bench. The Committee, note that the staffing pattern would be elaborated in the Rules to be made under this Act. The Committee while endorsing and appreciating the change/modification done through Clause 9 of the ISRWD Bill, 2017 opine that there should be fixed time frame within which the Government should dissolve the Benches after the Chairperson recommends for doing so.

**Clause 10 – Amendment of Section 13**

16. Clause 10 of the Bill seeks to substitute Clauses (a) to (f) of sub-section (2) of Section 13 relating to power to make Rules. The proposed Amendments seek to provide for rule making powers in respect of –

- (i) the other matters and the manner of providing for distribution of water during stress situations arising from shortage in the availability of water;
- (ii) the other matters of which data is to be maintained, the particulars such data shall contain and the manner in which such data shall be maintained; and
- (iii) the manner in which the staff of the dissolved Bench shall be dealt with.



With regard to Section 13, relating to power to make Rules, the Committee have been informed that the matters in respect of which the Rules may be made are generally matters of procedure and administrative details and it is not practicable to provide for them in the Bill itself and the delegation of legislative power is, therefore, of a normal character for the purpose. The Committee, however, recommend that the Rules should be framed in consonance with the sense of the Committee which have been made known to the Ministry during the meetings on the Bill and observations / recommendations made in this Report.

#### Clause 11 – substitution of new Section for Section 14

##### Matters relating to the Ravi and Beas Water Tribunal (RBWT)

17. Clause 11 of the proposed Bill, 2017, relates to the Ravi and Beas Water Tribunal, and it states that the Ravi and Beas Waters Tribunal constituted prior to the date of commencement of the Inter-State River Water Disputes (Amendment) Act, 2017 shall stand dissolved and the water disputes pending adjudication before it shall stand transferred to the Tribunal: Provided that the concerned Bench shall proceed to deal with such dispute from the stage at which it was so transferred. The Committee note that 'The Ravi Beas Water Tribunal (RBWT)' was not established as per the usual provisions of The ISRWD Act, 1956, instead it was set up for giving effect to the Punjab Settlement in which one of the beneficiary State (Rajasthan) was not strictly a Riparian State. The Committee , therefore, recommend that the Ravi Beas Water Tribunal may be considered as a standalone case and this may not be used as an alibi for deviating from the provision of the proposed ISRWD Act, 2017.

**Financial Implications**

18. The Committee note, from the Financial Memorandum of 'The ISRWD (Amendment) Bill, 2017', that forming single standing Inter-State River Water Disputes Tribunal with multiple Benches, would not involve any recurring or non-recurring expenditure. The Committee also note that after the new Tribunal is established, the 107 sanctioned posts in the existing Tribunals are proposed to be reduced to 80 posts. Therefore, on establishment of proposed new Tribunal, the estimated annual recurring expenditure is likely to be reduced from existing Rs.8 Crore to Rs.5.5 Crore, thereby saving Rs.2.5 Crore per annum. Notwithstanding the claim made in the Financial Memoranda of the 'The ISRWD (Amendment) Bill, 2017', the Committee apprehend that the proposed new Section 4D under Clause 3 - which gives power to the Chairperson of the Tribunal to take decision regarding the Benches of the Tribunal to sit at any other places other than New Delhi, may entail additional burden on the exchequer in setting up such establishments. The Committee, therefore, recommend that the Ministry should take a fresh look on this aspect and calculate the extent of savings or extra expenditure accordingly.

NEW DELHI  
04 August, 2017  
13 Shrawana, 1939(Saka)

HUKUM SINGH,  
*Chairperson,*  
*Standing Committee on Water Resources*

**Annexure- I****Details of Tribunal functioning under ISRWD Act, 1956 which are presently functional**

<b>S. NO.</b>	<b>RIVER(STATES)</b>	<b>DATE OF CONSTITUTION</b>	<b>DATE OF AWARD</b>
1	Ravi and Beas (Punjab, Haryana, Rajasthan)	April, 1986	Yet to be given
2	Cauvery (CWDT) (Kerala, Tamil Nadu, Karnataka, Puducherry)	June, 1990	Report and decision under section 5(2) of the ISRWD Act 1956 given on 5.2.2007. Further Report under 5(3) awaited.
3	Krishna(KWDT) (Maharashtra, Andhra Pradesh, Karnataka)	April, 2004	Report and decision under 5(2) and under section 5(3) of the Act given on 30.12.2010 and 29.11.2013 respectively. Supreme Court in its order dated 16.9.2011, directed that till further order, decision taken by the Tribunal on references filed by States and Central Government shall not be published in the official Gazette. Matter is sub-judice. Term of the Tribunal has been extended w.e.f. 1 <sup>st</sup> August, 2014 to address the terms of reference as contained in section 89 of Andhra Pradesh Reorganisation Act, 2014
4	Vansadhara(VWDT) (Orissa, Andhra Pradesh)	Feb.,2010	Report and decision not given by the Tribunal. Vansadhara Water Disputes Tribunal in its Interim Order dated 17.12.2013 has directed to constitute a 3-member Protem Supervisory Flow Management and Regulation Committee on River Vansadhara to implement its Order. State Govt. of Odisha has filed Special Leave to Appeal (Civil) No.3392 of 2014 with regard to the Vansadhara Water Disputes Tribunal Judgement dated 17.12.2013. The matter is sub-judice.
5	Mahadayi (Goa, Karnataka, Maharashtra)	Nov.,2010	Report and Decision not given by the Tribunal u/s 5(2) of ISRWD Act, 1956.

**Note :-** In the case of Ravi – Beas Water Tribunal, after submission of the report by the Tribunal u/s 5(2) of the Act, a further report was to be given by it within a period of one year. Meanwhile, Govt. of Punjab passed the Punjab Termination of Agreement Act, 2004 and a Presidential reference was made to the Supreme Court on 22.7.2004 on the validity of the Punjab Termination of Agreement Act, 2004.

In the case of Cauvery Water Disputes Tribunal (CWDT), after submission of report u/s 5(2) of the Act on 5.2.2007 the party states and the Central Govt. sought further clarification from the Tribunal. Meanwhile, party states filed Special Leave Petitions in the Supreme Court against the report and decision dated 05.02.2007. The Supreme Court has granted leave and the matter is subjudice before the Supreme Court. CWDT ordered that applications under section 5(3) of the Act should be listed for orders after disposal of the appeals by the Supreme Court.

The term of both these Tribunals are being extended from time to time.

**Annexure-I (Contd.)**

**Details of Chairmen and Members of the Tribunals**

S.No.	Name	Designation	Date of Appointment	Date of Birth	Appx. Age as on 1.1.2016	Location
<b>Ravi &amp; Beas Waters Tribunal</b>						
1.	Vacant	Chairman				East Block, R.K.Puram, New Delhi
2.	Vacant	Member				
3.	Justice Sh.M.Y. Eqbal	Member	10.06.2003	13.02.1951	65 yrs	
<b>Cauvery Water Disputes Tribunal</b>						
4	Vacant	Chairman				JanpathBha wan, New Delhi
5	Justice Sh.N.S. Rao	Member	02.06.1990	04.01.1932	84 yrs	
6	Justice Sh. SudhirNarain	Member	07.01.2003	10.07.1941	75(+) yrs	
<b>Krishna Water Disputes Tribunal</b>						
7	Justice Sh. Brijesh Kumar	Chairman	02.04.2004	10.06.1939	77(+) yrs	Trikut, Bhikaji Kama Place, New Delhi
8	Justice Sh. B P Das	Member	21.01.2013	15.11.1950	66(+) yrs	
9	Justice Ram Mohan Reddy	Member	21.10.2015	06.06.1954	62 (+)yrs	
<b>Vansadhara Water Dispute Tribunal</b>						
10	Dr. Justice Mukundakam Sharma	Chairman	30.03.2011	18.09.1946	70(+) yrs.	Mohan Singh Place, Connaught Place, New Delhi
11	Justice Sh. Ghulam Mohammad	Member	08.05.2012	06.04.1950	66(+) yrs	
12	Justice Sh. B.N.Chaturvedi	Member	24.02.2010	02.10.1947	69(+) yrs	
<b>Mahadayi Water Dispute Tribunal</b>						
13	Mr. Justice J.M.Panchal	Chairman	16.11.2010	06.10.1946	70(+) yrs	JanpathBha wan, New Delhi
14	Mr. Justice P.S.Narayana	Member	16.11.2010	13.07.1948	68 (+)yrs	
15	Mr. Justice Viney Mittal	Member	16.11.2010	09.12.1948	67(+) yrs	

**COMMENTS OF MINISTRIES CONSULTED**

<b>S. No.</b>	<b>Comments of the Ministries consulted (Draft Cabinet Note circulated vide letters dated 21.12.2015 and 03.06.2013)</b>	<b>Response of the Ministry of Water Resources, River Development and Ganga Rejuvenation</b>
1.	<p><b>Ministry of Home Affairs –</b> Inter State Council Sectt. and North Block, New Delhi (comments vide letter dated 29.8.2013 &amp; 1.3.2016)</p> <p>i) Sharing of water will always be an issue between States. A far sighted/wise approach would be to recognize the same, and provide for resolving these disputes as they arise. A conciliatory approach does not work in these matters. Inter-StateRiver Boards may be put in place wherever States agree – or it can be provided for by law. Principles for sharing flows between the upper riparian and the lower riparian States may be laid down in the Inter-States Water Disputes Act. It will also be useful if there is a provision for appeal against the decisions of the Tribunal. The Supreme Court could have the Appellate Jurisdiction. In such a case, the decision of the Tribunal will be deemed to be final only if the appeal has been disposed of or if no appeal is filed.</p> <p>ii) Tribunal should be made a multidisciplinary body, presided over by a Judge. It should follow a more participatory and conciliatory approach;</p> <p>iii) Reference to a Tribunal should invariably be linked with constitution of Inter-State River Boards charged with an integrated watershed approach towards inter-State rivers.</p>	<p>i) There is a provision for reconsideration of the final report of the Tribunal. <b>As per section 5(3) of the Act</b> if upon consideration of the decision of the Tribunal, the Central Government or any State Government is of opinion that anything therein contained requires explanation or that guidance is needed upon any point not originally referred to the Tribunal, the Central Government or the State Government, as the case may be, within three months from the date of the decision, again refer the matter to the Tribunal for further consideration, and on such reference, the Tribunal may forward to the 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. <b><i>To avoid the unnecessary delay it is proposed that The decision of the Tribunal given under section 5(2) and section 5(3) of the Act shall have the same force as an order or decree of the Supreme Court with immediate effect.</i></b></p> <p>Further, in case of disputes relating to waters, Article 262 provides:</p> <p>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.</p> <p>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).</p> <p>ii) As per section (3) of the Act, The Central Government may, in consultation with the Tribunal, appoint two or more persons as assessors to advise the Tribunal in the proceedings before it.</p> <p>iii) Central Govt has constituted a</p>

		Committee to give its recommendation for amendments in existing River Board Act,1956, if any, for effective implementation of the River Board Act,1956
2.	<p><b>Ministry of Law &amp; Justice –</b> (comments vide letter dated 27.12.2015) Deptt. of Legal Affairs, and Legislative Department</p> <p>Ministry of Law &amp; Justice has suggested some modification in the Draft Note and prepared a draft bill for bringing change in the existing ISRWD Act, 1956 on proposals made by MoWR in the Cabinet Note.</p>	The modification suggested by the MoLJ has been incorporated in the Cabinet Note
3.	<p><b>Ministry of Finance –Deptt of Expenditure</b> (comments vide letter dated 17.7.2013)</p> <p>(i) As per the existing Section 9(3) of the Act, a Decision of the Tribunal may contain directions as to the Government by which the expenses of the Tribunal and any costs incurred by any State Government in appearing before the Tribunal are to be paid, and may fix the amount of any expenses or costs to be so paid, and so far as it relates to expenses or costs, may be enforced as if were an order made by the Supreme Court. This provision may be continued after the Standing Tribunal is set up.</p> <p>ii) As regards the upper ceiling w.r.t. the age up to which a Chairman/Member will hold office, consultation with DOP&amp;T is advised.</p> <p>iii) Since 27 posts in various grades would stand abolished once the enactment is effected, the Note for the Cabinet may also bring out how the surplus employees would be adjusted. The increases proposed in the existing strengths of Peons, Drivers, and UDCs are not supported and the number may be reviewed accordingly.</p> <p>iv) Further, the Inter-State Water Disputes Rules, 1959 do not specifically provide for HAG level status pay to Assessors. At present an Assessor can be a serving/retd. Government servant or even a non-official appointed on part-time basis on daily remuneration for the actual days spent on the Tribunal/Bench. As per Annex.VI, there are at present 10 Assessors for the existing Tribunals. Similar number of Assessors has been proposed for the New Tribunals. Since the requirement of Assessors would depend on the number of disputes referred to the New Tribunal &amp; the ISWD Rules at present provide for flexibility in this regard. The need to have 10 full time Assessors is not felt justifiable. M/o WR may consider having a</p>	<p>i) The said provision i.e. Section 9 (3) of the Act being continued.</p> <p>ii) The service conditions of the Chairperson/Vice-Chairperson and Members of the Tribunal, who are serving judges of Supreme Court and High Courts, as the case may be, at the time of their nomination, are governed by the Department of Justice, Ministry of Law &amp; Justice (MoL&amp;J). The proposal has been vetted by MoL&amp;J therefore the consultation with DOP&amp;T is not required necessary.</p> <p>iii) The appointment are being made in the Tribunal either on re-employment, outsourcing or deputation, as per its requirement for an year or till the life of the Tribunal or till further order, whichever is earliest. Therefore, there will be no need to adjust the surplus employees; their services will ceased to exist on the day of Notification of the New Tribunal.</p> <p>iv) As per Section 4(3) of the Act, the Central Government may, in consultation with the Tribunal, appoint two or more persons as assessors to advise the Tribunal in the proceedings before it. And as per Section (10) of the Act, the Chairman and other members of a Tribunal and the assessors shall be entitled to receive such remuneration, allowances or fees as may be prescribed.</p> <p>There are at present 10 posts of Assessors for the existing Five Tribunals. Similar number of Assessors has been proposed for the New Tribunals. But once a dispute has</p>

flexibility in this regard and have mix of full and part-time Assessors as provided for under the present Rules, within the overall limit/ceiling of ten. Further, there seems no apparent justification available for having Assessors in HAG pay. M/oWR may, however, consider having full-time Assessors in Director/Joint Secretary level.

v) The financial implications may be shown in the form of a Financial Memorandum duly indicating (a) the quantum of fund requirement; (b) nature of Funds viz. Plan/Non-Plan' (c) Sections/clauses in the bill entailing implications; (d) source of revenue, if any, and (e) the source from which the expenditure liability on account of the proposed legislation would be met.

been finally adjudicated by the Tribunal, the Assessor associated with that dispute shall cease to be the Assessor and also as per ISRWD Rule 1959 an Assessor who has attained the age of 67 years shall cease to be Assessor of Tribunal.

Further as per amendment in ISRWD Rule,1959 (15<sup>th</sup> July,2010) Section(5) "A person, not being a serving or a retired Government servant, appointed as a whole-time Assessor by a Tribunal, shall be paid such salary as may be determined keeping in view his status, experience and qualifications provided that such salary, shall not be more than the maximum of the scale of pay of the post or Rs. 80,000/-, whichever is less and he shall be entitled to draw such allowances as are admissible to a Government servant of the first grade on such a pay." and as per Section (6) of the Rule "A person appointed as an Assessor on part-time basis (whether a retired Government servant or a non-official) shall be paid such remuneration on a daily basis for the actual days spent on the Tribunal's work as may be determined keeping in view his status, experiences and qualifications. Provided that part-time Assessor shall cease to hold the post on attaining the age of 67 years.

It is now proposed (under Section 4D of the Act) that , the Central Government may, in consultation with the Tribunal appoint two persons as assessors for each dispute to advise the Bench in the proceedings before it: Provided that the assessors associated with the dispute shall cease to be assessors, once the dispute for which they are appointed after the dispute was adjudicated and finally reported to the Central Government."

v) As per Section 9(3) of the Act, A decision of the Tribunal may contain directions as to the Government by which the expenses of the Tribunal and any costs incurred by any State Government in appearing before the Tribunal are to be paid, and may fix the amount of any expenses or costs to be so paid, and so far as it relates to expenses or costs, may be enforced as if it were an order made by the Supreme Court.



<p>4. <b><u>Planning Commission, YojanaBhawan, New Delhi</u></b> <b><u>(comments vide letter dated 7.8.2013)</u></b></p> <p>1. The Ministry of Law and Justice circulated a draft Cabinet Note in January, 2009 along with a draft Bill on Uniformity in tenure, retirement age etc. of Chairpersons/Presidents/Members of various Tribunals and other Statutory Authorities. The Ministry of Water Resources was of the view that a Tribunal constituted under the ISRWD Act,1956 is for specific water disputes and of ad-hoc in nature. The chairman and members of the Tribunal covered under this Act are governed by the ISWD Rules 1959 and the tenure and retirement age etc. are decided as per this Act. Hence, these posts are not to be included under the Cabinet Note of MoLJ. This view of Ministry of Water Resources would require now fresh clarification as the proposed Tribunal is a NewTribunal and opinion of M/o Law and Justice is to be taken.</p> <p>2. There are number of water disputes those are not being referred to central Government for adjudication such as MullaPeriyar Dam between Tamil Nadu and Kerala, Babli barrage between Maharashtra and Andhra Pradesh, Palar river dispute between Tamil Nadu and Andhra Pradesh etc. However, these disputes are directly moving to the Supreme Court by the party States. It would be proper if all disputes are being addressed by the NewTribunal instead of burdening the Supreme Court. Some such provision is also needed in the proposed amendments.</p> <p>3. The draft Cabinet Note containing the amendments has been forwarded to the Planning Commission second time. The earlier amendments were for limiting the upper age limit of the Chairman and Members of the Tribunal to 72 years. (now proposed as 70 years) and the time frame for seeking the clarification on the Award of the Tribunal is maximum of three years which is now proposed to be scaled down to a year and half. We agree with the proposed changes.</p>	<p>The opinion of the Ministry of Law &amp; Justice (Legal affairs and Legislative Deptt both) has been taken in this regard and the Cabinet Note has been approved by both the Departments of the Ministry of Law &amp; Justice.</p>
<p>5. <b><u>Ministry of Urban Development, NirmanBhawan, New Delhi</u></b> <b><u>(comments vide letter dated 18.6.2013)</u></b></p> <p>MoUD does not support the proposal to locate the New Water Disputes Tribunal at Delhi. With a view to reduce congestion in the Capital, the Union Cabinet in its meeting held on 13.6.1957, had decided that irrespective of whether it requires office or residential accommodation through Government auspices, no new office of the Central Government or semi-Government organization should be established in Delhi without the express approval of the Cabinet given on the recommendation of the CCA. This decision of the Cabinet was reiterated in 1973. Further, the Standing Committee, Ministry of Urban Development in its</p>	<p>Presently, there are five Water disputes Tribunals namely, Ravi-Beas Water Tribunal(RBWT), Krishna Water Disputes Tribunal (KWDT), Cauvery Water Disputes Tribunal (CWDT)Mahadayi Water Disputes Tribunal (MWDT) and Vanshadhara Water Disputes Tribunal (VWDT) are existing wherein offices of four Tribunals namely, KWDT, MWDT, CWDT and RBWT have been provided by MoUD only. The office of VWDT has been provided by MoWR on rent basis from NDMC. Therefore, the offices of all the five Tribunals wherein Court Rooms and chambers of Chairman &amp; 2 Members of</p>

<p>recommendations as contained in para 19 of their 29<sup>th</sup> Report (14<sup>th</sup> Lok Sabha) have stated that “the Government should be very strict when negotiating with new proposals regarding office space in Delhi as well as other Metropolitan cities where land use has reached the saturation point. The Committee have also showed its dissatisfaction that the Ministries/Departments have not furnished their consolidated up-to-date requirement of GPOA to the Ministry of Urban Development and have desired that the concern of the Committee should be brought to the notice of Cabinet Committee on Accommodation to whom the different offices approach for allotment of GPOA.....” It is also stated that issue relating to providing accommodation at Ghitorni (New Delhi) both official and residential to Commissions/Committees/Tribunals/Autonomous and Statutory Bodies, Regulatory Authorities etc. has come up before the Competent Authority in its recent meeting and the Competent Authority has directed that all concerned Ministries/Departments may make concrete plans along with appropriate budgetary provisions for utilizing the space/residential accommodation to such organization in Ghitorni. Otherwise, the Ministry of Water Resources may locate the proposed New Water Dispute Tribunal in one of the satellite towns of Delhi like Ghaziabad, NOIDA, Faridabad, Gurgaon etc. It is also mentioned here that as per present policy, Autonomous/Statutory bodies, Tribunals, Commissions etc. are not eligible for allotment of General Pool accommodation. As such, even if the proposal to locate the New Water Dispute Tribunal at Delhi, is approved, it would not be eligible for allotment of General Pool accommodation.”</p>	<p>each Tribunal are already available alongwith the office of staff of these Tribunals. Since as per current proposal there are only 8 members proposed and the New Tribunal will initially be constituted by merger of the existing 5 Tribunals, no new premises will be required from MoUD for establishing office of the new Standing Tribunal.</p>
<p>6. <b>Department of Personal &amp; Training (comments vide letter dated 1.2.2016)</b> The age of superannuation in respect of Supreme Court Judge is 65 years. Hence, it is suggested that the upper age limit of Chairman may be kept as 68 years.</p>	<p>The service conditions of the Chairperson / Vice-Chairperson and Members of the Tribunal, who are serving judges of Supreme Court and High Courts, as the case may be, at the time of their nomination, are governed by the Department of Justice, Ministry of Law &amp; Justice (MoL&amp;J). The proposal has been vetted by MoL&amp;J therefore the change in upper age is not required necessary.</p>

THE INTER-STATE RIVER WATER DISPUTES ACT, 1956

33 OF 1956<sup>1</sup>

(As modified up to 6<sup>th</sup> August, 2002)

[ 28<sup>th</sup> August, 1956 ]

An Act to provide for the adjudication of disputes relating to waters of inter-State rivers and river valleys.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows: -

- 33 of 1956
1. <sup>2</sup>(1) This Act may be called the Inter-State River Water Disputes Act, 1956. Short title and extent
- (2) It extends to whole of India.
2. In this Act, unless the context otherwise requires, - Definitions
- (a) "prescribed" means prescribed by rules made under this Act;
- (b) "Tribunal" means a Water Disputes Tribunal constituted under section 4;
- (c) "water dispute" means any dispute or difference between two or more State Governments with respect to -
- (i) the use, distribution or control of the waters of, or in, any inter-State river or river valley; or
- (ii) the interpretation of the terms of any agreement relating to the use, distribution or control of such waters or the implementation of such agreement; or
- (iii) the levy of any water rate in contravention of the prohibition contained in section 7.

3. If it appears to the Government of any State that a water dispute with the Government of another State has arisen or is likely to arise by reason of the fact that the interests of the State, or of any of the inhabitants thereof, in the waters of an inter-State river or river valley have been, or are likely to be, affected prejudicially by-

Complaints by State Governments as to water disputes

(a) any executive action or legislation taken or passed, or proposed to be taken or passed, by the other State; or

(b) the failure of the other State or any authority therein to exercise any of their powers with respect to the use, distribution or control of such waters; or

(c) the failure of the other State to implement the terms of any agreement relating to the use, distribution or control of such waters; the State Government may, in such form and manner as may be prescribed, request the Central Government to refer the water dispute to a Tribunal for adjudication.

4. <sup>3</sup>(1) 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, within a period not exceeding one year 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:

Constitution of Tribunal

Provided that any dispute settled by a Tribunal before the commencement of Inter-State Water Disputes (Amendment) Act, 2002 shall not be re-opened;

<sup>4</sup>[(2) 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.]

<sup>5</sup>(3) The Central Government may, in consultation with the Tribunal, appoint two or more persons as assessors to advise the Tribunal in the proceedings before it.

5. (1) When a Tribunal has been constituted under section 4, the Central Government shall, subject to the prohibition contained in section 8, refer the water dispute and any matter appearing to be connected with, or relevant to, the water dispute to the Tribunal for adjudication.

Adjudication  
of water  
disputes

<sup>6</sup> (2) 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 three years:

Provided that if the decision cannot be given for unavoidable reasons, within a period of three years, the Central Government may extend the period for a further period not exceeding two years.

<sup>7</sup> (3) If, upon consideration of the decision of the Tribunal, the Central Government or any State Government is of opinion that anything therein contained requires explanation or that guidance is needed upon any point not originally referred to the Tribunal, the Central Government or the State Government, as the case may be, within three months from the date of the decision, again refer the matter to the Tribunal for further consideration, and on such reference, the Tribunal may forward to the 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:

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, for such further period as it considers necessary.

<sup>8</sup> (4) If the members of the Tribunal differ in opinion on any point, the point shall be decided according to the opinion of the majority.

<sup>9</sup> [5A. 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 in accordance with the provisions of sub-section (2) of section 4, and the investigation of the matter referred to the Tribunal may

Filling  
of vacancies

be continued by the Tribunal after the vacancy is filled and from the stage at which the vacancy occurred. ]

6. (1) The Central Government shall publish the decision of the Tribunal in the Official Gazette and the decision shall be final and binding on the parties to the dispute and shall be given effect to by them. Publication of decision of Tribunal

<sup>10</sup> (2) The decision of the Tribunal, after its publication in the Official Gazette by the Central Government under sub-section (1), shall have the same force as an order or decree of the Supreme Court.

<sup>11</sup> 6A. (1) Without prejudice to the provisions of section 6, the Central Government may, by notification in the Official Gazette, frame a scheme or schemes whereby provision may be made for all matters necessary to give effect to the decision of a Tribunal. Power to make schemes to implement decisions of Tribunal

(2) A scheme framed under sub-section (1) may provide for -

(a) the establishment of any authority (whether described as such or as a committee or other body) for the implementation of the decision or directions of the Tribunal;

(b) the composition, jurisdiction, powers and functions of the authority, term of office and other conditions of service of, the procedure to be follow-by, and the manner of filling vacancies among, the members of the authority;

(c) the holding of a minimum number of meetings of the authority every year, the quorum for such meetings and the procedure thereat;

(d) the appointment of any standing, ad hoc or other committees by the authority;

(e) the employment of a Secretary and other staff by the authority, the pay and allowances and other conditions of service of such staff;

(f) the constitution of a fund by the authority, the amounts that may be credited to such fund and the expenses to which the fund may be applied;

(g) the form and the manner in which accounts shall be kept by the authority;

(h) the submission of an annual report by the authority of its activities;

(i) the decisions of the authority which shall be subject to review;

(j) the constitution of a committee for making such review and the procedure to be followed by such committee; and

(k) any other matter which may be necessary or proper for the effective implementation of the decision or directions of the Tribunal.

(3) In making provision in any scheme framed under sub-section (1) for the establishment of an authority for giving effect to the decision of a Tribunal; the Central Government may, having regard to the nature of the jurisdiction, powers and functions required to be vested in such authority in accordance with such decision and all other relevant circumstances, declare in the said scheme that such authority shall, under the name specified in the said scheme, have capacity to acquire, hold and dispose of property, enter into contracts, sue and be sued and do all such acts as may be necessary for the proper exercise and discharge of its jurisdiction, powers and functions.

(4) A scheme may empower the authority to make, with the previous approval of the Central Government, regulations for giving effect to the purposes of the scheme.

(5) The Central Government may, by notification in the Official Gazette, add to, amend, or vary, any scheme framed under sub-section (1).

(6) Every scheme framed under this section shall have effect notwithstanding anything contained in any law for the time being in force (other than this Act) or any instrument having effect by virtue of any law other than this Act.

(7) Every scheme and every regulation made under a scheme shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or

more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the scheme or the regulation or both Houses agree that the scheme or the regulation should not be made, the scheme or the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme or regulation.

7. (1) No State Government shall, by reason only of the fact that any works for the conservation, regulation or utilisation of water resources of an inter-State river have been constructed within the limits of the State, impose, or authorise the imposition of, any seigniorage or additional rate or fee (by whatever name called) in respect of the use of such water by any other State or the inhabitants thereof.

Prohibition of levy of seigniorage, etc.

(2) Any dispute or difference between two or more State Governments with respect to the levy of any water rate in contravention of the prohibition contained in sub-section (1) shall be deemed to be a water dispute.

49 of 1956 8. Notwithstanding anything contained in section 3 or section 5, no reference shall be made to a Tribunal of any dispute that may arise regarding any matter which may be referred to arbitration under the River Boards Act, <sup>12</sup>[1956].

Bar of reference of certain disputes to Tribunal

5 of 1908 9. (1) The Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, in respect of the following matters, namely :-

Powers of Tribunal

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents and material objects;

<sup>13</sup> (ba) requisitioning of any data, as may be required by it.

(c) issuing commissions for the examination of witnesses or for local investigation;

(d) any other matter which may be prescribed.



(2) The Tribunal may require any State Government to carry out, or permit to be carried out, such surveys and investigation as may be considered necessary for the adjudication of any water dispute pending before it.

(3) A decision of the Tribunal may contain directions as to the Government by which the expenses of the Tribunal and any costs incurred by any State Government in appearing before the Tribunal are to be paid, and may fix the amount of any expenses or costs to be so paid, and so far as it relates to expenses or costs, may be enforced as if it were an order made by the Supreme Court.

(4) <sup>14</sup> [Subject to the provisions of this Act and any rules that may be made hereunder] the Tribunal may, by order, regulate its practice and procedure.

✓ <sup>15</sup> [9A. (1) The Central Government shall maintain a data bank and information system at the national level for each river basin which shall include data regarding water resources, land, agriculture, and matters relating thereto, as the Central Government may prescribe from time to time. The State Government shall supply the data to the Central Government or to an agency appointed by the Central Government for the purpose, as and when required.

Maintenance  
of data bank  
and information

(2) The Central Government shall have powers to verify the data supplied by the State Government, and appoint any person or persons for the purpose and take such measures as it may consider necessary. The person or persons so appointed shall have the powers to summon such records and information from the concerned State Government as are considered necessary to discharge their functions under this section. ✓

10. <sup>16</sup> [The Chairman and other members of a Tribunal] and the assessors shall be entitled to receive such remuneration, allowances or fees as may be prescribed.

Allowances or  
fees for  
Chairman and  
other members  
of Tribunal and  
assessors

11. Notwithstanding anything contained in any other law, neither the Supreme Court nor any other court shall have or exercise jurisdiction in respect of any water dispute which may be referred to a Tribunal under this Act. Bar of jurisdiction of Supreme Court and other courts

12. The Central Government shall dissolve the Tribunal after it has forwarded its report and as soon as the Central Government is satisfied that no further reference to the Tribunal in the matter would be necessary. Dissolution of Tribunal

13. (1) The Central Government, after consultation with the State Governments, may, by notification in the Official Gazette, make rules to carry out the purposes of this Act. Power to make rules

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely;-

(a) the form and manner in which a complaint as to any water dispute may be made by any State Government;

(b) the matters in respect of which a Tribunal may be vested with the powers of a civil court;

(c) the procedure to be followed by a Tribunal under this Act;

(d) the remuneration, allowances or fees payable to <sup>17</sup> [the Chairman and other members] of a Tribunal and assessors;

<sup>18</sup> [(e) the terms and conditions of service of officers and assessors of the Tribunal];

(f) any other matter which has to be, or may be, prescribed.

<sup>19</sup> [(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days, <sup>20</sup> [which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid] both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the

case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

<sup>21</sup>[14.(1) Notwithstanding anything contained in the foregoing provisions of this Act, the Central Government may, by notification in the Official Gazette constitute a Tribunal under this Act, to be known as the Ravi and Beas Waters Tribunal for the verification and adjudication of the matters referred to in paragraphs 9.1 and 9.2 respectively, of the Punjab settlement.

Constitution of  
Ravi and Beas  
Waters Tribunal

(2) When a Tribunal has been constituted under sub-section (1), the provisions of sub-sections (2) and (3) of section 4, sub-sections (2), (3) and (4) of section 5 and sections 5A to 13 (both inclusive) of this Act relating to the constitution, jurisdiction, powers, authority and bar of jurisdiction shall so far as may be, but subject to sub-section (3) hereof, apply to the constitution, jurisdiction, powers, authority and bar of jurisdiction in relation to the Tribunal constituted under sub-section (1).

(3) When a Tribunal has been constituted under sub-section (1), the Central Government alone may suo moto or at the request of the concerned State Government refer the matters specified in paragraphs 9.1 and 9.2 of the Punjab settlement to such Tribunals.

Explanation: For the purpose of this section "Punjab Settlement" means the memorandum of Settlement signed at New Delhi on the 24th day of July, 1985.]

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- 1 Extended to Dadra and Nagar Haveli by Regulation 6 of 1963, section 2 and  
Scheduled I and to Pondicherry by Regulation 7 of 1963, section 3 Schedule I.
- 2 Substituted by Act 14 of 2002, section 2 for insertion of word –‘River’ (with  
effect from 06.08.2002).
- 3 Substituted by Act 14 of 2002, section 3(a) (with effect from 06.08.2002 ).
- 4 Substituted by Act 35 of 1968, section 2, for the previous sub-section.
- 5 Substituted by Act 14 of 2002, section 3(b) (with effect from 06.08.2002 ).
- 6 Substituted by Act 14 of 2002, section 4 (with effect from 06.08.2002 ).
- 7 Substituted by Act 14 of 2002, section 4 (with effect from 06.08.2002 ).
- 8 Inserted by Act 35 of 1968, section 3.
- 9 Inserted by Act 35 of 1968, section 4.
- 10 Inserted by Act 14 of 2002, section 5 (with effect from 06.08.2002 ).
- 11 Inserted by Act 45 of 1980, section 2 (with effect from 27.8.1980)
- 12 Substituted by Act 36 of 1957, section 3 and schedule II, for “ 1955”.
- 13 Inserted by Act 14 of 2002, section 6 (with effect from 06.08.2002 ).
- 14 Substituted by Act 35 of 1968, section 5, for certain words.
- 15 Inserted by Act 18 of 2002, section 7 (with effect from 06.08.2002 ).
- 16 Substituted by Act 35 of 1968, section 6, for certain words.
- 17 Substituted by section 7, by Act 35 of 1968, for “ the presiding Officer”.
- 18 Substituted by Act 14 of 2002, section 8 for insertion of word-‘Assessors’  
(with effect from 06.08.2002 ).
- 19 Substituted by section 7, by Act 35 of 1968, for the former sub-section.
- 20 Substituted by Act 45 of 1980, section 3, for certain words (with effect from  
27.8.1980).
- 21 Inserted by Inter-State Water Disputes(Amendment)Act,1986.

**Bill No 46 of 2017**

THE INTER-STATE RIVER WATER DISPUTES (AMENDMENT) BILL,  
2017

^  
BILL

*further to amend the Inter-State River Water Disputes Act, 1956*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows-

1. (1) This Act may be called the Inter-State River Water Disputes (Amendment) Act, 2017.

Short title and commencement

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

33 of 1956

2. In the Inter-State River Water Disputes Act, 1956 (hereinafter referred to as the principal Act), in section 2,-

Amendment

(i) for clause (a), the following clauses shall be substituted, namely:-

(a) "Chairperson" means the Chairperson of the Inter-State River Water Disputes Tribunal referred to in section 4B;

(aa) "existing Tribunal" means a Water Disputes Tribunal constituted prior to the date of commencement of the Inter-State River Water Disputes (Amendment) Act, 2017;

(ab) "member" means a member of the Inter-State River Water Disputes Tribunal and includes the Chairperson and Vice-Chairperson;

5

(ac) "notification" means a notification published in the Official Gazette;

(ad) "prescribed" means prescribed by rules made under this Act;

(ii) for clause (b), the following clauses shall be substituted, namely:-

(b) "Tribunal" means the Inter-State River Water Disputes Tribunal established under section 4;

10

(ba) "Vice-Chairperson" means the Vice-Chairperson of the Tribunal referred to in section 4B."

Substitution of new sections 4, 4A, 4B, 4C and 4D for section 4 Establishment of Inter-State River Water

3. For section 4 of the principal Act, the following sections shall be substituted, namely:-

4. With effect from such date as the Central Government may, by notification, appoint, there shall be established a Tribunal, to be called the

15

Disputes  
Tribunal

Inter-State River Water Disputes Tribunal, for the adjudication of water disputes:

Provided that on and from the date of establishment of the Tribunal, all existing Tribunals shall stand dissolved and the water disputes pending adjudication before such existing Tribunals shall stand transferred to the Tribunal:

20

Provided further that the Chairmen and other members of the existing Tribunals who have attained the age of seventy years as on the date of commencement of the Inter-State River Water Disputes (Amendment) Act, 2017 shall cease to hold office on the expiry of three months from the date of such commencement:

Provided also that a dispute which has already been adjudicated and settled by an existing Tribunal prior to the date of commencement of the Inter-State River Water Disputes (Amendment) Act, 2017 shall not be re-opened.

25

Disputes  
Resolution  
Committee

4A. (1) As and when any request under section 3 is received from any State Government in respect of any water dispute, the Central Government shall set up as Disputes Resolution Committee, consisting of members from such relevant fields, as it deems fit, for resolving the dispute amicably.

30

(2) The Disputes Resolution Committee shall try to resolve a water dispute by negotiations within a period one year which may be extended to a further period of six months and submit its report to the Central Government.

(3) The report submitted by the Disputes Resolution Committee shall contain details of-

35

- (a) the stand taken by each State Government during negotiation;
- (b) the views of members of the Committee on such stand; and
- (c) all relevant facts, information and data relating thereto.

(4) Any water dispute which cannot be settled by negotiations shall be referred by the Central Government, by notification, to the Tribunal for its adjudication within a period of three months from the date of receipt of the report under sub-section (2)

40

Composition of  
Tribunal

4B. Subject to the provisions of section 12, 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 nomination are Judges of the Supreme Court or of a High Court:

45

5 Provided that the Chairmen and other members of the existing Tribunals (other than members who have ceased to hold office under second proviso to section 4) shall be nominated by the Chief Justice of India as Chairperson, Vice-Chairperson and Members of the Tribunal and they shall continue as such, subject to the provisions of section 4C.

4C.(1) The Chairperson shall hold office for a period of five years or till he attains the age of seventy years, whichever is earlier.

Term of office

(2) The term of office of the Vice-Chairperson and other members of the Tribunal shall be co-terminus with the adjudication of the water dispute and

10 they shall cease to hold office upon dissolution of the bench under sub-section (2) of section 12:

Provided that no member shall hold office after he has attained the age of seventy years.

4D.(1) Subject to other provisions of this Act,—

Benches of  
Tribunal

15 (a) the jurisdiction of the Tribunal may be exercised by the Benches thereof;

(b) the Chairperson may constitute a Bench with three members, out of which the senior-most member shall preside over the Bench:

Provided that a member of a Bench may also be a member of another Bench.

20 Explanation.— For the purposes of this clause, the term “senior-most member” means that a Judge of the Supreme Court shall always be senior to a Judge of a High Court and their seniority shall be determined from the date of their respective appointment as the Judge of the Supreme Court or of a High Court.

25 (2) The Benches of the Tribunal shall ordinarily sit at New Delhi or at such other places as the Chairperson may decide.

4. In section 5 of the principal Act, —

Amendment of  
section 5

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

30 “(1) On receipt of a reference in respect of any water dispute from the Central Government, the Chairperson shall assign such dispute to a Bench of the Tribunal to its adjudication.

35 (2) The Bench of the Tribunal shall, before investigating the water dispute referred to it under sub-section (1), take into consideration the report submitted by the Disputes Resolution Committee under sub-section (2) of section 4A, and forward to the Central Government its detailed report setting out the facts as found by it including on yield, efficiency in the use of water and such other matters as may be prescribed, and giving its decision on such dispute within a period of two Years:

40 Provided that such report shall also provide for the distribution of water during distress situations arising from shortage in the availability of water in such manner as may be prescribed:

45 Provided further that if the report cannot be given within a period of two years for any unavoidable reasons, the Central Government may extend such period to a further period not exceeding one year.”;

(b) in sub-section (3), —

(i) for the words “on such reference, the Tribunal may”, the words “on such reference, the Bench of the Tribunal concerned may” shall be substituted;

(ii) for the proviso, the following proviso shall be substituted, namely:—

“Provided that the Central Government may extend the period of one year to a further period not exceeding six months.”.

Substitution of new sections 5A and 5B for section 5A. Appointment of assessors

**5.** For section 5A of the principal Act, the following sessions shall be substituted namely:- 5

“5A. (1) The Central Government may appoint two experts serving in the Central Water Engineering Service not below the rank of Chief Engineer as assessors for each water dispute to advise the Bench in the proceedings before it.

(2) The term of the assessors appointed under sub-section (1) shall be co-terminus with the adjudication of the dispute and they shall cease to be assessors after the dispute is adjudicated and the final report is forwarded to the Central Government. 10

Filling of vacancies, temporary absence etc.

5B.(1) Subject to the provisions of this Act, if for any reason, a vacancy (other than a temporary absence) occurs in the office of the Chairperson, Vice-Chairperson or any other member of the Tribunal, such vacancy shall be filled by a person to be nominated in this behalf by the Chief Justice of India in accordance with section 4B. 15

(2) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Vice-Chairperson shall act as the Chairperson until the date on which a new Chairperson, nominated in accordance with the provisions of this Act to fill such vacancy, enters upon his office. 20

(3) When any member of a Bench of the Tribunal is unable to discharge his functions owing to absence, illness or any other cause, the Chairperson may assign the work of such member to any other member of the Tribunal till such member resumes his work.”.

Substitution of new section for section 6

**6.** For section 6 of the principal Act, the following section shall be substituted, namely:— 25

Decision of Bench of Tribunal binding on parties

“6. The decision of the Bench of the Tribunal shall be final and binding on the parties to the dispute and shall have the same force as an order or decree of the Supreme Court.”.

Substitution of new section for section 9A

**7.** For section 9A of the principal Act, the following section shall be substituted, namely: — 30

“9A. (1) The Central Government may, for the purposes of maintaining a data bank and information system at the national level for each river basin, appoint or authorise an agency which shall maintain data relating to water resources, land, agriculture and such other matter, containing such particulars and in such manner, as may be prescribed. 35

(2) As and when required by the Central Government, the State Government shall make available the data relating to any of the matters referred to in sub-section (1) to the Central Government or to the agency appointed or authorised under sub-section (1).

(3) The Central Government or the agency referred in sub-section (1) shall have powers to summon and verify any data, record or other relevant information received from the State Government.”. 40



Substitution of new section for section 10

Terms and conditions of service of members and assessors.

**8.** For section 10 of the principal Act, the following section shall be substituted, namely: —

“10. The salary and allowances payable to, and the other terms and conditions of service of, the Chairperson, Vice-Chairperson, other members and assessors shall be such as may be prescribed.”

45

**9.** For section 12 of the principal Act, the following sections shall be substituted, namely:-

Substitution of new sections 12 and 12A for section 12. Dissolution of Bench

5 “12. (1) After any water dispute assigned to a Bench of the Tribunal is adjudicated and it submits its decision or report, the Central Government shall, on the recommendations of the Chairperson, dissolve that Bench.

(2) Upon dissolution of the Bench under sub-section (1), the members of that Bench (excluding Chairperson) shall vacate their respective offices:

Provided that where a member of a Bench is also a member of another Bench, such member shall continue as a member of such other Bench.

10 12A. (1) Upon the dissolution of a Bench of the Tribunal under section 12, the staff of such dissolved Bench shall be,—

Staff and assets of dissolved Bench

(i) made available to any other Bench, if so required; or  
(ii) repatriated to their parent cadre,  
in such manner as may be prescribed.

15 (2) The assets and properties of the dissolved Bench shall be transferred to the Central Government or to the concerned State Government which provided such assets and properties.”

**10.** In section 13 of the principal Act, in sub-section (2), for clauses (a) to (f), the following clauses shall be substituted, namely:—

Amendment of section 13

20 “(a) the form and the manner in which a complaint as to any water dispute may be made by any State Government under section 3;

(b) the other matters, and the manner of providing for distribution of water during stress situations arising from shortage in the availability of water under sub section (2) of section 5;

25 (c) the other matters in respect of which the Tribunal may be vested with the powers of a civil court under clause (d) of sub-section (1) of section 9;

(d) the procedure to be followed by the Tribunal under sub-section (4) of section 9;

30 (e) the other matters in respect of which data is to be maintained, the particulars thereof, and the manner of maintaining such data under sub-section (1) of section 9A;

35 (f) the salaries and allowances payable to, and the other terms and

conditions of service of, the Chairperson under section 10;

(g) the allowances or fee payable to, and other terms and conditions of service of, the Vice-Chairperson, other members and assessors under section 10;

(h) the manner in which the staff of the dissolved Bench shall be dealt with under sub-section (1) of section 12A;

(i) any other matter which has to be, or may be, prescribed.”.

Substitution of  
new section for  
section 14

**11.** For section 14 of the principal Act, the following section shall be substituted, namely:-

Matters relating  
to Ravi and  
Beas Water  
Tribunal

“14. The Ravi and Beas Waters Tribunal constituted prior to the date of commencement of the Inter-State River Water Disputes (Amendment) Act, 2015 shall stand dissolved and the water disputes pending adjudication before it shall stand transferred to the Tribunal: 5

Provided that the concerned Bench shall proceed to deal with such dispute from the stage at which it was so transferred.”.

## STATEMENT OF OBJECTS AND REASONS

On account of increase in demand for water by the States, the inter-State river water disputes are on the rise. Though the Inter-State River Water Disputes Act, 1956 (33 of 1956) provides for a legal framework to address such disputes, it suffers from many drawbacks. Under the said Act, a separate Tribunal has to be established for each inter-State river water disputes. Only three out of eight Tribunals have made awards which are accepted by the States. Though the Cauvery and Ravi Beas Water Disputes Tribunals have been in existence for over 26 and 30 years respectively, they have not been able to make any successful award till date. Further, there is no provision in the Act fixing time limit for adjudication by a Tribunal or for any upper age limit for the Chairman or a Member of a Tribunal. There is no mechanism for continuation of work on occurrence of any vacancy in the office of the Chairman or a Member of a Tribunal nor is there a time limit for publishing the report of the Tribunal. All these drawbacks are causing delay in the adjudication of water disputes.

2. The Inter-State River Water Disputes (Amendment) Bill, 2017 seeks to streamline the adjudication of inter-State river water disputes and make the present legal and institutional architecture robust. The Bill proposes to introduce a mechanism to resolve the water dispute amicably by negotiations through a Disputes Resolution Committee, to be established by the Central Government consisting of experts from relevant fields, before such dispute is referred to the Tribunal.

3. The proposed Bill further seeks to provide for a single standing tribunal (with multiple Benches) instead of multiple tribunals, which shall consist of one Chairperson, one vice-Chairperson and not more than six Members. While the term of office of the Chairperson is five years or till he attains the age of seventy years, whichever is earlier, the term of office of Vice-Chairperson and other Members of the Tribunal shall be co-terminus with the adjudication of the water disputes. It is also proposed that the Assessors, who provide technical support to the Tribunal, shall be appointed from amongst experts serving in the Central Water Engineering Service not below the rank of Chief Engineer. The total time period for adjudication of a water dispute has been fixed at a maximum of four and half years. The decision of the Bench of the Tribunal shall be final and binding on the States concerned, with no requirement of its publication in the Official Gazette.

4. The proposed Bill also seeks to provide for transparent data collection system at the national level for each river basin and for this purpose, an agency to maintain databank and information system shall be appointed or authorized by the Central Government.

5. The Bill seeks to achieve the above objectives.

UMA BHARTI

New Delhi;  
The 1<sup>st</sup> March, 2017

## FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to substitute new sections 4, 4A, 4B, 4C and 4D for section 4 of the Inter-State River Water Disputes Act, 1956. The proposed section 4 seeks to establish a single standing Inter-State River Water Disputes Tribunal with multiple Benches, which shall initially be constituted by merging of existing five Tribunals. As existing premises with necessary furniture are already available, no new premises or furniture are required for establishing the office of the new Standing Tribunal. Therefore, no non-recurring expenditure would be involved.

It is proposed to establish a single standing tribunal with multiple Benches, instead of multiple tribunals, by merging existing five tribunals. The new Tribunal shall consist of one Chairperson, one Vice-Chairperson and not more than six Members. Further, after the new Tribunal is established, the 107 sanctioned posts in the existing tribunals are proposed to be reduced to 80 posts. Therefore, on establishment of proposed new tribunal, the estimated annual recurring expenditure is likely to be reduced from existing Rs.8 Crores to Rs.5.5 Crores, thereby saving Rs.2.5 Crore per annum.

The Bill, if enacted, therefore, does not involve any recurring or non-recurring expenditure.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill seeks to substitute clauses (a) to (f) of sub-section (2) of section 13 relating to power to make rules. The proposed amendments seeks to provide for rule making powers in respect of –

- (i) the other matters and the manner of providing for distribution of water during stress situations arising from shortage in the availability of water;
- (ii) the other matters of which data is to be maintained, the particulars such data shall contain and the manner in which such data shall be maintained; and
- (iii) the manner in which the staff of the dissolved Bench shall be dealt with.

The matters in respect of which the rules may be made are generally matters of procedure and administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power, therefore, of a normal character.



## Proposed Inter State River Water Disputes Act, 2017

(incorporating changes as proposed in Inter State River Water Disputes Amendment Bill, 2017)

An Act to provide for the adjudication of disputes relating to waters of inter-State rivers and river valleys.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:-

1. (1) This Act may be called the Inter-State River Water Disputes (Amendment) Act, 2017. Short title and commencement
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In this Act, unless the context otherwise requires,- Definitions
  - (a) "Chairperson" means the Chairperson of the Inter-State River Water Disputes Tribunal referred to in section 4B;
  - (aa) "existing Tribunal" means a Water Disputes Tribunal constituted prior to the date of commencement of the Inter-State River Water Disputes (Amendment) Act, 2017;
  - (ab) "member" means a member of the Inter-State River Water Disputes Tribunal and includes the Chairperson and Vice-Chairperson;
  - (ac) "notification" means a notification published in the Official Gazette;
  - (ad) "prescribed" means prescribed by rules made under this Act;
  - (b) "Tribunal" means the Inter-State River Water Disputes Tribunal established under section 4;
  - (ba) "Vice-Chairperson" means the Vice-Chairperson of the Tribunal referred to in section 4B."
  - (c) "water dispute" means any dispute or difference between two or more State Governments with respect to--
    - (i) the use, distribution or control of the waters of, or in, any inter-State river or river valley; or
    - (ii) the interpretation of the terms of any agreement relating to the use, distribution or control of such waters or the implementation of such agreement; or
    - (iii) the levy of any water rate in contravention of the prohibition contained in section 7.
3. If it appears to the Government of any State that a water dispute with the Government of another State has arisen or is likely to arise by reason of the fact that the interests of the State, or of any of the inhabitants thereof, in the waters of an inter-State river or river valley have been, or are likely to be, affected prejudicially by- Complaints by State Governments as to water disputes
  - (a) any executive action or legislation taken or passed, or proposed to be taken or passed, by the other State; or
  - (b) the failure of the other State or any authority therein to exercise any of their powers with respect to the use, distribution or control of such waters; or
  - (c) the failure of the other State to implement the terms of any agreement relating to the use, distribution or control of such waters; the State Government may, in such form and manner as may be prescribed, request the Central Government to refer the water dispute to a Tribunal for adjudication.

4. With effect from such date as the Central Government may, by notification, appoint, there shall be established a Tribunal, to be called the Inter-State River Water Disputes Tribunal, for the adjudication of water disputes:

Provided that on and from the date of establishment of the Tribunal, all existing Tribunals shall stand dissolved and the water disputes pending adjudication before such existing Tribunals shall stand transferred to the Tribunal:

Provided further that the Chairmen and other members of the existing Tribunals who have attained the age of seventy years as on the date of commencement of the Inter-State River Water Disputes (Amendment) Act, 2017 shall cease to hold office on the expiry of three months from the date of such commencement:

Provided also that a dispute which has already been adjudicated and settled by an existing Tribunal prior to the date of commencement of the Inter-State River Water Disputes (Amendment) Act, 2017 shall not be re-opened.

4A. (1) As and when any request under section 3 is received from any State Government in respect of any water dispute, the Central Government shall set up as Disputes Resolution Committee, consisting of members from such relevant fields, as it deems fit, for resolving the dispute amicably.

(2) The Disputes Resolution Committee shall try to resolve a water dispute by negotiations within a period one year which may be extended to a further period of six months and submit its report to the Central Government.

(3) The report submitted by the Disputes Resolution Committee shall contain details of-

- (a) the stand taken by each State Government during negotiation;
- (b) the views of members of the Committee on such stand; and
- (c) all relevant facts, information and data relating thereto.

(4) Any water dispute which cannot be settled by negotiations shall be referred by the Central Government, by notification, to the Tribunal for its adjudication within a period of three months from the date of receipt of the report under sub-section (2)

4B. Subject to the provisions of section 12, 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 nomination are Judges of the Supreme Court or of a High Court:

Provided that the Chairmen and other members of the existing Tribunals (other than members who have ceased to hold office under second proviso to section 4) shall be nominated by the Chief Justice of India as Chairperson, Vice-Chairperson and Members of the Tribunal and they shall continue as such, subject to the provisions of section 4C.

4C.(1) The Chairperson shall hold office for a period of five years or till he attains the age of seventy years, whichever is earlier.

(2) The term of office of the Vice-Chairperson and other members of the Tribunal shall be co-terminus with the adjudication of the water dispute and



they shall cease to hold office upon dissolution of the bench under sub-section (2) of section 12:

Provided that no member shall hold office after he has attained the age of seventy years.

4D.(1) Subject to other provisions of this Act,—

(a) the jurisdiction of the Tribunal may be exercised by the Benches thereof;

(b) the Chairperson may constitute a Bench with three members, out of which the senior-most member shall preside over the Bench:

Provided that a member of a Bench may also be a member of another Bench.

Explanation.— For the purposes of this clause, the term “senior-most member” means that a Judge of the Supreme Court shall always be senior to a Judge of a High Court and their seniority shall be determined from the date of their respective appointment as the Judge of the Supreme Court or of a High Court.

(2) The Benches of the Tribunal shall ordinarily sit at New Delhi or at such other places as the Chairperson may decide.

5.(1) On receipt of a reference in respect of any water dispute from the Central Government, the Chairperson shall assign such dispute to a Bench of the Tribunal to its adjudication.

Adjudication of  
water disputes

(2) The Bench of the Tribunal shall, before investigating the water dispute referred to it under sub-section (1), take into consideration the report submitted by the Disputes Resolution Committee under sub-section (2) of section 4A, and forward to the Central Government its detailed report setting out the facts as found by it including on yield, efficiency in the use of water and such other matters as may be prescribed, and giving its decision on such dispute within a period of two Years:

Provided that such report shall also provide for the distribution of water during distress situations arising from shortage in the availability of water in such manner as may be prescribed:

Provided further that if the report cannot be given within a period of two years for any unavoidable reasons, the Central Government may extend such period to a further period not exceeding one year.

(3) If, upon consideration of the decision of the Tribunal, the Central Government or any State Government is of opinion that anything therein contained requires explanation or that guidance is needed upon any point not originally referred to the Tribunal, the Central Government or the State Government, as the case may be, within three months from the date of the decision, again refer the matter to the Tribunal for further consideration, and on such reference, the Bench of the Tribunal concerned may forward to the 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:

Provided that the Central Government may extend the period of one year to a further period not exceeding six months

(4) If the members of the Tribunal differ in opinion on any point, the point shall be decided according to the opinion of the majority.

5A. (1) The Central Government may appoint two experts serving in the Central Water Engineering Service not below the rank of Chief Engineer as assessors for each water dispute to advise the Bench in the proceedings before it.

Filling of vacancies

(2) The term of the assessors appointed under sub-section (1) shall be co-terminus with the adjudication of the dispute and they shall cease to be assessors after the dispute is adjudicated and the final report is forwarded to the Central Government.

5B.(1) Subject to the provisions of this Act, if for any reason, a vacancy (other than a temporary absence) occurs in the office of the Chairperson, Vice-Chairperson or any other member of the Tribunal, such vacancy shall be filled by a person to be nominated in this behalf by the Chief Justice of India in accordance with section 4B.

(2) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Vice-Chairperson shall act as the Chairperson until the date on which a new Chairperson, nominated in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(3) When any member of a Bench of the Tribunal is unable to discharge his functions owing to absence, illness or any other cause, the Chairperson may assign the work of such member to any other member of the Tribunal till such member resumes his work.”

6. The decision of the Bench of the Tribunal shall be final and binding on the parties to the dispute and shall have the same force as an order or decree of the Supreme Court

Ddecision of Tribunal

6A. (1) Without prejudice to the provisions of section 6, the Central Government may, by notification in the Official Gazette, frame a scheme or schemes whereby provision may be made for all matters necessary to give effect to the decision of a Tribunal.

Power to make schemes to implement decisions of Tribunal

(2) A scheme framed under sub-section (1) may provide for -

(a) the establishment of any authority (whether described as such or as a committee or other body) for the implementation of the decision or directions of the Tribunal;

(b) the composition, jurisdiction, powers and functions of the authority, term of office and other conditions of service of, the procedure to be followed, and the manner of filling vacancies among, the members of the authority;

(c) the holding of a minimum number of meetings of the authority every year, the quorum for such meetings and the procedure thereat;

(d) the appointment of any standing, ad hoc or other committees by the authority;

- (e) the employment of a Secretary and other staff by the authority, the pay and allowances and other conditions of service of such staff;
- (f) the constitution of a fund by the authority, the amounts that may be credited to such fund and the expenses to which the fund may be applied;
- (g) the form and the manner in which accounts shall be kept by the authority;
- (h) the submission of an annual report by the authority of its activities.
- (i) the decisions of the authority which shall be subject to review;
- (j) the constitution of a committee for making such review and the procedure to be followed by such committee; and
- (k) any other matter which may be necessary or proper for the effective implementation of the decision or directions of the Tribunal.

(3) In making provision in any scheme framed under sub-section (1) for the establishment of an authority for giving effect to the decision of a Tribunal; the Central Government may, having regard to the nature of the jurisdiction, powers and functions required to be vested in such authority in accordance with such decision and all other relevant circumstances, declare in the said scheme that such authority shall, under the name specified in the said scheme, have capacity to acquire, hold and dispose of property, enter into contracts, sue and be sued and do all such acts as may be necessary for the proper exercise and discharge of its jurisdiction, powers and functions.

(4) A scheme may empower the authority to make, with the previous approval of the Central Government, regulations for giving effect to the purposes of the scheme.

(5) The Central Government may, by notification in the Official Gazette, add to, amend, or vary, any scheme framed under sub-section (1).

(6) Every scheme framed under this section shall have effect notwithstanding anything contained in any law for the time being in force (other than this Act) or any instrument having effect by virtue of any law other than this Act.

(7) Every scheme and every regulation made under a scheme shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the scheme or the regulation or both Houses agree that the scheme or the regulation should not be made, the scheme or the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme or regulation.

7.(1) No State Government shall, by reason only of the fact that any works for the conservation, regulation or utilization of water resources of an inter-State river have been constructed within the limits of the State, impose, or authorize the imposition of, any seigniorage or additional rate or fee by whatever name called) in respect of the use of such water by any other State or the inhabitants thereof.

Prohibition of levy of seigniorage, etc.

(2) Any dispute or difference between two or more State Governments with respect to the levy of any water rate in contravention of the prohibition contained in sub-section (1) shall be deemed to be a water dispute.

8. Notwithstanding anything contained in section 3 or section 5, no reference shall be made to a Tribunal of any dispute that may arise regarding any matter which may be referred to arbitration under the River Boards Act, 12 [1956].

Bar of reference of certain disputes to Tribunal

9. (1) The Tribunal shall have the same powers as are vested in a civil court under

Powers of Tribunal

the Code of Civil Procedure, 1908, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents and material objects;
- (ba) requisitioning of any data, as may be required by it.
- (c) issuing commissions for the examination of witnesses or for local investigation;
- (d) any other matter which may be prescribed.

(2) The Tribunal may require any State Government to carry out, or permit to be carried out, such surveys and investigation as may be considered necessary for the adjudication of any water dispute pending before it.

(3) A decision of the Tribunal may contain directions as to the Government by which the expenses of the Tribunal and any costs incurred by any State Government in appearing before the Tribunal are to be paid, and so far as it relates to expenses or costs, may be enforced as if it were an order made by the Supreme Court.

(4) Subject to the provisions of this Act and any rules that may be made hereunder] the Tribunal may, by order, regulate its practice and procedure.

9A. (1) The Central Government may, for the purposes of maintaining a data bank and information system at the national level for each river basin, appoint or authorise an agency which shall maintain data relating to water resources, land, agriculture and such other matter, containing such particulars and in such manner, as may be prescribed.

Maintenance of data bank and information

(2) As and when required by the Central Government, the State Government shall make available the data relating to any of the matters referred to in sub-section (1) to the Central Government or to the agency appointed or authorised under sub-section (1).

(3) The Central Government or the agency referred in sub-section (1) shall have powers to summon and verify any data, record or other relevant information received from the State Government.

10. The salary and allowances payable to, and the other terms and conditions of service of, the Chairperson, Vice-Chairperson, other Members and Assessors shall be such as may be prescribed.

Allowances or fees for Chairman and other members of Tribunal and assessors

11. Notwithstanding anything contained in any other law, neither the Supreme Court nor any other court shall have or exercise jurisdiction in respect of any water dispute which may be referred to a Tribunal under this Act.

Bar of jurisdiction of Supreme Court and other courts

12. (1) After any water dispute assigned to a Bench of the Tribunal is adjudicated and it submits its decision or report, the Central Government shall, on the recommendations of the Chairperson, dissolve that Bench.

Dissolution of Bench

(2) Upon dissolution of the Bench under sub-section (1), the members of that Bench (excluding Chairperson) shall vacate their respective offices:

Provided that where a member of a Bench is also a member of another Bench, such member shall continue as a member of such other Bench.

12A. (1) Upon the dissolution of a Bench of the Tribunal under section 12, the

staff of such dissolved Bench shall be,—

- (i) made available to any other Bench, if so required; or
- (ii) repatriated to their parent cadre,

in such manner as may be prescribed.

(2) The assets and properties of the dissolved Bench shall be transferred to the Central Government or to the concerned State Government which provided such assets and properties.

13. (1) The Central Government, after consultation with the State Governments, may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power to make rules

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely;—

(a) the form and the manner in which a complaint as to any water dispute may be made by any State Government under section 3;

(b) the other matters, and the manner of providing for distribution of water during stress situations arising from shortage in the availability of water under sub-section (2) of section 5;

(c) the other matters in respect of which the Tribunal may be vested with the powers of a civil court under clause (d) of sub-section (1) of section 9;

(d) the procedure to be followed by the Tribunal under sub-section (4) of section 9;

(e) the other matters in respect of which data is to be maintained, the particulars thereof, and the manner of maintaining such data under sub-section (1) of section 9A;

(f) the salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson under section 10;

(g) the allowances or fee payable to, and other terms and conditions of service of, the Vice-Chairperson, other members and assessors under section 10;

(h) the manner in which the staff of the dissolved Bench shall be dealt with under sub-section (1) of section 12A;

(i) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid] both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**14.**The Ravi and Beas Waters Tribunal constituted prior to the date of Constitution of

commencement of the Inter-State River Water Disputes (Amendment) Act, 2015 shall stand dissolved and the water disputes pending adjudication before it shall stand transferred to the Tribunal: Ravi and Beas Waters Bench

Provided that the concerned Bench shall proceed to deal with such dispute from the stage at which it was so transferred

**MINUTES OF THE SEVENTH SITTING OF THE STANDING COMMITTEE ON WATER  
RESOURCES (2016-2017) HELD ON FRIDAY, 16 JUNE, 2017**

The Committee sat from 1500 hours to 1615 hours in Committee Room 'D', Parliament House Annexe, New Delhi.

**PRESENT**

**Shri Hukum Singh – Chairperson**

**MEMBERS**

**LOK SABHA**

2. Shri Radheshyam Biswas
3. Shri B. Vinod Kumar
4. Shri Mohanbhai Kundariya
5. Dr. Abhijit Mukherjee
6. Shri Subhash Patel
7. Smt. Aparupa Poddar
8. Smt. V. Sathyabama
9. Shri Lallu Singh
10. Shri Liladharbhai Vaghela

**RAJYA SABHA**

11. Sardar Balwinder Singh Bhunder
12. Shri Harshvardhan Singh Dungarpur
13. Dr. Bhushan Lal Jangde
14. Shri Ananda Bhaskar Rapolu
15. Shri A.V. Swamy
16. Shri Pradeep Tamta

**SECRETARIAT**

1. Shri Kushal Sarkar - Additional Director

**WITNESSES****Ministry of Water Resource, River Development and Ganga Rejuvenation**

1. Dr. Amarjit Singh, Secretary (WR,RD&GR)
2. Sh. Shashi Shekhar, Retd. Secretary (WR,RD&GR)
3. Sh. Sanjay Kundu, JS(PP)

**Central Water Commission**

1. Sh. Narendra Kumar, Chairman (CWC)
2. Sh. S. Masood Hussain, Member (WP&P)
3. Sh. Navin Kumar, Chief Engineer (IMO)
4. Sh. B.P. Pandey, Director(ISM-I)
5. Sh. Mannu J. Upadhayay, DC(BM)

At the outset, the Chairperson welcomed the Members to the sitting of the Committee - convened to have briefing by the representatives of the Ministry of Water Resources, River Development and Ganga Rejuvenation - in connection with the examination of "The Inter-State River Water Disputes (Amendment) Bill, 2017".

2. The Chairperson, then, welcomed the representatives of the Ministry. Thereafter, the representatives of the Ministry made a power-point presentation highlighting various aspects of the Bill which *inter-alia* covered the chronology of events involved in drafting and introduction of the aforesaid Bill in the Lok Sabha, constitutional provisions related therewith, 'The Inter-State River Water Disputes (ISRWD) Act, 1956', status of the 8 Tribunals formed under the ISRWD Act, 1956', the drawbacks in the ISRWD 1956 Act, financial implications in forming the new Tribunal; etc. The representatives of the Ministry also elaborated about the proposed amendments in 'The ISRWD Bill, 2017' to take care of the drawbacks in 'The ISRWD Act, 1956' which inter-alia included there being no strict time limit for conclusion of adjudication by a Tribunal, also no time limit for publishing the Report of a Tribunal under section 6 of the Act, as also there being no upper age limit for the Chairman and other Members of a Tribunal for timely issue of an Award and Delay in filling up the vacancy and nomination of new Chairman / Member of the Tribunal, etc.



3. The Chairperson initiated the discussion by seeking clarification regarding appointment of the members to the Tribunal only from judiciary background and authorising only the Chief Justice of India to nominate the Head and other members of the Tribunals. He raised concern regarding giving finality to the Award by the Tribunal especially when there have been instances where the Supreme Court had taken cognizance of the cases, which were finalized by the earlier Tribunals. The Committee also desired to know about the precedents regarding acceptance of the decision of the Dispute Resolution Committee (DRC), etc. Regarding the composition of the new Tribunal, the Committee felt that instead of having all Judges Tribunal, there is a need to have selection process as it is in Vigilance Commission and Information Commission with active involvement of Parliament, the Executive and the Judiciary as the issues involved in settling river water disputes are very complex and emotive in nature and being so there would require domain experts in the relevant fields besides the Judges. The Chairperson also expressed concern over the unending process of adjudication of the Inter-State River Water disputes and stated that at some stage there should be timely finality to the disputes and there should not be injustice to any of the States/UTs. Taking note of the drawbacks in the existing set-up of adjudication in the Inter-State River Water Disputes, the Committee emphasised the need to have a perfect mechanism in place. Further, in view of the significance of the Bill the Committee were of the considered opinion that the Bill should be discussed threadbare. Taking note of the concerns of the Chairperson and the Committee, the Secretary of the Ministry of Water Resources, River Development and Ganga Rejuvenation (M/o WR, RD & GR) also felt that these aspects need to be looked into carefully and addressed in right earnest.

4. The Chairperson appreciated the Ministry for presenting the details of the Amendment Bill. He also emphasized to have more detailed and fruitful discussion on 'The Inter-State River Water Disputes (Amendment) Bill, 2017' in the next meetings.

***The witnesses then withdrew.***

A copy of the verbatim proceedings of the sitting was kept on record.

**The Committee then adjourned**

**MINUTES OF THE EIGHTH SITTING OF THE STANDING COMMITTEE ON WATER  
RESOURCES (2016-2017) HELD ON FRIDAY, 30 JUNE, 2017**

The Committee sat from 1100 hours to 1230 hours in Committee Room No. '139', Parliament House Annexe, New Delhi.

**PRESENT**

**Shri Abhijit Mukherjee – Acting Chairperson**

**MEMBERS**

**LOK SABHA**

2. Shri Radheshyam Biswas
3. Shri Devusinh Jesingbhai Chauhan
4. Shri Sudheer Gupta
5. Shri B. Vinod Kumar
6. Shri Mohanbhai Kalyanji Kundariya
7. Shri Sidhant Mohapatra
8. Shri Subhash Patel
9. Shri Sanjay (Kaka) Ramchandra Patil
10. Smt. Aparupa Poddar
11. Shri Vishnu Dayal Ram
12. Shri Ram Prasad Sarmah
13. Smt. V. Sathyabama
14. Shri Lallu Singh
15. Shri Liladharbhai Vaghela

**RAJYA SABHA**

16. Sardar Balwinder Singh Bhunder
17. Shri Harshvardhan Singh Dungarpur
18. Mir Mohammad Fayaz
19. Dr. Bhushan Lal Jangde
20. Shri Ananda Bhaskar Rapolu
21. Shri A.V. Swamy
22. Shri Pradeep Tamta

**SECRETARIAT**

1. Shri Shiv Kumar - Joint Secretary
2. Smt. Rita Jaikhani - Director
3. Shri Kushal Sarkar - Additional Director

**WITNESSES****Ministry of Water Resource, River Development and Ganga Rejuvenation**

1. Dr. Amarjit Singh, Secretary (WR,RD&GR)
2. Sh. Shashi Shekhar, Retd. Secretary (WR,RD&GR)
3. Sh. Sanjay Kundu, JS(PP)
4. Sh. Pradeep Kumar, Member (RBM)
5. Sh. Navin Kumar, Chief Engineer (IMO)
6. Sh. B.P. Pandey, Director(ISM-I)
7. Sh. Virendra Sharma, SJC(BM)

**Central Water Commission**

1. Sh. Narendra Kumar, Chairman (CWC)
2. Sh. Ashwin Pandya, Retd. Chairman (WP&P)

At the outset, the Committee, in the absence of Hon'ble Chairperson, chose Shri Abhijit Mukherjee as the acting Chairperson under Rule 258(3) of the Rules of Procedure. Thereafter, the Chairperson welcomed the Members to the sitting of the Committee convened to take oral evidence of the representatives of the Ministry of Water Resources, River Development and Ganga Rejuvenation (M/o WR, RD and GR) - in connection with examination of "The Inter-State River Water Disputes (Amendment) Bill, 2017" and to have Clause-by-Clause discussion on the said Bill.

2. The Chairperson, then, welcomed the representatives of the M/o WR, RD and GR. The Secretary of the M/o WR, RD and GR thereafter furnished replies to the queries of the Committee, which were raised in the previous sitting of the Committee held on 16.06.2017 on the subject and he agreed with the Committee's concern for having a comprehensive mechanism/panel for appointing Chairperson/Members of the proposed single Tribunal as also the need for strengthening and widening the composition of Dispute Resolution Committee (DRC) by having members from both Technical and Non-Technical backgrounds particularly the domain experts from the relevant fields concerning the water sector as also other social sciences, etc. The Secretary, of the Ministry, also emphasised on the need for having River Basin Authorities.

3. The Committee began the deliberations on the issue of appointing a Judge as the Chairperson and other Members of the Tribunal. Thereafter, the discussions largely covered the issues which were discussed during the previous sitting of the Committee, which *inter-alia* included:

- (i) The composition of the new Tribunal - to include domain experts in the relevant fields besides the judges;
- (ii) The selection procedure for Chairperson / Member of the Tribunal to be on the lines of Vigilance Commission/ Information Commission i.e. with active participation of Parliament, the Executive and the Judiciary all the three organs of the State;
- (iii) Upper age limit for the Chairman and other Members of a Tribunal;
- (iv) Unending process of adjudication of the Inter-State River Water disputes and need for strict adherence to a time frame for conclusion of adjudication and settling the dispute by the Tribunal;
- (v) Giving finality to the Award by the Tribunal and ensuring unchallenged implementation of the same; etc.
- (vi) Making public the Report of the Dispute Resolution Committee(s).

4. However, in response to a specific query regarding the finality to the Award given by the Tribunal under Article 262 the Secretary, the M/o WR, RD and GR, stated that actually as per the Article 262(2) of the Constitution the award of the proposed Tribunal would be the final one. The representative of the Ministry further clarified that the Supreme Court, however, under Article 142 have the Appellate jurisdiction to look into everything and review them and as a result thereof many of the awards are currently under review. In this context, the representative of the M/o WR, RD and GR further quoted the Articles 131 to 139 of the Constitution of India and jurisdiction of the Supreme Court of India under them in regard to the disputes, etc.

5. Thereafter, the Committee delved in detail about the importance of data collecting/monitoring mechanism in regard to the matter as also the verification process thereof along with the role of the Central Water Commission as also the M/o WR, RD and GR in dispute resolution. Some Members also expressed concern over the continuation of the ongoing works on certain River Basins while the Inter-State River Water disputes are being adjudicated by the Tribunals. While discussing the issue, the

Committee felt that there was a need for formation of River Basin Authorities and should be considered on an urgent basis which was also endorsed by the Secretary of the Ministry. The Chairperson, stressed over the need for addressing all the concerns expressed by the Committee in the proposed Bill to the extent possible. Taking note of all the concerns of the Chairperson and the Committee, the Secretary of the M/o WR, RD & GR agreed that there is a need to have a fool-proof mechanism for settling the Inter-State River Water disputes.

6. The Chairperson appreciated the Ministry for further enlightening the Committee on the proposed clauses of the Amendment Bill in great detail. He also thanked the Ministry for expressing their view in a free and frank manner and replying to the queries raised by the Members of the Committee.

***The witnesses then withdrew.***

A copy of the verbatim proceedings of the sitting was kept for record.

The Committee then adjourned

**MINUTES OF THE NINTH SITTING OF THE STANDING COMMITTEE ON WATER RESOURCES  
(2016-2017) HELD ON MONDAY, 10 JULY, 2017**

The Committee sat from 1130 hours to 1300 hours in Committee Room No. '139', Parliament House Annexe, New Delhi.

**PRESENT**

**Shri Hukum Singh – Chairperson**

**MEMBERS**

**LOK SABHA**

2. Shri Sudheer Gupta
3. Shri Prakash Babanna Hukkeri
4. Shri B. Vinod Kumar
5. Shri Mohanbhai Kalyanji Kundariya
6. Shri Sidhant Mohapatra
7. Shri Subhash Patel
8. Smt. Aparupa Poddar
9. Shri Vishnu Dayal Ram
10. Smt. V. Sathyabama
11. Shri Lallu Singh

**RAJYA SABHA**

12. Sardar Balwinder Singh Bhunder
13. Dr. Bhushan Lal Jangde
14. Shri Ananda Bhaskar Rapolu
15. Shri A.V. Swamy
16. Shri Pradeep Tamta

**SECRETARIAT**

1. Shri Shiv Kumar - Joint Secretary
2. Shri Kushal Sarkar - Additional Director

**WITNESSES****Ministry of Water Resource, River Development and Ganga Rejuvenation**

1. Shri. Sanjay Kundu, JS(PP)
2. Dr. B. R. K. Pillai, Commissioner (CAD&WM)
3. Shri. S. Masood Husain, Member (WP&P)
4. Shri. Pradeep Kumar, Member (RBM)
5. Shri. Navin Kumar, Chief Engineer (IMO)
6. Shri. B.P. Pandey, Director(ISM-I)
7. Shri. Virendra Sharma, SJC(BM)

**Central Water Commission**

1. Shri. Narendra Kumar, Chairman (CWC)
2. Shri. Ashwin Pandya, Retd. Chairman (WP&P)

At the outset, the Chairperson welcomed the Members to the sitting of the Committee convened to take further oral evidence of the representatives of the Ministry of Water Resources, River Development and Ganga Rejuvenation (M/o WR, RD and GR) - in connection with the examination of 'The Inter-State River Water Disputes (Amendment) Bill, 2017' and to have a Clause-by-Clause discussion on the said Bill.

2. The Chairperson, then, welcomed the representatives of the M/o WR, RD and GR. Thereafter, the representative of the M/o WR, RD and GR furnished clarification to the following issues raised by the Committee in the previous sitting of the Committee held on 30.06.2017:

- i. Need for two level or three level Dispute Resolution mechanism;
- ii. Need for having a comprehensive mechanism/panel for appointing Chairperson and Members of the proposed single Tribunal;
- iii. Need for having a provision for removal of the Chairperson/Member;
- iv. Need for having an Administrative Officer of the rank of Secretary, as a part of the tribunal, to look after the administrative machinery of the tribunal;
- v. Need for strengthening and widening the composition of Dispute Resolution Committee (DRC); etc.

3. The Committee thereafter began the deliberations by seeking clarification from the Ministry as to why experts cannot be the Members of the Tribunal as well as the difference between the proposed Tribunal and other Tribunals like National Green Tribunal (NGT), Central Administrative Tribunal (CAT), Armed Forces Tribunal, etc. Further, emphasising on the significance of data in settling the Inter-State Water disputes, the Committee discussed the need for forming River Basin Authorities (RBAs) for more pragmatic functioning of the DRC and the Tribunal.

4. Thereafter, the Committee deliberated in detail on the time limit for the setting up of the Dispute Resolution Committee (DRC) by the Government as well as defining the composition of DRC in the Proposed Bill, 2017 itself. The Committee also discussed the stake of Riparian and Non-Riparian States in the inter-State river water disputes and Clause 11 - which provides for the formation of the Ravi and Beas Water Tribunal.

5. Subsequently, the Committee sought clarification regarding the time limit for referring the dispute to the Central Government under Clause 3 of 'The ISRWD (Amendment) Bill, 2017, which reads as under:

“4(A) (1).....X..X...X..

(2).....X..X...X..

(3).....X..X...X..

(4) *Any water dispute which cannot be settled by negotiations shall be referred by the Central Government, by notification, to the Tribunal for its adjudication within a period of three months from the date of receipt of the report under sub-section (2).*”

6. Then, the Chairperson raised the issue of the usage of the word 'Report' instead of the word 'Order'/'Judgement' by the DRC/Tribunal under Clause 3 and Clause 4 of the proposed Bill, 2017. Responding to this the representatives of the M/o WR, RD and GR submitted that they will suitably modify the relevant Clauses.

7. Thereafter, the discussions largely revolved around the following issues:

- i. The composition of the new Tribunal - to have all members from judiciary or to include domain experts from the relevant fields;



- ii. The selection procedure for Chairperson / Members of the Tribunal to be on the lines of Vigilance Commission/ Information Commission i.e. with active participation of Parliament, the Executive and the Judiciary all the three Organs of the State;
- iii. Need for having strict adherence to a time frame for conclusion of adjudication and settling the dispute by the Tribunal in the light of unending process of adjudication of the Inter-State River Water disputes;
- iv. Implementing the Report of the Tribunal – Centre’s information in the process.
- v. Giving finality to the Award by the Tribunal and ensuring unchallenged implementation of the same; etc.
- vi. Constitutional provisions of challenging the award / decree of the Tribunal in the Supreme Court and ramifications.

8. Concluding the discussion, the Chairperson drew attention of the Ministry to some of the related and very relevant issues *viz.* Poor condition of the Rivers, significance of the ground water, importance of maintaining Water bodies for recharge of ground water, etc. The Chairperson also appreciated the Ministry for enlightening the Committee on the proposed Clauses of the Amendment Bill. He then thanked the Ministry for expressing their view in a free and frank manner and replying to the queries raised by the Members of the Committee.

***The witnesses then withdrew.***

A copy of the verbatim proceedings of the sitting was kept for record.

The Committee then adjourned

**MINUTES OF THE TENTH SITTING OF THE STANDING COMMITTEE ON WATER RESOURCES (2016-17) HELD ON 8 AUGUST, 2017**

The Committee sat from 1500 hours to 1515 hours in Committee Room No. 1, First Floor, Parliament House Annexe, Extension Building, New Delhi.

**PRESENT**

Shri Hukum Singh – Chairperson

**MEMBERS**

**LOK SABHA**

2. Shri Radheshyam Biswas
3. Shri B. Vinod Kumar
4. Shri Maganti Murali Mohan
5. Shri Sidhant Mohapatra
6. Shri Abhijit Mukherjee
7. Shri Sanjaykaka Ramchandra Patil
8. Smt. Aparupa Poddar
9. Shri Vishnu Dayal Ram
10. Shri Ram Prasad Sarmah
11. Shri Lallu Singh

**RAJYA SABHA**

12. Sardar Balwinder Singh Bhunder
13. Shri Harshvardhan Singh Dungarpur
14. Shri Ananda Bhaskar Rapolu
15. Shri Sanjay Seth
16. Shri Pradeep Tamta

**SECRETARIAT**

- |    |                    |   |                     |
|----|--------------------|---|---------------------|
| 1. | Shri Shiv Kumar    | - | Joint Secretary     |
| 2. | Smt. Rita Jaikhani | - | Director            |
| 3. | Shri Kushal Sarkar | - | Additional Director |

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee. Thereafter, the Committee took up for consideration (a) Seventeenth Report on Action Taken by the Government on the Observations / Recommendations contained in the Sixteenth Report on Demands for Grants (2017-18) of Ministry of Water Resources, River Development and Ganga Rejuvenation; (ii) Eighteenth Report on Action Taken by the Government on the Observations / Recommendations contained in the Thirteenth Report on 'Indigenous and Modern forms of Water Conservation – Techniques and Practices'; and (iii) Nineteenth Report on 'The Inter-State River Water Disputes (Amendment) Bill, 2017'. After some deliberations, the Committee adopted the aforesaid three draft Reports without any modification.

3. The Committee also authorized the Chairperson to present the above three Reports to both the Houses of Parliament in the current Session.

The Committee then adjourned