

Krishna Water Dispute- A critical Analysis

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Introduction:

India is a much diversified country. Being a place to all types of climate whether it's deciduous, tropical or any other. It is a place to many mountains, hills, river and other natural resources. India is mainly depends upon the agricultural sector. The agricultural sector being the primary sector of India and the raw material supplier to the Industrial sector needs irrigation. There are multipurpose projects and irrigation across various rivers of India. India being the parent of nearly about 20 major rivers¹ and also there are several other rivers being the tributaries to those rivers has a vast source of water for irrigation. The rivers in India, generally starts from a state and flows towards another state. Thus the rivers in India, though having origin in a single state, flow in different state in India.

This flow of water of many rivers of India, like the Ganga, Narmada, Tapti, Godavri, Kaveri, Krishna etc. from several states sometime creates a dispute between those states from where these rivers flow.

The Inter-State Water Disputes (ISWD)

¹ <https://onlinetyari.com/ask-and-answer/question-how-many-rivers-in-india-i4466.html>

The dispute between any two or more states in India, regarding the share of water of a particular river which flows in all those states is termed as Inter-State Water Disputes. Most rivers of India are plagued with interstate disputes². Almost all the major rivers of the country are inter-state rivers and their waters are shared by two or more than two states. After independence, demand for water had been increasing at an accelerated rate due to rapid growth of population, agricultural development, urbanization, industrialization, etc. These developments have led to several inter-state disputes about sharing of water of these rivers.

Efforts are made to resolve disputes through negotiations amongst the basin states with the assistance of the Central Government. Many of these interstate river water disputes have been settled on the basis of equitable apportionment which is the universally accepted principle. Adjudication through appointment of water disputes tribunals is also resorted to as and when require.

Central Government has also received request from the state Government of Goa in August 2002 for the constitution of Tribunal for adjudication of water disputes relating to Maddie Inter-state River among the states of Goa, Karnataka and Maharashtra. Subsequently, Goa expressed the desire in June, 2003 to settle the disputes through negotiations. In developing country like India, the inter-state river water disputes have to be resolved quickly and amicably. This is most urgent for the proper utilization of water resources and economic growth.

The Inter-State River Water Disputes Act, 1956(ISRWD)

An act has been passed by the Parliament of India, knowingly, *The Inter-State River Water Disputes Act, 1956 (ISRWD)* in the year 1956 to resolve the matters between the states in India regarding the sharing of river water on that states.³

This act was enacted under *Article 262 of The Constitution of India*. Whenever the riparian states are not able to reach amicable agreements on their own in sharing of an interstate river waters, section 4 of IRWD Act provides dispute resolution process in the form of Tribunal.

As per section 5.2 of the Act, the tribunal shall not only adjudicate but also investigate the matters referred to it by the central government and forward a report setting out the facts with its decisions.

² <http://www.yourarticlelibrary.com/india-2/inter-state-river-water-disputes-in-india/20870/>

³ <http://wrmin.nic.in/forms/list.aspx?lid=366>

It implies that the tribunal responsibility is not limited to adjudication of issues raised by the concerned states and also investigation of other aspects which are in public domain such as water pollution, salt export requirement, water quality deterioration, flood control, sustainability of river basin productivity & its ecology, environmental flow requirements, climate change effects, etc.

When the tribunal final verdict issued based on the deliberations on the draft verdict is accepted by the central government and notified in the official gazette, the verdict becomes law and binding on the states for implementation. When pronounced in the ambit of IRWD Act, the tribunal's verdict after its publication in the official gazette is equivalent to Supreme Court verdict as per section 6 of IRWD Act.

In case the constitutional rights of states are ingressed upon by the tribunal award in any manner, central government, for extending purview of its enactment to implement the tribunal order, is obliged to take the consent of all riparian states under Article 252 of the constitution before publishing the tribunal awards in the official gazette.

Amendment in 2002-

This amendment specifically does not permit altering the prevailing tribunal verdicts issued before the year 2002 (i.e. but not the tribunal awards issued after the year 2002). Thus this amendment bars the tribunals to give any time period/validity for constituting a new tribunal.⁴

This is to keep provision to resolve fresh water disputes which were not addressed by earlier tribunals/ agreements as and when they surface. A permanent water dispute tribunal is contemplated to resolve the growing number of interstate river water disputes expeditiously.

The Krishna Water Dispute Case

The Krishna, is one of the prominent river of India. Starting from the statue of a Cow, in Mahabaleshwar, Maharashtra (South East Central India) and flows towards the Bay of Bengal (South West India). The river connects the three major states of India i.e., Maharashtra, Karnataka and Andhra Pradesh (now includes Telangana also).

⁴ <https://indiankanoon.org/doc/1048477/>

The dispute regarding the share of water of Krishna River started early in 1892. These dispute has taken a major role in 1969. The issue of sharing of Krishna River Water arised due to the 1892 agreement between Mysore Princely State and Madras Presidency⁵.

Later on the agreement of 1933 between Hyderabad Princely State and Madras Presidence also caused the arrival of dispute in sharing of Krishna River Water.

The Almatti Dam Dispute-

The Almatti Dam being the Hydro-Electric Power Plant in Vijaypur District of North Karnataka was build in July 2005. The name of the project in Upper Krishna- I. The initially proposed height of the Dam was 519 m. But the Dam is build with a height of 524 m.

This increment in the height of the Dam causes a dispute of Andhra Pradesh and Maharashtra with the state of Karnataka. The state of Maharashtra and Andhra Pradesh were not happy with the increased height of the Almatti Dam.

The Krishna Water Dispute Tribunal – I

A tribunal headed by former judge of Supreme Court of India, R.S. Bachawat was made by the government of India in 1969. This tribunal was the first tribunal made to set up the Krishna Water Dispute. Therefore this tribunal was called as *Krishna Water Dispute Tribunal I (KWDT I)*. It is also called as *Bachawat Committee*⁶.

The Bachawat commission (KWDT I) went over the matter in detail and gave its final award in 1973. While the Tribunal had in its earlier report detailed two schemes, Scheme A and Scheme B, the final award only included Scheme A and Scheme B was left out. Scheme A pertained to the division of the available waters based on 75% dependability, while Scheme B recommended ways to

⁵ <http://www.thehindu.com/news/national/brijesh-kumar-tribunal-restricts-redistribution-of-krishna-water-only-between-ts-ap/article9239129.ece>

⁶ <http://www.kbjnl.com/Sharing-Water>

share the surplus waters. The government took another three years to publish the award in its Extraordinary Gazette dated 31 May 1976. With that the final award (Scheme A) of the KWDT became binding on the three states.

The KWDT in its award outlined the exact share of each state. The award contended based on 75% dependability that the total quantum of water available for distribution was 2060TMC. This was divided between the three states in the following manner⁷.

Maharashtra	560 TMC
Karnataka	700 TMC
Andhra Pradesh	800 TMC

In addition to the above, the states were allowed to use regeneration/return flows to the extent of 25, 34 and 11 TMC respectively subject to time bound usage of allocated water out of 2060 TMC total allocation as stated in clause V of the KWDT-1 final order. Further, the Tribunal has allowed the States to utilise their allocated share of water for any project as per their plans.

As per clauses V & VII of final order of KWDT-1, a state can fully use its allocated water in any water year (in case of deficit water year also) by utilising the carry over storage facility. A state can create carry over storage during the years when water yield in the river is in excess of 2060 TMC plus entitled return flows to use in the water year when water yield in the river is less than total entitlement (nearly 2130 TMC).

Thus KWDT-1 allocated water use from the river up to 2130 TMC at 100% success rate out of average yield in the river and not subject to water availability in a 75% dependable year. The average yield in the river is assessed as 2578 TMC by recent KWDT-2⁸.

River water availability and water use measurement criteria in a water year are identical for both the Krishna River and Godavari river tribunal awards

⁷ <http://timesofindia.indiatimes.com/city/hyderabad/Andhra-Pradesh-Telangana-demand-review-of-Krishna-water-allocation/articleshow/52230534.cms>

⁸ http://nihroorkee.gov.in/rbis/India_information/Krishna%20Water%20Dispute%20Tribunal.htm

Including regeneration, the total water available to Karnataka for utilization is nearly 734 TMC. Out of this, Upper Krishna Project has been allotted with 173 TMC.

The Krishna Water Dispute Tribunal – II

A review was made to the award given by the Bachawat Committee in 2000. This review was not been seen for more three years. In 2004 a new committee headed by Brijesh Kumar was formed to review the award given by Bachawat Committee. This second committee was come to be known as *The Krishna Water Dispute Tribunal II*. It is also been termed as the *Brijesh Kumar Committee*. This committee reviewed the award given by the Bachawat Committee and reduced the sharing of water on the basis of dependability of water from **75 % to 65 %**.

Also this committee redistributed the water share, and allotted the following share of water: (in TMCft)-

Maharashtra	666 TMC
Karnataka	911 TMC
Andhra Pradesh	1001 TMC

Feedback of the States:

- All the three states were happy with the decision of the KWDT – II regarding the distribution of water among the three states as all the three states were getting more amount of water than that which they got in KWDT – I award.
- Maharashtra and Andhra Pradesh were not happy with the fact of increasing the height of Almatti Dam from 519 m to 524 m.
- Maharashtra was also aggrieved as it wanted that sharing of water on the basis of dependability should be 50 % but the tribunal fixed it on 65%.
- Karnataka was happy regarding the increase of height of Almatti Dam.

The Ultimate Conclusion

- The award given by the Brijesh Kumar committee was held final award.
- The award by KWDT – II has a validity upto 2050.
- The award by KWDT – II cannot be challenged until 2050.
- After the formation of Telangana, the KWDT – II will review its award considering only the states of Andhra Pradesh and Telanga, it will have no effect on the State of Maharashtra or Karnataka.

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