

UGC Sponsored National Seminar on Laws Governing Inter-state and International Water Disputes

Date: 25 - 26 February, 2012

Venue: WB National University of Juridical Sciences, Dr. Ambedkar Bhavan, 12 LB, Sector III, Salt Lake, Kolkata, India, 700098

About NUJS

The WB National University of Juridical Sciences (NUJS) is one of the premiere national law schools of India. NUJS, in its functioning for a decade has produced outstanding lawyers and legal scholarship. It is a constant endeavour, as a part of our social commitment, to engage with contemporary issues in legal field and contribute to the knowledge base and be a part of solution.

Concept Note

Water, the elixir of life, is indispensable to existence and is a preciously scarce resource today. Scarcity of the resource is a prescription for abundance of disputes. To add to, water does not recognize artificial boundaries. A number of major rivers in India are trans-boundary; inter-state or international, a feature that adds to the complexities. Inter-state and international water disputes therefore are logical for a country like India. Law offers one, but a critical, vantage point to approach water disputes.

The issues relating to water disputes flow through diverse legal landscapes. The topography ranges from rights issues to dispute settlement mechanisms. It meanders through courses of constitutional law, environmental law and conflict resolution mechanisms. Water disputes touch the lives of many in varied forms. It includes vital questions of survival, quality of life, development, preservation of culture, displacement to mention a few.

A state dealing with these multifarious difficulties evolves varied responses. India, for instance is developing a new National Water Policy has identified reforms in Water Dispute Settlement as one of its core area in contrast to its predecessor. It must also be mentioned that ingenious method for forging settlement like the 'Cauvery Family' (a body of stakeholders) are capturing the imagination of many. The past experiences of disputes and settlement efforts within nation and outside will definitely inform an endeavour to engineer a suitable solution to the problem.

The seminar is located in the milieu of past and contemporary disputes relating to water. It aims to critically analyse the issues involved in water disputes both inter-state and international, fundamentally from a legal perspective to

- map and analyse the range of critical issues involved in water dispute that require consideration
- develop a theoretical framework for determining water disputes in India
- search for a dependable legal framework for efficient long-term solutions that will accommodate the concerns of human rights, welfare and development of all the stakeholders with an inclusive approach
- strengthen the existing legal institutions for effective dispute settlement
- explore alternate means of water dispute settlement

To accomplish these objectives the seminar will be divided into three major strands for paper presentation and discussion - constitutional issues, human rights and environmental issues and framework for conflict resolution. These are broad theme lines within which focused topics could be developed.

Constitutional Issues

Resolution of inter-state water dispute is an integral part of constitutional scheme. The existing prototype put forth by Article 262 has come under severe criticism from many scholars and commissions. Inter-state water disputes by their very nature attract the attention of constitutional scholars due to the impact on federal arrangement. The trajectory of tribunal awards and judicial decisions, and responses of the states to it through law making also poses questions of jurisdiction and legislative competency. The conclusiveness of the tribunal decisions and the ever greening of the dispute by concerned states are also matters of concern. Equitable distribution of resources, ownership and control of resources, distribution of legislative powers, review jurisdiction of the Supreme Court and the rights questions add to the dimension of constitutional concerns relating to water disputes. The role assigned to the Central Government under the Inter-state River Water Disputes Act 1956 to constitute the Tribunal, refer the dispute and publish the award is a matter of consideration under this theme.

Human Rights and Environmental Issues

Sidelining of human rights and environmental concerns in the determination of water dispute has been a matter of concern. Balancing the interests of development with the conflicting claims of environment is another challenge. Human rights to water and the rights of the riparian states, impact of dams and other installations on environment, displacement, inter-linking of rivers, capability of Environment Impact Assessments, etc are some of the issues that need consideration. Dam safety and disaster management also emerge as matters of crucial importance.

Framework for Conflict Resolution

Water dispute settlement mechanisms of India have been for long been described as 'ambiguous and opaque', 'slow and cumbersome'. Later experiences have only strengthened this perception. The adversarial mode of proceeding followed by the Tribunal and the selection of the members of the Tribunal too has come under scanner. Reforms suggested by various committees and commissions about the approach to be adopted by the Tribunal draw attention to the defects in the functioning of the Tribunal. Effective dispute settlement mechanism therefore is an imperative. Search for the ideal dispute settlement mechanism need not be limited to institutionalized legal processes alone. Potential of alternate means of dispute resolution is something to be enquired with. A comparative study could inform the exploration for method of settlement, so also, indigenous means developed by stakeholders without the auspices of State for negotiation and settlement.

International principles of water sharing and dispute settlement, right to information, non-application of River Board Act 1956, unreasonableness of agreements of British era and its survival are all issues relevant to the subject of the seminar.

International Dimensions

Historically, sharing of water has been a root of tension between the states in the international level. While the Middle East is worst affected by water disputes, the South

Asia, comprising of India, Pakistan, Bangladesh, China, Nepal and Bhutan, is not an exception to it. The unsound history of division of water coupled with ever-increasing population and scarcity of wholesome water has magnified the trans-boundary disputes in different parts of the world. Though certain basic principles on equitable sharing of water have evolved over the period of time in the form of bilateral/plurilateral treaties, judicial decisions and arbitral awards, the much wanted codification of the norms is still awaited.

Target Group and Prerequisites

The seminar is intended to provide a platform for sharing and crystallizing thoughts and ideas from an array of people. It aims to involve academics, legal professionals, researchers, activists and students of law. The organizers are keen to have participation from the stakeholders. Options for registering as paper presenter or participants will be open. In the event of selection of paper for presentation, the registration fee will be waived.

Potential paper presenters are expected to submit a short version of their paper, not less than eight hundred words, by 15 January 2012 to the contact address given below. After scrutiny and selection, the organizers will issue letter of acceptance by 21 January 2012. The final papers are expected to be submitted by 15 February 2012.

Publication

Selected papers presented in the seminar will be published in the form of a book. A panel of experts will do the selection for publication. The book is expected to be released by the end of March 2012.

Organizational Information

Registration and other logistical information

The registration fee shall be Rs. 500/- for the students and Rs. 800/- for the rest. Registration fee is payable by Demand Draft drawn in favour of "WBNUJS Account". The participants are expected to make their own arrangements for travel and accommodation. However, the seminar secretariat will assist the participants with information regarding accommodation. The organizers will arrange working lunch on the days of the seminar.

Important Dates

Date of submission of abstract: 15 January 2012

Issuing of acceptance letter: 21 January 2012

Date of submission of final paper: 15 February 2012

Last date for registration: 15 February 2012

The date of the seminar: 25 - 26 February 2012

SEMINAR ORGANISING COMMITTEE

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