CHAPTER VI

SUMMARY AND CONCLUSIONS
While discussing the question of Centre-State Relations, the essential point is the approach one takes to the nature of the Union of India. If one assumes that India is - or at least should be - a completely integrated and unitary State with its territory divided into States more for convenience of administration than for any more basic reason, one would take a certain view. On the other hand, if one assumes (as many of us do) that federalism is inherent in the very character of the Indian Union, and that it is not a matter of accident that we have adopted a federal Constitution, one would take quite a different view. It is true that federalism as the basis of the Indian Constitution came to be specially emphasised as a result of Muslim separatism. The national movement had not earlier given much thought to the nature of the future Indian polity. But it should not be overlooked that Gandhiji recognised the importance of dividing the country into its linguistic regions for better organising the national movement. He, therefore, showed an awareness even before the Nehru Report of 1928 that some kind of federalism was inherent in the Indian situation.

It has been emphasised by a number of students of the Indian Constitution that unlike in some other federations where the federating units already existed independently and then came together in a federation, the Indian situation was one where a strong and unitary central organisation already existed before Independence and the formulation of the federation was based on taking away powers from this unitary Central Government to be conferred on the federating units. But what should not be overlooked in accepting these statements at their face value is that the unitary Government existed only under foreign rules. Before that, in the long history of the Indian sub-continent, there
were only some short periods when a large part of the territory was brought under an effective common rule. For most of the time, the different regions were politically independent or quasi-independent even though for most people in the sub-continent India did exist as an entity to which they also owed some allegiance. It is this what has sometimes been popularly known as "unity in diversity" of India that really forms the basis of the Indian polity. If this is accepted, then it follows that federalism has to be accepted as an essential part of one's approach to the Indian polity.

The nation is crucially dependent on the States for actual achievement of the chief pragmatic objective of the Nation. The arrangement works now because operating through a historically derived administrative system of real competent in earlier terms, extraordinary leadership and an extraordinary dominance of an effectively one-party system, it is possible to secure considerable consistency and cohesion. But the division of the control of state among different parties and a growing sentiment for autonomous status are always contentious issues. The problem may become all the more serious because, for the maintenance of internal peace and security also, as it has been shown by an eminent personality, the Centre is dependent on State machinery.

Article 262 (1) authorises Parliament to provide by law 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". Then, clause (2) of Article 262 says that "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 of Art 262. (1) It may be noted that "dispute" and complaint regard to in clause are not strictly confined to inter-state disputes or complaints. They even cover disputes between residents of two or more states and complaints made by the residents of one state against another state. The phrase "neither the Supreme Court nor any other Court shall exercise jurisdiction" in clause (2) lends support to the above construction, for if Cl(1) contemplates only inter-state disputes or complaints, then Supreme Court alone, and not any other court has jurisdiction to entertain such disputes or complaints and there is no need in Cl(2) to oust the jurisdiction of "any other Court" with respect to such disputes. It is, therefore, quite possible that if law made by Parliament under Cl(1) of Articles 262 fails to provide for the adjudication of disputes between a state and residents of another state or complaint by residents of one state against another with respect to the use, distribution or control of waters of inter-state river or valley such law may be challenged on the ground that it is contrary to, or fails to conform to, provisions of Article 262 (1). Since here we are more concerned with the inter-state disputes and the role of the union government, we need not dwell further on disputes between a state and residents of another state regarding the use of the water in inter-state rivers or valleys.

In 1956 Parliament enacted the River Boards Act. This Act provides for the creation of River Boards at the request and with the consent of State Governments for the regulation and development of inter-state rivers and river-valleys. Once they are constituted, their duty is to tender advice on the regulation and development of a specified river valley, regarding the preparation of schemes for regulating and developing the inter-state river or river valley. The
allocation among the state governments, the costs of executing any such scheme, the coordination of activities, the resolution of conflicts between states on any of these matters, and the like. It is also clear from the Act that the advice tendered by these Boards is not binding on the states. Thus, the two facts, namely, that the River Boards contemplated in the Act can be established only at the advice given by such Boards is not binding on the State Governments, clearly prove that there is nothing in this Act which can be construed as an infraction or infringement of States' rights or as an interference in the exercise of their given powers. The same year Parliament passed the Inter-State Water Disputes Act, 1956. This provides for the Constitution of a Tribunal by the Union Government for the adjudication of water dispute between states on specific request from a State Government if the Union Government after the receipt of such request is of opinion that water dispute cannot be settled by negotiations. Besides, the law has rendered the decision of the Tribunal final, and barred the jurisdiction of the Supreme Court and other courts in respect of any water dispute referred to the Tribunal. The Act originally provided for one man Tribunal, but after amendment of the Act in 1968 the membership of the Tribunal has been increased to three sitting judges of the Supreme Court or High Court. It may be noted that Article 262 speaks only of adjudication of water disputes. It is, therefore, not surprising that the entire tenor of the Inter-State Water Disputes act is an adjudication of water disputes and not settlement of water disputes by negotiations. So, if a water dispute arises between two or more states, the disputant states may well settle the dispute by negotiations without the central assistance, or seek the central assistance and good office to settle it by negotiations, or they or any of them
may request the Central Government to constitute a Tribunal under the Act for adjudication of the dispute.

Attempt to settle the dispute by negotiations and its failure are evidently not pre-conditions for setting in motion the provisions of the Act. But, when the required request is sent by one of the disputant states to the Central Government, it has to form an opinion that the dispute in question cannot be settled by negotiations before it constitutes the Tribunal. Thus, it is the formation of the required opinion, but not negotiation, which is a pre-condition for the constitution of the Tribunal. This required opinion may be formed by the Central Government either after making its own effort to settle the dispute by negotiation which might have proved futile, or without making any such attempt but on the basis of facts within its knowledge which would convince it that such negotiations would be futile. The opinion of the Central Government contemplated in the Act is obviously subjective and not objective, and therefore, no court can inquire into the question whether or not the Central Government made an attempt to settle the dispute by negotiation and failed, or what fact influenced the formation of the opinion.

In view of these facts, and in the absence of any other positive indication either in the provisions or in the scheme of Inter-State Water Disputes Act., it is difficult to subscribe to the view that the opinion of the Central Government contemplated in the Act is objective, not subjective and consequently it must be formed after due enquiry in a quasi-judicial manner and not on the basis of facts within its knowledge in a true fashion of taking a purely administrative decision. What is more, such a construction will give scope for more litigation
over the issue of forming the required opinion and it may delay considerable the chance of finding a solution for the water dispute instead of hastening the process towards it. Another important provision of the Constitution, which has been designed to provide a basis for settlement of inter-state disputes, is Article 263. It says "if at any time it appears to the President that the public interest would be served by the establishment of a Council charged with duty of:

a. inquiring into the advising upon disputes which may have arisen between states.
b. investigating and discussing subjects in which some states or all of the states, or the union and one or more of the states, have a common interest, or
c. making recommendations upon any such subject and, in particular, recommendations for the better coordination of policy and action with respect to that subject it shall be lawful.

President by order to establish such a council and to define the nature of the duties to be performed by it and its organisation and procedure.

As is evident from the provisions of Article 262, three types of duties have been postulated therein for any Interstate Council that may be established in pursuance of the of the Article. They are (1) inquiry into and advise upto any interstate disputes, (2) investigation into and discussion on subjects in which states or union and states have common interest; and (3) making of recommendations upon any such subject of common interest. The last type of duty is virtually linked with the second, and this link is clear from the phrases "upon and such subject" and "with respect to that subject" in Cl.(c) of Article
263. Therefore, investigation, discussion and recommendations are all related to "subjects of common interest" envisaged in Cl(b) of article 263. The President's power to define the nature of the duties to these three duties, lest the specification of the duties should be rendered meaningless. In other words, no additional duty such as conciliation, negotiation and the like, can be imposed upon such Council by the President without overstepping the bounds of authority conferred on him by the Article. Besides, the tenor and language of Article 263 is such that any advice tendered, recommendations made and conclusions arrived by a Council established under it are not binding on any party. At best such advice, recommendations and the uses may have persuasive value, provided, of course, the Council is properly constituted. On the other hand, if the Council is not properly constituted, not only its recommendations and advice would fail to impress the parties concerned but it might prove to be a constant irritant in the body politic of the country as well, it is in this connection we have to analyse briefly some of the suggestions made by some eminent men for the establishment of Inter-State Councils.

The suggestion made by Rajamanner Committee on Centre-State Relations is that the Inter-State Council must be constituted immediately, and it must consist of the Chief Ministers of all the States or their nominees, with the Prime Minister as the Chairman. It also emphasises that all the States must have equal representation in the Council and no other member of the Union Cabinet should be a member of it. It must be remembered that Article 263 speaks about two things, namely, (1) inquiry into the advice upon inter-state disputes and (2) investigation, discussion and making recommendations upon subjects of common interest between states or union and states. Inter-state
disputes may arise, whenever states exercise their power with respect to their exclusive subject matters specified in the State List or sometimes even when they exercise power in the concurrent field. Whereas subjects of common interest between the Union and the States stipulated in Article 263 are those found in the Concurrent field, for if subject matter mentioned in the Union and State Lists are also treated as subjects of common interest between the Union and States they cease to be exclusive subjects solely entrusted to the Union and State respectively. Therefore, when an Inter-State Council is constituted for the purpose of inquiring into and advising upon Inter-State disputes, the composition of the Council may be such as to give predominant voice to the states in it and allow the Union Government only scope for playing the role of an umpire. But, when it is constituted for the purpose of discussion and making of recommendation on the subjects of common interest, the membership of the Council must be such as to create an equipollence between the Union and States, and if repugnancy rule embodied in Article 254 and the preponderant position concerned to the Union Government in the concurrent field by Articles 246 and 254 are to be guidelines in constituting a Council under Article 263 to deal with subjects of common interest between the Union and States, then its membership must be such as to give greater voice to the Union Government in the Council.

Some of the existing provisions in the Constitution lend themselves to be used either by the executive at the Centre or by Parliament to make inroads into the legislative powers that the Constitution has assigned to the States. Thus, we have seen that some of the powers enjoyed in theory by the States become inhibited and illusory in actuality. For instance, the provisos to Articles 31A,
31C and 304(b) of the Constitution provide ample scope for the encroachment by the Executive at the Centre on the legislative powers of the States. At present a number of Central agencies such as the Agricultural Prices Commission, Central Water Commission, Central Electricity Authority, Director-General of Technical Development, Monopolies and Restrictive Trade Practices Commission, Employees State Insurance Corporation, National Savings Organisations, Employees Provident Fund Organisation, Bureau of Industrial Costs and Prices, Food Corporation of India and the like, handle activities relating to subject in the State and concurrent lists of the Seventh Schedule of the Constitution. Some of these Central Organisations have been making inroads into the autonomy of States. Though there is a clear Constitutional provision for the setting up of an Inter-State Council, this has not been done and many Inter-State disputes and disputes of States with the Centre have remained unsettled for a long period resulting in tensions and bitterness among them. The Administrative Reforms Commission has also referred to this failure to benefit from this Constitutional provision.

The Commission Centre States relations popularly known as "Sarkaria Commission" was appointed in 1983. The terms of reference of the Commission in the matter of Inter-State River Water Disputes the need for amending the Act enabling the Union Government to appoint a Tribunal *suo moto* is suggested. The Supreme Court of India possesses jurisdiction regarding inter-state disputes. As regards disputes relating to waters of inter-state rivers or river-valleys, a special provision has been attached to the Constitution. Parliament may, by law, provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters, or in any inter-
state river-valley. Parliament has also been empowered to take away completely by law the jurisdiction of the Supreme Court in such cases, if it so likes.

Under Art, 262 the Parliament passed two laws: (a) The Inter-State Water Dispute Act, 1956, and (b) the River Board Act, 1956.

According to the Inter-State Water Disputes Act, any State Government may make a complaint to the Central Government as to "water-dispute". The water-dispute means dispute with respect to the use, distribution or control of waters of any inter-state river or river valley or any dispute relating to the interpretation of the terms of any agreement or levy of any water-rate prohibited by Sec. 7 of the Inter-State Water Disputes Act. Any state may make such a complaint and request the Central Government to refer the dispute for adjudication. On such a request the Central Government may constitute a Tribunal, the decision of which is final and binding on the parties.

The River Boards Act makes a different approach in solving the problems of such rivers and river valleys. It makes provision for the establishment of Boards for the development of inter-state rivers and river valleys. Conflicts arising out of any programme offered by the Board or out of question of the sharing of financial liability are to be referred by any of the affected parties to a Tribunal and the decision of the Tribunal is to be binding upon all the parties.

Art. 263, which is a virtual reproduction of the relevant provision of the Government of India Act, 1935, contains another provision to iron out differences to remove tensions and so secure harmony between the Union Government and the States and between the states themselves as and when
occasion arises. The President is empowered by the above mentioned Article to appoint an Inter-State Council, if he thinks it necessary to do so in public interest. The Council will be charged with the duty of (a) inquiring into and advising upon disputes which may have arisen between States, investigating and discussing subjects in which some or all of the States have a common-interest; and making recommendation on any subject for better co-ordination of policy and action. This provision includes mainly for ensuring coordination and obviating litigation, although it does not exclude the jurisdiction of the Supreme Court in such cases.

In India, sixteen out of eighteen major river basins cover two or more states, the only exceptions being two smaller basins in Gujarat and Tamil Nadu. Similarly, all major States have riparian areas within two or more basins with the exception of Punjab and Uttar Pradesh which lie entirely in the Indus and the Ganga basin respectively. As might be expected in such a situation, disputes of various kinds have arisen between states. They have pertained to (a) sharing the waters of inter-state rivers; (b) the appointment of costs and benefits in joint projects; (c) issues relating to compensation to or from states affected by, or benefiting from a project implemented in another state; (d) the interpretation or implementation of agreements; and (e) the regulation of water flows in a number of cases, disputes have been settled through mutual negotiations. There are also a number of cases in which basin states have collaborated in developing projects on inter-state rivers to the benefit of all of them.

The relatedness of water availability in different parts of a basin, and the linkage between land use and water use entails that activities of one kind in one
part of the river basin can negatively or positively influence other activities in different parts of the basin. The failure to perceive this interconnectedness in the planning of water utilisation has become a major source of conflict over water use in river basins. Water allocation between conflicting demands for water have rarely aggravated the problems of inequalities and maldistribution. Inter-State conflicts are generated when water projects of upstream states influence the quality and quantity of water flow in the basin and reduce the possibilities of water use by downstream states. Major inter-basin water transfers in river flowing through many States also generate conflicts by disturbing the riparian rights of states. Conflicts also arise between the state and the people when official planning and policies lead to changes in water use and utilisation pattern and therefore undermine people’s access to water.

The Bhakranangal project between Punjab, Haryana and Rajasthan on the Sutlej river; the Beas project between Punjab, Haryana and Rajasthan on the Beas river; the Chambal project between Madhya Pradesh and Rajasthan on the Chambal river; the Damodar Valley Corporation between West Bengal and Bihar on the Damodar river; and the Gandak project between Bihar and Uttar Pradesh on the Gandak river and with Nepal are involved. Karnataka itself has cooperated with Andhra Pradesh in the Tungabhadra project, while Tamil Nadu and Kerala are partners in the Parambikulam Aliyar project covering as many as eight rivers.

Disputes which could not be resolved among the parties and have had to be referred to adjudication by Tribunals under the ISWD Act, 1956, relate to the Narmada (Gujarat, Madhya Pradesh, Maharashtra and Rajasthan); the Krishna
and the Godavari (Karnataka, Maharashtra, Andhra Pradesh, Madhya Pradesh and Orissa); the Ravi and the Beas (Punjab, Haryana and Rajasthan); and the Cauvery. The first four Tribunals gave their Awards in 1978, 1973, 1979 and 1987 respectively. The rivers do not respect political boundaries and therefore, river water disputes are not uncommon. Throughout history, they have arisen between and within countries; many such disputes, in India and elsewhere, have been avoided, resolved, or at least contained; solutions arrived at have also been sustained over time.

Cauvery is an Inter-State River flowing through the States of Karnataka, Tamil Nadu, Kerala and Union Territory of Pondicherry. Cauvery has been one of the main sources of irrigation for Karnataka and Tamil Nadu from time immemorial and its water resources has been practically fully harnessed. Before independence, two inter-state agreements were entered between the then state of Mysore and Madras one in 1892 and the other in 1924. There was provision in this agreement to review the issue of Cauvery water after 50 years of the agreement. However, disputes arose between two states, each accusing other for violating the 1892 and 1924 agreements. Efforts were made to resolve the inter-state issues amicably between the party state Governments, a number of Inter-State meetings were conducted at very high levels but no satisfactory results could be achieved.

After the re-organisation of the States in 1956 Kerala and Pondicherry also become parties to this dispute along with the re-organised states of Karnataka and Tamil Nadu. In one of the inter-state meeting in 1972 a consensus was reached to set up a fact finding committee to collect the data regarding the
actual utilisation of Cauvery by the various states. The committee submitted the findings in 1973. On the basis of fact finding committee report, a number of meetings took place and an understanding was reached in 1976 on the sharing of Cauvery waters among the co-basin states. However, these understandings were not ratified by the party states. In the meeting of June, 1988, Government of Tamil Nadu expressed the view that further negotiations would serve no useful purpose and the dispute should be referred to a tribunal. As follow up action, the Government of Tamil Nadu requested the Ministry of Water Resources for setting up this Tribunal under Inter-State Dispute Act, 1956 vide their letter dated 6.7.1986.

Chief Minister's level meeting took place on 5.4.90 and bilateral discussions on 19.4.90 between Chief Ministers of Karnataka and Tamil Nadu. The talks were failed and Government of India constituted Cauvery Water Dispute Tribunal on 2.6.90 under the Chairmanship of Justice Chittatosh Mookarjee, Chief Justice of Bombay High Court. The Cauvery Water Dispute Tribunal has given an intrim 205 TMC of waters in a water year as inflows into Mettur reservoir. Also irrigation from Cauvery in an year in Karnataka is to be restricted to 11.2 lakh acres. Further Tamil Nadu has to release 6 TMC for use in Pondicherry. Karnataka Government has passed an ordinance for protection of irrigation in Karnataka from Cauvery Water (21.5 lakhs acres) on 25th July, 1991. Matter regarding implementation of intrim order and other issues however, referred to Supreme Court. The Government of Karnataka submitted a review petition which is under consideration of the Tribunal. Recently (in February 1992) Prime Minister has also held discussions regarding the issues connected with Cauvery Water Dispute with the Chief Ministers of basin states.
The Tamil Nadu Congress Committee (I) President announced in the Press on 16.7.1993 that the M.Ps from Tamil Nadu and Pondicherry would meet the Prime Minister at New Delhi on July, 21st to seek immediate release of Cauvery Waters by Karnataka to save the standing crops in Tamil Nadu and Pondicherry. The agricultural Association in Tamil Nadu in a joint meeting also decided to resort to agitation if the Union Government failed to direct Karnataka Government before July 31st 1993 to release waters.

The situation in Tamil Nadu or injury therein was purely a self-inflicted one. The storage in Mettur reservoir as on 12th June, 1993 the day of opening of Mettur reservoirs was 61 tmc. and this was a comfortable storage. With usual flows their normal irrigation could have easily been preserved. Instead Tamil Nadu increased its Kuruvai area by one lakh hectares. This has resulted in an unusually heavy drawals of over 65 tmc in 5 weeks. Firstly, any sharing arrangement, if it is to be sustainable over time, will entail continued goodwill and co-operation among the parties. In disputes relating to the allocation of hitherto unused waters, or the specifications of an individual dam, or to cost-sharing or benefit apportionment, a once-for-all solution is possible. In such cases, any residue of resentment among the contesting parties can be expected to heal over time. In contrast, a settlement of the Cauvery dispute will need to address the continuous sharing of waters - year after year and season after season - subject to the fluctuations of water availability and need. Obviously, any such settlement, to be durable, has to be grounded on the willing, active consensus of the parties involved. Only on this basis can long-term harmony be established.
The second set of implications relate to the Tribunal. The Tribunal can be expected to arrive at an allocation of available waters among the basin States taking into account the scope for economy and efficiency in water use, and legal, factual, equitable, hydrological, agronomic, and all other relevant factors. The crux of the problem before the Tribunal will be to determine the inflows at Mettur that Tamil Nadu and Pondicherry can expect (as downstream-of-Mettur States) and, linked to this, the yield which Karnataka and Kerala can benefit.

In its interim order, the Tribunal has directed Karnataka to ensure a specified quantity (205 tmc ft.) to Tamil Nadu by way of annual inflows at Mettur. It has also stipulated a monthly pattern of releases consistent with the annual quantum. It appears that a more appropriate approach would be to arrive at the allocation for Tamil Nadu (including Pondicherry) on the basis of a share (i.e. a percentage or ratio) in the yield above Mettur and to formulate rules of regulation to effectuate the realisation, taking one year with another, of the specified share. Corresponding to this, an appropriate monthly pattern of releases could be determined.

The allocation of shares to the basin States will necessarily have to be derived from average, or probabilistic dependability figures, relating to data for a number of years. For purposes of practical implementation, however, the allocation will have to be translated into rules of regulation which take account of annual and seasonal variations in rainfall and river flows. The implementation of such rules of regulation will entail the integrated operation of basin reservoirs above Mettur and appropriate monitoring arrangements. It may also be necessary to review the rules themselves on the basis of their working during
a number of seasons and years. The Tribunal’s award will be completed only if the rules of regulation to implement its allocations are simultaneously made available. It would be best if the rules are formulated in full consultation with the engineer-representatives from the basin states.

It bears emphasis that both Tamil Nadu and Karnataka have become the prisoners of history. Tamil Nadu has steadfastly stuck to legal claims basis on the 1892 and 1924 Agreements and has relied, de facto, on concepts of ‘natural flow’, ‘prescriptive rights’ and ‘prior appropriation’. In Karnataka’s perception, the earlier Agreements were unequal arrangements to which it was obliged to submit through compulsion or circumstance. Moreover, its claims to the Cauvery waters had gone by default because, historically, the State had lagged far behind Tamil Nadu in irrigation development. And, as the upper riparian, an aggrieved Karnataka could turn aggressive. In effect, the Harmon Doctrine of Territorial Sovereignty has not only influenced official stances but has also spilled over into popular perceptions. The idea that Cauvery waters are of Tamilnadu waters and they will part with only that much of them can spare after meeting all their needs, present and prospective has become a popular political slogan in Karnataka. The only way out of this impasse for both the States is to draw back from their irreconcilable positions and seek a reasonable modus vivendi based on considerations of fairness and equity related to historical entitlements as well as current realities. Fortunately, the Helsinki Rules offer a constructive framework; by jointly subscribing to them, both the States can facilitate the Tribunal adopting the middle path suggested above.
The fourth implication is that the problem of sharing should be viewed in a dynamic perspective instead of a static, zero-sum one. The projected requirements of all the basin States (1139 tmc. ft.) are far in excess of the long term availability of waters in the basin (740 tmc. ft. per annum on the average). It is, therefore, necessary to take all possible steps to: (a) augment availability by reducing waste and harnessing supplemental sources for irrigation, (b), conserve availability in the catchment area and (c) institute programmes for the economic and efficient use of available waters.

Such measures will require common action on the part of the States, in addition to efforts taken within their own territories. Jointly, the basin States will have to undertake catchment treatment activities; these include afforestation and soil conservation in the drainage areas of the Cauvery and its tributaries so as to improve and conserve moisture yield and to control siltation in reservoirs. A second area of common interest is the control of pollution, eco-degradation and environmental health hazards in the basin as a whole. Thirdly, there is need for joint exploration of possible additional storage and/or regulatory structures above and/or below Mettur to reduce water run-off in periods of excess supply. The fourth area requiring joint action is the investigation of hydro-electric projects at Mekadatu and/or Hongeskal for power development.

As the lower riparian, Tamil Nadu has necessarily to face a reduction in the ex-upstream availabilities to which it has been traditionally accustomed. Such reductions have already occurred in good measure in the 1980s and will become a normal feature even under the best of all possible awards from Tamil Nadu's point of view. The inevitable adjustment to the changed circumstances
need not be postponed any longer. Tamil Nadu will need to seriously explore a number of specific measures, including: (a) modernisation of the irrigation system in the old delta to effect economics and efficiency in water use; (b) on farm water management practices for the same purposes; (c) greater exploitation of groundwater and its conjunctive use with surface water; (d) conservation of rain waters going to waste; (e) drainage improvements in the tail end of the delta; and (f) suitable changes in the cropping pattern.

What is all required is to study indepth their feasibility and costs and benefits at the techno-economic level, and to translate them into concrete projects and programmes. The most unfortunate aspect of the Cauvery dispute is that it has not been possible to find a solution through negotiations - by far the best means of dispute settlement. Nor have other voluntary processes, such as conciliation, mediation and arbitration been pursued prior to adjudication, the stage of last resort. Prolonged and inconclusive negotiations over two decades have exacerbated differences, while adjudication based on adversarial proceedings has enhanced divisiveness.

It is, therefore, essential to initiate a process of conciliation and co-operation without delay. Such a process can serve two valuable purposes. In the short-term, it can facilitate and expedite the Tribunal's task. In the longer term, by narrowing differences, it can render the final settlement sustainable. The process of conciliation and co-operation can be initiated by the basin States coming together to submit a joint declaration to the Tribunal on the following lines: The basin States agree to fully co-operate with the Tribunal so as to expedite its final award. The basin States request the Tribunal to be guided by
the Helsinki Rules in its adjudication and pay due regard to: (a) Karnataka's aspirations for the development of its ayacut, (b) The interest of Tamil Nadu and Pondicherry in the protection of their established irrigation, (c) The interest of Kerala in the development of its irrigation and multi-purpose projects, and (d) The interest of all States in securing the equitable and timely availability of water from year to year and season to season.

The basin States affirm their commitment to undertake jointly or separately as appropriate measures for the augmentation and conservation of supplies the economic and efficient use of waters, the protection of the environment, and the development of projects of common benefit. The basin States pledge to safeguard their traditional good neighbourly relations through public education and political consenses.

With such a declaration, the first step can be taken to move away from the past century of conflict in the Cauvery waters of Karnataka and Tamil Nadu to an era of sustained co-operation. The faint silver lining on the cloud is that good seasonal conditions in 1991 and 1992 have provided a period of reprieve and have allayed the heat of controversies which reached high temperatures in December 1991 and April 1992 in the aftermath of the Tribunal's Interim and clarifying orders. This period of calm, will not, obviously, last for ever and one can expect the controversy to erupt again prior to the irrigation season of 1993. From this detailed study one can easily come to a conclusion there is more politicising the issue which has resulted in much complication that cannot offer any practical solution even in future because all means take voluntary process, conciliation, mediation have utterly failed. But the silver lining can be spotted if
only the political forces retire into background and give free hand to the technicians to the people of these two affected States especially farmers for an amicable and lasting solution without causing much delay by postponement and waste of time, money and manpower on the basis of mutual give and take.