CHAPTER 2

LITERATURE REVIEW

2.1 GENERAL

All the great civilizations of the world were inhabited near a source of water. The love for water, which develops from necessity, gives rise to conflicts between individuals, groups of individuals, nations and states of the same country. In the pre-Aryan period, availability of water-resources in plenty avoided confrontation between tribes on the issue of their apportionment [32]. In Mohenjo-Daro civilization people had plenty to eat and thus there was no pressure of population. The absence of defensive armour in the days of Mohenjo Daro civilization are indicative of the fact that there were no fights whatever the reasons may be [32]. Rigvedic Indians lived on agriculture and cattle breeding, supplemented by hunting. Importance of rivers is clearly available in the Vedic literature. The earliest evidences of fights for water rights in India are available during the Vedic period. To illustrate the points some of the quotes from Rigveda are reproduced here- "Indra has caused the water detained by Huni to flow like rushing rivers." [56] "Indra set open the rivers by slaying Ahi." [57] "There (Indra) didst set free the obstructed rivers, thou didst win the waters which the Dasas had mustered." [58] These fights were more in
the nature of establishing authority than need of the water. There are also instances of wars fought over water rights in the Kunal Jataka [28]. There was hostility between Sakya and Koliya tribes over the water of Rohini river. They were dissuaded from fighting by the timely intervention of Buddha. With the advancement of civilization more humane methods of settling disputes were found out. Kautilya [27] tried to bring to light such ideas and by settling them on a much clear footing. 'Kuta Yudha' concept was given by Kautilya, Kamandaki and Sukra.

In modern India also there are conflicts between states regarding the apportionment of waters of interstate rivers. The conflict invariably arises from the fact that demand for water has increased manifold and the availability is limited. So far no clear-cut directions or conventions are available to deal with water-disputes. Many organisations at national and international level have tried to lay down some principles.

2.2. PRINCIPLES AT INTERNATIONAL LEVEL

The Constitution of U.S.A. provides that the inter-states disputes should be resolved by the U.S. Supreme Court. Sometimes the disputes are settled by agreements or compacts between the partners and are then ratified by the U.S. Congress. The Congress has to pass an Act authorising the negotiations by compacts by different states.
The compact is effective when it is ratified by all the Legislatures of the concerned states and Congress.

Several inter-state water disputes appear to have arisen in recent years in the United States of America. The following cases in which the U.S. Supreme Court gave decisions are particularly instructive:-

Kansas v. Colorado (1907)
Wyoming v. Colorado (1922)
Connecticut v. Massachusetts (1931)
New Jersey v. New York (1931)
Arizona v. California (1931)
Washington v. Oregon (1936)
Arizona v. California (1936)
Wyoming v. Colorado (1936)
Hinderlider v. La Plata River & Cherry Creek Ditch Company (1938)
Nebraska v. Wyoming (1945)

Some of these decisions were studied by Smith [63]. According to him the doctrine of absolute supremacy of the territorial sovereign is essentially anarchic permitting every state to inflict irreparable injury upon its neighbours without being amenable to any control save the threat
of war. Commenting on the cases of the type of Connecticut v. Massachusetts, Smith remarked that in the questions of navigation rights which had furnished main juristic interest of the waterways the general principle of free navigation has been widely established, but the group of problems connected with diversion are now introducing us to a chapter of International Law which is still in the making. He also mentioned that every river system is naturally an indivisible physical unit and that ever as such it should be so developed as to render the greatest possible service to the whole human community which it serves, whether or not that community is divided into two or more political jurisdictions.

Committee of U.S. National Reclamation Association [43] gave the leading principles established by decision of U.S. Supreme Courts. These principles according the Report of this Committee are as under:

(i) There should be apportionment not of water, but of natural benefits and there must be an equitable limit to conflicting sovereignties.

(11) While the municipal law relating to questions between individuals is to be taken into account, it is not to be deemed to have controlling weight in the inter-state disputes and such disputes are to be settled on the basis
of equality of right.

(iii) In arriving at an equitable apportionment the equitable existing economic development should be protected and preserved.

(iv) The determination of equitable apportionment of interstate water will impose the rule that conservation within practicable limits is essential in order to conserve the common supply.

(v) Court announced no specific formula for determination of equitable apportionment of the water of an inter-state stream.

Studying these suits in detail Frank J Trelease [13] has argued that in such disputes the major principle of decision is that each state bordering on the river is entitled to an equitable apportionment of the benefits resulting from the flow of the river. This principle of equitable apportionment was first announced in a case between a state recognising only appropriative rights and a state which gave effect to riparian rights, (Kansas v. Colorado, 1907, 206 US 46, 27 Sct 655, 51 Led. 956) but neither doctrine could be applied without doing violence to the internal law of one or the other state. In Wyoming v. Colorado (1922) case the court said that to apply doctrine of priority in such a case would be the equitable method of apportionment. In Connecticut v. Massachusetts (1931) the court said that the fact that both states follow the riparian doctrine does not dictate its use as the basis for settlement of such an inter-state controversy.
In Nebraska v. Wyoming (1945) the court said that protection of established use would be more equitable than strict priority.

The Indus Commission [41] found that regarding the distribution of water of inter-state river following principles emerge:-

(i) The most satisfactory settlement of disputes of this kind is by agreement, the parties adopting the same technical solution of each problem as if they were a single community undivided by the political or administrative frontiers.

(ii) If once there is such an agreement, that in itself furnishes the 'law' governing the rights of the several parties until a new agreement is concluded.

(iii) If there is no such agreement, the rights of the several provinces and states must be determined by applying the rules of 'equitable apportionment', each unit getting a fair share of the water of the common river.

(iv) In the general interests of the entire community inhabiting dry, arid territories, priority may usually have to be given to an earlier irrigation project over a later one: 'priority of appropriation gives superiority of right.'

(v) For the purpose of priority, the date of project is not the date when the survey is first commenced, but the date when the project reaches finality and there is a 'a fixed and definite purpose to take it up and carry...
(vi) As between projects of different kinds for the use of water, a suitable order of precedence might be used for domestic and sanitary purpose, use for navigation and use for power and irrigation.

A general principle from the findings of the Nile commission (1925) was also deduced by Indus Commission [47] regarding the established rights depending on the natural level of the river. According to this principle such rights should be respected within certain limits, though they should not be allowed to put a veto for all time on the development of the upper areas. The Indus Commission considered this principle not essentially different from the policy followed in India.

A Committee on the Uses of the Waters of International Rivers was set up in 1954 by the International Law Association [26] (a non-official group of lawyers from different countries of the world) with the objective to clarify and restate the existing International law as it applied to the rights of state to utilise the waters of an international drainage basin. This report was adopted by International Law Association at its fifty-second Conference held in Helsinki in August, 1966. Some of the rules formulated there - in are as under :-

Artical IV :- Each basin state is entitled, within its territory, to a reasonable and equitable share in the
beneficial uses of the waters of an International drainage basin.

Article V :— (1) What is a reasonable and equitable share within the meaning of Article IV is to be determined in the light of all the relevant factors in each particular case.

(2) Relevant factors which are to be considered, but are not limited to:

(a) the geography of the basin, including in particular the extent of the drainage area in the territory of each basin state;

(b) the hydrology of the basin, including in particular the contribution of water by each basin state;

(c) the climate affecting the basin;

(d) the past utilisation of the waters of the basin, including in particular existing utilisation;

(e) the economic and social needs of each basin state;

(f) the population dependent on the waters of the basin in each basin state;

(g) the comparative costs of alternative means of satisfying the economic and social needs of each state;

(h) the availability of other resources;

(i) the avoidance of unnecessary waste in the utilisation of waters of the basin;
(j) the practicability of compensation to one or more of the co-basin states as a means of adjusting conflicts among uses; and

(k) the degree to which the needs of a basin state may be satisfied, without causing substantial injury to a co-basin state.

(3) The weight to be given to each factor is to be determined by its importance in comparison with that of other relevant factors. In determining what is a reasonable and equitable share, all relevant factors are to be considered together and a conclusion reached on the basis of the whole.

(4) A use or category of uses is not entitled to any inherent preferences over any other use or category of uses.

(5) A basin state may not be denied the present reasonable use of the water of international drainage basin to reserve for a co-basin state a future use of such waters.

(6) An existing reasonable use may continue in operation unless the factors justifying its continuance are outweighed by other factors leading to the conclusion that it be modified or terminated so as to accommodate a competing use.

Helsinki Rules also emphasised that although certain disputes about international rivers and international river
basins may lend them to third party adjudication under established international law, but the best method to seek a solution of such problems is through negotiations.

In 1949, a British firm was entrusted with the task of examining scheme of developments in respect of Jordan river which passes through four countries- Lebanon, Syria, Jordan and Israel [61]. The plan prepared by the British firm, known as McDonald Plan gave the principle that the waters of a catchment area should not be diverted outside that area unless requirements of all those who use or genuinely intend to use the waters within the area have been satisfied. Objecting to it Israel argued that they have a right to use the waters outside the watershed area. Later the Tennessee Valley Authority (TVA) was invited to prepare a report indicating the most efficient method of utilising the whole of the watershed in the best interest of the area in disregard of the political boundaries. After the Chairman of TVA submitted the report, negotiations followed and a revised unified plan was prepared. In this Plan, it was stated that the reasonable needs of all in-basin users in the riparian states must be provided for before out-of-basin users can be considered, particular care was taken to assure Jordan the largest amount of water which could be economically captured and used in its cultivable area of the Jordan valley. Further the waters accruing to Israel represented its share after equitable Arab claims had been deduced and Israel could
According to Berber [8], there are four principles at the International level which govern the use of waters of inter-state rivers. These principles are:

(i) The principle of absolute territorial sovereignty, by virtue of which a state can dispose freely of the waters actually flowing through its territory, but has no right to demand the continued free flow from other countries;

(ii) the principles of absolute territorial integrity, by virtue of which a state has the right to demand the continuation of the natural flow of waters coming from other countries, but may not for its part restrict the natural flow of waters flowing through its territory into other countries;

(iii) the principle of Community in the waters by virtue of which rights are either vested in the collective body of riparians or are divided proportionally, or any other kind of absolute restriction on the free usage of the waters by the riparians is created in such a way that no state can dispose of the waters without the positive cooperation of the others;

(iv) a restriction of the free usage of the waters, which, it is true, does not extend as far as the principle of a community in the waters but which in differing degree restricts the principle of absolute territorial sovereignty just as much as the principle of absolute territorial
John W. Bird [10], described the Winters' Doctrine or Doctrine of Reserved Water Rights as applicable in U.S.A. Such Water rights are applicable in a Union of Federal States which are originally independent and sovereign units and are later merged into a federation retaining their independence and sovereignty except to the extent the same are granted away under an agreement or treaty to the federation.

Regarding availability of river waters in the dispute between Wyoming and Colorado (1922), Colorado urged that the average yearly flow was the proper measure of taking availability for apportionment of the river waters. Wyoming claimed that the lowest annual stream flow was proper to be taken into account. It was held by the U.S. Supreme Court that the average annual flow was not a proper measure because crops can not be grown on expectations of average flows which do not come. Consequently, the Supreme Court arrived at a value which it regarded as a fairly constant and dependable flow materially in excess of the lowest but below the average. Similar views were taken by the U.S. Supreme Court in Nebraska v. Wyoming. (1945)

2.3 INDIAN LAWS

There existed some provisions in the Indian constitution, before independence also, to determine the water rights
of the Provinces. Out of these two major acts were:-

2.3.1. GOVERNMENT OF INDIA ACT, 1919:

Under the Government of India Act, 1919 [16] partial autonomy was granted to the Provinces. By virtue of Item 7 of Part II of Schedule I, irrigation became a Provincial but reserved subject. Before this Act, no major irrigation project could be undertaken without the express sanction of the secretary of state and in case of dispute between the provinces, matter had to be referred to the secretary of state whose decision was final and binding on the concerned provinces. With the introduction of the Act, the rigid control until then exercised by the secretary of the state and the Government of India came to an end, but the expenditure on irrigation development not having been made subject to the vote of the provincial legislature, the administration of irrigation works was reserved to the Governor-in-Council and was therefore, under the ultimate control of the secretary of state. For a provincial government, it was necessary to obtain prior approval of the secretary of state-in-Council, through the Government of India, before the provincial government could sanction any irrigation project costing more than 5 million rupees or whenever the project materially affected the interest of more than one Province.

2.3.2 GOVERNMENT OF INDIA ACT, 1935:-

Under the Government of India Act, 1935 (Entry 19
List II, Seventh Schedule) [17], irrigation became a provincial subject. Entry 19 reads as under:

"19. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power."

The executive authority of the province having been made co-extensive with its legislative power by virtue of Section 49 (2), but for the restrictions placed by the Sections 130 to 132 of the said Act, each Provincial Government would have been free to do what it thought fit with the water supplies within its province. The aforesaid group of sections provided that if a province lodged a formal complaint against another regarding interference with its water supplies, the Governor General was authorised to appoint a Commission to investigate the matter and submit a report, on the basis whereof the Governor General could pass final orders unless any party to the dispute desired a reference to His Majesty-in-Council, as the case may be, were binding in the province affected thereby unless varied. This would show that no province could take action as would affect prejudicially the interest of another province or its people. The jurisdiction of the Federal Court or any other court to entertain any suit or action in respect of such dispute which could be dealt with as stated above stood ousted. After India became independent, this Act was adopted for the Dominion
of India, with little change in the seventh schedule. Thereafter, the Draft Constitution of India was prepared which included Articles 239-242 corresponding closely to Section 130-133 of the Government of India Act, 1935, as adopted in 1947. Article 239 enabled a State Government to complain to the President of India if the interest of that state or its inhabitants in the water from any natural source of supply was or was likely to be affected prejudicially. Article 240 enjoined upon the President to appoint a Commission to investigate into the complaint unless he was of the opinion that issues involved were not of sufficient importance to warrant such action. On receipt of the Commission's report, the President was required to make an order in accordance therewith unless he sought the opinion of the Supreme Court on any important question of law, in which case, unless the Supreme Court agreed with the Commission to modify its report in accordance with the opinion of the Supreme Court before implementing the same. Article 241 was couched in the same language as Article 239 except that it referred to a state in Part II of the First Schedule in Article II. Article 242 laid down that neither the Supreme Court nor any other Court shall have jurisdiction to entertain any action or suit in respect of any matter, if action in respect of that matter might have been taken under any of the three last preceding Articles by the Government of a state or the President.
In the amended Entry 74 the regulation and development of inter-state rivers and river-valleys to the extent to which such regulation or development under the control of the Union is declared by the law to be expedient in public interest, was placed in the List 1 of the Union List. The new Entry came to be adopted in the Constitution as Entry 56. Entry 20 in the State List in Draft Constitution which reads as follows:

"20: Water, that is to say, water supplies irrigation and canals, drainage and embankments, water storage and water power subject to the provisions of Entry 74 of the List 1"
came to be adopted as Entry 17 of List II of the Constitution.

Again, the replacement of Articles 239 to 242 was proposed by Article 242-A, to provide for a simple machinery for the settlement of water disputes. This Article reads as under:

"242 A(1) 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 proposed change was accepted whereupon the said provision was renumbered Article 262 in the revised draft approved by the Drafting committee. The revised draft was put to vote and was adopted by the Constituent Assembly on 26th November, 1949. The Constitution came into force
on 26th January, 1950.

Article 246 (3) provides that the legislature of any state shall have exclusive power to make law for such state or any part thereof with respect to any of the matter enumerated in State List. Thus, on the matters enlisted in Entry 17 in List II (State List), but for the restriction placed by Article 262 of the Constitution, any state government would have felt free to take legislative, or executive action, which would have the effect of prejudicially affecting the rights of another state of its inhabitants in those waters.


2.3.3. THE INTER-STATE WATER DISPUTES ACT, 1956 [24] :

This Act was enacted by the Parliament on 28th August, 1956. 'Water dispute' has been described in Section 2(c) of this Act, as under:

'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.

Section 3 of the Act provides:

"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 any of the inhabitants therefore, in the waters of an inter-state river or river valley have been, or are likely to be, affected prejudicially by-

(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,

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."

As provided in the Section 4 of this Act, when any request under Section 3 is received from any state government in respect of any water dispute and the Central government is of the opinion that the water dispute cannot be settled by negotiations, the central government shall, by notification in the official gazette, constitute a water dispute tribunal
for the adjudication of water dispute. This tribunal shall consist of a chairman and two other members nominated in this behalf by the Chief Justice of India from among the persons who at the time of such nomination are Judges of the Supreme Court or of a High Court. The tribunal may appoint two or more persons as assessors to advise it in the proceeding before it.

Section 5(1) provides that when a Tribunal has been constituted under Section 4, the Central Government shall refer the water dispute and any matter appearing to be connected with, or relevant to, the water dispute to the tribunal for adjudication, subject to the prohibition contained in Section 8. Section 8 provides that 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 Board Act, 1956.

As provided in Section 5(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.

Section 5(3) provides that if, upon consideration 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 any state government, as the case may be, may 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 further report giving such explanation or guidance as it deems fit and in such a case, decision of the tribunal shall be deemed to be modified accordingly.

Section 6 of the Act requires the central government to publish the decision of the tribunal in the official gazette. The decision of the Tribunal is made final and binding on all the parties to the dispute and such parties are required to give effect to the decision.

Section 7 prohibits any state government to impose or authorise the imposition of any seigniorage or additional rate fee, by whatever name called, in respect of the use of the river water by any other state or the inhabitants thereof.

Section 8 and 11 impose some bars as under:-

Section 8:- Bar of reference to certain disputes to tribunal: Notwithstanding anything contained in Section 3 or Section 5; no reference shall be made to a tribunal of any matter which may be referred to arbitration under the River Boards Act, 1956.

Section 11:- Bar of jurisdiction of Supreme Court and other Courts:
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.

Section 9 defines the power of a tribunal which includes, as per sub-section 9(1) summoning and enforcing the attendance of any person and examining him on oath; requiring the discovery and production of documents and material objects; issuing commissions for the examination of witnesses or for local investigation, under sub-section 9(2), the tribunal may require any state government to carry out or permit to be carried out, such surveys and investigations as may be considered necessary for the adjudication of any water dispute pending before it.

Section 13 empowers the central government to make rules to carry out the purpose of the Act.

Section 14 was inserted in this Act to set up a tribunal for deciding the matters relating to the Ravi and Beas water disputes. There was a provision in this section under which the central government alone could suo moto or at the request of the concerned state government refer the matters concerning to the dispute to the Ravi and Beas Waters Tribunal constituted under this Section of the Act.

2.3.4. THE RAVI BOARDS ACT, 1956 [59] :

In exercise of the power conferred by Entry 56 in
List I of the Seventh Schedule of the Constitution, the central government enacted the River Board Act, 1956 on 12th September, 1956, to provide for the establishment of River Boards for the regulation and development of inter-state rivers and river valleys.

In Section 2 of this Act it is declared that it is expedient in the public interest that the central government should take under its control the regulation and development of inter-state rivers and river valleys to the extent provided in the Act.

Under Section 4(1) of this Act, the central government may, on a request received in this behalf from a state government or otherwise, by notification in the official gazette, establish a River Board for advising the governments interested in relation to such matters concerning the regulation or development of an inter-state river or river valley specified part thereof and for performing such other functions as may be specified in the notification, and different Boards may be established for different inter-state rivers or river valleys, provided that no such notification shall be issued except after consultation with the governments interested with respect to the proposal to establish the Board, the persons to be appointed as members thereof and the functions which the Board may be empowered to perform. As mentioned in Section 4(3) every Board so established shall be a body corporate having perpetual
succession and a common seal, and shall by the said name sue and be sued. This Board shall consist of a chairperson and such other members as the central government thinks fit to appoint, as per the provision of Section 5(1) subject to the provision in Section 5(2) that a person shall not be qualified for appointment as a member unless, in the opinion of the central government, he has special knowledge and experience in irrigation, electrical engineering, flood control, navigation, water conservation, soil conservation, administration or finance.

Section 14 empowers the central government after consultation with the government interested, to empower the Board to perform all or such of the functions catalogued in Section 13 as may be specified. These powers include advising the governments interested on any matter concerning the regulation or development of any specified inter-state river or river valley, co-ordination of their activities with a view to resolve conflicts among them, preparing schemes, including multi-purpose schemes for the purpose of regulating or developing the inter-state river or river valley and advising the governments interested to take measures for executing the schemes prepared by the Board; allocating among the governments interested the costs of executing any scheme, prepared by the Board and of maintaining any works undertaken in the execution of the scheme, watching the progress of the measure undertaken by the governments interested.
For the purpose of efficiently performing its function under this Act, every Board is conferred the powers under Section 16 to acquire, hold and dispose of property, both movable and immovable, as it deems necessary; undertake such preliminary investigation and surveys or other measures as it deems necessary, inspect or cause to be inspected any works undertaken by any government interested concerning the regulation or development of the inter-state river or river valley; conduct and co-ordinate research on various aspects of water-resources, such as water-power generation, irrigation, navigation, flood control, soil conservation, land use and connected structural and design features; collect such topographical, meteorological, hydrological and sub-soil water data as it deems necessary; publish statistics or other information relating to the various aspects of the regulation or development of the inter-state river, or river valley and require any government interested to furnish such information as the Board may require in relation to above purpose.

Section 22 provides for resolution of any dispute or difference arising between two or more governments interested with respect to any advice tendered by the Board; any measure undertaken by any government interested in pursuance of any advice tendered by the Board; the refusal or neglect of any government interested to undertake any measure in pursuance of any advice tendered by the Board; the sharing of benefits or financial liabilities arising out of any
advice tendered by the Board; or any other matter covered by the Act or touching or arising out of it; by a reference of the matter under dispute to arbitration of a person to be appointed by the Chief Justice of India from amongst persons who are or have been Judges of the Supreme Court or are Judges of a High Court. The decision of the Arbitrator is made final and binding on the parties to the dispute and they are under an obligation to give effect thereto.

Section 28 provides that the central government may, by notification in the official gazette, make rules to carry out the purpose of this Act.

2.3.5. THE RIVER BOARD RULES, 1958 [60] :

In exercise of the powers conferred by Section 28 of the River Boards Act, 1956, the central government made the Rules, called river Board Rules, 1958.

Rule 11 sets out the matters in respects of which the Board may tender advice to the government interested. Under this Rule the Board may tender advice in relation to the co-ordination of their activities with a view to achieve maximum results in respect of the measures under - taken by them in the inter-state river or river valley for the purpose of promotion and operation of schemes for reclamation of land and operation and control of devices for distribution of river supplies according to the agreed share.
Rule 12 defines powers of the Board to call for information from any government interested.

Rule 13 provides for the assistance to be rendered by the central government to government interested for the execution of any scheme prepared by the Board.

2.3.6. THE INTER-STATE WATER DISPUTES RULES, 1959 [25]:

In exercise of the powers conferred by Section 13 of the Inter-state Water Disputes Act, 1956, the central government, after consultation with the state government, made these Rules.

Rule 3 elaborates form and manner in which a complaint as to any water dispute may be made. If a state government wants any water dispute to be referred to a tribunal for adjudication, it shall address a letter in writing, in triplicate, signed by a secretary to that government, to the Secretary to government of India, ministry of Irrigation and Power, New Delhi. Such letter shall include information namely:- the parties to the dispute, the specific matter in dispute between them.

2.4. MECHANISM FOR SORTING OUT DISPUTES:

In a nutshell it can be said that the law relating to the inter-state water disputes is still at its infancy. However, the following provisions for the development of inter-state rivers and mechanism for sorting out the disputes of apportionment of the waters of these rivers exist in
the Indian Constitution:-

In conformity with Entry 17 of List II of the Seventh Schedule of the Constitution [12], any state through which the river or its tributaries flow, can make use of water as it may like, provided that such use does not cause any significant injury to any other riparian state. If such use is likely to affect the interests of another state, the states concerned may enter into a mutually acceptable agreement. If an agreement is not possible, the states may request the central government to set up a River Board, under the River Boards Act (1956) [59] or a tribunal under the Inter-state Water Disputes Act (1956) [24] or can opt for decision by a judicial court. The River Boards are advisory in nature, whereas the decision of the tribunals are binding on the parties of the dispute.

Some important river water disputes of India, which have been referred to tribunals at various times are:-
(i) Krishna Water Dispute;
(ii) Godavari Water Dispute;
(iii) Narmada Water Dispute;
(iv) Ravi-Beas Water Dispute;
(v) Cauvery Water Dispute.