

CONCLUSION

An overview of the above discussion reveals that there is no reason to assume that available dispute institutions are merely a passive reflection of society. Far from exhibiting a tendency to be so 'inadequate or unsatisfactory' as to provide no remedy at all, the available institutions in different areas in Water Resources Management appear to be well up to the task of handling disputes effectively with slight improvements required here and there.

In Fisheries, Marine Fishing Regulations Act provide hierarchy of forum for dispute settlement. The dispute structure provided is made fully accountable by providing a hierarchy of bodies with specific provisions for appeal and revision. Principles of natural justice are specifically made to be compulsorily followed. However, Inland Fisheries and Fisheries still follow the colonial pattern. Overall management is left with the State Government or the authorities to be appointed by the Government. Restructuring of these Acts on the lines of Marine Fishing Acts may make these laws more realistic, accountable and workable in the field.

Irrigation laws also have a set up of hierarchy of administrative courts as the adjudicatory institutions. Jurisdiction of judicial courts is also retained except in the State of Punjab and Haryana. An important development in the area is involvement of local institutions like Irrigation Panchayats, Gaon Sabha and Water Committee to settle disputes regarding the mutual rights of the cultivators.

For curbing pollution problem now we have special legislations in addition to the general laws providing remedies to an individual against the fast increasing problem. Method of dispute handling provided is adjudication only. Now polluting industries can be prosecuted even on a complaint of an individual though on a 60 days prior notice to the Pollution Board. Jurisdiction to prosecute these industries, statutory bodies, etc. etc. is with the judicial courts only. Special legislations do not provide for setting up of Special Courts. However, reports are available from some states establishing special courts on the demands of Pollution Boards. It is a welcome step considering the experience of judicial courts^{in the field.} Even the Supreme Court has also proposed in one of the cases, setting up of Environmental Courts in this area.

It is an admitted fact that the existing judicial process is expensive and delatory so inaccessible to the poor people. Though one should not lose faith in the judicial process because of these factors, the point to be emphasised is that considering the nature of water disputes which include claims involving rights in the commons, conciliation seems to have had more merit. A special procedure is required in the field to encourage settlement by local officials as the purpose is to accomplish a final and permanent settlement of complicated problems best understood on the local level. In this manner one can preserve the local customs regarding water rights, which vary from place to place. This will be in consonance with the prevailing social practice in the field of dispute resolution.

By all this one is not advocating for the replacement of judicial adjudication in this area. What is required is a narrow recourse to the judicial process. The citizen need not resort to litigation which can well have been avoided if the official machinery available at the local level is more energetic, more sympathetic and fully equipped to do justice in accordance with the constitutional values of equality, liberty, fraternity, justice and dignity.

Law Commission of India in its 114th Report has also stated that an expensive procedural justice is a self defeating instrument of justice. The model of Nyaya Panchayat suggested by the Law Commission may be an advisable forum mainly in the area of Irrigation and Fisheries. More just decisions can be expected from this type of forum if it is given proper equipment.

However, in pollution area neither court adjudication nor local institutions can solve the problem. Special courts to be constituted having also persons of technical competence for the proper understanding of the evidence and issues in this specialized subject. By this, lawyer's participation can also be avoided and expert opinion can be obtained. Disputes with the authorities can be avoided if the citizens sincerely comply with the necessary directions issued in this regard.

Therefore, this paper proposes to suggest a parallel dispute resolution mechanism for water disputes. What is actually required is not the court remedy but a court like remedy with a simple procedure. There should be a machinery fully equipped with the required expertise where disputes are to be resolved informally and expeditiously, on the substantial

merits of the case without wasting its time and energy on the technicalities of procedures etc. procedure to be followed should be simple and informal, and professional representation should be an exception. An active and inquisitorial role to be assigned to the Judge, a member from the judicial service. Experts in the field like ecologists, scientists, canal officers etc. should be provided with the required places. However, essential core values of the traditional procedural justice must be retained. Five points of fair legal procedure not to be disregarded in the interest of speed and efficiency. Appellate Authority should be with the Supreme Court. For citizen-Government disputes civil courts can be given the final authority,

Dispute Resolution process to be followed by this type of structure should be participatory. All affected parties must be adequately consulted. As there is a difference between 'ignorance' and 'ignoring', rural people should not be ignored ^{By} / misusing their ignorance. As ^{it} / is not in their nature to assert their rights because of their suppression by the bureaucracy. They should be brought to the state of consciousness by legal literacy programmes. As one poet puts it 'make the slave aware of his slavery, then he shall

break his own shackles'. Information bomb to be used to awaken these people for a major onslaught on the exploiters. Once they become aware, the struggle becomes much easier. Then only they can win all the rights guaranteed under the Constitution and other laws. People's movements as pressure groups have emerged in some states in this regard. How effective this instrument is, to assert for one's rights can be judged from Mr. Furquan's paper. However, the fact is that these movements are yet to graduate themselves into rural movements for improving the quality of life of rural India.