

## Preface

Water, as a basis for the existence, maintenance and preservation of human, animal and plant life has been shaping the destiny of various societies and civilizations since antiquity. In the twentieth century, the post-Second-World-War period has not only proved to be the longest peace interval between any two major world wars in the history of the world but also left its mark on the world history by bringing political independence to so many countries which were, prior to that, labouring under the yoke of colonial rule. Naturally, during this period there has been an emphasis upon overall development, as a result of which the phenomenon of exploitation, development and utilization of water resources, **more particularly in the field of production of hydro-electric power and accomplishment of huge irrigation projects**, received a boost.

The simultaneous phenomenon of independence and partition of India in 1947 converted some hitherto national rivers into non-national or international rivers overnight and as such exposed India to some international water disputes. Internally, both in terms of the Government of India Act, 1935, and the new Constitution of 1950, which made India a Republic, India has been operating a federal set up, which has brought her face to face with a series of inter-State water disputes. Hence, for India, the international water disputes and the inter-State water disputes, far from being a matter of mere academic concern, take the form of concrete live problems, burning issues and challenging disputes, which she is required to resolve effectively though amicably, in order to be able to fully exploit her vast water resources potential to the extent of its optimum utilization in furtherance of her socio-economic development.

My search for fair solutions of such disputes started in 1958 when I became associated, on behalf of India, with the negotiating team tackling the Indus Basin Water Dispute between India and Pakistan. These efforts culminated in the conclusion of the Indus Water Treaty on 19-9-1960. For me, the most rewarding part of my association with this negotiating set up was that both by way of compulsion and urge I got the opportunity of acquiring deep insight in, and attempting thorough as well as scientific analysis of, actual problems which the contestant States usually confront in such disputes. My commitment to, and participation in, the strengthening of the just mentioned negotiating efforts during my stay in Federal Republic of Germany, from October 1958 to May 1959, intensified my interest for basic and applied research in this field.

Subsequently, utilizing my study-leave from Panjab University, Chandigarh, for higher-research during my stay in Munich, from November 1960 to September 1963, I selected for my doctoral thesis a water-law oriented topic, namely, "Rangordnung verschiedener Arten von Wassernutzungen nach internationalem Wasserrecht" (Ordering of Priorities for various Uses of Water in

International Law) and accomplished that task by writing my thesis in German language and duly earning my LL.D, Degree in that process.

In 1965 I got associated with the International Law Association (I.L.A.) (Indian Branch) and as Rapporteur of its Research Committees on "Uses of Waters of Inter-national Rivers" and "Law of International Water Resources" my interest and involvement in the water law problems got further intensified. At this stage I wrote several papers, namely, "Basic Factors for Distribution of Waters of Non-National Rivers", "Uses of International Rivers in which India enjoys riparian rights for irrigation, power generation and industrial purposes", "Helsinki Rules vis-a-vis Priority of Uses of Water in International Law", "Modes of Settlement of Disputes Relating to utilization of Water of International Rivers," "Management of International Water Resources through International Water Resources Commissions," and "Dispute Settlement Mechanism in recently developed law of the Sea," published in 1968, 1969, 1970, 1973, 1973 and 1979 respectively.

I got the opportunity to discuss the burning problems of international water law with top scholars and experts in that field while participating in the deliberations of the meetings of the Research Committee on "International Water Resources Law" of the I.L.A. in its Biennial Conferences at New Delhi (1974), Madrid (1976), Manila (1978), Belgrade (1980), Montreal (1982), Warsaw (1988) and Gold-Coast (Brisbane) (1990). During this period I also had occasions to myself present some working papers in these Conferences as a permanent member of the prestigious Committee on "International Water Resources Law," which earlier drafted and finalized the Helsinki Rules (1966).

With all this background, during my "Sabbatical Leave" for one year from Himachal Pradesh University in October, 1978 I conducted post-doctoral research as former Fellow of the Alexander-von-Humboldt Foundation in Bonn and brought out the book on "Settlement of International Water Law Disputes in International Drainage Basins," which was published from Berlin in 1981 by Erich Schmidt Verlag. In that book I mentioned the water law treaties to which India was a party and also briefly mentioned the Indian State practice, throwing some light on the problems of inter-State water disputes, within the Indian federal set-up.

That reference being very brief I had always been feeling a prick of conscience that I should come forward with detailed analysis and treatment of international as well as inter-state water law problems and disputes which India had been confronting and in that process evolve help material to enable India to face and resolve such disputes in future successfully and effectively.

In the meantime in 1986-87, on the occasion of the Ravi-Beas water Dispute between Haryana, Punjab and Rajasthan, which was being argued before the Eradi (Ravi-Beas Waters) Tribunal, the Haryana Government requested me to assist its team as a Consultant. This assignment provided me the opportunity

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to make use of my expertise in a concrete case by thoroughly examining and utilizing, inter-alia, the pertinent findings of all the awards pronounced by the earlier Tribunals so far. This practical experience further kindled my desire to venture for a detailed work in this field.

I felt extremely happy when the Indian Law Institute requested me to take up this work as a part of its "Water Project" in 1988.

The task was not so easy because the problems and questions involved are notoriously complex as they are wrapped in technical and economic factors having legal and institutional implications. All the same, this research was ventured in the hope and belief that a scientific treatment of the problem of "Settlement of International and inter-State Water Disputes in India," in accordance with the scheme followed in this work, is bound to make a sound and reasonably appreciable contribution towards the solution of the problems involved in such disputes, thereby tremendously accelerating the pace of socio-economic development in the concerned region and bestowing peace and prosperity upon the people affected thereby, including, in particular the concerned under-privileged humanfolk.

Naturally, the suggestions and recommendations, made in the present study, will aim at providing guidelines and thought process for tackling and resolving the international and inter-state water disputes in India more effectively and purposefully, but, in all fairness to all concerned, these suggestions and recommendations will be desired and expected to be open for modification and improvement to prove suitable for resolving the disputes in future, keeping in view the circumstances, situations and requirements of the then arising disputes and the limitations of the then prevailing dispute-settlement mechanism.

The present work assumes importance for this reason also that prolongation of such disputes usually results in non-utilization or sub-utilization of the concerned water resources thereby at least retarding, if not totally bringing to a standstill, the process of socio-economic development. In certain cases these disputes acquire political overtones, thereby vitiating the entire politico-social atmosphere and creating tensions. Judged from this angle, and taken as a whole, even if this endeavour does not succeed in providing short-cuts and cut and dried solutions to all such international and inter-state water disputes in India, it will certainly make available sufficient amount of help material to successfully tackle these disputes in a flexible way, may be, by stages, namely, firstly, by achieving the "cooling off" stage and then later, by hammering out the final solution. Such a phenomenon will surely be helpful in removing the tensions and ultimately in achieving the final goal of not only settlement of these disputes but also that of optimum utilization of water resources for bringing about overall prosperity.

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