

Cauvery Tribunal Award 2007:**Why it fails the tests of science, efficiency and equity?**

The Cauvery Tribunal Award announced by the 3 member Cauvery Water Disputes Tribunal headed by Justice N P Singh on Feb 5, 2007 fails on some crucial tests of equity, efficiency, technology and science. Immediately, the Award is bound to stand challenged by Karnataka and Kerala, even as apparently Tamil Nadu and Puducherry seem satisfied at this stage. Moreover, the ambiguity in the award about sharing the water during distress years is likely to create problems in future.



The Cauvery Award fails on the test of science as it does not consider groundwater availability in the Cauvery basin area while deciding the distribution of only the surface water among the claimants. Tamil Nadu, being the lower riparian, has significant availability of groundwater, while Karnataka and Kerala, being the upper riparian, have relatively little of it. Groundwater, in reality, is the water lifeline of this country, with over two thirds of irrigated foodgrains production, over 90% of rural water supply and over 50% of urban water supply dependent on groundwater. It's also well known that groundwater and surface water are in dynamic equilibrium. To illustrate, the utilisable surface water in Cauvery basin is 19 BCM (billion cubic meters; 670.89 TMC ft), and replenishable groundwater resource in the basin is 12.3 BCM (434.31 TMC ft), which shows that the groundwater available in the basin is about 67% of the utilisable surface water. To allow unrestricted groundwater use and not to include groundwater in calculating water availability and allocation, is unscientific, to put it rather charitably.

The Tribunal Award fails the test of efficiency as the tribunal does not reward efficient use of water. It is well known that the farmers in Cauvery delta are habituated to utilise larger amounts of water from the river for a longer time. The cropping pattern in the delta includes double crop of water intensive paddy. The award, instead of promoting and rewarding more efficient cropping pattern and use of water, seems to be rewarding extravagant water use by providing water for such use.

The Tribunal Award fails the test of technology as it did not consider the new water efficient method of cultivating Rice, called the System of Rice Intensification (SRI). This technique has been proved effective through actual practice over thousands of hectares in TN, Karnataka, AP and elsewhere over the last 3-4 years. SRI can reduce water requirement by over 50% and yet increase per ha yields by 50% or more. If SRI is indeed practiced along the paddy areas in Karnataka and Tamil Nadu, the perceived water distress in the Cauvery basin could be almost eliminated. A Tribunal award that does not take into account such proven techniques clearly fails the test of technology.

The Tribunal Award also fails the test of equity, as it did not consider the resources and needs of people at the micro level, but looked at the aggregate demands at the macro (state level). When you aggregate the demands in this way, the issues of equity and appropriateness at the micro level is lost entirely. This in fact has the potential of negating the potential water solutions for vast numbers of people in the catchment that contributes to the water in the river. In Cauvery basin this threat of losing sight of micro issues is very much real, as was seen when the tank desilting project in Karnataka was opposed by Tamil Nadu under the pretext that it will reduce water available at Mettur!

Indeed, as the well known commentator S Guhan noted, Cauvery dispute is somewhat different than the other water disputes like the Narmada and Godavari in the sense that Cauvery is already an overdeveloped basin, where the dispute is because of the seeming distress caused due to over development. It is precisely

for this reason that the issues of efficiency, technology, equity and science should be even more relevant for the Cauvery case.

Ambiguity The Tribunal is also less than clear about the crucial question of sharing at the times of distress, when the real problems surface. It would have helped if the Tribunal had clarified exact manner of sharing the distress in each month of the year. The fact that Tribunal has used 50% dependable hydrology for adjudication heightens this issue, since this means that the distress will be felt in about 50% of the years. Here it may be added that the climate change due to global warming is only likely to increase the problems of dependability of flows in the rivers. The review period available now before the award becomes final should be used to help clarify such issues.

In fact past experience of implementing the Tribunal awards in the past has been far from happy one. The number of lingering inter state water disputes are increasing by the day. The Ravi Beas water dispute between Punjab and Haryana, the Krishna water dispute between Karnataka, Andhra Pradesh and Maharashtra, the Godavari water sharing dispute between Maharashtra, Andhra Pradesh, Chhattisgarh and Orissa continue to linger. In the Narmada Valley, the disputes between the state and the people, a direct product of the Narmada Tribunal Award, continue, as the Narmada Tribunal Award (like all other awards) had heard only the state, not the people of the valley.

Upper Riparian's case The Karnataka state officials have given an indication of feeling aggrieved by the Tribunal Award. If we look at the table below, we can see that indeed Karnataka is the only state that has got less share in water than its share in the catchment of the Cauvery basin. When we add the fact that Karnataka area of Cauvery basin has less groundwater availability, we see that there is some justification this feeling.

| | Area in Cauvery basin, sq km (%) | Water allocated, TMC ft (%) |
|----------------------|----------------------------------|--|
| Karnataka | 36240 (41.23) | 270 (36.49) |
| Tamil Nadu | 48581 (55.27) | 419 (56.62) |
| Kerala | 2930 (3.33) | 30 (4.05) |
| Puducherry | 149 (0.17) | 7 (0.95) |
| Cauvery basin | 87900 | 740 (includes 10 for env. and 4 unavoidable escape) |

However, the interim order of the Tribunal had directed Karnataka to release 205 TMC water, and the final order requires Karnataka to release 192 TMC. Karnataka has been able to release more than the stipulated amount in eleven of the last fifteen years. If that was possible for 205 TMC direction, it should certainly be possible for 192 TMC direction? Some problems could arise as the Award now stipulates monthly release figures.

Karnataka's options Immediately, section 5(1) of the Inter-State Water Disputes Act provides an opportunity for all concerned states to file clarification petitions (basically seeking explanation or guidance) before the tribunal over the next three months. Even after the final Award is notified after such review process, the states can go to the Supreme Court. Karnataka and Kerala are likely to explore these avenues. After the further award of the Tribunal, the centre has no option but to notify it. Participant states can delay the formation and implementation of the regulatory body mandated in the Award, but it is too premature to discuss such possibilities at this stage.

The Cauvery Family Fortunately in the Cauvery basin, some useful work has already been done by a collective called *the Cauvery Family*, of farmers, technical experts and academics from Karnataka and Tamil Nadu, over their 9 sittings. This collective will have important role to play in days to come to ensure that appropriate solutions are brought into the picture missing in the Tribunal Award and to ensure that people's

real needs are taken care of appropriately. If this family is allowed and enabled to perform such role, it can surely bring about significant improvements in the Cauvery basin.

Indeed, amicable solution of river water disputes is possible only when there is greater democracy in water resources planning and decision making, something that is totally missing today.

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Monthly releases from Karnataka to Tamil Nadu:

| | Final Award, TMC ft | Interim Award, TMC ft |
|--------------|---------------------|-----------------------|
| June | 10 | 10.16 |
| July | 34 | 42.75 |
| Aug | 50 | 54.72 |
| Sept | 40 | 29.36 |
| Oct | 22 | 30.17 |
| Nov | 15 | 16.05 |
| Dec | 8 | 10.37 |
| Jan | 3 | 2.51 |
| Feb | 2.5 | 2.17 |
| Mar | 2.5 | 2.40 |
| Apr | 2.5 | 2.01 |
| May | 2.5 | 2.33 |
| TOTAL | 192 | 205 |