

**PUNJAB RIVER WATERS**  
**AND**  
**PUNJAB CAPITAL CHANDIGARH**  
**THEIR**  
**ILLEGAL & UNJUST USURPATIONS**

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**INTRODUCTION:**

**I**

(i) The illegal and unjust usurpations of Punjab River waters and Punjab capital Chandigarh in violation of the provisions of the constitution of India might be the solitary instance in Republic of India. In no other state, Government of India has intervened in such matters. Rather the river waters of a state are utilized by that state only on the basis of Riparian law throughout India without any distribution to any other state. In any dispute as to interstate river waters, intervention of Union Government has been made legal and not as to the river waters, not interstate. In constitution of India, river waters is enumerated in state list, in the 7<sup>th</sup> schedule of entry 17 to which only the state and state legislature have been given the exclusive jurisdiction under article 146 of the constitution, while the jurisdiction of Union Government and of Parliament is exclusive for the subjects in Union list, though both parliament and state legislatures have the concurrent jurisdiction in the subjects of the concurrent list. India. Being the Union of States, as laid down in Article 1 of the constitution, in the very beginning; the division of powers had to be prescribed between the Union Government and Parliament and states and state legislature. If this division is not followed and is violated, then the relations between states and union government are bound to become strained, endangering the unity and integrity of India.

In the case of Punjab river waters, such a division of powers as provided by the Indian constitution has been openly violated. The Union Government and its Prime Minister distributed the Punjab river waters which are not interstate rivers, to Rajasthan, Haryana, Jammu and Kashmir and Delhi, none of which is a riparian state, as none of the Punjab rivers flows through any territory of these states. In 1955 the distribution was made in the proceedings of the meeting of Deputy secretaries, held at the office of

Irrigation Department of Govt. of India, that Punjab river waters may be spared for Rajasthan but the needs of Punjab will be first met, and this arrangement may be reviewed from time to time. The proceeding was even kept secret for sometime. No decision at the level of Punjab council of ministers and of Punjab legislature. No formal agreement as needed under Article 299 of the Indian constitution. It was obviously illegal and unconstitutional distribution of Punjab river waters, to be of no binding effect on Punjab and its people.

In 1976 Indira Gandhi, Prime Minister, herself without any authority or jurisdiction made the distribution of Punjab river waters to Rajasthan, Haryana and Delhi obviously in violation of the constitution of India. It was illegal and of no binding effect on Punjab and its people. The case filed in the Supreme Court against this distribution to be void and unconstitutional and of no binding effect by the Punjab government, was got withdrawn by putting undue pressure on congress chief minister Darbara Singh by Prime Minister Indira Gandhi. In 1981 another illegal distribution was made of Punjab river waters, including in the list the state of Jammu and Kashmir as well. It was got signed by the chief ministers of Punjab, Rajasthan and Haryana. The Punjab chief minister Darbara Singh was threatened to sign or resign. He was not ready to quit the post, so put his signatures under such undue influence and illicit political pressure

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Here also, no decision by Punjab council of ministers. No decision by the Punjab legislature, no formal agreement as envisaged in article 299 of the constitution. Thus it was also void and unconstitutional. There was no consideration. An agreement without consideration and under undue influence is void under the law. Punjab river waters had been given to the states of Bikaner which is now part of Rajasthan, Patiala and other princely states before 1947 in the united Punjab but on payment of revenue and under terms and condition of the Punjab state. But all these distributions of 1955, 1976, and 1981 were free of any cost. The canals to be constructed in Punjab territories to waste the vast tracks of Punjab lands and making the remaining a desert.

In no other state in India any such distribution of waters was ever done by Union Government or the Prime Minister. When Madras was reorganized. the rivers Krishna, Godawari and Mahanadi, which flow in Madras, did not flow in Tamil Nadu, the new organized state. So it was held to become non-riparian and not entitled to those river waters. The same position as of Haryana which became non-riparian at the reorganization .but Haryana was held to be the claimant of punjab.river waters. In the case of the dispute of Narbada River between Maharashtra and other riparian states, in the tri-annual constituted by Union Govt, Rajasthan gave the application to be made a party but it was rejected that Rajasthan was not riparian state. But the Punjab river waters were given to Rajasthan though it is not a riparian state. Why the exclusive exemption of Punjab to distribute its river waters to non-riparian states, having no legal claim. Moreover Punjab river waters are not even sufficient for Punjab lands which might become deserts and unfit for agriculture, particularly due to the future non-availability of underground waters in Punjab but of no consideration for government of India.

In Punjab Reorganisation Act 1966 illegal provisions were added to have control of union Govt. over the Punjab river waters, Punjab dams, headworks and powerhouses (S.78-80) in violation of the constitution, as Punjab river waters, headworks, dams and power houses are in the state list in the exclusive jurisdiction of the state and state legislature, parliament having no jurisdiction to these matters. Any action taken under such unconstitutional provisions would obviously be illegal and of no binding effect. In 1985, in the so called Rajiv Longowal accord (Punjab settlement) provisions were added to deal with Punjab river waters and to appoint a tribunal to adjudicate over these matters for which S.14 was added to interstate river waters dispute Act 1956 and Punjab river water related clauses of the accord were referred to the Evadi Tribunal. All this is on the face of it unconstitutional and illegal. The accord on settlement, whatever it may be called was without any jurisdiction as Harchand Singh Longowal had no legal sanctity to represent Punjab state. Punjab river waters could not be under jurisdiction of Union Govt. and parliament. Inter state river waters dispute act could not be made applicable to the Punjab river waters. Thus every unlawful attempt has been made to usurp illegally Punjab river waters.

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In 2004 June, Supreme Court on the petition of Haryana State directed the Government of India to get constructed the SYL Canal to take the Punjab rivers waters to Haryana. Government of India in compliance of the direction, authorized the Central PWD to take up this assignment. Punjab legislature in July 2004 passed the act for the termination of the agreement of 1981 and all other agreements as to Punjabi river waters. "Punjab Termination of Agreements Act 2004" knocking down the very basis on which Supreme Court gave the directions. Govt. of India has made the Presidential reference to Supreme Court for advice as to the constitutionality of the Punjab Act and its effect on the provisions of S..78 of Punjab Reorganization Act and of 5.14 of the inter state rivers act and on the directions of Supreme Court. Its final outcome has to be awaited. But ultimately government of India will have to find the solution who created and complicated the issue.

Punjab capital Chandigarh was constructed by the Punjab state as the capital of united Punjab. Lahore went to Pakistan after the partition of Punjab in 1947 at the time of Indian independence. Dozens of Punjab villages which were part of Kharar Tehsil in Roper District were acquired by Punjab state to construct this capital. These villages were in the Punjabi speaking zone as Punjab was demarcated in Hindi speaking and Punjabi speaking zones in 1949 itself. At the time of the reorganization of Punjab in 1966, Shah Commission which had been appointed to demarcate again the Punjabi speaking and Hindi speaking areas, for which there was no need, as these areas already stood demarcated, included Kharar Tehsil in Hindi speaking areas which was altogether wrong and it was already in the Punjabi speaking zone. Government of India did not accept the recommendation of Shah Commission in this regard and included Kharar Tehsil in

Punjab to be Punjabi speaking areas. However Chandigarh capital was made as Union Territory, depriving Punjab of its capital.

Punjab State and its people raised hue and cry against the illegal usurpation of their capital Chandigarh. Peaceful agitations and marches were organized by Akali Dal the Sikh political representative party. Twice, Sant Fateh Singh held the fasts unto death and self-immolation on this issue, who was President of Akali Dal but his life was saved on assurances by Govt. of India to hand over Chandigarh to Punjab. However Indira Gandhi, Prime Minister later disclosed the conditions to it that 114 villages of Ahohar and Fazilka, the best cotton zone areas be given to Haryana in lieu thereof. It was not acceptable to Punjab. In 1985 as per Punjab settlement, called Rajiv Longowal Accord, Chandigarh was to be handed over to Punjab by January 26<sup>th</sup>, 1986 but at the last hour the central government refused to do it. There was no remedy as the accord had no legal sanctity, as Longowal had no authority or position to represent Punjab. The matter is still lingering on, inspire of the fact that twice there had been Akali governments who could not successfully take up this matter with the government of India, while agitated for it when out of power.

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Punjab is the only exception in the reorganization of states' history whose capital Chandigarh has been turned into a Union territory directly under the control of union government. There was no logic in depriving Punjab of its capital Chandigarh which is a part of Punjabi speaking areas and for which thousands of Punjabis have been deprived of their lands, by acquisition to construct the capital. Haryana state can have no legal right to it as it was to be given only Hindi speaking areas while Chandigarh is in the areas of Punjabi speaking zone. The condition of Indira Gandhi, Prime Minister to Punjab to give its .villages of the best cotton area smacks of ill intention. In fact she had never reconciled to the reorganization of Punjab on linguistic basis but it had to be done due to the political compulsions and so such like hindrances were created. All the illegalities were committed to usurp the rights of Punjab as to its capital Chandigarh, as to its river waters, dams and power houses etc.

(ii)

### **Punjab River waters for Punjab only-No surplus waters**

Punjab the literal meaning, land of five rivers, had five rivers flowing in its territories before it was divided in 1947 into Pakistan and India. Two of its rivers, Jehlum and chenab, flowing into the territories which now comprise Pakistan, went to Pakistan while three rivers, Ravi, Beas and Satluj, which were flowing into the territories of Punjab which became part of India, remained in Punjab. These river waters of Punjab are the main sources for the irrigation of the Punjab lands and not even sufficient for the Punjab lands. Punjab lands need 55.2 MAF of river waters but the total water of all these three rivers in 32.5 MAF, in accordance with the expert analysis. If any of the Punjab

river waters is given to any other state then experts say that bulk of the Punjab lands would become barren and deserts unfit for agriculture. The underground water used for irrigation by tube wells has gone to so low a level that it is likely to become impossible to pump it out in the near future, besides of its being unfit for agriculture due to its saline and other chemical mixtures at the lower level. The main source of livelihood of people of Punjab is agriculture and the overwhelming majority of landowners are Sikhs.

The legal position of the Punjab river waters is that it is exclusively for the people of Punjab and is under the exclusive jurisdiction of Punjab state and its legislature, being a subject enumerated in the state list. Punjab river waters do not flow in any other states and as such there is no other riparian state for these rivers. According to the established international law, duly adopted by the United Nations, only riparian state has the exclusive rights over its river waters while non-riparian states have no valid claim to it. This law is based upon equity, justice and fair play. The states in which the rivers flow have to face the disadvantages and havoc of the rivers. Their vast tracts of lands are wasted in hundreds of thousands of acres in which the rivers flow. Due to heavy rains or other causes, the floods of the river waters cause a great havoc in all the adjoining vast areas. The non-riparian states have got no such risk. There can be no justification as such for them to claim any river waters which do not flow in their states.

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In constitution of India, Union Government and the parliament have been empowered to only intervene in the disputes of interse rivers. There can be no question of its intervention in rivers not interse, as there can never arise any dispute between states as to it.

### **AGRICULTURAL EXPERTS REPORT:**

The Agricultural Experts Report based upon scientific statistics establishes that in Punjab total available water resources are 31.3 Lakh hectare meter which consists of 14.5 lakh hectare meter from surface canals, while 16.8 lakh hectare meter from ground water discharge (rain and canal seepage). Punjab meets its excessive demand of 12.4 lakh hectare meter, through over exploitation of under ground resources and rain fluctuations make all the difference as much to the crops as tube wells and canals and of course on electricity. The canal water network depends upon the availability of river water in three hydroelectric projects, ever at the mercy of monsoon and snow melt.

Of the total irrigation area of 42.4 lakh hectare of Punjab, 75 percent is irrigated by tube wells, which has resulted in the intolerable fall in underground water table. The cost of pumping out the water has reached its highest levels not be afforded by the land owners. It has forced to switch from centrifugal to submersible pumps. States tube wells, touching the number of one million consume 35% of the total power, the supply of which is a very difficult task for the state government, which is already in a huge shortage. Punjab govt. has notified that in one season of paddy due to the delay of monsoon it

spends 20 to 25 crore Rs daily to buy the power from other states and Rs 3000 crores for one crop only in 2004.

Punjab has been contributing up to 90% of the rice and wheat to the National food basket of India and is still doing it about 45% on the prices fixed by the government of India, which had met only their costs and expenditure for the produce. This fall in produce is due to the shortage of irrigation water and will be going further down if the water shortage is not made up. Despite the legalities there can be no moral justification to deprive Punjab its rights to the Punjab river waters by distributing to other states unjustly, particularly when it will result to make the bulk of Punjab lands to be deserts and unfit for cultivation. More so when the people of Punjab are mainly dependant on agriculture. Rather government of India should help Punjab to plan out the dams and vast reservoirs, with funds for execution, to ensure that not a drop of these waters go waste and are utilized totally by Punjab.

### **STATISTICS OF PUNJAB RIVER WATERS OF IRRIGATION DEPARTMENT:**

The statistics given by the Irrigation Department as published in Tribune dated August 5, 2004 point out that only 10,300 cusecs of water would be available for five canals which supply water to Punjab and the one which carried to Rajasthan. The break up being; 2500 cusecs of water from Ravi which reaches Harike through the dam, 4800

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cusecs of Beas water which come through Pong Dam and 3000 cusecs from Ropar. Out of it, all available at Harike, 8300 cusecs has to be released to Rajasthan at the first preference. Only 2000 cusecs remains available for the five canals which meet the needs of Malwa belt. It would be hard pressed to meet the requirements of the other canals as the Sirhind feeder alone has a capacity of 4762 cusecs. The same is true for the Sirhind Canal system which receives water from Ropar at its Manpur head works near Doraha. Against the demand of 11,500 cusecs, only 7200 cusecs is available, following which its Patiala Branch had to be closed. The Ahohar and Bhatinda branches were also flowing at reduced capacities.

It is thus obvious that the existing canal system of Punjab even cannot spare any water to Rajasthan, due to which the Punjab Canals have to be closed and the lands for which these were constructed remain un-irrigated. What to say of creating another network of canals in Punjab to irrigate its land which still have no such facility. There is not a drop of surplus water in Punjab to be given to Rajasthan or to Haryana or any other state as it is too insufficient for Punjab lands. A rapid depletion of ground water resources has already been caused in Punjab. The World Bank rejected the loan to Punjab influenced amongst other reasons, that “deteriorating infrastructure in irrigation requires attention as surface irrigation system irrigated to prevent less hectares to today than in 1990-91 and the canal network system stands neglected thereby increasing reliance on ground water. Consequently the area irrigated by ground water has increased by 0.83 million hectares, in the last decade causing rapid depletion of ground water resources” and suggested

revitalizing agriculture through research extension and water management. How can it be done if Punjab river waters are not entirely made available for Punjab lands.

### **ICAR REPORT ON PUNJAB IRRIGATION SYSTEM:**

Punjab lands can never be irrigated properly without river waters. The Indian Council of Agricultural Research (ICAR) has pointed out in its recent report as published in Tribune of August 2, 2004 that in Punjab the ground water is of poor quality and can be used in conjunction with good quality canal or ground water resources as it causes the negative effects otherwise. The quality of water can only be improved by processing it through gypsum beds or gypsum could be applied to irrigate fields to counter act the negative effects. Weeding and hoeing of the germinated and growing crops is essential to conserve the limited soil moisture and also to prevent evaporation of moisture from the soil surface. Thus Punjab river waters are essential for irrigation of the Punjab lands to use the ground water in conjunction with canal waters and to improve the quality of Sodic water, besides keeping the needed soil moisture. Only 25% of the Punjab lands are at present under the irrigation of canal water while 75% under tube wells which can even be not further sustained due to the underground water table having gone too low. Government of India is thus required urgently to ensure the funds for the storage of rainy river waters to irrigate all Punjab lands by further constructing the canals to irrigate Punjab lands to which still there is no such arrangement, instead of distributing the Punjab river waters illegally to other states having no valid claim to it.

Punjab is the most highly taxed state. Its contribution to the National food basket is the highest due to which India benefits billions of rupees. The Central government

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investment in Punjab is insignificant. It is the time for the government of India to help Punjab for the utilization of the entire Punjab river waters to construct the further reservoirs and dams at Beas and on Ravi and Sutlej at the appropriate locations possible and the network of canals to irrigate all the Punjab lands. If there had been any surplus water after meeting the needs of Punjab to spare, then Punjab and its people would not have been hesitant to give the surplus and spare waters to the other needy states, on compassionate grounds for which they are well known. But it should never be expected from them to give the waters to any other state, at their cost to make their own lands deserts and unfit for cultivation, obviously resulting in the total ruin of their economy, which had been at the top in Indian Republic, by the unauthorized, unjust and illegal distribution by government of India.

**“ALREADY OVER EXPLOITATION OF PUNJAB UNDERGROUND WATERS NEEDS TO BE CURTAILED IMMEDIATELY”**

There are hundreds of thousands of tube wells in Punjab to irrigate the Punjab lands as the Punjab river waters are not sufficient for the irrigation in the state. These tube

wells are worked on electricity and diesel engines as for the majority of tube wells there is no electric connection and supply. Operation of the diesel tube wells is very costly and sometimes diesel is in shortage. The electricity to the electric tube wells is also not sufficient and is given only for a few hours during the day and night. Thus the irrigation of the Punjab lands by the tube wells is far from satisfactory. Still the water level in Punjab is going down by several metres per annum. It has gone so low at several places that the tube wells have to be re-dug so deep as to make virtually impossible to take out the water even with very high costs. According to the agricultural experts the water if goes further at lower levels with this speed, would be not fit for the irrigation of lands being saline and other chemical mixtures. Thus the irrigation of the vast tracts of Punjab lands by tube wells would cease. The only source of irrigation will be the Punjab river waters.

Punjab has already suffered a lot due to the distribution of its river waters to other states without any valid claim illegally. Punjab has the most input incentive agriculture in terms of tractors, fertilizer and pesticides with their annual increasing prices, largest proportion of irrigation area and the highest cropping industry. This impacts lands and water resources. Punjab has the highest percentage of over exploited and dark ground water exploitation in the country. The World Bank denied the loan to Punjab state, recently due to decline in production, deteriorating soil health, depleting water table due to over exploitation of ground water through tube wells, shrinking of land holdings, inadequate post harvest technology, marketing infrastructure and the absence of processing industry besides the intensive use of fertilizer and pesticide leading to increasing nitrate concentration and the accumulation of pesticide residues in soil often above tolerance limits. It is mostly due to the shortage of irrigation facility with river waters. Punjab thus can never afford to give an inch of river waters to other states.

Punjab is well known to create the green revolution in 1960's and contributing the bulk of wheat and rice to entire India. The shortage of canal water for irrigation by its

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distribution to other states unlawfully by the central government, and the other consequential problems as above-mentioned contributed to low and slow growth of production and economy by 1990's, reducing its contribution to 45 percent of the total wheat and rice to the central food pool. Punjab government made a report in July 2004 to



the 12<sup>th</sup> finance commission that Rs 14 crore to 25 crore every day are spent by it to buy power to function the tube wells and that too for a few hours in a day to sustain paddy as monsoon failed and rather draught like situation has developed in several parts of the state. Still to justify the distribution of Punjab river waters to other states is to cross all the limits of logic, justice and fair play as if to totally ruin the economy of Punjab state and its people.

Punjab is keeping still country's food security in mind even as its own farm environment and economy is getting bad to worse, by continuing the grain crops instead of cash crops, befitting the centre over five thousand crores of Rs net annually in not procuring , handling, transporting and storing eight million tons of food grains. Agricultural experts admit the Punjab river waters to Rajasthan which is mostly sandy soil and is of no comparative value to produce the food grains and rather it can become saline and unfit for agriculture with the continuous use of river water for a long time. Can it ever be in the national interest to waste the Punjab river water in this way on the cheap political motivations.

The over exploitation of under ground water through tube wells, the absence of canal water in vast tracts of Punjab lands due to its distribution to other states, buying power at a very high cost from outside due to lower water level in the three hydro-electric projects reservoirs that has effected the power generation in Punjab has ruined the Punjab economy. There can be no justification at all, morally or legally to distribute the Punjab river waters to any other states and to usurp the only natural resource of Punjab of its river waters. Punjab river waters are for Punjab only and must remain so without any intervention by Government of India. Besides it, Punjab needs genuine financial support in all respects from central finances in national interests.

### **(iii) Distribution of Punjab River waters to other states unconstitutional, illegal and unjust**

Govt. of India, without any jurisdiction and justification distributed the Punjab river waters to Rajasthan, Haryana, J & K, Delhi, though none of these states are riparian states as no river of Punjab flows into their territories. It was so done in the open violation of constitution of India, which bars the intervention and jurisdiction over Punjab river waters, not being interstate rivers. Illegal agreements were set up for the distribution of Punjab river waters, which cannot even be called agreements in the eye of law.

In 1955 an usual meeting of the Deputy Secretaries of States was held in the Irrigation dept of India at its Delhi office. In the proceedings of that meeting it was recorded that Punjab may give waters of its rivers out of surplus waters after meeting out its own needs first, which can be reviewed at any time. These proceedings were kept secret. It was given the status of an agreement between Punjab and Rajasthan, though it contains none of the ingredients of an agreement or a contract. No terms and conditions were settled and neither any consideration of revenue of the cost of the river waters. Such an agreement if to be executed between the two states must be written in accordance with law, containing the terms and conditions and the obligations of the states concerned after the state council of ministers takes a decision and to be further consented to by the state legislature. If there

is no consideration then it is still illegal even if such formal steps have been taken as the Govt. of a state or even the legislature cannot deprive the right of people of the state of their valuable property without any consideration and it must be for the benefits of the state. Thus this so called agreement and distribution of Punjab river waters to Rajasthan without any consideration is void, illegal and unconstitutional.

In 1976, vide her award dated March 25, 1976, under S.78 of the Punjab Reorganisation act, Prime Minister Indira Gandhi, illegally and in violation of the provisions of constitution of India, made the unauthorized distribution of Punjab river waters as under:

- (1) Rajasthan 8.60 MAF
- (2) Haryana 3.50 MAF
- (3) Delhi 0.20 MAF
- (4) Punjab 3.50 MAF

Section 78 of Punjab Reorganisation Act is itself unlawful and unconstitutional as Parliament could not have any jurisdiction in the Punjab river waters, being in the state list of schedule 7 of entry 17 of constitution of India. State of Rajasthan and Delhi had no concern with the Punjab Reorganisation Act 1966, as it related to Punjab and Haryana only. These states are not the riparian states for Punjab river waters and had no legal claim to these waters. Haryana territories had ceased to be the riparian state as these rivers did not flow in any territories of Haryana. Rather these Punjab rivers are at a distance of over one hundred miles from Haryana lands. The Punjab state could be under no obligation to spare and waste its lands for the canals in its lands to take river water to Haryana. No consideration was provided as to the costs and revenues to Punjab for their river waters. No agreement without consideration can be legal. The river waters and the immovable properties can never be distributed at the time of the reorganizations of states and neither was it so done in any other state. This award, being illegal, unconstitutional and without jurisdiction, was not binding on Punjab state. This award and the distribution of Punjab river waters was challenged by Akali Punjab government in the supreme court to be illegal, unconstitutional and void but in 1980 Congress Govts. Came in Punjab and at centre .Indira Gandhi Prime Minister got the case withdrawn from Congress Chief Minister of Punjab under undue pressure.

Prime Minister Indira Gandhi issued another award on December 31, 1981 arbitrarily raising the estimated availability of waters to 17.17 MAF from 15.80 MAF as under:

(1)	Rajasthan	8.60 MAF
(2)	Haryana	3.50 MAF
(3)	Delhi	0.20 MAF
(4)	J & K	0.65 MAF
(5)	Punjab	4.22 MAF

This time, J & K state was also added in the list of the illegal distribution of Punjab river waters, though it is also not a riparian state and without any valid claim to Punjab river waters. A further illegal provision was added this time, that the Satlej-Yamna link canal (SYL) be constructed by December 31, 1983 in the Punjab lands. Punjab could be under no obligation to waste its fertile lands of thousands of acres to construct the canal in its lands to take the river waters of Punjab to Haryana without any consideration whatsoever. It could not do so lawfully by the illegal acquisition of the lands of thousands of land owners, being not for any public purpose to waste their lands for the unauthorized canal while making the other Punjab lands to be deserts and unfit for agriculture due to the non-availability of its river waters by giving the bulk of waters to other states. According to experts the loss in agricultural produce to Punjab and gain to these non-riparian states, having no claim to Punjab river waters was over Rs 2500 crores per annum which is several times more now, by illegally giving them the Punjab river waters. The revenue and costs of these waters to be paid by these states for these water could never be less than it. But it was given free of cost and without any consideration. The signature of the chief minister of Punjab of the Congress party taken on this award/so called agreement under undue influence and political pressure to give him the further tenure as chief minister, by Indira Gandhi Prime Minister, cannot give this illegal and unconstitutional deal the status of an agreement, what to say of a lawful agreement. Chief Minister had no power and jurisdiction to give away the most valuable property of the state without consideration as it was not his personal property. The contract and agreement which is without consideration and under undue influence is void in the eye of law.

The distribution of Punjab river waters to other states was thus illegal, unconstitutional and void.

#### **SURPLUS WATER DECLARATIONS TOTALLY INCORRECT:**

The declarations of the Indian Irrigation department in 1955 and of the Prime Minister in 1976 and 1981 that Punjab river waters are surplus and be distributed and were distributed to other states were altogether untrue and totally against the realities as in

accordance with the admitted facts as laid out by the expert analysis the total waters of all Punjab rivers is 32.5 MAF while the requirement of Punjab is 55.2 MAF and in Punjab several hundreds of thousands of tube wells pump out the underground water for irrigation, the level water due to which has gone so low as to make it impossible in the near future to pump it out even causing the great problems for the availability of drinking water in Punjab. The government of India rather is duty bound to make plans for dams, funds available to execute those plans to construct more huge reservoirs at Beas as at Satlej at Bhakra Down, and at other appropriate locations also so that not a drop of water of these rivers is wasted and is utilized by Punjab instead of distributing it to other states. Some other arrangements should be made for the availability of water to other states independent of Punjab river waters. The unauthorized declaration and distribution of Punjab river waters should no longer continue in the national interest and not of Punjab alone.

### **RAJASTHAN AND HARYANA AREAS HAD NO PUNJAB RIVER WATERS IN UNITED PUNJAB:**

Rajasthan was not given any water of Punjab rivers in the united Punjab. Bikaner state, which is now part of Rajasthan, had purchased the Punjab river waters on payment of its revenue under the terms and conditions of Punjab state, which Punjab was able to spare at that time. After the partition of Punjab in 1947 two rivers had gone to Pakistan and only three rivers remained in the present Punjab. How Rajasthan could be entitled to Punjab river waters in 1955 is totally un-understandable. The construction of Bhakra Nangal Dam on Satluj had no concern with Rajasthan and neither Rajasthan became the riparian state. The river waters of Punjab were not surplus as to be spared to Rajasthan. Thus the distribution of Punjab river waters to Rajasthan is on the face of it illegal and unjust.

Similar is the position of Haryana. In the united Punjab no Punjab river waters had been given to Haryana lands, being far away from these rivers. No doubt, main Bhakra canal took the Satluj river waters to Haryana after the completion of Bhakra Dam, being part of Punjab, but when it ceased to be part of Punjab and became non-riparian state, then it lost its right over Punjab river waters. To the contrary it was given more water illegally.

Even in the so called surplus waters, out of which 8 MAF was envisaged for Rajasthan illegally in 1955, no portion of the present day Haryana was included for the 7.5 MAF to be left for Punjab. The Punjab government envisaged the following allocations of its 7.5 MAF waters; UBDC (1.6 MAF) Sirhind feeder (2.78 MAF), PEDSU areas (1.33 MAF), Shah Meher (0.79 MAF) Andher Tract (0.56 MAF), Bet areas of Ravi and Beas (0.23 MAF), Eastren canal (0.21 MAF). There was no canal for taking any Pujab river waters to the areas which now comprise Haryana. How could Indira Gandhi Prime Minister in 1976 divert these river waters to the Haryana lands to which she even had no jurisdiction. If there had been surplus waters of Ravi and Beas rivers and of Satluj even, not being utilized, then canal network should have been planned and funded by the government of India in Punjab to irrigate more Punjab lands, which were still awaiting those waters, as bulk of Punjab lands are still without any access to canals for their river waters, instead of distributing to other states without any justification, violating the constitutional provisions.

## **GHAGNAR AND JAMUNA RIVERS WATERS IGNORED:**

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Though Haryana, being non-riparian state for Punjab river waters and not entitled to any Punjab river waters, yet if for the sake of argument it be presumed that river waters should be given to it as to proportionate aspects, even then 3.5 MAF by the awards and agreements illegally incorporated by Prime Minister Indira Gandhi on this basis, Haryana is not entitled to any Punjab river waters. Haryana claimed 6 MAF water from Ghagnar and Jamuna rivers which flow through it. The share of Punjab has then to be counted as 60% in that water on the proportionate theory, which comes to 3.6 MAF. Even then Haryana had .1 MAF more than its share from Punjab river waters. If Haryana has to be given its 40% share from Punjab rivers waters then why Punjab is not to get its share of 60% from the Ghagnar and Jamuna rivers which were flowing in the united Punjab before Haryana was carved out of it. Punjab never alleged entitled to river waters of Ghagnar and Jamuna as it became non-riparian state after formation of Haryana just as Haryana became non entitled to Punjab river waters.

## **AGREEMENTS ILLEGAL AND VOID:**

As to the agreements, the lesser said the better, as in the eye of law these so called agreements do not even fall under the definition and category of lawful agreements. The 1955 so called Rajasthan and Punjab agreement was even not at all an agreement. It was a proceedings of the meetings held in the Irrigation Department at Delhi, attended by the Deputy Secretaries of the states that Rajasthan may be given 8 MAF water of Punjab rivers if not needed by Punjab, with a specific mention that first of all Punjab will meet its needs of the river waters and this arrangement can be reviewed when so desired. These proceedings were not even circulated to the states and kept secret. Never any meeting at the level of Chief Ministers of the states was held to discuss this suggestion with a specific agenda to make it an agreement that whether Punjab state can spare any river water after first meeting its demands. No consideration was ever settled as to the revenue for the water to be paid by Rajasthan in case Punjab could spare any of its river waters. By no stretch of imagination there can be any agreement in such proceedings what to say of a lawful agreement. Rajasthan had no valid claim to Punjab river waters, not being a riparian state. No officer of the state, even the highest one, the Chief Minister, could ever lawfully enter in an agreement without consideration.

## **CHIEF MINISTERS HAD NO AUTHORITY TO GIVE RIVER WATERS, NOR FOR SYL CANAL CONSTRUCTION:**

The 1976 award of Prime Minister Indira Gandhi can never come under the definition of agreement between Punjab and other states. The 1981 agreement through got signed by the Prime Minister Indira Gandhi from the Chief Ministers of Punjab, Haryana and Rajasthan but it also can be no valid and lawful agreement. Chief Minister of Punjab had no authority to give away the Punjab river waters to Haryana and Rajasthan who had no legal claim to Punjab river waters, without consideration. These were not the riparian states to claim any right to Punjab river waters. The consent of the Punjab Chief Minister and his signatories on the so called agreement were obviously taken under undue influence

and political pressure to continue him as Chief Minister. There could be no reason for him to agree to give the bulk of Punjab river waters when it was not sufficient to meet the needs of Punjab lands and that too without any consideration. The contract and the agreement, which is without consideration and under undue influence is void under law. Similar is the case of the construction of SYL canal to which legally no Punjab lands could be acquired and wasted, without any benefit to Punjab, being never for public purpose for people of Punjab.

In fact it is in the record that the two Chief Ministers of Punjab were not even consulted what to say of taking their consent for the so called agreements- awards. In 1955 Partap Singh Kairon was the chief minister. The proceeding of the meeting of Deputy Secretaries, contained the 1955 allocation of Punjab river water to Rajasthan, without any specific agenda as to give 8 MAF Punjab river waters to Rajasthan, what a ridiculous proceedings. Even Deputy Secretaries had no prior knowledge of it. In 1976 Indira Gandhi had herself issued the award. Giani Zail Singh was the chief minister at that time, who came to know of it later on as admitted by him. Both of these Congress Chief Ministers, no doubt, did not take the courage to confront the Indian government and the Prime Minister when came to know of the illegal usurpation of Punjab river waters which exhibits their cowardice and the nefarious desire to stick to their posts even against their conscience and even to act against the interests of the state, to which they were duty bound to protect, only to continue to the in power. Similar is the position of the third Punjab chief minister Darbara Singh who withdrew the case and signed the so called agreement under threat in 1981, of India Gandhi, Prime Minister to sign or resign to prolong as Chief Minister in spite of giving a press statement as published in Tribune that he was under tremendous pressure to withdraw the case at “gun point” Can these be called agreements, not worth the name even.

Allegations have been made against Akali Chief Ministers of Punjab, Parkash Singh Badal and Surjit Singh Barnala to have also taken some steps for the construction of SYL- that,. Parkash Singh Badal in his regime as chief minister 1977-1980 having got deposited some money in the state exchequer from Haryana for construction of SYL in 1977 while Surjit Singh Barnala to have taken the practical step for the construction of SYL in accordance with the Rajive Longowal accord in his regime as chief minister in 1985-87. The conduct of these chief ministers contradictory to the resolutions and declarations of Akali Dal, no doubt, is dubious but it cannot confer the legality on the illegal and unconstitutional distribution of Punjab river waters and construction of SYL canal. It is also a fact that Parkash Singh Badal had challenged the agreement and award of Indira Gandhi given in 1976, in the Supreme Court of India, to be illegal and unconstitutional. Surjit Singh Barnala also rejected the Iradi Tribunal and terms of the reference. Their such alleged conduct for SYL can never stand in the way to the distribution of river waters to be illegal and void and the legality and constitutionality of the new legislature terminating all the agreements relating to Punjab river waters. The illegal actions of the chief ministers of Punjab government might be of Congress or Akali Dal are of no binding effect on the people of Punjab.

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The allegations that the first notification for the acquisition of the land in Punjab which belonged to thousands of land owners, was issued in 1978 (113/5/SYL dated Feb.20,

in the regime of Akali government headed by Parkash Singh Badal (1977-80) and then the attempts were made to complete the construction of SYL in the regime of Akali Govt. headed by Surjit Singh Barnala (1985-87) cannot make the illegal and unconstitutional SYL canal to be legal and constitutional. In the notifications it was stated that land is required for public purpose, namely the construction of Satluj Yamuna link canal, under Section 4 of the land acquisition act 1894. It was on the face of it incorrect as there was no public purpose to acquire the land and as such the acquisition was illegal on the face of it. Can it be ever a public purpose for the benefit of the people of Punjab, to waste thousands of acres of land of Punjab land owners to construct the canals to take river waters to Haryana or to Rajasthan in a stretch of over a hundred of miles and make the rest of the lands of Punjab to be deserts and unfit for agriculture, ruining the economy of Punjab and its people. It was rather worst type of anti-public purpose. Such illegalities would always remain as illegalities, whether to be committed by Congress or Akali Chief Ministers and their governments.

Similarly the allegations that Akali leaders did not take effective steps when in power to stop the Punjab river waters to other states and they only raised the slogans against the illegal distribution of Punjab river waters when out of power to attract the votes and that these river waters are flowing to other states for a long time uninterrupted can in no manner give any legal sanctity to the illegal and unconstitutional distribution of Punjab river waters, to which only Punjab has got the lawful rights. The Akali Govts. and their chief ministers were not of any better stuff than that of the Congress. They were equally attracted to their chairs and to remain in power at the cost of Punjabi interests just as Punjab river waters, and not to come into conflict with the central government. If these leaders of Punjab might be of the Akali Dal or of Congress had taken the stand for these lawful rights of the people of Punjab with courage and honesty of purpose without caring to stick to power, they could nip the evil in the bud. However their actions due to the greed for power, can never grant the legality to the illegal distribution of Punjab river waters, as they had no power to give or allow these waters to other states without any consideration or jurisdiction.

The Chief Ministers and the governments of the states are bound under the oaths taken before assuming their office as required by the constitution of India, to protect the interests of the state. It is their foremost obligation to safeguard the state interests, the people of which have elected them for their political representation. If they do any illegal and unauthorized deals without jurisdiction against state interests, that is void and not binding on the people of the state. If they consent to transfer any property owned by the state without any consideration it is on the face of it void and without jurisdiction. The consent to distribute the very valuable property of river waters of Punjab without consideration to which only Punjab people are entitled for Punjab lands, to other states, is totally against interests of Punjab state, illegal void and unconstitutional, not binding on the people of the state. Similar is the fate of the consent to construct the SYL canal in the Punjab state land, owned by private owners by unlawful acquisition being illegal, void and without jurisdiction. Such illegal unconstitutional and unauthorized consents and acts can never confer any legal sanctity to the basic illegal and unconstitutional Punjab river waters to other states, having no legal claim or the constructions like SYL canal.

It is thus obvious that the so called agreements for the distribution of river waters cannot even be called to be agreements in the eye of law, what to say of these to be legal and valid agreements. There was not even one ingredient of the lawful agreements therein. No free

consent of the parties, no consideration for the agreements, no competency of the parties to enter into agreement. Rather on the other hand, signatures of Punjab chief ministers were taken under undue influence and political pressure to sign or resign. The agreements were not in the form and procedure, as laid down by the constitution Article 299 . There was no lawful decision by the council of ministers and of the legislature. Open violation of the constitutional provisions as to the decision of powers between union and states which confer the exclusive power to the states and state legislatures, the subject river waters, being in the state list, making the so called agreement to be without authority and jurisdiction. Similarly as to the construction of canals in Punjab lands to take punjab river waters to other states without any consideration, total illegality as no public purpose to acquire the lands. Rather it was to waste Punjab lands and make the remaining deserts.

### **AGREEMENT TO BE IN THE PROPER FORM:**

Constitution of India vide Article 299 has prescribed the form and the procedure to execute the contracts and agreements in the executive power of a state. It reads:

- (i) “All contracts made in the exercise of the executive power of the union or of a state shall be expressed to be made by the President or by the Governor of the state, as the case may be and all such contracts and all assurances of property made in the exercise of that power shall be executed on behalf of the President or the Governor by such persons and in such manner as he may direct or authorize”.

The mere signatures taken on the “dotted line” of the Chief Minister under the threat of the Prime Minister. that he should either put his signatures or resign can never be a legal agreement and worth its name even. In fact for over half a century no chief minister of Punjab has of his free will executed the agreement to give Punjab river waters to any state, what to say of any such decision by the council of ministers of Punjab state and the valid agreement in the name of the Governor to term a fictitious document to be a binding agreement is a grave encroachment on the lawful rights on Punjab river waters of Punjab and its people.

### **UNCONSTITUTIONAL AND ILLEGAL PROVISIONS IN PUNJAB REORGANISATION ACT 1966:**

In fact the provisions of Punjab Reorganisation Act 1966, just like Sections 78, 79 & 80 which violate the constitutional division of powers of the union and state are illegal and unconstitutional. The subject of the river waters of a state is in the state list II of schedule 7, entry 17 of the constitution of India over which the state and its legislature has the exclusive jurisdiction. The parliament had no jurisdiction to pass any law as to the river waters of a state and to control the head works by Union of India. Any action taken under such illegal provisions is on the face of it unlawful and unconstitutional. The awards and agreements at the wishes of the Prime Minister and Union Govt. relating to Punjab river waters are thus without jurisdiction, illegal and void, violating the relevant provisions of constitution of India. If



the Union list and state lists as contained in constitution, conferring the exclusive jurisdiction of the subject enumerated therein are not honoured, then besides the violation of the constitution the basic feature of Indian Republic to be Union of States is at stake and would stand negated.

No such violation of these constitutional provisions has been made in the reorganization of other states. Rather the exclusive jurisdiction of the states in which river waters flow has been duly accepted. The riparian principle has been followed that only that state has the exclusive jurisdiction over the river waters in which these rivers flow as non-riparian states having no claim over such river waters. In the reorganisation of other states no river water has been given to the states which ceased to be riparian states. When Andhra Pradesh was formed out of Madras state then no waters of the rivers Krishan, Godawari and Mahan Nadi were given to Tamil Nadu, which had become non-

riparian state as no such river flows in the territories of the state. Krishna was flowing through Andhra Pradesh and Karnataka. No law was enacted for central intervention to give the water to the state which ceased to be riparian. Rajasthan had given application to claim waters of Narhada river adjoining it, in the Marashtra and other riparian state disputes but the Tribunal rejected it, being no riparian state. Why Punjab was made the only exception to give its river waters to non-riparian states illegally to Rajasthan and Haryana.

Section 78 of Punjab Reorganisation Act 1966, reads as under:

“Rights and liabilities in regard to Bhakra Nangal and Beas Projects:-

- (1) Notwithstanding anything contained in this Act, but subject to the provisions of Sections 79 & 80, all rights and liabilities of the existing state of Punjab in relation to Bhakra Nangal Project and Beas Project, shall on the appointed day be the rights and liabilities of the successor states in such proportion as may be fixed and subject to such adjustment as may be made by agreement entered in to by the said states after consultation with the central government or if no such agreement is entered into within two years of the appointed day as the central government may by order determine, having regard to the purpose of the projects.

Provided that the order so made by the central government may be varied by the subsequent agreement entered into by the successor states after consultation with the central government.

(2) 17

An agreement or order referred to in such section (1) shall if there has been or extension or further development of either of the projects referred to in that sub-section after the appointed day provided also for the rights and liabilities of the successor states in relation to such extension or further development.

- (1) The rights and liabilities referred to in such section (1) and (2) shall include:

- (a) The rights to receive and to utilize the water available for distribution as a result of the projects, and
- (b) The rights to receive and to utilize the power generated as a result of the projects,

But shall not include the rights and liabilities under any contract entered into before the appointed day by the government of the existing state of Punjab with any person or authority other than the government”.

This provision is on the face of it unconstitutional as the rights to the river waters invest in the state in which they flow. It is the subject of the state list in which the states and state legislatures have exclusive jurisdiction. The Union Govt. and Parliament have no jurisdiction in this matter.

#### **RIVER WATERS IN EXCLUSIVE STATE JURISDICTION:**

- (V) (i) River waters are within the exclusive jurisdiction of the states and not of the Union of India and as such only the states are empowered to enact laws and regulations regarding river waters and not Union of India. In the disputes of inter state river waters only Union of India has got the jurisdiction. Schedule VII, entry 17 of the State List II is as under, in the constitution of India:

“water, that is to say water supplies, irrigation and canals, drainage and embankments, water storage and water power, subject to the provisions of entry 56 of list 1”.

Entry 56 of list 1, reads as under:

“Regulation and development of interstate rivers and river valleys, to the extent to which such regulation and development under the control of the Union is declared by parliament by law expedient in the public interest”

List 1 is the Union list. Thus any sort of interference by the Union Govt. of India in the state river waters is unconstitutional.

Article 262 of constitution of India relates to disputes relating to waters. It reads as under:

- (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 interstate river or river valley.
  
- (2) Notwithstanding any thing in the 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 complain as is referred to in clause (i)”.

This article obviously relates to the waters of interstate rivers or river valleys. It has nothing to do with the river waters of a state. Thus even parliament was not be given any jurisdiction to the state river waters.

The reason for not giving any powers to Union of India or the parliament in the case of state river waters, is that this subject is contained in the state list for which the state only has the jurisdiction.

Article 246 (3) confers exclusive power on the state legislature to enact laws as to any subject in the state list. It reads:

“subject to clause 1 & 2 the legislature of any state has exclusive power to make laws for such state or any part thereof with respect to any of the matters enumerated in list 11 in the 7<sup>th</sup> schedule (in this constitution referred to as the “state list”).

In accordance with article 246 (1) parliament has the exclusive power to enact laws on the subjects as enumerated in list 1 of seventh schedule as “union list”.

In accordance with Article 246 (2) parliament and state legislature have been empowered to enact laws on subject enumerated in list 111, in seventh schedule as “concurrent list”.

Constitution thus separates the exclusive powers of parliament and state legislature giving the detailed subjects in the Union and state lists. River waters of a state are in the state list. The state only has the constitutional power to enact laws relating to its state rivers.

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Sections 78

to 80 of Punjab Reorganisation Act 1956 were challenged to be illegal and void and unconstitutional more than once in several writ petitions in Punjab High Court and in Supreme Court of India. The case filed in the Supreme Court by Punjab govt. challenging these provisions to be ultra virus and the 1976 award of Indira Gandhi Prime Minister to be void and of no binding effect was got withdrawn by putting undue influence on the then Congress chief minister, Darbara Singh by the Prime Minister Indira Gandhi who had come to power in 1980. The cases filed in Punjab High Court against 1981 distribution of Punjab river waters to be void by the farmers organizations like Kisan Sabha and some other persons affected were

transferred to Supreme Court on November 18, 1983 on the oral request of the council of Indian Govt. having been fixed for November 15, 1983 for their final hearings by a special bench to be presided over by the Chief Justice Punjab. Chief Justice S.S. Sandhwalia was transferred to Patna High Court by the Govt. of India on November 14, 1983, a day earlier to the date of hearing fixed in that case by him. Those cases are still awaiting their hearings in Supreme Court for the last more than twenty years, giving the credence to the allegations that all this was done to avoid the decisions in those cases, unbelievable indeed.

### **1985 RAJIV LONGOWAL ACCORD – UNCONSTITUTIONAL:**

- (VI) A new twist was given to the dispute over Punjab river waters in 1985, in the form of Rajiv Longowal Accord, signed by Rajiv Gandhi, Prime Minister, and Harchand Singh Longowal, the President of one of the Akali Dals on July 24, 1985, keeping it so secret that even the executive committee and the high

command of the Akali Dal, came to know of it from the newspaper reports after the accord had been signed, what to say of their consultation or consent. Harchand Singh Longowal was merely a president of one of the Akali Dals who at that time did not command the support of even majority of Sikhs. He had no authority from Punjab Govt. to enter into such an accord. Thus he had no jurisdiction at all to enter in to any agreement or accord on behalf of Punjab state. This accord is on the face of it illegal, unconstitutional and without jurisdiction. The relevant provisions of this accord, relating to Punjab river waters are as under:

- (9.1) The farmers of Punjab, Haryana and Rajasthan will continue to get water not less than what they are using from the Ravi-Beas System as on 1.7.1985 (July 1, 1985). Waters used for consumptive purposes will also remain unaffected. Quantum of usage claimed shall be verified by the Tribunal referred to in para 9.2 below;
- (9.2) The claim of Punjab and Haryana regarding the shares in their remaining waters will be referred to adjudication to a Tribunal to be presided over by a Supreme Court judge. The decision of this Tribunal will be rendered within 20 six months and would be binding on both parties. All legal and constitutional steps in this respect to be taken expeditiously;
- (9.3) The construction of SYL canal shall continue. The canal shall be completed by 15<sup>th</sup> August 1986.

This accord is on the face of it unconstitutional and void. Harchand Singh Longowal having no jurisdiction and no legal sanctity to represent Punjab and Rajiv Gandhi, Prime Minister having no jurisdiction over Punjab river waters, being exclusively under Punjab Govt. and Punjab legislature, being a state subject.

Another unconstitutional amendment was made in the “Inter State Water Disputes Act 1956” by adding section 14 in it. It reads as under:

14.(i) Notwithstanding anything contained in the foregoing provisions of this act, the Central Govt. may be notified in the official gazette, constitute a Tribunal under this act, to be known as the Ravi-Beas Waters Tribunal for the

verification and adjudication of the matters referred to in paragraphs 9.1 and 9.2 respectively of the Punjab settlement (Rajiv-Longowal accord).

When a Tribunal has been constituted under sub section (1) the provisions of such sections (2) and (3) of section 4, sub sections (2)(3)(4) of section 5 and sections 5A to 13 (both inclusive) of this act relating to the constitution, jurisdiction powers, authority and bar of jurisdiction in relation to the Tribunal constituted under such section (1).

When a Tribunal has been constituted under such section (1) the Central Govt. alone may suo moto or at the request of the concerned state govt. refer the matters specified in paragraphs 9.1 and 9.2 of the Punjab settlement to such Tribunal. For the purpose of this section, Punjab settlement means the memorandum of settlement signed at New Delhi on 24<sup>th</sup> day of July 1985”.

This provision is obviously unconstitutional and void. It is based upon the Punjab settlement (Rajiv-Longowal accord) to appoint a tribunal for the verification and adjudication of the matters referred in its paragraphs 9.1 and 9.2, which accord or settlement is itself unconstitutional and void and without any jurisdiction. It relates to the Punjab river waters, which is the state subject and under the constitution to which only the state and its legislation bare the jurisdiction exclusively, the Union Govt and parliament having no jurisdiction to deal with it and to make any law relating to it. Punjab river waters flow through Punjab territories only and not through other states of Haryana and Rajasthan and are not interverse rivers qua those states. The interstate water disputes Act 1956 can have no application.

## **ACCORDS OF IRADI TRIBUNAL ILLEGAL AND UNCONSTITUTIONAL**

The appointment of Iradi Tribunal was itself illegal and without jurisdiction. This Tribunal was set up by the Govt. of India on April 2, 1986 under the interstate river waters disputes act 1956 in which a new section 14 was added making the Rajiv-Longowal award its basis. In fact para 9.1 and para 9.2 of the accord was made in terms of reference of the

Tribunal to distribute the Punjab river waters amongst Punjab and Haryana. The Rajiv-Longowal accord had no legal sanctity as Harchand Singh Longowal was not holding any official position in Punjab to represent it. He was the mere president of one of the Akali Dals in Punjab. This accord can never be termed between Govt of India and Punjab state. There was the President Rule in Punjab and the Governor was the head of the state – Longowal nowhere figured to represent Punjab in any capacity. He was not even representing the majority of Sikhs in Punjab. Moreover the interstate river waters disputes Act could not be made applicable to Punjab river waters which are not interstate rivers, as Punjab rivers only flow in Punjab and not in any other state. No provision in this act could be inserted to make any clause of Rajiv-Longowal accord the term of reference to the Tribunal set up under this Act meant for the disputes of interstate river waters. The river waters of a state are in the exclusive jurisdiction of the state govt and the state legislature under the constitution and the Union Govt. or the parliament even can have no jurisdiction to intervene in any regard which can only intervene in the case of interstate river waters. Thus the reference of Punjab river waters to the Iradi Tribunal was illegal and violative of the constitution of India.

What the Iradi Tribunal did is most unexpected from a judge of the highest court for whom public still has confidence. The Tribunal, without deciding the objections of Punjab state as to its obvious illegality, increased the share of Haryana to 3.83 MAF from 3.50 MAF given in 1981. The Govt. of India concealed it for over five months and released the report of the Tribunal on May 20, 1987 on the eve of the Haryana Assembly Elections to get votes for Congress playing a cheap politics in such a crucial matter. The objections filed by the Punjab state against this Tribunal report in 1987 to which the state had been given the legal right, still awaits the verdict of the Tribunal for over 17 years, as the Tribunal had no jurisdiction into the matter by any stretch of legal provisions. The Tribunal virtually became defunct for such a long period. But now since the last year after over 16 years the Tribunal came abruptly into action by giving notices to the parties to restart the dead proceedings. In addition to all other illegalities and constitutional violations, now the new legislation of Punjab assembly, :” Punjab Termination of agreements Act 2004” has made the Tribunal altogether irrelevant, bearing no scope for its illegal intervention in Punjab river waters.

In fact Rajiv-Longowal accord and Iradi Tribunal, had died its natural death in its infancy itself, having not been implemented and being unconstitutional and void and of no binding effect. The first clause of the accord that Chandigarh will be handed over to Punjab before January 26, 1986 was never implemented and its status is still the same as Union territory after the lapse of about two decades. No remedy as the accord had no legal sanctity.

The accord clause as to the construction of SYL canal before August 15, 1986 was also never implemented, due to the same defect. Iradi Tribunal has not given its final award though about two decades are going to lapse and became defunct itself as no proceedings were taken for over 16 years. It had given its interim report on January 31, 1987 against which objections were filed by Punjab State to be illegal and void, which were never heard and as to decision no notification, as required, of the award has been made as there is no final award. Still to be talking about the accord and the Tribunal can have no sense. No judicial verdict for over two decades, as to the distributions of Punjab river waters, though immediately challenged.

### **INTERNATIONAL LAW FOR RIVER WATERS TO RIPARIAN STATES :**

In 1966 the international law association adopted Helsinki rules on international river waters. These rules were adopted in the United National Convention in 1896 and were accepted by the international world as customary international law. In this United Nations accepted international law, the use of the river waters is only for the riparian states. Non-riparian states have no claim to the river waters. It is binding on all the countries, which are members of United Nations. There was never any challenge to this international law to govern the river waters, as it is based upon justice, equity and good conscience. The non-riparian states have got no logic or forum to exploit the river waters which do not flow into their lands. They can have no claim to the territories of other states – to construct canals in their lands to bring the river waters to their states under any provision of law, justice and equity. The international law also protects the ground water of every state. 1986 Seoul conference of International Law Association framed the complimentary rules for the protection of ground water to integrate .use of surface water and ground water by riparian states.

The riparian law is internationally accepted as it is based upon equity, justice, propriety and legal norms. Only that state, through which a river flows has got the right to use its waters. The other non-riparian states have no right to its waters as the riparian state has to face its disadvantages and dismerits which the riparian state has not to face. Very huge tracts of the lands of the state through which the river flows become waste. Sometimes floods of the river cause enormous loss and damages to the state and its people in which it flows and several other such like havocs and disadvantage. The non-riparian state has got no stake in this respect. It even has got no land to construct the canals to take the river waters which do not flow through it. The state in which the river flows is under no obligation to provide the land to construct the canal to any other state and neither there can be any legal acquisition for the purpose of lands. It is a different matter if any state has surplus water and to add to the revenues of the state it makes the water available on payment on its own terms and conditions.



Indian Govt. has itself acted upon the riparian law in the cases of all other Indian states than Punjab. Tamil Nadu was refused the waters of the rivers which

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ceased to flow in its territories at the reorganization of Madras state, which flow into that state prior to its reorganization, the territories in which those rivers flow having been included in Andhra Pradesh and Karnataka, the rivers being Krishna, Godawari and Maha Nadi. Rajasthan gave an application to be made a party in the Tribunal to claim waters which had been set up in the dispute over Narbada river between Maharashtra and other riparian states, but it was rejected on the grounds that Rajasthan was not a riparian state as that river did not flow in any of its territory. Punjab cannot be made the only exception for the applicability of riparian laws in violation of the legal norms, justice and equity.

Govt. of India, admitted the riparian law to be made applicable in the case of Punjab river waters itself in the dispute between India and Pakistan over these river waters. It rather had taken the stand that Pakistan is not entitled to the waters of the three eastern rivers Ravi, Beas and Satlej and cannot even avail of the headworks and canal system which are not in the Pakistan territories to take water to Pakistan areas. World Bank, who negotiated into the dispute over Punjab river waters between India and Pakistan held that only India is entitled to the waters of these rivers, Ravi, Beas and Satluj as these primarily flow into the Indian territories in Punjab, while Pakistan is entitled to the waters of the other two rivers Jhalam and Chenab, besides the Sind river which flows into the territories of Pakistan. On this very principle, the territories which are not included in Punjab and in which these rivers do not flow can have no right to the waters of these rivers. If for the sake of argument Punjab had not been divided and partition of India had not taken place, then Rajasthan or any other state than Punjab could have no right to the water of these rivers. Before 1947 the waters of these rivers had not been given to any other states, as having no legal claim. Bikaner State which is now part of Rajasthan and Patiala state which is now part of Punjab had purchased the river waters from Punjab on payment. How can their claims be now created. Not at all.

The argument that India had made some payment to Pakistan to create its own network as required in Indus Water Treaty 1960 and that center provided the funds for the dams of Satluj, Ravi and Beas for the storage of river waters in huge reservoirs, and so it could distribute the Punjab river waters to other states is totally misconceived. Punjab is a part of India and it is a very heavily taxed state, contributing a lot to the central union finances. It is the duty of the Govt. of India to help financially Punjab state on such like matters. Punjab had contributed the bulk of food grains to the central food basket, which might be much more than the amounts spent by the Indian govt. on these plans and dams over the Punjab rivers.

It can never confer any right on the Union Govt. to give away the Punjab river waters without any consideration to any other state, having no legal claim over it. The river waters are the state subject included in the state list, over which the state and its legislature has been given the exclusive jurisdiction under the constitution of India. Riparian laws do not allow the river waters to non-riparian states. Thus these constitutional and legal provisions cannot be violated on any ground.

**TERMINATION OF AGREEMENTS AS TO PUNJAB RIVER WATERS BY  
PUNJAB LEGISLATURE:**

**SUPREME COURT INTERVENTION 2002-01**

The Supreme Court on the application of Haryana state directed the Indian govt. to get the Satluj-Yamuna Link Canal (SYL) completed within a year on the Punjab territory, on Jan. 15, 2002, without deciding the cases in which the very legality and constitutionality of the provisions which had been under challenge for over decades on which the fate of the validity of the agreements to distribute the Punjab river waters depended. The Punjab govt. filed the revised petition in the Supreme Court that there can be no logic to construct SYL canal, until and unless the right of Haryana for the Punjab river waters is established and that as such let the legality of the distribution of Punjab river waters be decided first as according to Punjab case it is illegal and unconstitutional. Supreme Court rejected the Punjab view on fourth June 2004, that they have decided as to the construction of SYL and it has nothing to do with the right of Haryana to Punjab river waters, Supreme Court directed the govt. of India to set up an agency within a month to construct the SYL canal in Punjab territory. The Govt. of India authorized the central public works department for such a construction of SYL canal in compliance with the Supreme Court orders.

Constitution of India has conferred the powers of review in the higher judicial courts over the orders of the executive and the legislation of the legislatures to set aside those orders and legislation to be null and void if violates the constitutional provisions. It has also provided the safeguards on the tenure of service and other service conditions of the judges, so as to keep them away from the undue influence of the executive, besides the power of the contempt of court to punish anyone whosoever attempts to interfere in the judicial system, so that the public should have the unflinching confidence in the judicial set up and the judges, as it is the only form to challenge the illegal and unconstitutional orders and acts to redeem the aggrieved and the victim.

The cases to challenge the distribution of Punjab river waters to be unconstitutional were filed in Punjab and Haryana High court.

There is no explanation of any compelling reasons, to debar that court

to hear and decide those cases and to transfer to the Supreme Court and then keeping those cases without hearing and disposal for over twenty years, in spite of those cases being of urgent nature, requiring the decisions in a year or two if not in months, inviting the criticism just as of the eminent journalist like Rajinder Puri, in his recent Article "Heading for a watery grave" that "the cases were swiftly transferred to the Supreme Court and for the last 21 years had languished there, gathering dust in some obscure corners of Supreme Court registry. So much for constitutional niceties and justice".

Similarly there is no explanation for the transfer of the Chief Justice S.S. Sandhawalia only a day before the hearing date of those cases in Punjab and

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Haryana High Court to Patna High Court, exhibiting the nexus between the highest court of the country and the union Govt. There is also no explanation that why those cases were not heard and decided at least before issuing the directions to Govt. of India to get the SYL canal constructed through its central agency, as if the distribution of Punjab river waters to other states is held illegal and unconstitutional, then what can be the justification for the construction of SYL canal. Now the govt. of India has sought the presidential advice from Supreme Court after enactment of Punjab termination of agreement, 2004 .Now Supreme Court verdict will come..

#### **TERMINATION OF AGREEMENTS BECAME NECESSARY:**

Punjab state and the legislature were even not legally bound to terminate the so called agreements which were illegal and void and not binding on it. It had challenged the distribution of its river waters based upon these agreements to be illegal and unconstitutional in the Supreme Court and also challenged the provisions of S. 78 to 80 of the Punjab Re-organisation Act to be unlawful and unconstitutional but the case was got withdrawn when Congress again came in power in Punjab state and Indian Govt in 1980 under the undue pressure of Indira Gandhi, Prime Minister. The cases filed by some other parties in Punjab and Haryana High Court were not allowed to be heard and decided by that court and rather transferred to Supreme Court a few days after the date fixed for their hearing and have not been put for hearing in the Supreme Court until now, in this long period of 21 years. Rather on the application of Haryana state, the Supreme Court directed the Govt. of India to get constructed SYL canal making the illegal agreement to be its basis. The Union Govt. authorized its Pwd to construct the canal in Punjab territory, giving the impression as if Punjab state is violator of laws and aggressor, though it is victim of aggression seeking the legal remedies. In these circumstances the new legislation became essential to assert its lawful rights.

#### **PUNJAB TERMINATION OF AGREEMENTS ACT 2004:**

Punjab legislature in its lawful special session held on July 12, 2004 unanimously passed "Punjab Termination of Agreements act 2004" thereby annulling December 31, 1981 agreement between Punjab, Haryana and Rajasthan signed by the three Chief Ministers of these states in the presence and directions of Prime Minister Indira Gandhi relating to the illegal distribution of Punjab river waters to Haryana and Rajasthan and all other such previous illegal agreements as to the waters of Punjab rivers asserting the exclusive right of Punjab to its river waters, knocking down the very basis on which Supreme Court had passed its orders for the construction of SYL canal in Punjab territories. The Governor of Punjab gave his consent to Bill on the very next day which became the Act, enacted by the legislature, legally competent to enact it. The Governor himself is a retired Chief Justice of a state, well conversant with the provisions of law and constitution of India, which prima-facie establishes the act to be not violative of any legal and constitutional provision. It has to prevail until and unless declared to be unconstitutional by the competent courts.

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It is within the jurisdiction of the state legislature to enact a law in connection with its river waters. It is rather in the exclusive jurisdiction to enact laws regarding Punjab river waters by the Punjab legislature being the state subject and parliament having no jurisdiction being not interstate rivers. The propaganda is totally misconceived that Rajasthan and Haryana have been deprived of their rights unilaterally as these states had no legal rights in Punjab river waters. The illegal distribution by unauthorized persons or authorities could never vest any legal rights in these states. The Punjab legislation in this new act has rather kept a clause to continue the Punjab river waters to these states, as now currently flowing perhaps so as to not stop it abruptly which may damage their crops without any notice. It can be repealed at any time by the Punjab legislature. Govt. of India and these states should use it for a transitional period during which the river waters from other rivers may be made available in those states or the irrigation facilities from other sources, in a few years. It would have been better if Punjab legislature had given the transitional period in this legislation to avoid the further repeal.

### **UNILATERAL PUNJAB ACTION VALID:**

Even if for the sake of argument it be presumed that Punjab state had freely agreed to give some Punjab river waters to Rajasthan and Haryana without any consideration, deeming it to be surplus to the needs of Punjab lands out of compassion, then Punjab could validly stop the river waters to those states who had no valid claim to those waters when the needs to Punjab lands became necessary. Such unilateral action of Punjab would be legal and proper. The consent of those states would come into the picture only when they had also to do some part of their obligation as if they were to pay the revenues and comply with any other terms and conditions of the agreement which were also their obligation. Then the terms and conditions of the agreement binding on parties could be changed by all the parties. In this case the other states had no obligations and there were no terms and conditions of the agreement which would require the consent of all the parties to change those terms and conditions. These states should have shown the obligation and indebtedness to use the Punjab waters free of cost as Punjab allowed to them but not to asset their rights to have it permanently to make Punjab lands useless and unfit for agriculture.

### **SOME APPRECIABLE TRENDS:**

This new legislation terminating all the previous agreements as to the Punjab river waters, to keep these waters exclusively for the Punjab lands has exhibited a few Punjab political trends worth appreciation. It has been steered by the Congress chief minister with courage for the interests of people of Punjab with the unanimous support of Punjab state Congress legislators, though the unlawful agreement and awards were made by the Congress Prime Minister and its Govt. to which the previous Congress chief ministers and legislators towed the line, acting against the interests of their state and against their conscience as well. It has been fully supported by all the legislators to which ever party they belonged, to pass it unanimously arising above communalism which had been infused in the political arena by Congress and some other communal parties giving the erroneous color to Punjab demands as of Sikhs only. The Congress and Akali leaders have shown the solidarity on this issue in spite of their basic political differences. It has been portrayed that the legal and constitutional rights of the people of Punjab to the exclusive use of Punjab river waters can never be dependant on the whims or  
27 Political compulsions of a few politicians to serve their vested interests. Let such a spirit be exhibited in other injustices to Punjab.

#### **NO OTHER PRECEDENT TO EXPLOIT NATURAL RESOURCES OF A STATE:**

Totally misconceived issues, being unjust and unlawful, were raised that Rajasthan and Haryana are going to be deprived of their rights to the Punjab rivers by the enactment of the new Punjab Termination of Agreements Act 2004, based upon the cheap political tactics as these states had no legal right to the Punjab river waters. The Union Govt. and particularly Indira Gandhi by their illegal awards and agreements with undue influence on the Congress chief minister of Punjab brought these states in to the picture to grant them unlawfully Punjab river waters under machevilian politics and the political leaders of these states entered in a race to get the political benefits over each other on this issue. All the awards and agreements to give Punjab waters to these states were on the face of it illegal, void and unconstitutional. The Punjab state and Punjab legislature having the exclusive jurisdiction in Punjab river water enacted the needed law unanimously. How can they be compelled to give their state river waters to other states when it is not surplus and even much less than the requirement for their state. The people and the political leaders of these states should have considered this matter with the honest approach, that can they give the resources of their states to Punjab or other states in need of it, without any consideration even if surplus is with them, what to say of which is insufficient for their needs. Has any state given the electricity to Punjab free of cost being surplus with it? Rather Punjab had been purchasing it at the cost of millions of rupees. Had any state given the coal to

Punjab free of cost, for which millions of rupees had been paid by it. Had Rajasthan been ever willing to give its natural stones and marbles free of cost to Punjab, for which Punjab has spent millions and millions of rupees from its state exchequer. Had the Govt. of India anytime, intervened that the natural resources of any state be given to Punjab even a little without payment to any other state? So why Punjab was made an exception to give its only natural resources of river waters to other states. Could there be the least logic and justification that Punjab should get its lands barren and unfit for agriculture by giving its river waters to other states without any considerations, who have no legal claim to it.

### **CONSTRUCTION OF CANALS TO TAKE RIVER WATERS OUT OF PUNJAB ILLEGAL:**

Under what provision of law, Punjab state and the owners of the lands in Punjab are bound to give and waste their lands for a distance of over one hundred miles for the construction of the canals to take water to the states of Haryana and Rajasthan from Nangal and Bhakra and Harike areas. The state of Punjab cannot even lawfully acquire the lands for such canals under the land acquisition act for taking away illegally the Punjab river waters to Haryana and Rajasthan as it does not construe a public purpose for which land can be acquired by the state. It was the illegal encroachment on the rights of the land owners if earlier the lands were acquired by the Punjab Govt. under the undue influence and political unethical pressure of the Govt. of India ruled over by Congress during the Congress Govts. in Punjab or the Presidential rules. There can never be any precedent in the world history of such unlawful action that a state and its land holders would be forced to provide the lands for canals to take the river waters illegally to other states without any consideration.

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### **CANAL CONSTRUCTION EXPENSES IRRELEVANT:**

Haryana claims that several hundred crores of rupees were spent by it on the incomplete construction of SYL and so it should be completed. Supreme Court was also influenced by this line of logic. However it can be no valid ground to make the illegal claim over Punjab river waters of Haryana to be legal. It is obvious that people of Punjab resisted the construction of SYL in the Punjab territories which could not be completed for over twenty years. The award of Indira Gandhi was challenged by Punjab state in Supreme Court to be beyond jurisdiction, illegal and unconstitutional. Indira Gandhi, Prime Minister got the case withdrawn by putting undue influence and political pressure on the then Congress Punjab chief minister in 1981 and then gave another illegal award. The Govt. of India should compensate

Haryana for the expenses incurred by it on the illegal adventures of the then Prime Minister. Haryana should claim such expenses incurred on unlawful projects from Govt. of India. Legislature of Punjab has legally terminated all the agreements or awards as to Punjab river waters. Haryana expenses can have no relevance to the new legislation of Punjab.

The expenses, if any, incurred by Haryana or Rajasthan on other canals to take waters to their areas, just as Rajasthan canal, Bhakra main line, from Punjab river waters without payment of any revenue to Punjab, could have been met by the cost of these waters in a year or two. These canals are to be utilized by these states in their areas if the river waters from Ganga and Yamuna are made available to them by the construction of reservoirs and dams on these rivers with the financial aid and other vast resources of Govt. of India. The canals in the Punjab territories are to be used for the Punjab river waters which now, these territories are deprived of. The construction of these canals, the expenses incurred thereupon, the prolonged period of taking Punjab river waters to these states illegally and without any lawful rights, are irrelevant and can be no ground to further prolong these illegalities. The illegalities and unlawful deprivation of rights of Punjab to these river waters, can never be cured by longevity of the period or by the faked agreements and union interventions. Ultimately law, justice and equity has to prevail.

The river waters to Haryana may be supplied from Jamuna and Ghagga rivers by constructing the dams and the big reservoirs for the storage of the river waters particularly of the raining season which goes otherwise waste. Ghaggar river which just adjoins the Haryana territories and passes through it, causes a great havoc to the close areas to it in a stretch of over one hundred miles including that of Punjab of its Patiala and Sangrur districts, affecting thousands of villagers and their crops very adversely and even stopping the traffic of the main highways of G T Road and Ambala Chandigarh Road and of the railways in that area for days together. It can be channelised with the vast reservoirs adjoining the sub-mountainous areas and the dams can be constructed to generate the electricity. Such demands had been made continuously for decades even by the Punjab governments before and after its re-organisation, which needs to be done instead of illegal and unjust distribution of Punjab river waters to Haryana.

No doubt these other states may require the water for the irrigation of their lands, but they should think of the plans and technologies to achieve this aim independently within their states. There can be no logic to deprive the Punjab state from its river waters which are not even sufficient for the lands of this state and attempt to take those river waters for other states from a distance of hundreds of miles, by digging the canals in the lands of Punjab state and thereby wasting the vast tracts of fertile lands of Punjab and making the bulk of other Punjab lands to be barren and unfit for agriculture, particularly when agriculture is the only avocation for the overwhelming majority of state of

Punjab. To such an unjust and unlawful deal Union Govt. should never have become a party to which welfare of every state is to be the obligation. More so when the distribution of river waters of a state to any other state is unlawful and its intervention violates the constitution of India and the state having the exclusive jurisdiction to its river waters under provisions of the constitution.

#### **NO REFERENCE TO ANY NEW TRIBUNAL LEGAL:**

There is inherent misconception as to the suggestions to refer the case of Punjab river waters to a new Tribunal. There is no legal dispute as to the exclusive right and jurisdiction of the Punjab state and its legislature over the river waters in Punjab which are to be used for the Punjab lands only, no other state having any valid claim over Punjab river waters, being not the interstate rivers and no other state being the riparian state. There is thus no dispute between Punjab state and other states in the eyes of law. Thus no question arises to refer the Punjab river waters case to any new Tribunal. The Govt. of India can set up the Tribunal only under “Interstate river waters disputes Act 1956” in case of any dispute over interstate river waters, if there is such a dispute in between the states over river waters in which those rivers flow. In case of Punjab river waters, the Punjab rivers flow only in Punjab state and in no other state. So legally no Tribunal can be set up and no reference can be made by Govt. of India to any Tribunal as to the Punjab river waters, being under exclusive jurisdiction of Punjab state.

#### **NO NATIONAL INTEREST TO DISTRIBUTE PUNJAB RIVER WATERS:**

- (vii) Under what justification, morality and propriety the Punjab river waters should not be first of all used in the lands adjoining and nearer to the rivers in Punjab and be sent to far off places in Haryana and Rajasthan, not the riparian states and having no legal claim to Punjab river waters, thereby making the Punjab lands nearer to the Punjab rivers barren and unfit for agriculture and lot of it wasted in the canal constructions. Under what national interests Punjab river waters should not be used for irrigation of the lands of Punjab and to make those lands useless and unfit



for agriculture and rather send those river waters by crossing the Punjab lands to the other states having no just claim to Punjab river waters. It would have been a different matter if the Punjab river waters had been surplus after meting out the needs of Punjab lands to give the surplus to other states but that too not without consideration and the reasonable revenues. But there is no surplus water to spare.

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### **RUINING ECONOMY OF SIKHS – COMMUNAL TINGE A SENSITIVE ISSUE. NOT IN NATIONAL INTEREST:**

Communal tinge has been given to this issue, creating a feeling in Sikhs that perhaps Punjab river waters have been distributed to other states to ruin their economy as Sikhs are the land owners in Punjab overwhelmingly and being mainly dependant on agriculture; particularly when in no other state throughout India, such a distribution of river waters of a state was done and no state was deprived of its capital at reorganization and neither the reorganization of linguistic basis was denied to any other state. Such a feeling in Sikhs, under such a background is a very sensitive issue and can never be in the national interests. The denial to the reorganization of Punjab along with all other states of India also smacked communalism, that Sikhs may form the majority in the new organized state, which was even termed as formation of Sikh state and division of the country though Punjab was to be a state within India, like other states, after its reorganization. In Punjab Sikhs were mainly with Akali Dal which was the only political party to confront the Congress, which led to the communalization of politics as Congress was interested to create its Hindu vote bank to remain in power. The same British like policy of divide and rule. It created such a situation for Congress that to concede Punjab demand was to let down the Hindus. It is reflected in the words of Indira Gandhi, stated by her in her memoirs “My Truth” as quoted by Khushwant Singh, once her admirer:

“I went to Y.B.Cuaran and said – I had heard that Sardar Hukam Singh (speaker of Lok Sabha) was giving a report in favour of Punjabi suba and that he should be stopped. I was very bothered and I went round seeing everybody. To concede the Akali demand would mean abandoning a position to which it (Congress) was firmly committed and letting down its Hindu supporters in the projected Punjabi suba, not to do so would precipitate a Sikh agitation which would certainly be violent”

(History of Sikhs, Khuswant Singh Vol II page 304-5)

and

“In her dealings with Punjab, and the Sikhs Mrs Gandhi, practiced a kind of duplicity, more becoming of a small politician than farsighted statesman. While appearing to concede the suba, she first deprived it of its capital Chandigarh and then made its transfer to Punjab conditional on the Punjab giving up Fazilka and Abohar with predominantly Punjabi speaking to Haryana even though they were not contiguous to it”

Khushwant Singh had been nominated to Rajya Sabha by Indira Gandhi.

Hukam Singh speaker of Lok Sabha disclosed the staunch opposition of the Congress Govt. and its leaders to the reorganization of Punjab up to the last hour, though they had become helpless:

“After denying the fundamental linguistic right for many years, Prime Minister Shastri appointed a parliament committee in October 1965 under my chairmanship to prepare a report on the Punjabi Suba issue. This was done in accordance with the fresh promises made to the Sikhs

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during September 1965 war with Pakistan. The intention of the Govt. was to use me against my community and secure an adverse report and then reject the demand even after 19 years of deliberate frustrating delays. When the report was nearly ready Mrs Indira Gandhi went to Mr Charan and said, she had heard that Sardar Hukam Singh was going to give a report in favour of Punjabi suba and that he should be stopped. Lal Bahadur Shastri continued policy of Jawahar Lal Nehru and was dead against the demand of Punjabi suba as was Nehru. So when he was urged by Mrs Gandhi to stop Hukam Singh he did not waste any time. Mr Shastri called Mr Gulzari Lal Nanda, the then Home Minister to his residence and conveyed to him the concern about the feared report. Every effort was made by Mrs Gandhi, Mr Shastri and Mr Nanda to stop me from making the report. But when nothing succeeded, the Congress forestalled the Parliamentary report by agreeing to reorganize Punjab by a vague resolution dated March 9 while the committee report was signed on March 15, 1966, a week later. It was a deliberate attempt to by pass this committee and undermine its importance”.

(Betrayal of Sikhs, by Hukam Singh quoted in Hindu Sikh conflict, causes and cure, Transasiatic India Times London 1983, page 21-22).

Is there any other need of any other evidence to establish that the top Congress leaders of Govt. of India were never reconciled to the reorganization of Punjab on linguistic basis, whatever the grounds might be, there could not be any legitimate grounds worth any consideration except communalization of politics.

The political temporary ulterior motivations created a very sensitive issue of communalism and gave an impression of discriminations against Sikhs. The revelations of Indira Gandhi in her memoir, that to concede the Akali demand (for reorganization of Punjab) would mean abandoning the position to which Congress was firmly committed and letting down its Hindu supporters in the projected Punjabi suba, itself proves the communalization of politics by Congress why the Hindu supporters of the Congress be letting down, on the reorganization of Punjab on linguistic basis as the benefits and gains of the reorganization would be equally for the Hindus as for Sikhs, unless already exploited on communal basis. Why Congress was firmly committed against the reorganization of Punjab, as was feeling so much concern not to abandon its position. In such a situation prevailing the Sikhs would reasonably infer that reorganisaation of Punjab on linguistic basis was denied due to Sikhs having become in majority in the reorganized Punjab, particularly when Punjab was the only exception throughout India, resulting in the impression that Govt. of India mistrusts the Sikhs.

When Punjab was reorganized after the struggle of over 16 years (mainly of Sikhs) under political compulsions, though the Congress leaders had been making efforts to get the adverse report from

parliamentary committee to reject the reorganization, but of no success, then by usurpation of Punjab resources of its river waters and of its capital Chandigarh, again the situation was created in which Sikhs would reasonably infer that it was all done to ruin their economy. The distribution of Punjab river waters, to other states, would make Punjab lands to be deserts and unfit for agriculture. The Sikhs are the owners of bulk of the lands in Punjab and dependant mainly on agriculture. In spite of the peaceful agitations, the distribution of river waters was not set aside and neither Chandigarh capital of Punjab was handed over to Punjab. The continuous conflict embittered the

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relations of Sikhs with Govt. of India leading to violent atmosphere in Punjab and the army attacks on Sikhs and Sikh shrines and the general massacre of Sikhs in a planned manner throughout India, after assassination of Indira Gandhi, Prime Minister by her two Sikh bodyguards in 1984, consequences the slogans for a separate Sikh state- Khalistan. The problems of Punjab and of Sikhs still remained unsolved. In this background the solutions are to be found out by the statesmen of far sighted vision.

In fact Sikhs have persistently demonstrated their reaction against the illegal distribution of Punjab river waters to other states from its very beginning. Shiromani Akali Dal representative party of Sikhs, since 1966 itself, just after the reorganization of Punjab, held the protest meetings and peaceful agitations that they would never allow the Punjab river waters to go out of Punjab by courting arrests in thousands including their other demands for Chandigarh capital, Punjabi speaking areas left over, control of the dams and river headworks. In 1973 the well known Anandpur Sahib resolution was adopted by Akali Dal for these demands with the special emphasis on the federal structure and on Punjab river waters to be for Punjab only. In 1982, when Indira Gandhi Prime Minister made the program to inaugurate the construction of SYL canal at Kapura village in Patiala huge demonstrations were exhibited by the Akali Dal not to allow it. Just a few months thereafter Akali Dal started the peaceful agitation under the name of the Dharamyudh Morcha which continued till May 1984, daily offering the arrests which went up to more than three hundred and fifty thousand, which far exceeded the arrests during the entire freedom movement of India. This peaceful agitation was disrupted by the army attack on Sikhs and their shrines creating the height of bitterness. In 1985, when Rajiv-Longowal accord was abruptly announced by Govt. of India, containing a clause for the construction of SYL canal, though after the transfer of Chandigarh capital to Punjab, and ensuring the river waters for Punjab, which was being utilised at that time, Smt. Harchand Singh Longowal was assassinated within a month of the accord containing such a clause and entering into such an accord. No Punjab leader dared to give any statement even to construct SYL and to uphold the distributions made earlier illegally as to Punjab river waters. Two senior engineers and several workers employed for SYL had to face assassinations. Even chief minister Surjit Singh Barnala boycotted the Iradi Tribunal, who became chief minister under the hidden term of the accord. For the last two decades the people of Punjab, mostly the Sikhs who are the overwhelming majority of Punjab landowners and dependant upon agriculture, blocked the construction of SYL until now. It is not an easy task to deprive the people of Punjab of its river waters. It can neither be in the national interest to ruin their economy and lands which would never tolerate.

The leaders and the government of India had been blaming the Sikhs for over two decades though against the real facts, to be responsible for the violent atmosphere in Punjab and to endanger the unity and integrity of India and defaming them to be extremists and terrorists, resulting in a demand from a section for Khalistan feeling insecure in India due to the 1984 army attacks on them and their shrines, including the illegal distribution of the Punjab river waters to other states and several other grievances, pre and post, reorganization of Punjab on linguistic basis. There is now some peaceful atmosphere in Punjab and Sikhs respect from the new changed regime the removal of their genuine grievances to their satisfaction. Will the construction of SYL by force and the rivers waters of Punjab to be flown out of Punjab illegally consequently making the Punjab lands deserts and unfit for agriculture resulting in ruin of the economy of people of Punjab, overwhelming majority of which is Sikhs, not endanger the peace in the region, echoing the same blames as to the unity and integrity of Indian Republic reverting to the same slogans and violence of the last two decades. If the

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people feel that they are being deprived of their lawful rights by illegal and unconstitutional means it is easy to even exploit them. It is a very sensitive issue affecting the national interests.

The high sense of nationalism of Sikhs, is known to everyone and needs no reiteration. They even did not bargain for their political power with the Britishers, who were very eager to ensure it in the Indian Independence Act, to be enacted by them. They raised the slogan to the last hour against the partition of India on communal lines. They suffered the most in the pre and post Indian freedom and their homeland Punjab was divided half and half between Pakistan and India. They had to migrate to Indian Punjab in a bloodshed of worst type, leaving behind their fertile lands, irrigated by canals with Punjab river waters. Only three rivers left behind in the new Punjab while two went to Pakistan. If they are not allowed to utilize the waters of these three rivers for the Punjab lands and they assert their lawful claims to it then can it be termed to be anti-national and unjustified. If they are discriminated against in pre and post reorganization of Punjab and politics is communalized by leaders of government of India itself, will it be not against the national interests. It is a very sensitive issue to be resolved in national interest and not magnified.

It is the time now for the government of India to satisfy the Sikhs that the usurpation of the natural resources of Punjab, which adversely affected them the most just as the Punjab river waters would be undone to be exclusively utilized for the lands of Punjab; there being no surplus water to be given to any other state, that whatever the earlier ulterior motivations might be, now only the justice, legal norms, riparian laws and constitutional provisions will prevail. That now there would be no discriminations against Sikhs in any sphere. That now the same yardstick would be applicable to Punjab for the welfare and prosperity of its people as to other states in India. That now Govt. of India is not worried over the Sikhs forming a majority in Punjab. The extremist tendencies, the thoughts of separatism and the danger to the unity and integrity of a country can only be negated by justice and equality to all the citizens of a country in every respect and not by mere slogans with ulterior motivations. History will record, if justice now prevails, beyond any sense of communalism and ulterior motivations, that the policies of anti-national interests of earlier regimes had been converted to be of national interests now.

### **VIOLATION OF STATE AND UNION CONSTITUTIONAL POWERS NOT IN THE INTEREST OF INDIAN REPUBLIC:**

Another delicate and sensitive issue involved in the illegal distribution of Punjab river waters to other states, is the violation of the division of powers between states and union, as enumerated in the

constitution of India in 7<sup>th</sup> schedule in state, union and concurrent lists. Exclusive powers have been given to the states and state legislature as to the subjects contained in state list under Article 246 of Indian Constitution, while to the parliament as to the subjects contained in union list. River waters are in the state list at entry 17 of the 7<sup>th</sup> schedule of state list and as such under the exclusive jurisdiction of the state and state legislature. Union government and parliament have been given the jurisdiction to intervene in the disputes as to the interstate rivers under entry 56 of union list and under Article 262 of the constitution of India, but they have no jurisdiction as to the state rivers, which are not interstate rivers and flow only in one state. Punjab rivers flow in Punjab state territories only and not in the areas of Rajasthan, Haryana, Jammu and Kashmir and Delhi. Thus under these provisions of the constitution the Union Govt and the parliament had no jurisdiction to intervene in

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Punjab river waters and to distribute these waters to these states being not riparian states and not entitled to the Punjab river waters. The distribution of Punjab river waters to these states is obviously the grave violation of the constitutional provisions and of the division of powers between states and union of India, laid down in the constitution.

In the very beginning, in Article 1 of the Constitution of India, it is provided that “India is a union of states”. It is a federal structure with a clear cut division of powers between union and states, though the states claim to have more powers for its smooth working. Some state political parties like Akali Dal, have sought to the limit of jurisdiction of union Govt. only to four national subjects of defence, foreign affairs, communications and treasury, while the rest to be made state subjects to have the federal structure in the real sense. The curtailing of the existing subjects of the state list by such interventions by Union Govt in the state list, is bound to disturb the relations between the states and the union. The states which welcome it for their temporary gains may repent later on. It is a sensitive issue for the smooth working of Indian Republic as Union of States. Its disturbance will not be in the national interest.

### **USURPATION OF PUNJAB CAPITAL CHANDIGARH :**

- (viii) Lahore was the capital of Punjab for centuries, in the Mughal Rule, in the Sikh Rule and in the British Rule. But at the Indian Independence in 1947, a separate Muslim country was created, Pakistan, in accordance with the demand of Muslim league in the Muslim majority areas out of India. Punjab was partitioned. Half of Western Punjab was included in Pakistan, while the remaining half of Eastern Punjab remained in India. The borders of Pakistan and India in Punjab were in between Lahore and Amritsar. Thus Lahore, capital of Punjab went to Pakistan which was a very well developed and known city of North India. The Eastern Punjab was not to build its new capital. Chandigarh was selected for it and a

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new planned city for which the services of a renowned French architect were obtained was constructed, called city of the beautiful. The area of this city capital was part of Kharar Tehsil in Ropar district which was included in Punjabi speaking zone.

The Punjabi speaking zone and Hindi speaking zone, had been demarcated by government of Punjab in 1949. These were given the statutory powers in 1957 under the regional formulae as a compromise to the demand of Punjabi speaking state as the central government was still not ready to reorganize Punjab on linguistic basis. The areas comprising Chandigarh capital of Punjab were thus admittedly the Punjabi speaking areas. The dozens of villages were uprooted, the lands of thousands of people were acquired to construct this capital, which were

from Punjabi speaking zone. There could be no ground whatsoever to deprive Punjab state from their Chandigarh capital at the time of the reorganization of Punjab on linguistic basis in 1966. It was in the Punjab speaking region. It was the capital of Punjab state already. It was to continue in Punjab as its capital in accordance with all the legal norms, justice and equity. No other state was deprived of its capital at the time of reorganisation on linguistic basis.

Govt. of India headed by Indira Gandhi as Prime Minister played a foil political game against Punjab and its people. Instead of the declaration that the new Punjab state will consist of the Punjabi speaking areas as already demarcated by the Punjab govt. in 1949 and accepted by the parliament and the Union Govt. to confer the statutory powers of regional council in 1957 as such, on Punjabi speaking zone and Hindi speaking zone rather a commission presided over by Justice Shah was appointed to demarcate the Punjabi speaking and Hindi speaking areas in Punjab. It was illegal, unjust and uncalled for, as the Punjabi speaking and Hindi speaking areas already stood demarcated in Punjab without any objection to it. The commission was directed to rely upon 1961 census which was done on communal ground by exploiting Hindus to record Hindi as their language by the Congress and other communal elements to communalise politics. Moreover, the suggestions of the parliamentary committee were ignored which had been appointed to report on the reorganization of Punjab, in 1965.

Hukam Singh, speaker of Lok Sabha and Chairman of this parliamentary has stated that:

“The Parliamentary Committee had come to these conclusions”:

- (i) The present state of Punjab be reorganized on linguistic basis.
- (ii) The Punjabi region specified in the first schedule to Punjab regional committee order 1957 should form a unilingual Punjabi state.

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The Govt. by passed the committee and forestalled its report. The subsequent reference to the Shah Commission was loaded heavily against Punjab making the 1961 census as the basis and Tehsil instead of village as the unit was the deliberate design to punish the Sikhs. The language returns in 1961 census were on communal lives when Punjabi speaking Hindus falsely declared Hindi as their language. Therefore the demarcation had to be on communal rather than linguistic basis. Consequently merit was again ignored and justice denied.

(“Betrayal of Sikhs” by Hukam Singh, quoted in Transiatic India Times London, 1983, page 21).

There could be no reason at all to ignore the report of the Parliamentary Committee, rather it should have been accepted outrightly to be the report of the representatives of parliament. There could be no more justification to declare the already demarcated Punjabi speaking areas to be the new state of Punjab, very simple affair, very just decision. But obviously confusion had to be created, the complications had to be made, to deprive Punjab of its capital Chandigarh and some Punjabi speaking areas which could not be done by accepting the parliamentary report and by accepting the admitted demarcation of the Hindi and Punjabi speaking areas, which had already been functioning since 1949 and adopted by Govt. of India in 1957 to sep up regional councils. It actually happened when Shah Commission in his report allocated Kharar Tehsil including Chandigarh capital which was in the areas of Kharar Tehsil acquired by Govt. and which were parts of Punjabi speaking zone, to Haryana. There is no explanation that why Shah commission ignored the already demarcated having been done by

Punjab Govt. in 1999, whereby Kharar Tehsil was also in Punjabi speaking zone and as well in 1957, regional councils set up by Govt. of India and functioning as such for the last two decades for language and other purposes, without any objection at all.

Government of India could never accept such a report of the Shah Commission to give Kharar Tehsil of Punjabi speaking zone to Haryana So it rejected the report and in this regard and included Kharar Tehsil in Punjab being Punjabi speaking area. But Govt. of India did not hand over Chandigarh capital to Punjab though it is located in the areas of Kharar Tehsil and rater made it a Union territory to be directly under the Union Govt. Punjab and Haryana states were allowed to continue their secretariats in the secretariat building of the capital. High Court was also kept joint for Punjab and Haryana. The Institute of Medical and Research and Punjab University were also taken under the direct control of the Central Govt. of India. This usurpation of the capital of Punjab, Chandigarh and Punjab's high ranking medical and education institutions and some other Punjabi speaking areas not included in Punjab state was not acceptable to Punjab

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and its people. The Akali leaders gave the press statements that Punjab capital Chandigarh and other left out areas of Punjabi speaking must be handed over to Punjab.

Sant. Fateh Singh, President of Akali Dal besides the peaceful agitation and voluntary arrests of thousands of Punjabi and particularly Sikhs, kept fasts unto death and self immolation plans twice, but his life was saved by giving the assurances by Prime Ministers at the last hours to hand over Punjab, its capital Chandigarh. She made it conditional thereafter that Punjab would have to give 114 villages of Ahohar and Fazilka, the best cotton zone area in lieu thereof to Haryana, which was obviously without any sense. Punjab rejected this condition outrightly that Chandigarh belongs to Punjab and it should be handed over to Punjab without any condition whatsoever. Akali Dal remained in conflict with the Govt. of India continuously passing resolutions and holding the peaceful agitations courting arrests of thousands and thousands of people of Punjab but of no effect. In 1985 Rajiv-Longowal Accord, called Punjab settlement contained clause that Chandigarh would be handed over to Punjab by 26<sup>th</sup> Jan. 1984 but not implemented. No remedy as the accord had no legal sanctity. The usurpation of Punjab capital Chandigarh by illegal and unjust means still continues.

A political joke was committed on Punjab and its people by the Central Govt. in appointing the chair of the commissioner to demarcate the areas in the vicinity of Chandigarh to be given to Haryana in lieu of capital but no one did it, though these were headed by the persons of the caliber of Supreme Court judges and the task was too small. In October 1985 the commission headed by Justice.....was appointed. He held the enumeration of Kandu Khera village, a Punjabi speaking area, so as to convert it to Hindi speaking to make the Ahobar and Fazilka area contiguous to Haryana. The people of that village reasserted their claim to be Punjabi speaking. The commission raised its hands from giving any tangible award, obstructing the transfer of Chandigarh to Punjab by January 26, 1986. The second commission was appointed on April 12, 1986 headed by Justice Venkata Ramiah to locate the contiguous Hindi speaking areas for Haryana in lieu of Chandigarh. This commission held that 70,000 acres of land should be given to Haryana by Punjab. He pointed out the offer of Punjab of 45,000 acres of land around Mani Majra, and suggested that another commission should be appointed to locate 25,000 acres. Why could he not himself. No explanation The third commission was appointed on June 20, 1986 headed by Justice Desai to complete the job, left over by the previous commission. Punjab Govt. decided to boycott it as its terms of reference were ambiguous. So it also went the way of its predecessors. The three commissions headed by the judges of the Supreme Court status, thus could not finalise any award on such a

small matter. The natural inference to the people, that the Central Govt. was not sincere to hand over Chandigarh to Punjab and prolonged it under the strategy of such commissions, without caring that it not only loses its credibility but makes the commissions

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headed by judges of Supreme Court to be a laughing stock, which may even shake the confidence of the people in them. No further action was taken by the Central Govt. to give Chandigarh capital to Punjab.

Several declarations were made by Central Govt. in the last four decades to hand over to Punjab, its capital Chandigarh, which itself shows that the Central Govt. cannot outrightly refuse it, due to its validity of the lawful claim by Punjab, but altogether illegal and unjust conditions were put up, which varied according to the situations, from the transfer of 114 villages of Ahohar and Fazilka, to the contiguous areas to Chandigarh to delay its transfer under ulterior motivations.

The Govt. of India, should no longer prolong this issue and hand over Chandigarh capital of Punjab to Punjab without any conditions. There was no valid reason at all to deprive Punjab from its capital which belongs to Punjab, examining it from any angle whatsoever. Haryana can have no claim over it. Indira Gandhi, Prime Minister brought Haryana in to the picture, when she put the condition that 114 Punjab villages be given to Haryana in lieu thereof. Chandigarh capital is on the Punjabi speaking areas, which were acquired by the state of Punjab from the thousands of land owners, who were part of the Punjabi speaking areas. Capitals of the reorganized states throughout India remained in those states. It is for the newly carved out state to construct its own capital in its own area. The mere Shah commission report conferred no rights in Haryana which was rejected by the government of India, to be altogether wrong so far as Kharar Tehsil is concerned and in the areas of which the Punjab capital Chandigarh was constructed. The ulterior motivations which prevailed at the time of reorganization of Punjab no longer is existing. It is the time to do justice and undo the wrong.

### **SOLUTION:**

- (ix) This complicated issue, has ultimately to be solved by Govt. of India who created it with the co-operation and to the satisfaction of all of the people affected. Everyone can feel satisfied only if provisions of law and constitution and the principles of equity, justice and good conscience are made applicable with the honesty of purpose. All those provisions and principles are favourable to the stand of Punjab and its people. Punjab river waters are to be for Punjab only to meet its need first. These are under the exclusive jurisdiction of Punjab state and its legislature, being enumerated in the state list in the constitution of India. The riparian law makes the Punjab river waters for Punjab only, without any valid claim by any other state. The governments and the people of the states to which these river waters were illegally distributed should be convinced to these aspects and more so that Punjab lands would be

made deserts and unfit for cultivation if the Punjab river waters are not entirely used for Punjab lands only.....due to the impossibility of the availability of tube well waters in the near future.



The assessment of Hukam Singh, speaker Lok Sabha, who was the nominee of Congress, made in his earlier mentioned article may be referred to:

“If Punjab Suba had been demarcated simply in linguistic basis and not on false returns of 1961, there would not have been any extremist movement. Tension between Hindus and Sikhs is bound to continue unless the communal section of Hindus see wisdom and retrace their steps by acknowledging Punjabi as their mother tongue”.

Hindus acknowledge Punjabi as their mother tongue now. The communalism created in Punjab had its worst results. As it was state sponsored as well, it lasted for a long period, leading to violence and separatist tendencies. However the situation is changed now, which is reflected from the unanimous enactment of the Punjab Termination of Agreements Act 2004. All the legislatures belonging to any religion, or to any political party exhibited their unity that Punjab river waters are only for Punjab. Similarly they take the stand for the Punjab capital Chandigarh for Punjab only. Govt. of India should take advantage of this unity to concede to these legitimate Punjab demands so that the communal tendencies may not be exploited again, to which only justice can stop.

It was the attitude of non-reconciliation to the reorganization of Punjab on linguistic basis, which under political compulsions had to be done, though in a half-hearted manner, by the Govt. of India and its leaders that resulted in creating the hurdles as far as possible to the smooth functioning of the now organized Punjab; in the usurpations of rights of Punjab and its people by illegal means just as of Punjab river waters, dams and power houses of Punjab capital Chandigarh and the prime medical and educational institutions located there of some Punjabi speaking areas left over, besides creating and complicating several other issues though crucial and sensitive, without caring that these were not in national interest and may even endanger the peace, unity and integrity of Indian Republic and rather violate the provisions of the Indian constitution. Now there is the new regime for which such ulterior motivations may not be relevant. It should undo the past wrongs with the sense of justice to ensure that ultimately lawful means prevail and not the unlawful. Only honesty and courage needed.

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Government of India, responsible to create and complicate this problem by bringing into picture the other states by illegal distribution to them, the Punjabi river waters, is now duty bound to explain to them and to convince them, that Punjab can no longer afford to give the Punjabi river waters to them and no rights for them stand created for these waters by such an illegal distribution, prior to which they had never been given these waters without consideration. This intricate issue, should be kept above the political and electoral considerations and all the politicians should be made to understand that they should not enter into a race against each other for temporary political gains to exploit this sensitive issue. The loss of the river waters of Punjab to these states should be made up by other reservoir plans and dams on rivers like Ghagar, Jamuna etc to store the waters and by other resources by Govt. of India. In the transitional period, for few years, the Punjab river waters as now flow to these states may continue, just on the lines of the Indus Water Treaty 1960, to settle the river disputes between India and Pakistan. World Bank may also be approached for the funds in that regard, if need be. The National interest demands such a step in the right direction and not exploitation of innocent people.

It would be the obvious exploitation of the definition of the national interest if Punjab river waters are sought to be given to Rajasthan and Haryana that the canal irrigation water is needed for the lands of these states in the national interest when these waters are not even sufficient for the needs of Punjab lands. It can never be in the national interest to make the

lands of Punjab to be deserts and unfit for agriculture by giving its river waters to the other states, having no legal and just claim to it. If the Punjab river waters are in excess to the needs of the Punjab lands, then it would be certainly in the national interest to give the surplus waters not needed for Punjab lands to other states. Thus the principle of national interest in case of Punjab river waters is only complied with if Punjab river waters, are held to be for Punjab only at the first instance and to any other state only if surplus from Punjab lands, which is not surplus and rather deficient. Thus the slogan of national interest in this regard to distribute Punjab river waters is totally misconceived.

Guidance needs to be taken from the negotiation process, in the world bank, in the settlement of the dispute over Punjab river waters between India and Pakistan. President of Pakistan Ayub Khan had taken the stand, that people of Pakistan have told him that they would prefer to die in battle rather than in hunger if the river waters are not given to them. He was made to understand that it was not the question that who dies in hunger and whose lands are more adversely affected due to unavailability of river waters and rather the question is who has got the lawful claim to these waters. As the three rivers flow in Indian (Punjab) Satlej, Beas and Ravi so they have the lawful claim over their waters, while Jenlum, Chenali and Said rivers flow in Pakistan, it has the lawful claim to their waters. Pakistan should set up its own projects and headworks and canal network while for a transitional period for a decade India will allow the status quo!!! World Bank provided the financial help and in that period Pakistan set up its own canal system independently. Union of Indian Govt. has to make the other states to understand that Punjab only has got the rightful claim to Punjab river waters. The political leaders of these states have to make their people to understand it, and not to confront Punjab.

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It must be ensured that river waters do not create separatist tendencies and conflicts between one state and the other which negate the national interests. The state policies and political ambitions which create such tendencies and conflicts would ultimately prove to be anti-national. The solutions in such issues as of river waters if based upon the rightful and lawful claims keeping into consideration the internationally accepted riparian laws, equity and justice will negate any evil consequences and ultimately be to the satisfaction of every one. Why not the people living in other states be convinced that the Punjab river waters are to be utilized for the lands of Punjab state first as otherwise those lands are likely to become deserts and unfit for cultivation, particularly when the availability of underground waters in Punjab is becoming impossible and more so when all the legal constitutional and riparian principles are favourable to Punjab. It is only the political ulterior temporary motivations that exploit them which should be stopped in the national interest. After all the people of those states are patriots, considerate and having no anti-Punjab feelings. On the other hand, people of Punjab cannot be convinced with any logic, whatsoever, that they should spare the river waters for other states, which is not even sufficient for their lands and make their lands deserts and unfit for agriculture particularly when they are mainly dependant on agriculture and more so when they are legally entitled to these waters while the other states have no legal claim to it. However if the Punjab river waters would have been surplus from the needs of Punjab lands, then in national interest the surplus waters, not needed for Punjab lands, should have been given to the needy lands of other states adjoining and people of Punjab would have been happy not to charge any cost for it, on compassionate and national aspects. If Punjab river waters are not even sufficient for Punjab lands, then the other projects on other rivers or other resources be tapped for the irrigation water for other states. Govt. of India has got the vast resources and funds for that purpose to satisfy the needs of other states.

There can be another solution to make the river waters of Punjab lawful to some adjoining lands, now part of Rajasthan and Haryana to include those areas in Punjab state, to which currently the Punjab river waters are used for the irrigation. Just as Ganga Nagar District of Rajasthan and its adjoining areas, which parts of Ambala, Karnal and Hissar district areas adjoining Punjab. These territories will become the riparian for Punjab river waters, entitled to Punjab river waters. Punjab state has also laid a claim over these areas to be Punjabi speaking areas and to be included in Punjab state. The Governments of Rajasthan and Haryana may object to it but the people of these areas may not. The wish of these people may be democratically ascertained which has to be honoured in a democratic set up. If these states and the people do not want any change then the compulsions of Punjab state should be understood by them and the legal and constitutional provisions as well, so as not to have any ill will against Punjab and its people over Punjab river waters. People of Punjab genuinely feel convinced in one voice now and rightly so that they have the lawful rights over the Punjab river waters and over Punjab capital Chandigarh which were usurped by illegal means under ulterior motivations. Their stand is correct and justified on the basis of law, justice and equity. There is not a single argument to rebut them. They can never be convinced to spare any water from their rivers, on the basis of any ground or reason whatsoever, and to give it to any other state, which would result in the making of their lands deserts and unfit for agriculture and rather make it impossible even, the drinking water for them to pump it out in the near future because of its level having gone so low, and the water at that lower level even not fit for drinking and not for agriculture, as the experts point out. On the other hand the people of other states can be made to convince that the illegal distributions of Punjab river waters to them under ulterior motivations cannot create any legal right in them and so can no longer be continued, particularly when Punjab cannot afford to spare it to meet their water demands and some other resources would be tapped. The Govt. of India can convince the other states and their people in this regard in the national interests.

### **INDIAN LEADERS TO EXHIBIT HONEST APPROACH:**

It is now the time for the leaders of Govt. of India and of all the national political parties to exhibit the courage for the honest approach on these issues made complicated under ulterior motivations and declare that Punjab capital Chandigarh belongs to Punjab and be handed over to it. Punjab river waters are for Punjab only and the provisions of the constitution of India and the principles of the international riparian laws should not be violated and the new Punjab legislation should be honoured in its letter and spirit to be legal and constitutional, emphasizing that making the lands of Punjab to be barren and unfit for agriculture to ruin the economy of Punjab and its people is not in national interest. They should also impress upon the leaders of their parties in the states to which Punjab river waters have been given illegally without any valid claim not to run in the race with each other on this issue for temporary political and electoral gains. They should portray Punjab and its people as victims, whose legal rights have been encroached upon by the distribution of Punjab river waters by violating all the legal provisions and not the aggressors. They should make it clear that if the political and judicial systems fail to acknowledge the lawful rights, consequences would be disastrous.

If the Govt. of India decides to solve these issues then it is the appropriate time now. The new changed regime, being not involved in the ulterior motivations as prevailed in the earlier regime which created these problems. The Prime Minister being reputed for a high standard of honesty and integrity without any bias against Punjab and Sikhs. The leader of ruling party being reputed to be

above communalism, the opposition leader and party to be alliance partner of Akali Dal they are capable to take in to confidence all the persons concerned and the other national leaders, and convince them that Punjab can no longer spare the Punjab river waters, having the lawful claim to it and Chandigarh capital of Punjab should also be no longer withheld from Punjab on the basis of justice, legal norms and equity. The spirit of statesmanship of farsighted vision, courage and honesty of purpose is only needed. The other states should be ensured of the alternative resources of water fro irrigation and in the transitional period of few years, the current system may continue. It will end the conflict on these issues, which is obviously in national interests. It will also be in the interest of peace, unity and integrity of the country.