

River Basin Management - Ganga Factsheet

Submitted to

AHT GROUP AG

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River Basin Management – Ganga Factsheet

The factsheet seeks to answer the following questions:

1. How is river basin management done in India?
2. What is the legal framework which governs river basin management done in India in general and the Ganga in particular?
3. Who are governmental agencies responsible for managing the Ganga and what is their mandate?
4. Why was the NGRBA dissolved and how does the mandate of NMCG differ from it?
5. Are there any future plans for changing the river basin planning processes?

1. How is river basin management done in India?

In pre-Independent India it was foreseen that that holistic management of river basins could be promoted through River Basin Organisation (RBO).¹ However, in the Indian scenario, majority of RBOs are structured for planning, design and implementation of large projects (hence, in many cases this resulted in RBOs following the top-down approach).

Post-independence large dams were looked at to usher in development and they could be promoted through centralised management.² In 1948 the Damodar Valley Corporation (DVC) Act (*An Act to provide for the establishment and regulation of a Corporation for the development of the Damodar Valley in the Provinces of Bihar and West Bengal) was enacted by the Parliament of India. On similar lines as that of DVC the River Boards Act was enacted in 1956 to enable the development of other rivers in the country. The role foreseen for the River Boards established under this act was to advice the participating states, to prepare, coordinate and monitor the progress of river valley projects. The Act, however, does not provide for any river basin planning. The River Basin Management Bill, 2018 is under public consultation. Once it becomes as Act, the River Boards Act of 1956 would be repealed.

Over the years, several river boards were setup as river basin organisations (RBO) in India as mentioned in Box-1. The initial tasks for majority of the earlier RBOs were to take-up projects and later promote river basin development. The main functions that were entrusted upon these River Basin Boards or Organizations vary and could include flood control, completion of multipurpose projects, preparation of basin and regional plans to optimise water usage, allocation of water resources as provided under the Tribunals, etc.

¹ Chitale, M.A. 1992. Development of India's river basins. In Water Resources Development. Vol 8, No.1, March.

² http://planningcommission.nic.in/reports/articles/ncsxna/art_dam.pdf

Box-1: Establishment of RBOs in India

1. Specific Acts as seen in the case of the Brahmaputra Board (*Brahmaputra Board Act, 1980) or Damodar Valley Corporation (DVC).
2. Tribunals (Tribunals are established under the Inter-State Water Disputes Act of 1956) as a result of existing inter-states river water disputes among riparian States
3. Specific State Acts as in the case of Bhakra Beas Management Board.
4. Notifications as in the case of Tungabhadra Board.
5. MoUs between States as in the case of Upper Yamuna River Board.
6. Gazette notification as in the case of National Ganga River Basin Authority (NGRBA).
7. Standing orders as in the case of constitution of National Council for Rejuvenation, Protection and Management of River Ganga (National Ganga Council) through the River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016.

In the past, management of a river was guided from an engineering perspective. The ecological (Flow and quality) aspects and community participation was largely ignored. The initial lack of comprehensive understanding of the river systems were road-blocks to holistic development and management of river basins.

Majority of RBO's in India fall under the purview of Advisory Committee/Board, with a few exceptions such as the Damodar Valley Corporation, which falls under the category of Corporation; and Cauvery River Authority and Narmada Control Authority which are formed under the Tribunals (though both of them are set up as Authorities).

In recent years, the need for a comprehensive approach to manage river basins was acknowledged. This was seen in the Mission Clean Ganga started by the National Ganga River Basin Authority (NGRBA) to holistically tackle the issues regarding wastewater management, solid waste management, industrial pollution and river front development. The NGRBA until its dissolution in 2016 (*Replaced by the National Ganga Council) was mandated to take up regulatory and developmental functions with sustainability needs for effective abatement of pollution and conservation of the river Ganga by adopting a river basin approach for comprehensive planning and management. Its functions included the development of a Ganga River Basin Management Plan (Which was developed by a consortium of Indian Institute of Technology (IITs)), regulation of activities aimed at prevention, control and abatement of pollution, to maintain water quality and to take measures relevant to the river ecology in the Ganga basin states.

More recently, National Council for Rejuvenation, Protection and Management of River Ganga (National Ganga Council-NGC) was set up as an Authority in 2016, with the Honourable Prime Minister of India being the Chairperson. This has replaced the NGRBA for overall responsibility for supervision of pollution prevention and rejuvenation of river Ganga and its basin. Under the NGC, the National Mission for Clean Ganga (NMCG) was established as an authority with enhanced financial power for faster sanctioning of projects and award of contracts; formation of State and District Ganga Committee (also as

authorities) for effective monitoring of works at the local (State and District) levels. Unfortunately, the council has not met regularly in the past.

The draft River Basin Management Bill of 2018, which is still under public consultations, has suggested a two-tier system of management of the River Basin Authority, viz:

- a) **The Governing Council** consists of Chief Ministers of the basin States that fall in the inter-State river basin area. In the case of a Union Territory (UT), the Administrator, as the case may be. The Minister in charge of the Water Resources Department of each of the basin States. The Chairman of the Executive Board (also called the Member-Secretary) is also part of this council. The Chairperson of the Governing Council is by rotation and selected (on consensus) by the Chief Ministers of the basin States. An **Advisory Council** would be constituted to assist the Governing Council.
- b) **The Executive Board** consists of a Chairman, Administrative Secretary of the Water Resources Department of the basin States/ UTs, Administrative Secretaries of the Dept of Drinking Water and Sanitation of the basin States, Agriculture department, Disaster Management Authority, Experts in sectors such as: Environment, Water Planning, Power, Groundwater. Nominees from Central Water Commission (CWC), Central Ground Water Board (CGWB), Financial Advisor etc. The Executive Board is supposed to meet atleast once in a quarter.

2. What is the legal framework which governs river basin management done in India in general and the Ganga in particular?

The **Constitution of India** lays down the legislative and functional jurisdiction of the Central, State and local governments regarding 'Water'. Under the Constitution, water is a State subject and the jurisdiction of Central government comes in only in the case of inter- state river waters. The Central Government is conferred with powers to regulate and develop inter-State rivers under Entry 56 of List I of Seventh Schedule to the extent declared by the Parliament by law to be expedient in the public interest. It also has the power to make laws for the adjudication of any dispute relating to waters of Inter-State river or river valley under **Article 262** of the Constitution.

The Entry 17 under List II of the Seventh Schedule states that "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 I"

The Entry 56 of List I (Union list), states that "Regulation and development of inter- State 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, to be expedient in the public interest"

Article 262 states the following:

1. Parliament may by law provide for the adjudication on any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-State river or river valley.
2. Notwithstanding anything in this 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 complaint as is referred to in clause (1).

The River Boards Act, 1956

The River Boards Act, 1956 (ACT NO. 49 OF 1956 Dt. 12th September, 1956) was enacted by Parliament of India. The Act provides for the establishment of River Boards for the regulation and development of inter-State rivers and river valleys. The 'River Boards Act' Committee under Justice T. S. Doabia in 2012 has noted that no River Board (*synonymous with 'River Basin Organisation/ Authority') has been constituted under this act indicating that the Act has fallen into disuse. They ascertained that this is principally due to the fact that in Section 4(1) of the Act, the exercise of power of the Government of India to establish a River Board was dependent on a request being received from the State Government (a request under the said section of the River Boards Act, 1956 was never received). Additionally, the River Boards Act, 1956 does not provide for any river basin planning while integrated planning, development and management of water resource of the River Basin were not contemplated at the time of enactment of the River Boards Act, 1956. The committee established the need for a legal foundation for a River Basin Development and Management Plan for Inter-State River Basins. This would require for a new legal framework for regulation and development of Inter-State Rivers and River Basins.

The Inter-State River Water Disputes Act, 1956

The Inter-State River Water Disputes Act, 1956 (ACT NO. 33 OF 1956 Dt. 28th August, 1956) was enacted by Parliament of India. It is an "Act to provide for the adjudication of disputes relating to waters of inter-State rivers and river valleys."

Under this Act the central government is required to establish a Water Tribunal when there is a complaint even by any one of the riparian States. However, in case of the River Boards Act the use of the term "Governments interested" (State Governments that are in the Central Governments opinion could be interested/ affected by the River Board) has many a time been interpreted as a need for collective request for the constitution of an inter-State River Board.

The Inter-State River Water Disputes (Amendment) Bill, 2019

The Inter-State River Water Disputes (Amendment) Bill, 2019 was introduced in Lok Sabha on July 25, 2019 by the Minister of Jal Shakti, Mr. Gajendra Singh Shekhawat. The Bill was passed on July 31, 2019). This Bill amends the Inter-State River Water Disputes Act, 1956. The Act provides for the adjudication of disputes relating to waters of inter-state rivers and river valleys.

The Bill has provisioned a two-tier dispute resolution mechanism. In the event of a water dispute, when a State files a complaint, the Central Government will set up a Disputes Resolution Committee (DRC), to resolve the dispute amicably. The DRC is to be headed by a Secretary-level officer of the Central Government with experts from relevant fields. However, if the dispute is not settled through negotiations, the Central Government is required to set up a Water Disputes Tribunal (*centralised (single standing) tribunal with multiple benches - instead of the multiple tribunals that existed under the Inter-State River Water Disputes Act, 1956) for adjudication of the dispute, within a year of receiving such a complaint.

The committee under Justice T. S. Doabia had proposed the ‘River Basin Management Act, 2012’.

Draft River Basin Management Act, 2012: “An Act to provide for the establishment of River Basin Authority for the regulation and development of Inter-State Rivers and River Basins”.

The Act proposed to facilitate establishment of “River Basin Authorities” for the regulation and development of Inter-State Rivers and River Basins. After submission of this draft, further deliberations were undertaken by the Ministry of Water Resources and River Development, Government of India, which resulted in the draft River Basin Management Bill, 2018.

Draft River Basin Management Bill, 2018: “A Bill further to amend the River Boards Act, 1956 to provide for the establishment of River Basin Authority for the regulation and development of Inter-State Rivers and River Basins”

The Bill proposes to optimize the “development of inter-State rivers by facilitating inter-State coordination ensuring scientific planning of land and water resources taking basin/sub-basin as unit with unified perspectives of water in all its forms (including soil moisture, ground and surface water) and ensuring comprehensive and balanced development of both catchment and command areas.”

Legal framework which governs river basin management in Ganga Basin:

The National Council for Rejuvenation, Protection and Management of River Ganga (National Ganga Council) was set up to exercise powers and discharge functions as specified in the River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016 (Vide the Standing Order (S.O.) 3187(E) dt. 7th October 2016 under EPA 1986), River Ganga (Rejuvenation, Protection and Management) Authorities (Second Amendment) Order, 2019 (Vide S.O. 3163(E) dt. 2nd September, 2019) and Environment (Protection) Act, 1986.

*The details are discussed in the subsequent section dealing with the dissolving of the NGRBA.

Key laws and policy guidelines

- Article 21 of the Constitution of India—Protection of life and personal liberty: Article 21 states that “no person shall be deprived of his life or personal liberty except according to a procedure established by law.” The Constitution of India guarantees the right to life and personal liberty. Under the Enlargement of Fundamental Rights, the National Commission to Review the Working of the Constitution had recommended adding Article 30-D, which includes right to safe drinking water, prevention of pollution, conservation of ecology, and sustainable development.
- Water (Prevention and Control of Pollution) Act, 1974 (amended in 1988 and 1992): This Act aims to “provide for the prevention and control of water pollution and the maintaining or restoring of wholesomeness of water”.
- Environment (Protection) Act, 1986: The main objective of this Act is “to provide for the protection and improvement of environment”.
- National Water Policy, 2012: The National Water Policy of India was formulated in 1987 and was revised in 2002 and 2012 with the aim to better utilize water resources

by proper governance and planning. This has witnessed an evolution from an engineering based approach to that of environment and community.

- Wetlands (Conservation and Management) Rules, 2017: The Wetlands (Conservation and Management) Rules, first notified in 2010 and then revised in 2017, are a positive step towards the conservation of wetlands in India. Legally enforceable rules were notified for such eco-sensitive areas in India for the first time.
- Draft National Water Framework Bill, 2016: It provides an overarching national legal framework with principles for protection, conservation, regulation, and management of water as a vital and stressed natural resource under which legislation and executive action on water at all levels of governance can take place.
- Draft Model Bill for the Conservation, Protection, Regulation and Management of Groundwater, 2016: It is based on the principles of subsidiarity, equitable distribution following an integrated approach. The State should act as a public trustee of groundwater, which should be treated as a common pool resource to make sure that groundwater is protected, conserved, regulated, and managed.

3. Who are governmental agencies responsible for managing the Ganga and what is their mandate?

Ministry of Jal Shakti (MoJS)

This Ministry has been formed by integrating Ministry of Water Resources, River Development & Ganga Rejuvenation and Ministry of Drinking Water & Sanitation. The aim of the Ministry is to deal with issues related to water resources management like water requirement for various sectors viz. irrigation, drinking water, sanitation and rejuvenation of the river Ganga, etc. in a holistic manner under one umbrella. *Jal Shakti Abhiyaan* (JSA) is an important mission of this Ministry. The four major thrust areas under JSA are Rain Water Harvesting Structure, Reuse of Treated Waste Water, Rejuvenation of Urban Water Bodies and Plantation drive. It focusses to accelerate water conservation efforts and promote '*Jan Andolan*' through public participation. MoJS is responsible for laying down policy guidelines and programmes for the development and regulation of country's water resources. It constitutes of two departments: Department of Water Resources, River Development & Ganga Rejuvenation and Department of Drinking Water and Sanitation.

Department of Drinking Water and Sanitation

The role of this department is to look into rural water supply, public cooperation, including matters relating to voluntary agencies in so far as they relate to rural water supply, sewage, drainage and sanitation in rural areas. Also, co-operatives relatable to the items in the list as well as coordination with respect to matters relating to drinking water supply projects and issues which cover both urban and rural areas.

Department of Water Resources, River Development & Ganga Rejuvenation:

The role of the department is development, conservation and management of water as a national resource; water planning as an overall national perspective and coordination in relation to diverse uses of water and interlinking of rivers, water laws, etc.

The organizations/ bodies that come under this department are two attached offices ([Central Water Commission](#) and [Central Soil and Materials Research Station](#)), seven sub-ordinate

offices ([Central Ground Water Board](#), [Central Water and Power Research Station](#), [Ganga Flood Control Commission](#), [Farakka Barrage Project](#), (Farakka Barrage Project Control Board), [Sardar Sarovar Construction Advisory Committee](#), [Bansagar Control Board](#) and [Upper Yamuna River Board](#)), six statutory bodies ([Brahmaputra Board](#), [Narmada Control Authority](#), [Betwa River Board](#), [Tungabhadra Board](#), [Godavari River Management Board](#) and [Krishna River Management Board](#)), four autonomous societies/body ([National Water Development Agency](#), [National Institute of Hydrology](#), [North-Eastern Regional Institute of Water & Land Management](#)) and [National Mission for Clean Ganga \(NMCG\)](#); and two public sector enterprises (Water and Power Consultancy Services (India) Ltd. ([WAPCOS](#)) and [National Projects Construction Corporation Limited](#)), it also includes the [National River Conservation Directorate](#). (* the organisations in italics have significant roles in managing River Ganga).

Central Water Commission: Premier Technical Organization of India in the field of Water Resources. It is tasked with the general responsibilities of initiating, coordinating and furthering in consultation of the State Governments concerned, schemes for control, conservation and utilization of water resources throughout the country, for purpose of Flood Control, Irrigation, Navigation, Drinking Water Supply and Water Power Development amongst others.

Ganga Flood Control Commission: Created in the year 1972 to deal with floods and its management in Ganga Basin States.

Farakka Barrage Project: Its mandates is to execute and thereafter operate and maintain the Farakka Barrage Project Complex comprising of Farakka Barrage, Jangipur Barrage, Feeder Canal, Navigation Lock and associated structures.

National Water Development Agency: They were mandated to carry out the water balance and other studies on a scientific and realistic basis for optimum utilization of water resources of the Peninsular river system. However, later in 1990, they were also entrusted with the task of Himalayan Rivers Development Component (which envisages construction of storage reservoirs on the principal tributaries of Ganga and Brahmaputra rivers in India, Nepal and Bhutan along with interlinking of river systems to transfer surplus flows of the eastern tributaries of the river Ganga to the west, apart from linking of the main Brahmaputra and its tributaries with Ganga and Ganga with the river Mahanadi) of National Perspective Plan.

National Institute of Hydrology: They undertake, aid, promote and coordinate systematic and scientific work on all aspects of hydrology as well as cooperate and collaborate with other national and international institutes.

National Mission for Clean Ganga (NMCG): NMCG acted as the implementation arm of National Ganga River Basin Authority (NGRBA) which was constituted under the provisions of the Environment (Protection) Act (EPA), 1986.

National River Conservation Directorate (NRCD) is implementing the Centrally Sponsored Schemes of National River Conservation Plan (NRCP) and National Plan for Conservation of Aquatic Eco systems' (NPCA) for conservation of rivers, lakes and wetlands in the country. NRCD provides financial assistance under the NRCP to the State Governments/ local bodies to set up infrastructure for pollution abatement of rivers in identified polluted river stretches based on proposals received from the State Governments/ local bodies.

National Council for Rejuvenation, Protection and Management of River Ganga (also referred to as National Ganga Council)

The National Council for Rejuvenation, Protection and Management of River Ganga (National Ganga Council) is an authority created in October 2016 (vide notification no. S.O. 3187(E) dt. 7th October 2016 under EPA 1986), dissolving the National Ganga River Basin Authority.

The Act envisages five tier structure at national, state and district level to take measures for prevention, control and abatement of environmental pollution in river Ganga and to ensure continuous adequate flow of water so as to rejuvenate the river Ganga as below:

- National Ganga Council under chairmanship of Hon'ble Prime Minister of India.
- Empowered Task Force (ETF) on river Ganga under chairmanship of Hon'ble Union Minister of Jal Shakti (Department of Water Resources, River Development and Ganga Rejuvenation).
- National Mission for Clean Ganga (NMCG)
- State Ganga Committees and
- District Ganga Committees in every specified district abutting river Ganga and its tributaries in the states.

Ministry of Environment, Forest and Climate Change

The Ministry of Environment, Forest and Climate Change (MoEFCC) is the nodal agency in the administrative structure of the Central Government for the planning, promotion, co-ordination and overseeing the implementation of India's environmental and forestry policies and programmes. The broad objectives of the Ministry are: Conservation and survey of flora, fauna, forests and wildlife; Prevention and control of pollution; Afforestation and regeneration of degraded areas; Protection of the environment; and Ensuring the wellbeing of animals.

Central Pollution Control Board (CPCB)

CPCB was constituted in September, 1974 under the Water (Prevention and Control of Pollution) Act, 1974. CPCB advises the Central Government on any matter concerning prevention and control of water and air pollution. CPCB collects, compile and publish technical and statistical data relating to water and air pollution and the measures devised for their effective prevention, control or abatement. Most of the States have a State Pollution Control Board (SPCBs), which work in tandem with the CPCB.

Additionally, there exists the **Centre for Ganga River Basin Management and Studies (cGanga)** that was established at the Indian Institute of Technology, Kanpur (IITK) in 2016. It is a Centre of Excellence for data collection, the creation and dissemination of knowledge and information for the sustainable development of Ganga River Basin. The centre is a non-governmental agency and acts in the capacity of a comprehensive think-tank to the National Mission for Clean Ganga (NMCG), Ministry of Jal Shakti, Department of Water Resources, River Development and Ganga Rejuvenation), Government of India.

NITI Aayog

The NITI Aayog (National Institution for Transforming India), an apex-level body under the Prime Minister, is entrusted with the task of catalysing policy planning, particularly in the context of promoting “cooperative federalism”, and acts as the nodal agency to provide a roadmap for ensuring greater coordination among government departments and other agencies. It has mapped all the central ministries, centrally sponsored/ central sector schemes, and other government initiatives and its relevance to the all the Sustainable Development Goals (SDGs), in the expectation that this will trigger the process of better alignment of schemes and strategies with national goals. NITI Aayog has constituted a Task Force with participation by Central and States and is being apprised by the States on the progress under priority indicators as well as related schemes.

4. Why was the NGRBA dissolved and how does the mandate of NMCG differ from it?

The National Mission for Clean Ganga (NMCG) acted as the implementation arm of National Ganga River Basin Authority (NGRBA) which was constituted under the provisions of the Environment (Protection) Act (EPA),1986.

The NGRBA was dissolved with effect from the 7th October 2016, consequent to constitution of National Council for Rejuvenation, Protection and Management of River Ganga (National Ganga Council). The National Ganga Council (NGC) was set up to exercise powers and discharge functions as specified in the River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016 (Vide the Standing Order (S.O.) 3187(E) dt. 7th October 2016 under EPA 1986), River Ganga (Rejuvenation, Protection and Management) Authorities (Second Amendment) Order, 2019 (Vide S.O. 3163(E) dt. 2nd September, 2019) and Environment (Protection) Act, 1986. As indicated in the previous section there is a five-tier structure at the National, State and District level and brief description of their mandate is as follows.

- National Ganga Council was set up as an Authority under the Chairperson of Honourable Prime Minister, in place of the existing NGRBA for overall responsibility for superintendence of pollution prevention and rejuvenation of river Ganga Basin.
- Empowered Task Force chaired by Honourable Minister of Water Resources, River Development and Ganga Rejuvenation to ensure that the Ministries, Departments and State Governments concerned have:
 - An action plan with specific activities, milestones, and timeliness for achievement of the objective of rejuvenation and protection of River Ganga,
 - A mechanism for monitoring implementation of its action plans.

The Empowered Task Force is mandated to ensure co-ordination amongst the Ministries and Departments and State Governments concerned for implementation of its action plans in a time bound manner.

- National Mission for Clean Ganga (NMCG) is declared as an Authority with powers to issue directions and also to exercise the powers under the Environment (Protection) Act, 1986 to enable it to carry out efficiently its mandate. **Prior to this, the NMCG’s role was largely limited to fund the projects to implementing organisations.**

It neither had the mandate to take cognizance of various threats to river Ganga nor the powers to issue directions to the concerned authorities/polluters.

The NMCG has a two-tier management structure with a Governing Council (GC), to be chaired by DG, NMCG. Below the GC, there will be an Executive Committee (EC) constituted out of the GC, which is also chaired by the DG, NMCG.

NMCG is mandated to comply with the decisions and directions of the NGC and implement the Ganga Basin Management Plan approved by it; co-ordinate and carry out all activities necessary for rejuvenation and protection of River Ganga and its tributaries.

- State Ganga Committees are established in each of the States within the purview of Ganga Basin. It functions as Authorities in respect of each State and perform the supervision, direction and control over the multiple District Ganga Protection Committees, which falls under their jurisdiction
- District Ganga Committees in each of the Ganga Bank Districts carries out the assigned tasks as an Authority at the District level, to take cognizance of local threats and needs of river Ganga and conceptualise such measures as necessary to ensure overall quality of water in river Ganga and monitor various projects being implemented.

5. Are there any future plans for changing the river basin planning processes?

The Ministry of Jal Shakti (erstwhile Ministry of Water Resources, River Development & Ganga Rejuvenation) after holding detailed deliberations has come out with draft River Basin Management Bill, 2018. Comments/ suggestions to the Bill were sought from the general public.

Under the draft River Basin Management Bill optimum development of inter-State rivers by facilitating inter-State coordination ensuring scientific planning of land and water resources taking basin/sub-basin as unit with unified perspectives of water in all its forms (including soil moisture, ground and surface water) and ensuring comprehensive and balanced development of both catchment and command areas were proposed. The draft Bill seeks/proposes to establish 13 River Basin Authorities for various river basins of the country (Box-2). The Ministry expects that the enactment of the proposed legislation will optimise integrated development and management of inter-State River waters using the basin approach. They also expect to increase the level of cooperation between States by reducing conflicts.

Box-2: Inter-State River Basins under the Act

1. Brahmaputra, Barak and other inter-State rivers of North-East India
2. Brahmani - Baitarini basin
3. Cauvery basin
4. Ganga basin
5. Godavari basin
6. Indus basin
7. Krishna basin
8. Mahanadi basin
9. Mahi basin
10. Narmada basin
11. Pennar basin
12. Subarnarekha basin
13. Tapi basin