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AN ANALYSIS OF WATER CESS LAW OF HIMACHAL PRADESH IN THE MIDST OF FINANCIAL AND LEGAL CHALLENGES

Hari Chand & Surya Dev Singh Bhandari

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AN ANALYSIS OF WATER CESS LAW OF HIMACHAL PRADESH IN THE MIDST OF FINANCIAL AND LEGAL CHALLENGES

Hari Chand [*] ***& Surya Dev Singh Bhandari***[**]

[Abstract: *The analysis focuses on the Himachal Pradesh Water Cess on Hydropower Generation Bill of 2023, addressing both its financial and legal challenges. The legislation aims to impose a cess on hydropower generation in the state, which has sparked disputes due to its potential impact on neighboring riparian states, especially Punjab. The bill seeks to increase state revenue from 172 hydel projects, emphasizing revenue generation amid financial constraints. However, legal challenges have emerged, with the Union government deeming the imposition of such a cess unconstitutional, citing constitutional provisions. This dispute is similar to a previous case in Uttarakhand, where a similar law faced a successful legal challenge. The argument revolves around the distinction between taxing water usage for electricity generation and taxing electricity generation itself, making a potential Supreme Court intervention necessary. Despite the state's significant hydroelectric potential contributing to socio-economic development, concerns arise about the bill's broader impact on investment and cooperative federalism. While the legislation aims to fund environmental and social impact mitigation, its short-term revenue gains might discourage long-term investments in hydro projects. The analysis delves into Himachal's hydroelectric potential, its historical evolution, and the role played by power generation in economic development. It highlights the state's reliance on hydroelectricity and the need for a balanced approach that considers both revenue generation and cooperative federalism. In essence, the article scrutinizes the legal, financial, and socio-economic implications of the Himachal Pradesh Water Cess on Hydropower Generation Bill, highlighting the broader implications for the state's development and its relations with neighboring states, urging a balanced and comprehensive approach.*]

[*] Dr. Hari Chand, Assistant Professor of Economics at Himachal Pradesh National Law University, Email: harryhcv@gmail.com

[**] Mr. Surya Dev Singh Bhandari, Advocate, High Court of Himachal Pradesh.

I

Introduction

Today, it is merely a truism that future human conflicts will be fought for water. The present challenge of water scarcity is due to the huge population explosion beginning from the industrial revolution, augmentation of average life span in light of new medical discoveries and better health services along with the modern water-intensive lifestyle wherein the per capita water consumption has increased manifolds. Protection and augmentation of water resources is a vital part of both the MDG and SDG.

The flow of river, control over the supply of water, creation of reservoirs, and construction of dams is not only a matter of regional but also international politics. The conflict between Egypt and Ethiopia over the Renaissance Dam on the Blue Nile and the conflict between India and China over dam construction on the Brahmaputra catchment in Tibet reflects the aforementioned fact.

India aims to focus on the construction of run-of-the-river projects and versatile hydropower plants equipped with water storage capabilities. These initiatives serve multiple purposes, acting as crucial flood regulators, supporting irrigation needs, and providing essential drinking water. Notably, India's hydro resources are predominantly situated in economically disadvantaged regions, offering substantial potential for holistic socio-economic advancement, poverty reduction, and regional progress. Hydropower plays a pivotal role in India's energy and developmental strategies. However, projects involving natural resources inherently pose significant challenges. Environmental and social impacts, both advantageous and detrimental, are inevitable. A responsible approach involves comprehensively understanding these impacts and drawing insights from analytical methods and local knowledge. The focus then shifts to minimizing adverse effects through appropriate mitigation strategies and compensation measures. Continuous monitoring and adaptive management are essential aspects of this process, with ongoing monitoring and adaptive management wherever required.[1]

The state of Himachal Pradesh is blessed with five perennial rivers—Sutlej, Beas, Ravi, Chenab, and Yamuna—that traverse its territory. While the rugged and arid terrain limits the utility of these rivers for irrigation, they offer immense potential for hydroelectric power generation. This hydroelectric potential stands as a significant driver of overall socioeconomic development in the region, compensating for the limited contribution of these rivers to agricultural productivity.

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[1] AK Tiwari, *Rapid Exploitation of Hydro Power Potential for Sustainable Economic Development of Himachal Pradesh*", 15, PEJI (2009).

One must note that apart from pure economic facets there are social aspects to taxation. Taxation is a method not only for revenue generation but it also acts as a means for social welfare. The Government of Himachal Pradesh restored the old pension scheme after coming to power. Financial viability is sin qua non for the effective functioning of any state or political entity.[2] The state has a dearth of financial resources and the state electricity board is at a loss. Similarly, the expenditure of the state is in line with welfare aspects i.e. the modern states are not only mere police states wherein the role and duty of the states are all but exhausted by the provision of law and order along with protection from external aggression but there is the burden of social welfare activities. These facets will be dealt with in detail in the subsequent portions.

The present paper aims to analyze the water cess law of Himachal Pradesh along with the financial and legal challenges of this law.

II

Himachal Legislature and Cess: An Overview

The ambitious and controversial Himachal Pradesh Water Cess on Hydropower Generation Bill, 2023 was passed by the Himachal Pradesh Legislative Assembly on March 16, 2023, wherein the ruling Congress enjoys a comfortable majority. It replaces the Himachal Pradesh Water Cess on Hydropower Generation Ordinance, 2023 promulgated on February 15, 2023, by the Governor of Himachal Pradesh Sh. Shiv Pratap Shukla using powers vested in him under Art.213 of the Constitution.[3] The said Bill primarily seeks to levy a Cess on hydropower generation in the state.

The intent, spirit, and essence of any legislation are contained in its preamble. The preamble of the legislation states the aim is – to "levy water Cess on hydropower generation in the state of Himachal Pradesh'.

The bill due to its nature and ambit was destined to receive a hostile response from the neighboring and riparian state Punjab which receives water from the Ravi, Sutlej, and Beas rivers. The Bhakra Beas Management Board and Punjab State Power Corporation Limited's hydro projects in the hill state will also come under its purview. This will augment the already hostile positions taken by the governments in the Shanan Power project in the Mandi district of Himachal Pradesh. The fact of

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[2] Hari Chand & Surya D. Bhandari, Conundrum of Financial Viability of Himachal Pradesh: A Historical, Economic & Legal Scrutiny, I HPNLU JTL 14 (2022).

[3] PRSINDIA *available at* https://prsindia.org/bills/states/the-himachal-pradesh-water-cess-on-hydropower-generation-bill-2023 (Last Visited Nov. 19,2023).

the matter is that the state of Punjab is a riparian state and enjoys the undeniable right to river water. The Punjab Vidhan Sabha was well within its right to pass a resolution on the floor of the house condemning the Himachal Pradesh Water Cess on Hydropower Generation Bill.[4] This resolution has merely a symbolic importance though by passing it the state has made its position on the matter crystal clear. Further, political unity was witnessed in the Punjab Assembly between the leading parties which also highlighted the wide consensus on the matter.

When the said bill was introduced, Deputy Chief Minister emphasized that the bill was *mutatis mutandis* to laws in the sister Himalayan hydropower-generating states of Uttarakhand and Jammu and Kashmir. Water Cess has already been imposed in these states.[5] The name of the said states along with the analogy drawn is mentioned in the statement of object and reasons of the bill. In essence, the cardinal objective of the bill is to increase the revenue of the state.

The ambit of the legislation will include the 172 hydel projects within the state irrespective of their ownership. As per the statement of object and reasons of the Bill, these projects have an installed capacity of 10,991 MW. As per initial estimates, the government wants to generate 4,000 crores from the scheme. Short of income sources, the state relies on loans, which have taken its debt burden past Rs 75,000 crore.[6] The state government assured residents of Himachal that the levy would not impact consumers of electricity in the state.[7] The hydel power projects within the state are vital for the uninterrupted supply of water from Himalayan river catchments and clean renewable hydropower to, among others, the states of Punjab, Haryana, Rajasthan, Delhi, and Union Territory of Chandigarh. The limited revenue generation resources of the state are acknowledged even in the statement of objects and reasons.

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4 Amil Bhatnagar, *Cash-strapped Himachal's water cess hits small hydel plants hard*, THE INDIAN EXPRESS, March 30, 2023 *available a*t https://indianexpress.com/article/cities/shimla/cash-strapped-himachals-water-cess-hits-small-hydel-plants-hard-8526935/ (Last Visited Nov. 19,2023).

5 Anonymous, *HP brings bill to impose water cess on hydropower generation*, HINDUSTAN TIMES, Mar. 15, 2023 *available a*t https://www.hindustantimes.com/cities/chandigarh-news/hp-brings-bill-to-impose-water-cess-on-hydropower-generation-101678821292466.html (Last Visited Nov. 19,2023).

6 Anand Bodh, *Water cess imposed on Himachal Pradesh power projects, recovery panel proposed*, TIMES OF INDIA, Feb 17, 2023 *available a*t https://timesofindia.indiatimes.com/city/shimla/water-cess-imposed-on-hp-power-projects-recovery-panel-proposed/articleshow/97998024.cms (Last Visited Nov. 19,2023).

7 Rajeev Jayaswal, *Himachal Pradesh water cess may raise power tariffs in neighbouring states*, HINDUSTAN TIMES, Mar 17, 2023 *available a*t https://www.hindustantimes.com/india-news/himachal-pradesh-water-cess-may-raise-power-tariffs-in-neighbouring-states-101678992634809.html (Last Visited Nov. 19,2023).

The bill under Chapter V titled "State Commission" provides for setting up the state commission for water Cess under Sec. 18. The said commission will be located at Shimla as per Sec. 18(3) and would have a chairperson and not more than four members as per Sec. 18(4). Further, as per Sec. 21 the Chairperson and other members who would have a tenure of three years, subject to the maximum age limit of 65 years. The functions of the Commission are provided under Sec. 24. As per Sec. 30 the commission will have the power to adjudicate and Sec. 29 provides a penalty for the non-compliance with the directions of the Commission.

The bill provides for distinct classes of dams as per the height of their head the Cess charged will be as per the said heads. This seemingly reasonable classification was done to ensure that smaller players are not put under an undue burden and the larger and generally more prosperous players play their fair share. There are four classes of projects first the hydroelectric projects with head up to 30 metres will have to pay 10 paise per cubic metre cess. Secondly, the project with a head above 30 metres and up to 60 metres will have to pay 25 paise. Thirdly, the projects with heads between 60 and 90 meters will have to pay 35 paise as Cess and lastly, those with heads above 90 metre will have to pay 50 paise per cubic meter Cess. This is a progressive aspect of the legislation as it seeks to protect small projects and players. This will ensure that the government's larger objective to augment Mirco hydel projects in the state is not eroded and dampened. The government thereby has attempted to draw a fine balance, equilibrium, and harmony between the conflicting interests of revenue augmentation and growth of the renewable sector in the form of hydropower. The government is committed to a hydro push.[8]

III

Constitutional and Judicial Position

Taking a position on the issue the union government via the Union Energy Ministry termed attempts to charge on power generation as unconstitutional. This was conveyed to the states by virtue of a letter addressed to the respective chief secretaries on October 25, 2023. The letter made it amply clear that states enjoy no executive or legislative power to justify water Cess.[9] The letter pointed out, among others, Art. 286, 287, and 288 of the Constitution. The letter stated that imposing a fee or Cess on power generation irrespective of its sources like thermal, hydro, wind,

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[8] *Supra Note* 6.

[9] Express News Service, *Centre says water cess on hydel projects 'unconstitutional', HP says court to decide*, THE INDIAN EXPRESS, Nov. 1, 2023 *available a*t https://indianexpress.com/article/cities/shimla/centre-water-cess-hydel-projects-unconstitutional-himachal-pradesh-9008515/ (Last Visited Nov. 19,2023).

and solar is well outside the constitutional division of powers and such steps are *ultra vires* the Constitution.

Whereas some companies complied other companies challenged the order in the Himachal Pradesh High Court, where the case is pending. The petitioner will most likely vehemently contend that the Cess is illegal and unconstitutional as it violates Art. 288 of the Constitution. In all certainties, the legal challenge will also include the facets of the legislative competence of the Himachal Legislature.

It is noteworthy to mention that the Hon'ble High Court of Uttarakhand through Justice L. S. Thakur decided an identical water Cess in *Alaknanda Hydro Power* v. *State of Uttarakhand*.[10] The Uttarakhand High Court heard challenges to the Uttarakhand Water Tax on Electricity Generation Act, 2012. It is ironic to note that the legislatures of Himachal *mutatis mutandis* passed the same legislation. The successful conclusion of the case at the level of the High Court must have encouraged the state of Himachal in its endeavor. The High Court of Uttrakhand in its judgment supported the position of the Uttrakhand government and noted that the State had the power to formulate the impugned legislation. Even while speaking to The Print, on the matter state government officials pointed to this 2021 ruling.[11] The Court noted that the Constitution did not prohibit the State from making laws regarding tax on water for non-consumptive use. Therefore, the Court opined that in the absence of any provision in this regard, no fault can be attached to the act in question".[12]

The most important aspect of the judgment of the High Court was the distinct made between the tax on the generation of electricity and the tax on the use of water. The court order stated that a bare reading of the 2012 act reveals the nature of the impugned tax is not on the "generation of electricity" but on the "use of water". The whole basis to justify the Constitutionality and hence legality of the Act rests on this distinction. The State of Himachal is also hoping to use this distinction as the basis for claiming the legitimacy of the Act. Further, the Court provided approval to a very wide definition of the expression 'mineral' whereby water was included in it.

Part 12 of the Constitution titled 'Finance, Property, Contracts and Suits' contains the provision to deal with such contingency. Article 288 (2) of the Constitution,

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[10] Writ Petition No. 631 of 2017 (M/S).

[11] SAURABH CHAUHAN, *Row over water cess still raging in court; Himachal bills 172 power projects Rs 871 cr for 5 months* THE PRINT, Oct. 7, 2023 *available a*t https://theprint.in/india/governance/row-over-water-cess-still-raging-in-court-himachal-bills-172-power-projects-rs-871-cr-for-5-months/1793112/ (Last Visited Nov. 19,2023).

[12] Neeraj Santoshi , *Uttarakhand law to levy water tax on hydropower projects in state held valid* , HINDUSTAN TIMES, Feb 14, 2021 *available a*t https://www.hindustantimes.com/cities/dehradun-news/uttarakhand-law-to-levy-water-tax-on-hydropower- projects-in-state-held-valid-101613279792379.html (Last Visited Nov. 19,2023).

mandates the assent of the President for any legislation that imposes a tax on water or electricity stored/generated in or from an inter-state river.

The natural view and course of action of the Government of Himachal will be to contend firstly that the Cess is not affected by Art. 288 of the Constitution as it relates to the storage of electricity and water for consumptive use of inter-state river waters.[13] Thus, the legislation did not require Presidential Assent to come into force. Secondly, the State governments are empowered to impose such a Cess as the Seventh Schedule empowers the state to regulate water, land, land revenue, taxes on land & buildings, and taxes on minerals (entries 17, 18, 45, 49, and 50 of the State in the Seventh Schedule) giving wide construction to the word "land" and "mineral".[14]

The contention of the state was that the Cess is on the water used for electricity generation and not directly on water or electricity "stored, generated, consumed, distributed or sold". There is a very fine line between the two. Nevertheless, as per the author, there is a huge potential of the legislation being hit by the doctrine of colorable legislation, which prohibits the legislature from enacting indirectly what cannot be done directly. It seems there is a very careful play of words that is being done.

Looking back at the Constituent Assembly debates one can take note of the work of Dr. B.R. Ambedkar and N.V. Gadgil who argued that this Article was necessary to ensure the viability of inter-state projects such as the Damodar Valley Corporation that might face multiple taxation.[15] The objective of the Article was to ensure that disputes like the present one are prevented.

The Supreme Court in *State of West Bengal* v. *Kesoram Industries Ltd*.[16], while construing a broad interpretation, was clear in its understanding that "land" refers to a broad understanding and should not be construed so widely as to include water.

In light of the aforementioned analysis, it is not very tough to see that the fine distinction being drawn is hollow. It seems that in the name of taxing the water used for electricity generation, there is essentially a tax on the generation of electricity itself. It seems that the expression 'usage of water' is just a veil to cover the illegality of the Act. The matter may ultimately have to be decided by the Supreme Court,

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[13] Ananth Krishna Subhalakshmy, *Exploring The Legality Of The Himachal Water Cess*, LAW BEAT, May,26 2023 *available at* https://lawbeat.in/articles/exploring-legality-himachal-water-cess (Last Visited Nov. 19,2023).

[14] *Ibid*.

[15] N.M. Tripathi, THE FRAMING OF INDIA'S CONSTITUTION: A STUDY 673 (2006).

[16] *State of West Bengal* v. *Kesoram Industries Ltd*, (2004) 10 SCC 201.

considering an appeal to Alaknanda matter is also pending in the Uttarakhand High Court.[17]

The Potential for Hydroelectric Power Generation in Himachal Pradesh

Development has been rightly conceptualized as a process, which improves the quality of the life of the people and it is certain that development points towards prosperity and advancement.[18] The development of power and energy is one of the fundament factors in economic development. Electricity stands as a fundamental pillar of infrastructure vital for economic progress, permeating every facet of the economy and impacting the lives of individuals across the board. After World War II, electricity played an increasingly crucial role in global economic development. The post-war period saw significant advancements in electricity generation, distribution, and utilization across many countries. International Bank for Reconstruction and Development also identified the need for power generation. Bhakra Dam situated in Himachal Pradesh is also one of them which started in 1948 and was completed in 1963. It was a major engineering feat at that time, involving thousands of workers and engineers. The dam has several power-generating units that produce a significant amount of electricity. It contributes to the power supply of northern India. The pressing need to augment power generation arises from the imperative to fuel industrial development and enhance the quality of life for the vast population. Hydroelectric power has historically played a pivotal role in utility systems worldwide. In India, the inception of power development traces back to the late 19th century, marked by the inauguration of electricity supply in Darjeeling in 1897, followed by the establishment of a hydropower station at Sivasamudram in Karnataka in 1902. In the pre-independence era, power supply was largely confined to the private sector and urban regions. Post-independence, concerted efforts were directed towards rapid expansion in the country's power sector. India holds the distinction of being the sole country to house a dedicated Ministry exclusively focused on new and renewable energy sources. The establishment of State Electricity Boards during various Five-Year Plans marked a significant stride in systematically fostering the growth of the power supply industry nationwide. This period witnessed the inception of numerous multipurpose projects, alongside the establishment of thermal, hydro, and nuclear power stations, power generation started increasing rapidly. [19]

Himachal Pradesh has been found in later years to be having considerable potential for the generation of hydroelectricity. Yet, electricity was being generated only in a few of the former hill States, where too, the primary objective appears to have been to provide electricity to the rulers' palaces; the surplus, which was always

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[17] *Supra Note* 15.

[18] Hari Chand, Social Sector Development in India, 1, (2022)

[19] Ashok Kumar Tiwari, Hydroelectricity, Environment and Quality of Life, 8, (2010).

inconsiderable, was supplied to the public in the capital towns alone. In 1947, only six out of about thirty capital towns could boast of having been electrified; and in that year, the total installed capacity and industrial consumption of electrical power were merely 503 kWh and 141 horsepower, respectively. Interestingly, Mandi State, which had been allotted a certain quota of electric power at cheap rates from Jogindernagar Hydroelectric Scheme (located within its territory but owned and operated by the neighboring Panjab Province), had actually succeeded in utilizing only less than a third of it. Thus the per capita consumption of electricity in the State in its year of birth (i.e. 1948) works out to roughly 0.99 kwh as compared to the All-India figures of 17.8 kwh. Besides, in 1949 and 1950, only 5.2 and. 8.3 percent, respectively, of the total electricity utilized in the State, was being used as an industrial power.

Himachal Pradesh boasts immense potential for hydroelectric power generation, contributing about 25% of the national capacity for hydroelectricity.[20] The state stands poised to generate approximately 27,436 MW of hydroelectricity by leveraging the development of various projects across its five perennial river basins. However, of the total potential, only 10,519 MW has been harnessed so far. Alarmingly, a mere 7.6% of this capacity falls under the control of the Himachal Pradesh Government, while the bulk is exploited by the Central Government.

The Government of India has sought substantial financial assistance from the World Bank to rapidly augment the nation's hydropower capacity and achieve global standards in the design and construction of hydropower projects. The World Bank's objective is to aid India in expanding its hydropower sector in a financially, economically, and technically viable manner. Additionally, the Bank aims to ensure that such initiatives adhere to the industry's evolving good environmental and social practices. The World Bank has been involved in supporting hydropower initiatives in India since the late 1950s. Notably, recent engagements such as the Nathpa Jhakri and Koyna IV projects, sanctioned in 1989, were successfully completed with the assistance of the Bank's financing. In response to India's request, the World Bank has expressed willingness to consider supporting the Rampur Hydropower Project, situated downstream from Nathpa Jhakri on the River Satluj in Himachal Pradesh. This is a run-of-the-river project that will use the water exiting NJHP to generate about 1900 million units of electricity per year.[21]

Rapid power generation in Himachal Pradesh has become a significant catalyst and driving force for invigorating the pace of economic development. Power development has related aspects in the context of hill area development, such as the

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[20] Department of Economic and Statistics Government of H.P., ECONOMIC SURVEY 2022-23, *available at* https://himachalservices.nic.in/economics/en-IN/economic-survey.html (last visited Nov. 19, 2023).

[21] *Supra Note* 3.

creation of work opportunities, not only in the hydroelectric projects but also in diverse related activities like road construction, housing, transportation, etc. Even the trade and business activities that come up at the project site provide alternative job opportunities like *dhabas*, tea shops, type puncture shops, etc. These job opportunities are open mostly to the unskilled or semi-skilled labor force. Therefore, power development has a significant role in promoting socio-economic development, by creating a base on which a higher level of economic activity can be carried out.[22]

Table 1.1, provides an overview of the current status of electric power generation and consumption within the state. It is evident from Table 1.1 that the State Government not only consumes the energy produced within the state but also sells the energy outside the state. Energy sold outside was 2819.410 Million Units during the year 2021-22 whereas total energy consumed within the state was 10198.086 Million Units during the same period.

Table 1.1: Generation and Consumption of Electricity (Million Units)

SN.	*Item*	*2021-22*	*2022-23 (Up to December, 2022)*
1	Electricity Generated	2203.606	1938.38
2	Electricity purchased from BBMB and others	12413.665	10403.755
3	Energy Consumed: Within the State		
(a)	Domestic	2457.508	1926.340
(b)	Non-Domestic Non-Commercial	149.103	117.091
(c)	Commercial	621.877	522.551
(d)	Industrial	5993.304	4866.440
(e)	Public Lighting	11.289	8.110
(f)	Agricultural	85.104	69.730
(g)	Bulk and Misc.	151.59	108.921
(h)	Government Irrigation and water	665.511	541.901
	supply scheme		
(i)	Temporary Supply	62.800	42.163
	Total (3)	**10198.086**	**8203.247**
4	Energy Sold Outside the State	2819.410	543.830
	Total Consumed/Sold	**13017.496**	**8747.077**

[22] AK Tiwari and RL Zinta, Hydropower Generation and Economic Development: A Study of NJPC Project in Himachal Pradesh, 15 SS 2 (2007).

Source: Himachal Pradesh State Electricity Board

The state's five perennial river basins have the potential to produce about 27,436 megawatts (MW) of hydroelectric electricity. Out of the total hydroelectric potential of the state, 10,519 MW is harnessed so far of which 7.6 percent is under the control of the Himachal Pradesh Government while the rest is exploited by the Central Government.[23] The state of Himachal Pradesh can earn huge finances by harnessing its water resources and selling hydroelectricity to other states. It can generate revenue for the state on one hand and employment for the people on the other. According to the State Energy and Climate Index (SECI), Himachal Pradesh has the best environmental sustainability and innovative initiative scores. Himachal Pradesh State Electricity Board (HPSEBL) generated 2203.61 million units from its own powerhouses in the State. Himachal Pradesh Power Transmission Corporation Ltd (HPPTCL) has awarded 11 transmission projects as part of GEC-I, of which 6 projects have been put into operation and the other 5 projects are in the process of being executed in a variety of ways. Himachal Pradesh Power Corporation Ltd. (HPPCL) earned ₹1206.29 crores till December 2022, of which ₹867.42 crores were generated until 31st March 2022 and ₹338.87 crores were earned from 1st April 2022 to 31st December 2022. Grid-connected Solar Roof Top Power Plants of 18.86 MW capacity has been installed by Himachal Pradesh Energy Development Agency (HIMURJA) in the State since its inception. This will result in savings of ₹12.50 crore annually and will offset 13,140 tons of carbon footprint in the State.[24]

The formation of Himachal Pradesh resulted from the amalgamation of various principalities previously governed by local rulers. In 1948, these rulers relinquished their powers in exchange for compensation in the form of privy purses. Consequently, the social and economic structure of the region likely evolved from a feudal past, characterized by outdated systems and structures. This impression is reinforced by the socio-political institutional framework of the earlier era. During this period each domain (called a hill State) was characterized by such feudal and archaic practices as the performance of *begar* (compulsory, mostly unpaid, labor to the ruling classes), vesting of all proprietary rights of agricultural land in the ruler, the petty hill States themselves being feudatories to the British, and the lack of enthusiasm among the local rulers for setting in motion a process of modernization and economic well-being as shown by the absence of a modem socio-economic institutional framework.

Table 1.2 shows the sector-wise Gross State Domestic Product during the year 2022-23. Agriculture and animal husbandry contributed 10.04 percent to gross state domestic product during the year 2022-23, forestry and logging contributed 3.28 per cent, fisheries contributed 0.14 per cent, and mining and quarrying contributed 0.24

[23] *Supra Note* 22.

[24] *Ibid.*

per cent respectively during the same period. Overall primary sector contributed 13.70 per cent to total Gross State Domestic Product of during the year 2022-23. The manufacturing sector contributed 30.83 per cent to total Gross State Domestic Product during the year 2022-23, the construction sector contributed 6.28 per cent, whereas, the electricity, gas, and water supply sector contributed 5.62 per cent respectively during the same period. Overall secondary sector contributed 42.73 per cent to the total Gross State Domestic Product during the year 2022-23. The tertiary sector contributed 43.56 per cent to the total Gross State Domestic Product during the year 2022-23. Share of the primary sector was high showing the backwardness of the state economy implying high dependence on the primary sector.

Table 1.2: Sector-wise Gross State Domestic Product(at current prices) (lakh)

Sector		*2022-23 (Advance Estimates)*	*% to basic Prices GSDP*
1		*2*	*3*
1	Agriculture & Animal Husbandry	1853773	10.04
2	Forestry & Logging	605322	3.28
3	Fisheries	25584	0.14
4	Mining & quarrying	43658	0.24
	Sub Total	***2528337***	***13.70***
5	Manufacturing (Regd. & Un- Regd.)	5688506	30.83
6	Construction	1158938	6.28
7	Electricity, Gas & Water supply	1037366	5.62
	Sub Total	***7884810***	***42.73***
8	Others	8037921	43.56
9	Gross State Value added at basic Prices	18451068	100.00
10	Gross State Domestic Product	19540459	-

Source: Economic & Statistics Department, H.P.

IV

Conclusion

The Indian state as per the farmers of the Constitution between 1947 and 1950 was visualized as a federal state with a strong center. The concept of federalism has organically grown and evolved over the years. Today the idea connotes cooperative

federalism wherein the states work harmoniously with the union and as well as with other states. As per many leading authors, the actions of Himachal are problematic with regard to the usage of national resources such as water. They see it as against the principle of cooperative federalism and a disincentive to the investment activities in the area. The rationale in levying such Cess by the Himalayan state is on a weak footing as the water used by the hydropower pants goes back into the rivers as water is not used for a consumptive purpose. Further, one should note that there is a provision whereby 12 percent free power is provided to the host State from the hydropower projects. The action of the state many is short-sighted, i.e. myopic as it will increase revenue in the short term but will most likely lead to long-term challenges as the big investors may look for over investor-friendly states. Thereby, depriving the state of the big money required for the construction of huge hydro projects. Nevertheless, if one peruses the statement of object and reasons of the bill one will find that it is mentioned that for proper conservation and water management, the state is spending huge amounts on environment and social impact mitigation. This is a very valid point as the investment is solely done by the state of Himachal and fruits are received by the riparian and electricity-consuming states. The center needs to take cognizance of this fact and due compensation should be provided in this regard.