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From Tribunalization to Constitutional Adjudication: Reforming Inter State Water Dispute Resolution in India

MADHUMITHA GOPINATH¹

ABSTRACT

Water is the most essential resource for all living beings. It plays a key role in food production, meeting basic human needs, and supporting a healthy ecosystem. Even though water is a renewable resource, its availability is limited. Therefore, we must protect and use it sustainably. This study looks at how well India's tribunal based system works for settling inter-State river water disputes under the Inter-State River Water Disputes Act, 1956. Although Article 262 of the Constitution allows for judgment through specialized tribunals, the experience shows ongoing delays, inaction from the executive branch, and continued involvement from the Supreme Court. Tribunal decisions often face further judicial review, which leads to duplication and undermines the goal of quick and final resolution. The paper argues that the current system has not provided institutional efficiency or constitutional clarity. By comparing it to the United States model, it suggests a new framework for India. The study concludes that bringing all jurisdiction under the Supreme Court would improve efficiency, consistency, and cooperative federalism, especially as water stress and climate uncertainty increase.

Keywords: *Inter-State Water Disputes, Cooperative Federalism, Supreme Court Jurisdiction, Tribunal Mechanism, Inter-State River Water Disputes Act, 1956*

I. INTRODUCTION

In India's federal system, each State aims to make the most of its river waters within its territory. As a result, fairly and efficiently sharing interstate river waters has been a major constitutional and legal issue. States have sometimes worked together on multipurpose river valley projects to optimize water use, but these collaborations often face tensions due to competing claims over water rights among neighbouring States. For interstate rivers, no single State can claim exclusive ownership because these rivers cross multiple jurisdictions and serve larger regional needs. Resolving inter-state water disputes presents a unique constitutional challenge. The current legal system often falls short in dealing with the complexities of growing water scarcity,

¹ Author is an Advocate at Bar Council of Tamilnadu & Puducherry, India.

increasing population, and developmental needs. Notable examples of these disputes include the Krishna-Godavari case, the Narmada case, the Cauvery case, and the Sutlej-Yamuna Link Canal conflict. These issues highlight the ongoing difficulties in achieving fair water distribution among States. Inter-state water disputes hold a special position under the Constitution of India because they are specifically excluded from the jurisdiction of regular courts. Article 262 empowers Parliament to set up procedures for resolving such disputes and prevents the Supreme Court and other courts from intervening.² The creation of specialized tribunals to handle inter-state river water disputes illustrates an approach aimed at effective resolution while allowing the Central Government to maintain oversight of the process. This research article aims to explore the constitutional framework that governs inter-state river water disputes, focusing particularly on Article 262. It will also analyze key river disputes in India and assess how well the current legal and institutional practices are working to resolve these conflicts.

A. Research Objectives

- To study the constitutional provisions related to water disputes in India
- To examine the Major inter water disputes that happened in India
- To analyse the Constitutional scheme related to inter- state water disputes in India
- To identify the inherent gaps in the Inter- state water disputes in India
- To propose the effective solution for efficient and equitable for sharing inter- state water.

B. Research Questions

- What are the constitutional provisions governing inter-state water disputes in India, and how have major disputes influenced their implementation?
- What are the structural and procedural gaps in the existing constitutional framework for resolving inter-state water disputes?
- What reforms are necessary to ensure efficient and equitable sharing of inter-state river waters in India?

C. Hypothesis

The Tribunal based system under the Inter-State River Water Disputes Act, 1956 has not provided quick and final solutions to inter-State water disputes. Moving these disputes to the Supreme Court's original jurisdiction under Article 131 would lead to better efficiency,

² Raj Pipara, Critical Analysis of Art 262 in light of Major water disputes , 5 *IJM* 1234 (2022)

consistency, and coherence with the Constitution.

D. Review of Literature

Midatala Rani and Middatala Rani, *Historical Background of the Cauvery Water dispute, Proceedings of the Indian History Congress (2002)*

The authors look into the history of the Cauvery water dispute. They highlight its religious, cultural, and geographical importance in Karnataka and Tamil Nadu. The authors trace the dispute's roots back to ancient times, referring to records from as early as the eleventh century. They discuss how irrigation developed in the Cauvery basin and outline the negotiations and agreements between the States from the nineteenth century onward. The article provides a solid historical background for understanding the constitutional and social aspects of the dispute.

Ramaswamy R. Iyer, *Federalism and Water Resources, EPW(1994)*

This Paper argues that even though water is a State issue, the Constitution has centralizing aspects through Article 262 and Entry 20 of the Concurrent List. He critiques the limited effectiveness of river boards and tribunals. He notes that politicization and delays undermine negotiated agreements. He also warns that failure to comply with tribunal awards endangers the federal structure.

In another article, Ramaswamy R. Iyer (2002) evaluates the Inter-State Water Disputes Act of 1956. He points out procedural delays and a lack of enforcement. Although tribunals try to follow fair principles, their decisions often go unimplemented. The author suggests that changes to the Constitution may be needed to fix these issues.

Srinivas Chokkakula, *Interstate Water Disputes: Perils and Prospects of Democratisation, Vol. 49, Economic and Political Weekly, (2014)*

Srinivas Chokkakula (2014) examines how politics affects inter-state water disputes. He argues that political involvement, despite criticism, may strengthen democratic processes. He emphasizes the power imbalances between upstream and downstream States and the influence of non-state actors. He concludes that understanding water disputes requires looking at them from both legal and political angles.

II. CONSTITUTIONAL LEGAL AND JUDICIAL PERSPECTIVES ON INTER STATE WATER DISPUTES IN INDIA

Constitutional Framework

Entry 17, State List (List II) deals with water, including irrigation, drainage, water storage, water

supply, canals, embankments, and water power, subject to the provisions of Entry 56 of the Union List.

Entry 56, Union List (List I) empowers Parliament to regulate and develop inter-State rivers and river valleys in the public interest.³

Article 262 of the Constitution of India provides that Parliament may enact laws for the adjudication of disputes relating to the use, distribution, or control of waters of inter-State rivers or river valleys. It further authorizes Parliament to exclude the jurisdiction of the Supreme Court and other courts in such matters. Pursuant to Article 262, Parliament enacted:

- The River Boards Act, 1956 : It empowers the Central Government to establish river boards in consultation with State Governments for regulating inter-State rivers and river valleys. However, no such board has been constituted to date.
- The Inter-State River Water Disputes Act, 1956⁴ (ISWD Act): It provides for the constitution of a tribunal when negotiations fail. The tribunal adjudicates disputes, and its award is final.⁵ Although the Supreme Court cannot examine the merits of the award, it may review questions relating to the functioning or jurisdiction of the tribunal.

Inter-State water disputes generally involve the apportionment of water among States and issues such as flooding, pollution, or diversion of river waters.

Water under the Indian Constitutional Framework: Is Water a State Subject?

The common belief that water is a state subject comes from Entry 17 of the State List. While this seems to be true at first glance, a deeper look shows that water is not strictly a state subject. The legislative powers of the States are mostly unrestricted only because Parliament has not fully used its powers under Entry 56 of the Union List. Additionally, through Entry 20 of the Concurrent List, which covers economic and social planning, the Union indirectly oversees major and medium irrigation, hydro-power, flood control, and multipurpose projects by requiring Central approval for them to be included in the national plan. Extra oversight is provided under the Forest Conservation Act and the Environmental Protection Act, which strengthen the Centre's role in water governance.⁶

³ Inter-State Water Disputes in India https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4086057 (Last visited on Jan 21, 2026)

⁴ Inter-State Water Dispute Act, 1956

⁵ A perpetual tussle over Water Resources: An inevitable need for Inter-State mediation in Inter-State Water Disputes...<https://www.scconline.com/blog/post/2021/03/27/a-perpetual-tussle-over-water-resources-an-inevitable-need-for-inter-state-mediation-in-inter-state-water-disputes/> (Last visited on Jan 21, 2026)

⁶ Aparajitha Rajagopalan, *A CRITICAL ANALYSIS OF INTERSTATE RIVER WATER DISPUTES ACT WITH*

This overlapping authority shows that even without changes to the Constitution, the Union Government has significant control over water management. Given this setup, there is an urgent need to foster cooperative federalism in water governance. Reviving the nearly inactive River Boards Act of 1956 could offer a sustainable, long-term solution to inter-state water disputes.⁷

Doctrine of Equitable Apportionment

The doctrine of equitable apportionment originated in the United States through decisions of the U.S. Supreme Court.⁸ It has been recognized in India as well. The doctrine provides that every riparian State is entitled to a fair and reasonable share of the waters of an inter-State river, although the principle remains flexible and context-specific.⁹

Major Inter-State Water Disputes in India

1. Krishna-Godavari Water Dispute¹⁰

This dispute involved Karnataka, Maharashtra, Andhra Pradesh, Madhya Pradesh, and Odisha. The primary issue concerned the distribution of surplus and untapped waters of the Krishna River. The Krishna Water Disputes Tribunal delivered its award in 1973 (published in 1976), relying on the doctrine of equitable apportionment. Key issues included protection of existing uses, regulation of beneficial use, and diversion of water to other basins.¹¹

2. Cauvery water Dispute¹²

The dispute between Tamil Nadu (erstwhile Madras Presidency) and Karnataka (erstwhile Mysore) relates to the sharing of fully utilized river waters. Between 1968 and 1990, several ministerial meetings were held without consensus. The Cauvery Water Disputes Tribunal was constituted in 1990 under the ISWD Act. The dispute became highly politicized, with upstream and downstream interests conflicting and bipartisan politics intensifying tensions, making settlement difficult.¹³

SPECIAL REFERENCE TO CAUVERY ISSUE, 120 *IJPAM* 2274 (2018)

⁷ Tony George Puthucherril, *WATER FEDERALISM, TRIBUNALIZATION OF WATER JUSTICE AND HYDRO-POLITICS: INDIA'S INTER-STATE RIVER WATER DISPUTES ACT AT 65 YEARS*, 35 *CJAL* 11(2022)

⁸ Brijraj Deora, Constitutional Mechanism to resolve Inter state Water disputes ,1 *The Advocates Leagues* 3 (2020)

⁹ INTER-STATE WATER DISPUTE <https://ceerapub.nls.ac.in/inter-state-water-dispute/> (Last visited on Jan 22, 2026)

¹⁰ *The Krishana – Godavari Water dispute*

¹¹ Water is a State subject https://www.academia.edu/33724493/Water_is_a_State_subject (Last visited on Jan 26, 2026)

¹² *The Cauvery Water Dispute*

¹³ Inter -State Coordination and Dispute Resolution <https://www.rgics.org/wp-content/uploads/Federalism-in-India-Part-4.pdf> (Last visited on Jan 23, 2026)

3. Ravi-Beas Dispute

The dispute between Punjab and Haryana arose after the reorganization of Punjab in 1966.¹⁴ An earlier agreement in 1955 governed sharing of Ravi and Beas waters. Subsequent agreements in 1976 and 1981 led to protests and political unrest, particularly in Punjab.¹⁵ A tribunal was constituted in 1986, but implementation issues and lack of clarification from the Centre prevented the award from attaining full enforceability.¹⁶

Judicial Interpretation

In *State of Tamil Nadu v. State of Kerala*,¹⁷ the Supreme Court held that while courts are barred from adjudicating the merits of water disputes, they may determine questions relating to the jurisdiction of the tribunal.

In *T.N. Cauvery Neerpassana Vilaiporulgal Vivasayigal Nala Urimai Padugappu Sangham v. Union of India*,¹⁸ the Supreme Court held that once the Central Government is satisfied that negotiations have failed, it is mandatory to constitute a tribunal, and a writ of mandamus may be issued if it fails to do so.

In another case concerning amendments made by Kerala to irrigation legislation, the Supreme Court directed the Union Government to constitute a committee to examine factual issues, excluding legal and constitutional questions.¹⁹

Under India's constitutional framework, legislative powers regarding water are shared between the Union and the States. The Union can make laws about regulating and developing inter-state rivers and river valleys if Parliament decides it's necessary for the public good. States, on the other hand, can legislate on water supplies, irrigation, canals, drainage, embankments, water storage, and waterpower. However, this power is limited by Union legislation under Entry 56 of the Union List. As a result, a State can only legislate on all aspects of water, including inter-state rivers, if Parliament has not taken control over their regulation and development. States cannot create laws that affect waters beyond their borders, while intra-state rivers are entirely managed by State authorities.²⁰ For resolving disputes related to inter-state rivers and river

¹⁴ The Haryana- Punjab Water dispute

¹⁵ The Ravi Beas Dispute

¹⁶ Jacob, Alice. "THE INTERSTATE RIVER DISPUTES : SOME RECENT DEVELOPMENTS." 18 *JILI* 611 (1976)

¹⁷ *State of Tamil Nadu v. State of Kerala*, (2014) 12 SCC 696

¹⁸ *Tamil Nadu Cauvery Neerppasana ... vs Union Of India And Others* , AIR 1990 SC 1316

¹⁹ Shravani Vasuduhitri Babu Reddy, *Analysis of Inter-State Water Disputes through a Comparative Lens*, 5 *IJLR* 7 (2023).

²⁰ Pandey, A and Subedi, SP , *Changing notions of sovereignty and governance of water in India: an analysis of the Inter-state Water Disputes Tribunal*. 26 *TJWL* 167-181 (2016)

valleys, Parliament has legislative authority under Article 262 of the Constitution.

III. ANALYZING THE CONSTITUTIONAL SCHEME AND THE INHERENT GAPS IN THE INTER-STATE WATER DISPUTES IN INDIA

The framework under Article 262 of the Constitution and the Inter-State Water Disputes Act aims to prevent all courts, especially the Supreme Court, from handling these disputes. This approach seeks to avoid lengthy court cases. However, states often turn to the Supreme Court for relief, and in some cases, the Court has accepted these petitions.

In Tamil Nadu Sangam case, the Supreme Court directed the Central Government to form the Cauvery Tribunal. The Court also concluded that negotiations between states had failed and that establishing a tribunal was necessary. This decision appeared to extend beyond the Court's constitutional powers. A more direct intervention happened in the case of *State of Andhra Pradesh v. State of Karnataka*.²¹ Here, the dispute was over Karnataka's plan to raise the height of a dam on the Krishna River. The Supreme Court interpreted the award of the Krishna Tribunal and decided the dam's maximum height in favor of Karnataka. This interfered with an independent tribunal's decision, even though the Court could have declined jurisdiction under Article 262 and Section 2(c) of the Act, which defines "water disputes." The judgment in *State of Orissa v. State of Andhra Pradesh* marks an interesting shift. While mostly following earlier judicial reasoning and directing the Centre to form a new tribunal, the Court stated that the constitutional and statutory restriction on its jurisdiction would only apply after a tribunal is set up. So, without a tribunal, the Supreme Court could still use its powers.²²

Under Article 262, Parliament enacted the Inter-State River Water Disputes Act, 1956 (ISRWD Act). This law outlines a clear process for resolving disputes over inter-state rivers and river valleys when negotiations fail. A "water dispute" is any disagreement between two or more state governments about the use, distribution, or control of water from any inter-state river or river valley. It also includes issues related to water-sharing agreements and disputes about water cess. The adjudication process starts when a state government believes a water dispute has emerged or might emerge, which could harm its interests or those of its residents. The state can request the Central Government to send the dispute to a tribunal. Only state governments, not individual citizens, can start this process. If the Central Government agrees that the dispute cannot be resolved through negotiations, it must set up a tribunal within one year of the request.

²¹ (2018) 4SCC 1

²² Inter State River Disputes <https://www.lawteacher.net/free-law-essays/administrative-law/inter-state-river-water-disputes-administrative-law-essay.php> (Last visited on Jan 31, 2026)

Initially, there was no time limit; the one-year rule was introduced after the Sarkaria Commission's recommendations.

Once formed, the tribunal has authority over all surface and groundwater in the specified river basin. Although the law does not explicitly mention it, it is now accepted that tribunals can provide interim relief. The tribunal looks into the matter and sends a report to the Central Government that includes the facts and its decision. If members of the tribunal disagree, decisions are made by majority. The report must be submitted within three years, with the Central Government allowed to grant an extension of up to two years for valid reasons. If the Central Government or any state government feels that clarification or further guidance is needed on the tribunal's report, they can send the matter back to the tribunal within three months of the decision. The tribunal can then submit an additional report within one year, and its original decision is modified accordingly. The Central Government can extend this period if necessary. If no further reference is needed, the tribunal is dissolved.²³

The tribunal can set its own procedures and has some civil court powers to ensure effective functioning. It can order state governments to conduct surveys and studies relevant to the case. The Act also requires the Central Government to create a national data bank and information system that includes details about each river basin, like water resources, land use, and agricultural data. State governments must provide this data, which the Central Government can examine.

The tribunal's decision is final and binding for the parties involved. They must implement it. Once published by the Central Government, the decision carries the same weight as an order or decree of the Supreme Court.²⁴

Judicial Intervention and the Limitations of Tribunalization under the ISRWD Act

Section 11 of the Inter-State River Water Disputes Act, 1956 (ISRWD Act) excludes the jurisdiction of the Supreme Court and other courts in inter-state water disputes. This provision reflects Article 262(2) of the Constitution of India. However, in practice, the exclusion of judicial review under Article 262 and Section 11 has worked only partly. The Supreme Court has consistently found ways to exercise jurisdiction using its original jurisdiction (Article 131) or appellate jurisdiction (Article 136). A key issue is the definition of a "water dispute" under Section 2(c) of the ISRWD Act. Tribunals have jurisdiction only over water disputes, so determining whether a matter fits that definition is crucial for deciding jurisdiction.

²³ Raj Pipara, *Critical Analysis of Art 262 in light of Major water disputes*, 5 IJLMH 1234 (2022)

²⁴ Anil Kumar Thakur, *Federalism and Inter-State River Water Disputes in India*, 23 J. Water L. 87 (2015)

In *Mullaperiyar Environmental Protection Forum v. Union of India*,²⁵ the Supreme Court described the dispute as one about the safety of an aging dam rather than a disagreement between states over water, despite the strong connection between dam safety and water levels. By framing the issue as one of structural safety instead of water sharing, the Court kept its jurisdiction.

Similarly, in the dispute over the Sutlej-Yamuna Link (SYL) Canal between Haryana and Punjab, the Supreme Court needed to decide whether the canal's construction was a "water dispute" under Section 2(c). Punjab argued that Article 262 and Section 11 barred Haryana's suit under Article 131. The Supreme Court disagreed, saying that the construction of the SYL Canal did not pertain to water distribution but to the use of water already assigned to Haryana. As a result, the case was not considered a water dispute, and the Court's jurisdiction remained intact. Through such interpretations, the Supreme Court has effectively maintained a supervisory role in inter-state water conflicts.²⁶

Delay and Structural Deficiencies in the Tribunal System

Section 6 of the ISRWD Act requires the Central Government to publish the Tribunal's decision in the Official Gazette. However, the notification of awards has often faced delays. In the Cauvery dispute, the Central Government delayed publication, citing pending references and appeals. In 2013, the Supreme Court ordered immediate notification, which the government later carried out. Nevertheless, problems continued to arise, reviving litigation before the Supreme Court.²⁷

In *State of Karnataka v. State of Tamil Nadu* (2018), the Supreme Court upheld the principle of fair distribution as the main standard for resolving inter-state river water disputes. While largely supporting the Cauvery Water Disputes Tribunal's award, the Court adjusted allocations and acknowledged groundwater availability as an important factor in fair distribution.

Despite the tribunal system, systemic issues remain. Delays, procedural slowdowns, and lack of action from the executive hinder the process, from forming tribunals to notifying and enforcing awards. Section 4 gives the Union Government the power to set up a tribunal only when it is satisfied that negotiations have failed. This often leads to extended delays.

For example: The Narmada dispute began in 1963, but the Tribunal was formed only in 1969. The Krishna and Godavari disputes started in the 1950s but went to tribunals only in 1969. The

²⁵ *Mullaperiyar Environmental Protection Forum v. Union of India*, (2006) 3 SCC 643

²⁶ Vikramaditya, *INTER-STATE RIVER WATER DISPUTES IN INDIA: LAW, GAPS & SOLUTIONS*, 2 VULJ 6-10 (2022)

²⁷ 25 Harish Salve, *Inter-State River Water Disputes*, OXFORD, 502 (2016).

Cauvery dispute sought a tribunal in the 1970s, yet the Tribunal was not established until 1990 after Supreme Court intervention. These delays have seriously weakened the credibility of the tribunal system.

Supreme Court's Expanding Appellate Jurisdiction

While Article 262 and Section 11 prevent courts from handling original water disputes, the Supreme Court has clarified that this restriction does not apply to appellate jurisdiction under Article 136. After the Cauvery Tribunal's 2007 award, states filed Special Leave Petitions challenging the award. The Union Government argued that such appeals were barred. The Supreme Court dismissed this argument, stating that once a tribunal decides a dispute, the bar under Article 262 does not stop the Court from exercising appellate review.²⁸

Furthermore, Section 6(2) of the ISRWD Act states that once notified, a Tribunal's decision has the same authority as a decree or order of the Supreme Court. The Union claimed this prevented appeals. However, the Court interpreted this provision narrowly, indicating that Parliament's intention was only to ensure enforceability and not to equate the Tribunal's award with a Supreme Court judgment for all purposes. In 2018, the Supreme Court definitively ruled on the Cauvery appeals, modifying the allocation and giving final approval to the Tribunal's award.

Rethinking Tribunalization

Given the Supreme Court's ongoing involvement, the problems with tribunalization, and the complex hydro political landscape in India, some have suggested that India adopt models like those in the United States, where the Supreme Court has original jurisdiction over interstate water disputes, or Australia, where the High Court resolves interstate conflicts.

In 2019, the Central Government proposed the Inter-State River Water Disputes (Amendment) Bill to improve the adjudication process.²⁹ Although it passed in the Lok Sabha, it is still under consideration in the Rajya Sabha. The Bill shows an institutional preference for keeping tribunalization while introducing procedural improvements.

IV. EFFECTIVE SOLUTION: BRIDGING THE GAP

India's unique federal structure is characterized by partisan politics, demographic pressures, urban growth, industrial development, reliance on agriculture, and the escalating effects of climate change. Given these factors, the current tribunal-based system for resolving inter-State

²⁸ oyashree Roy, *Water Resource Management in India: Institutions and Policy Issues*, 13 *Glob. Env't Change* 215 (2003).

²⁹ *The Inter-State River Water Disputes (Amendment) Bill, 2019, Bill No. 187 of 2019 (July 15, 2019)*.

water disputes seems increasingly inadequate. The technical complexity of these disputes, combined with the adversarial and often slow moving nature of tribunal proceedings under the Inter-State River Water Disputes Act, 1956 (ISRWD Act), has resulted in inefficiency and prolonged timelines.³⁰

In this situation, it may be worth exploring whether India should abandon the tribunal model and instead grant the Supreme Court of India exclusive original jurisdiction over inter-State water disputes. This change would lead to more consistent procedures, eliminate redundant adjudicatory efforts, and greatly reduce the time and financial burdens of lengthy litigation. The common counter-argument that the Supreme Court is already overloaded does not hold up to scrutiny. Often, water disputes that go through tribunals end up reaching the Supreme Court through complex routes, particularly under Articles 136 and 142 of the Constitution. Thus, the current system merely delays necessary judicial reviews while adding extra procedural steps.

Transferring inter-State water disputes to the Supreme Court's original jurisdiction under Article 131 would ensure decisive and final determinations by the highest constitutional court. Importantly, the National Commission to Review the Working of the Constitution recommended repealing the ISRWD Act and enacting clear parliamentary legislation that would allow these disputes to be brought before the Supreme Court under its exclusive original jurisdiction. Additionally, the Commission advised retaining Article 262 in the Constitution in case this approach did not succeed.³¹ Meanwhile, in submissions to the Commission on Centre-State Relations, prominent jurist Fali S. Nariman supported repealing the ISRWD Act. He suggested treating inter-State water disputes like any other disputes between States under Article 131.

The United States Model: An Instructive Comparative Framework

The situation in the United States provides a useful example. Under Article III of the U.S. Constitution, the Supreme Court has original jurisdiction in disputes between States, including water conflicts.

The procedural framework works as follows:

When a bill of complaint is granted leave to file in an original jurisdiction matter, the Court decides if there are factual controversies that need evidentiary proceedings. If needed, the Court appoints a Special Master. The Special Master gathers evidence, makes findings of fact and

³⁰ Nishanth Pinnameni, *INDIA'S INTER-STATE RIVER WATER DISPUTES: CONFLICT RESOLUTION MECHANISMS AND POSSIBLE SOLUTIONS*, 5 JETIR 838(2018)

³¹ L. Elizabeth Sarine, *The Supreme Court's Problematic Deference to Special Masters in Interstate Water Disputes* 39 ELQ, 535, 540 (2012).

conclusions of law, and prepares a proposed report. Parties can submit briefs and raise objections. The Master then issues a supplemental report addressing those objections. The Supreme Court reviews the report, decides on exceptions, and may approve, modify, or reject the findings in part or whole. While this framework faces criticism mainly concerning how the Court defers to Special Masters, it ensures that the final decision lies with the highest constitutional court, maintaining uniformity and authority.

A Proposed Hybrid Model for India

Based on comparative experiences and current legislative proposals, here's a potential model for India:

1. Dispute Resolution Committee (DRC) - Negotiation Phase

Upon receiving a complaint from a State alleging a water dispute, the Central Government should immediately form a Disputes Resolution Committee (DRC), similar to the mechanism suggested in the Inter-State River Water Disputes (Amendment) Bill, 2019.

The DRC should attempt resolution through structured negotiations, conclude discussions within one year. They should have the option for a six-month extension at the Union Government's discretion. Political settlements, when sheltered from hydro political conflict, can lead to mutually beneficial outcomes and strengthen cooperative federalism. However, negotiations should not turn into indefinite delays. At the end of the set period, the DRC must provide a comprehensive report to the Central Government that includes: The negotiated settlement (if reached), or A detailed summary of facts, hydrological data, competing claims, and the Committee's findings and suggestions.

2. Reference to the Supreme Court - Judicial Phase

If negotiations fail, the case should automatically move to the Supreme Court under Article 131. At this point: The Chief Justice of India should appoint a former Supreme Court judge as Special Master and the Special Master should be supported by Two former Chief Justices of High Courts, and Two technical experts (hydrologists or water resource specialists).

Different Special Masters may be appointed for various disputes to avoid delays. The Special Master should review the DRC report, conduct a focused and quick investigation and prepare a detailed report within one year (with an option for a six month extension at the Chief Justice's discretion). To maintain efficiency, adversarial tactics should not dominate proceedings. Legal representation should mainly address legal questions, especially at the final stage, rather than control the fact-finding process.

3. Final Adjudication by the Supreme Court

Once the Special Master submits the report, the dispute will be ready for final adjudication. The Supreme Court will review the report, hear limited legal arguments and deliver a binding judgment. Negotiations between the disputing States should remain allowed at all stages, providing options for cooperative resolution.

4. Strengthening Cooperative Water Federalism

This proposed framework upholds three main goals: Timely resolution, Integration of technical expertise and Authoritative constitutional adjudication

By removing overlapping tribunal processes and centralizing final decision-making within the Supreme Court's original jurisdiction, India can promote greater consistency, legitimacy, and enforceability in water dispute resolution. This approach would streamline the process, align with constitutional principles, and respond to the challenges of modern water governance. Most importantly, it would reinforce the foundations of cooperative water federalism during a time of climate uncertainty and increasing competition for resources among States.

Responding to Institutional and Constitutional Concerns

1. Why Tribunals Were Originally Created

Some argue that the tribunal system under the ISRWD Act aimed to achieve three key goals: first, to remove inter-State water disputes from regular courts to keep them out of politics; second, to include technical expertise in decision-making;³² and third, to prevent the Supreme Court from getting overwhelmed with complicated water issues. Article 262 of the Constitution shows a preference for a specialized process that is separate from standard judicial practices.

However, experience shows that these goals have not been fully met. Instead of reducing political influence, tribunals have often become arenas for ongoing political battles over water. The setup of tribunals often faces years of delays. Additionally, although the aim was to protect awards from judicial review, disputes frequently resurface in the Supreme Court through various legal challenges and petitions. This leads to more judicial involvement instead of less.

2. Judicial Overreach and Policy Concerns

Another concern is that water allocation is a policy decision involving economic planning, agricultural needs, and environmental issues areas typically managed by the executive and legislative branches. It is argued that putting these disputes in the Supreme Court could lead to

³² Ramaswamy R. Iyer, *Inter-State Water Disputes in India: Legislative and Judicial Dimensions*, 32 *Econ. & Pol. Wkly.* 2821 (1997)

judicial overreach, upsetting the federal balance. This concern, while valid, is exaggerated. First, inter-State disputes already fall under the Supreme Court's original jurisdiction according to Article 131. Second, the suggested model does not remove technical expertise; it formalizes it through Special Masters and advisors. Third, since tribunal awards still need judicial backing and enforcement, placing the process within the Supreme Court clarifies roles and accountability without expanding judicial power.³³

a. Constitutional Coherence: Articles 131 and 262

A key issue is how Article 131 interacts with Article 262 of the Constitution. Article 131 gives the Supreme Court exclusive original jurisdiction over disputes between States. However, Article 262 allows Parliament to create processes for handling inter-State river water disputes while limiting court jurisdiction.³⁴ Parliament used this power with the Inter-State River Water Disputes Act in 1956. But the Constitution does not require that tribunalization be the only approach; it just allows Parliament to choose this method. So, changing or repealing the act would not violate the Constitution, as long as Parliament passes clear legislation. In fact, shifting these disputes back to Article 131 jurisdiction could restore the original intent of the Constitution regarding federal disputes.³⁵ The framers viewed the Supreme Court as a neutral mediator for conflicts among governments. Tribunalization was a trial, one that might need re-evaluation after seven decades of practice.³⁶ Keeping Article 262 as a backup option, as proposed by the National Commission to Review the Working of the Constitution, would allow for flexibility in constitutional governance while keeping future options for institutional change open.

b. Empirical Reality: The Case for Reform

The push for reform is grounded in real experiences. The historical record shows significant delays: The Narmada Tribunal took almost ten years to reach a decision, The Cauvery Tribunal was set up in 1990 and issued its final ruling only in 2007, Award notifications often face delays from the government. Further court battles prolong the final resolutions. In short, disputes pass through three phases: Political negotiation, Tribunal adjudication, and Supreme Court review. This complex process leads to additional delays and costs. As climate conditions worsen and states face water shortages, this inefficiency has serious social and economic impacts.³⁷

³³ Upendra Baxi, *The Constitutional Challenge of Inter-State River Water Disputes*, 28 J. ILI. 195 (1986).

³⁴ Nirmal Sengupta, *Managing Common Property: Irrigation in India and the Need for Reforms*, 26 Econ. & Pol. Wkly. A157 (1991).

³⁵ A. Vaidyanathan, *Inter-State Water Disputes: A Framework for Analysis*, 54 IJAE1 (1999).

³⁶ Bibek Debroy & Laveesh Bhandari, *Water Management and Federalism in India*, 4 India Rev. 1 (2005).

³⁷ P.P. Rao, *Inter-State River Water Disputes and the Indian Constitution*, (2005) Sup. Ct. Cases (J.) 1

Observation

The growing challenges of climate change, population growth, and economic development make water governance a critical issue in modern India. Inter-State water disputes are no longer occasional problems; they reflect deeper issues of water scarcity in a federal system. The tribunal system, intended for quick and expert dispute resolution, has struggled to provide prompt and conclusive results. Judicial involvement has become more common. In this context, consolidating adjudication within the Supreme Court's original jurisdiction, while supporting structured negotiations and specialized investigations through Special Masters, presents a clearer and more effective method. Reform does not reject the idea of tribunals; instead, it builds on lessons learned. By simplifying processes, integrating technical expertise within judicial oversight, and ensuring timely resolutions, India can strengthen cooperative federalism and uphold constitutional authority. As water shortages escalate and inter-State conflicts could rise in the coming years, institutional clarity and decisiveness will be crucial. A revised model based on the Supreme Court's original jurisdiction may provide the stability needed for cooperative water governance in a future constrained by climate change.

V. CONCLUSION

Inter-State river water disputes reveal underlying tensions in India's federal system. While tribunals were meant to offer specialized and quick resolutions, years of experience show delays, duplication, and necessary intervention from the Supreme Court. The current complex system compromises finality and weakens cooperative federalism. It is essential to rethink the institutional framework. A model that combines timely negotiation with final decisions by the Supreme Court under Article 131, supported by technical experts, would simplify the process and provide a clear resolution. In a time of growing climate stress and water scarcity, clear and efficient institutions are crucial for maintaining federal harmony.

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