



RESOLVING INTERSTATE WATER DISPUTES: A CONSTITUTIONAL AND LEGAL PERSPECTIVE

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ABSTRACT

Water, being a vital natural resource, is the lifeblood of civilisation and the economy. Essential for life, agriculture, industry, and economic development. India is a federal country with rivers flowing across multiple states. Given that water is necessary for life and growth, disputes over water sharing are inevitable and give rise to interstate water disputes. Water rights, which encompass the legal entitlements of individuals or the state to utilise water bodies, are governed by a framework of laws and regulations. These legal entitlements often lead to interstate water disputes and have been the subject of a number of legal disputes and landmark judgments. This article explores the legal and constitutional perspective regarding interstate water disputes with a focus on relevant laws like the Interstate Water Dispute Act 1956 (ISWD), constitutional provisions, case studies, and judgments.

Keywords: Civilisation, Economy, Interstate, Perspective, Interstate Water Dispute Act (ISWD).

INTRODUCTION

“The beauty of water is that it brings together all life.”

- Lao Tzu

The four classical elements we have are earth, air, water, and fire. One cannot live without these elements. The very crucial for existence of mankind and all living creatures depends on the air we breathe and the water we drink. The effective use and allocation of this crucial resource is not only necessary but also a necessity for survival. With the use of these elements,

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a duty arises for individuals not to pollute the air and water and create a healthy environment. Water, an essential natural resource, often transforms into a political instrument when its distribution crosses state boundaries, where river flow through multiple states, control over water resources becomes a matter of intense political contestation. Water is called blue oil, which has been commoditised, exploited, and privatised for ages. Due to its over-exploitation, it has become a non-renewable resource from a renewable resource. Water has turned into a private resource from the global commons. This is one of the most significant and fundamental sources of human life (Alan Richards, 2001). The politics of water are further complicated by the fact that it carries many social meanings. Water is not only a life resource, but it is a lynchpin and symbol of culture across the world. Water is also a symbol of national progress and prosperity. Politics over water is central to its sharing, controlling, managing, and utilisation.

India is a federal country that has multiple rivers crossing state borders, and on allocation and distribution, interstate disputes arise and challenge the legal and constitutionality validity of water distribution. The Inter-State River Water Disputes are one of the most contentious issues in Indian federalism today, especially those rivers that cross several political and administrative borders. Water, a vital resource for life, agriculture, industry, and economic development, has been a cause of conflict. States seek to assert their rights over river waters not merely for fulfilling the developmental needs of agriculture and industry, but also to safeguard political interests and regional identity. The allocation and sharing of interstate rivers often become contentious due to competing demands, differing priorities, and asymmetrical dependence. Political parties frequently use water disputes to rally regional sentiments, thereby turning a hydrological issue into a political agenda. This politicisation complicates rational and equitable resolution mechanisms, making legal intervention and constitutional interpretation vital in resolving such disputes.

CONSTITUTION DILEMMAS IN ADDRESSING INTERSTATE RIVER DISPUTES IN INDIA

India has a federal structure, where we see a broad division of powers between the union and the states, which creates ambiguity in solving interstate river water disputes. On one hand, water is a state subject under entry 17 of the State list, and on the other hand, water is mentioned under entry 56 of the Union List. This overlapping jurisdiction leads to legal and constitutional confusion, especially when competing claims arise between states over the shared river water.

Article 246 of the Constitution deals with the subject matter of laws to be made by the Parliament and by the Legislatures of the States. The allocation of responsibilities between the Centre and the States in respect of laws to be made falls into three categories: The Union List (List I), The State List (List II), The Concurrent List (List III).

The subject of water is a matter at Entry 17 of List II, i.e., State List. This Entry is subject to the provisions of Entry 56 of List I, the Union List. The specific provisions in this regard are as under: List I of the Union list 56. 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.¹ List II of the State list 17. 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.²

Article 262 Adjudication of disputes relating to waters of interstate rivers or river valleys:

Parliament may by law provide for the adjudication of any dispute or complaint concerning the use, distribution, or control of the waters of, or in, any interstate river or river valley. 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 1.³

Article 131 Original jurisdiction of the Supreme Court: Subject to the provisions of this Constitution, the Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute between the Government of India and one or more States; or between the Government of India and any State or States on one side and one or more other States on the other; or between two or more States, if and in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends.

Provided that the said jurisdiction shall not extend to a dispute arising out of any treaty, agreement, covenant, engagement, sanad or other similar instrument which, having been entered into or executed before the commencement of this Constitution, continues in operation after such commencement, or which provides that the said jurisdiction shall not extend to such a dispute. This duality often results in conflicting legal approaches and delayed resolution. Though the constitutional framework is well mentioned and intended, it has proven inadequate

¹ Entry 56 of Union list I of the Seventh schedule of the Indian Constitution.

² Entry 17 of State list II of the Seventh schedule of the Indian Constitution.

³ Article 262 of the Indian Constitution.

in delivering resolutions, highlighting the need to reform at both the law and institutional levels.⁴

Article 136 Special leave to appeal by the Supreme Court: Notwithstanding anything in this Chapter, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India. Nothing in clause (1) shall apply to any judgment, determination, sentence, or order passed or made by any court or tribunal constituted by or under any law relating to the Armed Forces.⁵

Articles 131 and 136 of the Indian Constitution: There have been cases where States have used Articles 131 and 136 of the Constitution in cross-border river basin disputes. For example, Tamil Nadu filed a preliminary complaint in 2001 under Article 131, in which it stated that interim measures were not effectively regulated. The States of Karnataka, Tamil Nadu, and Kerala, disturbed by the decision of the Cauvery Water Dispute Tribunal in 2007, have applied for a special permit under Article 136. The Supreme Court accepts them.

INTER-STATE WATER DISPUTE ACT (ISWD ACT)1956

The Interstate Water Dispute Act, 1956 (hereinafter, “ISWD Act”) is a legislative enactment derived from Article 262 of the Indian Constitution, which empowers parliament to adjudicate regarding interstate rivers and river valleys. It also permits the exclusion of all courts, including the Supreme Court, in such disputes. The act was envisioned to preserve the authenticity of Indian Cooperative Federalism, while providing an institutional framework for the resolution of complex and politically intrigued water sharing disputes between states. The ISWD Act was enacted to provide a dedicated, non-judicial adjudicatory mechanism for interstate water disputes. It lays down a procedure whereby, upon receiving a formal complaint from a state and after determining the status of the dispute, the union government constitutes a water disputes tribunal under section 4. The tribunal, comprised of sitting or retired supreme or high court judges, is empowered to investigate disputes and render an award under section 5 and supported by technical experts, thereby ensuring domain-specific expertise. Once the award is notified by the central government under section 6, it becomes final and binding on the parties. The act bars the jurisdiction of the courts under section 11, ensuring effective and fast decision

⁴ Article 131 of the Indian Constitution.

⁵ Article 136 of the Indian Constitution.

through the special machinery envisaged in the statute rather than the traditional judicial process. The establishment of tribunals under this act prevents direct adversarial litigation between states in the Supreme Court, which could otherwise strain federal relationships.

IMPORTANT SECTIONS OF THE ISWD ACT 1956

Section 3 Complaints by State Governments as to water disputes: If it appears to the Government of any State that a water dispute with the Government of another State has arisen or is likely to arise because the interests of the State, or any of the inhabitants thereof, in the waters of an inter-State river or river valley have been, or are likely to be, affected prejudicially by; any executive action or legislation taken or passed, or proposed to be taken or passed, by the other State; or the failure of the other State or any authority therein to exercise any of their powers concerning the use, distribution, or control of such waters; or If the failure of the other State to implement the terms of any agreement relating to the use, distribution, or control of such waters, the State Government may, in such form and manner as may be prescribed, request the Central Government to refer the water dispute to a Tribunal for adjudication.⁶

Section 4 Constitution of Tribunal: When any request is made under section 3 is received from any State Government in respect of any water dispute and the Central Government is of opinion that the water dispute cannot be settled by negotiations, the Central Government shall, within a period not exceeding one year from the date of receipt of such request, by notification in the Official Gazette, constitute a Water Disputes Tribunal for the adjudication of the water dispute: Provided that any dispute settled by a Tribunal before the commencement of the Inter-State Water Disputes (Amendment) Act, 2002 (14 of 2000) shall not be reopened.

The Tribunal shall consist of a Chairman and two other members nominated in this behalf by the Chief Justice of India from among persons who at the time of such nomination are Judges of the Supreme Court or a High Court. The Central Government may, in consultation with the Tribunal, appoint two or more persons as assessors to advise the Tribunal in the proceedings before it.⁷

Section 6 Publication of the decision of the Tribunal: The Central Government shall publish the decision of the Tribunal in the Official Gazette, and the decision shall be final and binding on the parties to the dispute and shall be given effect to by them. The decision of the Tribunal,

⁶ Inter-State Water Dispute Act (ISWD Act)1956, section 3.

⁷ Inter-State Water Dispute Act (ISWD Act)1956, section 4.

after its publication in the Official Gazette by the Central Government under sub-section (1), shall have the same force as an order or decree of the Supreme Court.⁸

Section 11 Bar of jurisdiction of Supreme Court and other courts: Notwithstanding anything contained in any other law, neither the Supreme Court nor any other Court shall have or exercise jurisdiction in respect of any water dispute which may be referred to a Tribunal under this Act.⁹

Active River Water Dispute Tribunals in India were created under the ISWD Act 1956:

Water Disputes Tribunal II (2004) Karnataka, Telangana, Andhra Pradesh, Maharashtra, Mahanadi Water Disputes Tribunal (2018) Odisha & Chhattisgarh, Mahadayi Water Disputes Tribunal (2010) Goa, Karnataka, Maharashtra, Ravi & Beas Water Tribunal (1986) Punjab, Haryana, Rajasthan, Vansadhara Water Disputes Tribunal (2010) Andhra Pradesh & Odisha.

RIVER BOARDS ACT, 1956

Although the Rivers Act was passed in 1956, no river basin was formed under this Act. However, it is important to study this law to analyse the role of the Centre in the dispute between rivers between states, as set out in this Act. According to Section 2 of the Act, the Centre should control the development and development of transnational rivers and river valleys. At the request of a regional government, the Centre may establish a river council. The term used herein is “may”, which means that the flow rate depends on the discretion of the central government. The Agency may prepare, amend, or reject river or river development projects between countries. By law, the central government gives the Council the power to perform its tasks. The term used here is “as deemed necessary by the central government,” which means that the amount paid to the Board of Directors depends on the discretion of the central government, which is an annual report to the central government and the governments of the countries concerned. Government. The central government has the opportunity to develop rules for achieving the goals of the law. It therefore appears that the termination of the Board of Directors seems necessary “if the central government agrees.” While the main actors in the dispute are the respective national governments, how the conflict with the central government takes place is up. The mechanisms established for the adjudication of such disputes are accountable to the Central government and owe their very existence to the Central

⁸ The Interstate Water Dispute Act 1956, section 6.

⁹ The Interstate Water Dispute Act 1956, section 11.

government. Thus, to say that water and interstate water disputes fall within the domain of State governments due to their presence in the State List is a fallacy. The Central government plays an equally, if not more important, role in inter-state river water disputes.¹⁰

JUDICIAL TRENDS AND TRIBUNAL VERDICTS OF INTERSTATE RIVER WATER DISPUTES

The adjudication of interstate river water disputes in India reflects a complex legal evolution that intertwines constitutional principles, statutory mechanisms, and the expanding role of judicial interpretation. While the Constitution of India, under Article 262, provides for the exclusion of judicial intervention in such disputes by empowering Parliament to establish alternative mechanisms, the practical inadequacies of the Inter-State Water Disputes Act, 1956, have frequently necessitated judicial oversight. In theory, the Act establishes independent tribunals as exclusive adjudicatory bodies; however, in practice, their delayed constitution, prolonged proceedings, and non-binding nature of recommendations pending publication have left significant gaps in enforceability and finality.

The Supreme Court, although constitutionally barred from entertaining disputes under Article 262(2), has, through its original jurisdiction under Article 131, been called upon to interpret, clarify, and even enforce tribunal awards. The judicial approach in such matters reflects a nuanced balancing act between constitutional federalism and legal accountability. In *State of Karnataka v. State of Tamil Nadu* (2018),¹¹ the Supreme Court upheld the Cauvery Water Disputes Tribunal's award but made crucial modifications to reflect changed circumstances and drinking water needs of Bengaluru, thus asserting that tribunal decisions, while binding, are not beyond judicial review. Similarly, in the Krishna Water Disputes and Ravi-Beas controversies, the apex court has repeatedly been approached for interim reliefs, clarifications, or enforcement, underscoring the persistent reliance on judicial institutions even in matters meant to be exclusively decided by tribunals.

Further, the lack of a uniform doctrine guiding water-sharing, such as prioritising equitable distribution, historical usage, or riparian rights, has led to inconsistency in tribunal verdicts, often resulting in fresh litigation and political deadlock. Tribunals also lack post-award monitoring mechanisms, which diminishes their long-term effectiveness. Over the decades,

¹⁰ River Boards Act, 1956.

¹¹ *Karnataka v. State of Tamil Nadu* (2018).

while tribunals have provided detailed technical and factual determinations, their awards have faced implementation challenges, and states have frequently resisted compliance or sought legal redress, prolonging the conflict.

In essence, the legal retrospection of judicial and tribunal engagement in water disputes reveals a fragmented and reactive system, one where constitutional silence on enforcement, legislative gaps, and the politicisation of river resources continue to undermine timely and harmonious resolution. The judiciary, despite constitutional constraints, has emerged as a *de facto* authority. Guardian of equitable water distribution, but its interventions, too, are not without controversy. This retrospective demands a critical rethinking of India's legal and institutional approach to resolving such vital disputes in the spirit of cooperative federalism and sustainable governance.

Major case laws on interstate river water disputes in India: *State of Karnataka v. Tamil Nadu* (2018); *Cauvery River Dispute, State of Andhra Pradesh v. State of Karnataka*; *Krishna water dispute, State of Punjab v. State of Haryana & Others*; *Ravi-Beas dispute, State of Orissa v. State of Chhattisgarh*; *Mahanadi River Dispute*, and *Tamil Nadu v. Kerala Mullaperiyar Dam Dispute*.

INTER-STATE WATER DISPUTE ACT 1956: NEED FOR REFORM

The Inter-State River Water Disputes Act, 1956 (ISWD Act) was enacted to provide a legal framework for resolving water disputes between Indian states. However, over the decades, it has become increasingly evident that the Act suffers from procedural, structural, and implementation-related limitations, thereby necessitating urgent reforms. One of the major criticisms is the inordinate delay in the constitution of the tribunal and the pronouncement of awards. Example: The Cauvery Water Disputes Tribunal took 17 years to deliver its final award (1990 to 2007), and disputes continued even after the award. These delays defeat the very purpose of the Act, especially in urgently needed water-sharing arrangements during droughts or floods.

No Time Frame for Tribunal Process: The original Act does not mandate any strict time limit for the decision-making process. While the 2002 amendment sought to introduce some timelines, they were advisory, not binding. The tribunal's function is more like an *ad hoc* body with no institutional continuity, leading to inconsistent procedures.

Multiplicity of Tribunals and Overlapping Jurisdiction: The Act allows multiple river-specific tribunals, leading to: Jurisdictional confusion, Duplication of efforts, and A lack of a uniform legal approach. There is no single authority to monitor implementation across various awards.

Inadequate Role of Technology and Data: The Act does not mandate a centralised authority to maintain real-time water flow and usage data, which is crucial for fair allocation. Scientific and hydrological inputs are often underutilised in tribunal decisions.

Judicial Overload and Constitutional Ambiguity: Although Article 262 bars the Supreme Court from adjudicating such disputes, in reality, post-award litigation continues under Articles 131 and 136. This leads to a parallel process and judicial overreach, making final resolution elusive.

THE INTERSTATE RIVER WATER DISPUTES (AMENDMENT) BILL, 2019

The Inter-State River Water Disputes (Amendment) Bill, 2019, proposes much-needed reforms. 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. It amends the Inter-State River Water Disputes Act, 1956. The Act provides for the adjudication of disputes relating to waters of interstate rivers and river valleys. Under the Act, a state government may request the central government to refer an interstate river dispute to a Tribunal for adjudication. If the central government thinks that the dispute cannot be settled through negotiations, it is required to set up a Water Disputes Tribunal for adjudication of the dispute, within a year of receiving such a complaint. The Bill seeks to replace this mechanism.

Disputes Resolution Committee: Under the Bill, when a state puts in a request regarding any water dispute, the central government will set up a Disputes Resolution Committee (DRC) to resolve the dispute amicably. The DRC will comprise a chairperson and experts with at least 15 years of experience in relevant sectors, to be nominated by the central government. It will also comprise one member from each state (at the Joint Secretary level), who is party to the dispute, to be nominated by the concerned state government. The DRC will seek to resolve the dispute through negotiations, within one year (extendable by six months), and submit its report to the central government. If a dispute cannot be settled by the DRC, the central government will refer it to the Inter-State River Water Disputes Tribunal. Such a referral must be made within three months of the receipt of the report from the DRC.

Tribunal: The central government will set up an Inter-State River Water Disputes Tribunal for the adjudication of water disputes. This Tribunal can have multiple benches. All existing Tribunals will be dissolved, and the water disputes pending adjudication before such existing Tribunals will be transferred to the new Tribunal.

Composition of the Tribunal: The Tribunal will consist of a Chairperson, a Vice-Chairperson, three judicial members, and three expert members. The central government will appoint them on the recommendation of a Selection Committee. Each Tribunal Bench will consist of a chairperson or Vice-Chairperson, a judicial member, and an expert member. The central government may also appoint two experts serving in the Central Water Engineering Service as assessors to advise the Bench in its proceedings. The assessor should not be from the state that is a party to the dispute.

Time frames: Under the Act, the Tribunal must give its decision within three years, which may be extended by two years. Under the Bill, the proposed Tribunal must give its decision on the dispute within two years, which may be extended by another year. Under the Act, if the matter is again referred to the Tribunal by a state for further consideration, the Tribunal must submit its report to the central government within a period of one year. This period can be extended by the central government. The Bill amends this to specify that such extension may be up to a maximum of six months.

Decision of the Tribunal: Under the Act, the decision of the Tribunal must be published by the central government in the official gazette. This decision has the same force as that of an order of the Supreme Court. The Bill removes the requirement of such publication. It adds that the decision of the Bench of the Tribunal will be final and binding on the parties involved in the dispute. The Act provided that the central government may make a scheme to give effect to the decision of the Tribunal. The Bill is making it mandatory for the central government to make such a scheme.

Data bank: Under the Act, the central government maintains a data bank and information system at the national level for each river basin. The Bill provides that the central government will appoint or authorise an agency to maintain such a data bank.¹²

¹² Apurva Chauhan, 'A critical analysis of ISWD (Amendment) Bill, 2019', (PRS legislative research 25 July 2019) <<https://d.docs.live.net/2CE41D5A55621281/Documents/Resolving%20inter%20state%20water%20disputes.docx>> accessed on 15 June 2025.

MOST RIVERS OF INDIA ARE PLAGUED BY INTERSTATE WATER DISPUTES

Almost all major rivers in the country share interstate rivers and their waters with two or more states. After independence, the rapid growth of population increased due to population growth, agricultural development, urbanisation, industrialisation, etc. These developments have caused many interstate disputes to share the waters of these rivers. Following the interstate river, water is worth mentioning in the controversy:

- The Cauvery water dispute between Tamil Nadu, Karnataka, and Kerala.
- The Krishna water dispute between Maharashtra, Karnataka, and Andhra Pradesh.
- The Tungabhadra water dispute between Andhra Pradesh and Karnataka.
- Controversy between the Aliyar and Bhivani rivers between Tamil Nadu and Kerala.
- Godavari river water dispute between Andhra Pradesh, Madhya Pradesh, Chhattisgarh, Odisha, and Karnataka.
- Narmada water dispute between Gujarat, Maharashtra, Madhya Pradesh, and Rajasthan.
- The Mahi River dispute between Gujarat, Rajasthan, and Madhya Pradesh.
- Controversy between Ravi and Beas River waters between Punjab, Haryana, Himachal Pradesh, Rajasthan, Jammu and Kashmir, and Delhi.
- The Satluj-Yamuna linkage dispute between Punjab, Haryana, and Rajasthan.
- Yamuna River water dispute between Uttar Pradesh, Haryana, Himachal Pradesh, Punjab, Rajasthan, Madhya Pradesh, and Delhi.
- The Karmanasa River water dispute between Uttar Pradesh and Bihar.
- The Barak River water dispute between Assam and Manipur.

These disputes highlight the complexity and sensitivity of interstate water sharing in India. They underscore the urgent need for robust legal and institutional mechanisms to ensure equitable and sustainable distribution of water resources through constitutional provisions and principles of federal cooperation.

INTERSTATE RIVER DISPUTES AND ENVIRONMENTAL CONCERNS: LEGAL MYOPIA?

While interstate river water disputes are primarily framed as legal and political conflicts over resource sharing, their environmental consequences are often overlooked. These disputes can

lead to severe ecological degradation, unsustainable water management, and the disruption of riverine ecosystems. States often hastily extract more water to assert control or establish “*prior use*”, especially during ongoing disputes, which results in reduced downstream flow affecting the life of that region. River stretches become seasonally dry or flood-prone, leading to habitat loss for aquatic species. Example: In the Cauvery dispute, excessive upstream usage by Karnataka reduced ecological flows downstream in Tamil Nadu, impacting agriculture and river-dependent biodiversity. Disputing states often construct dams or barrages unilaterally as a means to secure their share, ignoring environmental impact assessments, which have severe effects on the environment as it leads to the Submergence of forests and agricultural land, increased greenhouse gas emissions from reservoirs, and Loss of biodiversity corridors. Example: In the Mahanadi dispute, both Odisha and Chhattisgarh accused each other of building dams that harmed river flow and environmental sustainability. Degradation of Delta and Coastal Ecosystems: When River water fails to reach deltas (e.g., in Cauvery, Krishna), nutrient-rich sediments no longer replenish deltaic soils, which causes Salinity intrusion, Coastal erosion, Collapse of fisheries and livelihoods dependent on brackish ecosystems. Environmental degradation caused by these disputes often leads to the displacement of communities, water scarcity, and conflicts between water users (farmers, fisherfolk, industries). These issues escalate into social unrest, deepening the political crisis. Interstate river water disputes in India are not just about water; they are about the future of ecosystems, biodiversity, and climate resilience. Without a shift from politics of allocation to ecology-based river governance, these conflicts will continue to exacerbate environmental degradation, threatening both nature and human survival. Integrating environmental safeguards into legal and tribunal frameworks is essential for sustainable and equitable river management.

CONCLUSION

The resolution of interstate river water disputes in India lies at the critical intersection of constitutional federalism, judicial intervention, and cooperative governance. While the framers of the Constitution, through Article 262 and Entry 56 of List I, empowered the Union to act as a neutral adjudicator, the legislative mechanism under the Inter-State River Water Disputes Act, 1956, has proven to be inadequate, owing to delays, political rigidity, and lack of enforcement machinery. Tribunals constituted under the Act often function without clear timelines, while their awards, though binding, are frequently challenged, diluting the finality of dispute resolution. Moreover, the absence of ecological considerations, insufficient use of

scientific data, and the over-politicisation of water sharing underscore the urgent need for reform. The proposed 2019 Amendment Bill, aiming to establish a permanent tribunal with strict timelines and dispute resolution committees, represents a significant step forward. However, to truly achieve sustainable and equitable resolution, there must be a shift toward a rights-of-river framework, transparent water governance, and institutionalised interstate cooperation, supported by real-time data and independent technical agencies. Ultimately, water disputes should not be viewed as mere contests of state entitlement, but as challenges to the unity of India's federal fabric and the integrity of its riverine ecosystems. A modernised legal regime, rooted in constitutional principles and environmental justice, is essential to transform water from a source of conflict into a channel of cooperation.