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Equitable Management and Allocation of Trans-Boundary Waters in India

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Mohan V. Katarki is currently an advocate for the Supreme Court of India. He has extensive experience in water disputes in India, including work as Counsel for the State of Karnataka before the Cauvery Water Disputes Tribunal and the Supreme Court; as Counsel for the State of Karnataka in the Krishna Water Disputes; and as Counsel for the Delhi Administration before the Ravi-Beas Water Disputes Tribunal. Mr. Katarki has contributed a paper entitled, "Equitable Sharing of Transboundary Krishna Waters: An Indian Experience" at the International Water Law Conference in Teslic, Bosnia and Hercegovina. He has previously participated in the Natural Resources Law Center's June 1999 Annual Conference on Water.

ABSTRACT

India has the benefit of large water resources. Himalayan Mountains drain the Basins of Indus, Ganga, and Brahmaputra. The other important Basins, like Narmada, Godavari, Krishna, and Cauvery are drained by erratic Monsoon rain waters. All these basins are inter-state and therefore a strong response was called for in management and allocation of water resources.

The founders of the Constitution of India, 1950, being aware of these challenges devised two different regimes. The first one is envisaged under Entry 56 of the Union list, 7th Schedule to the Constitution, which enables the Parliament by law to provide for "Regulation and Development of Inter-State Rivers and River Valleys." The second regime permits each state to develop water resources within its territory and in case of any dispute with co-basin state or states, a dispute would be referred by the Central Government to the High Level Inter-State Water Disputes Tribunal contemplated under Art. 262 of the Constitution.

The first Constitutional regime, however, has not been seriously pressed into service. The River Boards Act, enacted by the Parliament in 1956 has therefore remained a dead piece of legislation. Consequently, the States have asserted their powers under the second Constitutional regime and attempted to develop the inter-state waters falling in their territories. As a result, India has witnessed a large number of inter-state water disputes.

Narmada, Krishna, and Godavari Water Disputes, referred to the Inter-State Water Disputes Tribunal, were adjudicated by applying the Rules of Equitable Apportionment. The case studies of these inter-state water disputes are quite interesting and informative.