

Research Article

The Cauvery River Water Dispute: A Human Rights Perspective

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Abstract

Water sharing conflicts exist worldwide. The Cauvery River, in southern India is at the center of the dispute. The Cauvery conflict between Tamil Nadu and Karnataka re-emerges when rainfall in the south west is inadequate in the region. Historically, the conflict was over water rights, and the conflicting states used the river for agriculture. In the late 1980s, water resources in the region became scarce due to industrialization and population growth. This paper attempts to examine analyses the political and legal framework of the Cauvery river conflict. The main objective of this paper is also to examine the human sufferings and human rights violations due to Cauvery water dispute which is less explored. The Cauvery river provides drinking water to numerous villages, towns and cities in Karnataka and Tamil Nadu. Many industries in both states are dependent on the Cauvery River for their water needs. There is a long-standing dispute which has recently led to a conflict between the two states. The cumulative bitterness and misunderstandings between the people of the two states hide the common needs of farmers and the environment on both sides of the border. Here's an in-depth look at the historical, political, recent and human rights aspects of this dispute.

Keywords

Cauvery River, Water Sharing, Disputes, Human Rights, Violation

1. Introduction

There are several river basins shared by two or more countries. "Some of these nations have faced problems, such as India and Pakistan over the Indus River; Sudan, Egypt, and Ethiopia over the Nile; and Israel, Palestine, and Syria over the Jordan River" [1]. Similarly, the Cauvery River in southern India has been a source of conflict for more than a hundred years. The Cauvery is the fourth largest river of southern India with a length of 802 km (kilometers). It passes through the South Indian states of Kerala, Karnataka, Tamil Nadu and Puducherry [2]. It originates in the Indian state

of Karnataka and flows eastwards through Tamil Nadu to empty into the Bay of Bengal, supplying electricity to major areas in both states [3].

The Cauvery River is one of the most important rivers of India and is often referred to as the Ganga of the South. While the rivers in the north originate from glaciers, the Cauvery in South is completely dependent on rainfall. The total water carrying capacity of the river is 740 TMC ft (Thousand Million Cubic feet). Out of this rainfall Karnataka contributes 425 TMC ft and Tamil Nadu contributes only 250 TMC ft in

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rainfall. If look at how much water Karnataka and Tamil Nadu received the situation is quite different. Karnataka received only gets 284.7 TMC, Tamil Nadu gets 404.25 TMC and Kerala and Pondicherry gets 30 and 70 TMC respectively. The question is, why does Karnataka have less water when the rains have made the rivers even more abundant? It turns out that the problem was caused by the British [4].

Thus, in 1800s and 1900s, Karnataka was the Mysore-kingdom and Tamil Nadu was the presidency of Madras. Although Mysore was an important state, Madras was under direct British rule. Therefore, in 1910 Mysore proposed the construction of the Kanambai Dam on the Cauvery River. At the same time, an irrigation project was also proposed in Madras on the same river. The people of Madras opposed the construction of the dam because if the dam blocks the river, there irrigation project would get less water. Later the matter was left to the British Government of India and the British took direct control of the Madras Presidency. In 1924, they signed an agreement that for the next 50 years that still 1974 Tamil Nadu and Puducherry would get 75% of the Cauvery water allocation and Mysore in the state of Kerala would be allocated only 23%. It was known as Travancore. So the Britishers favour Madras because it was their own territory. The 1924 agreement finally came to an end in 1974. But during this time of 50 years Tamil Nadu used Cauvery to cultivate 25.8 lakh acre of land and the economy of Tamil Nadu got dependent on the water supply that it became impossible to suddenly decrease the water supply to the Tamil Nadu [4]. The historical perspective of this conflict discussed ahead in detail.

2. Cauvery River Water Dispute: Historical Perspective

The Cauvery water dispute has a long and bitter history. [5] The root of the conflict date back to the late 1800s, when agreements were reached between the state of Mysore (now part of Karnataka) and the Madras Presidency (now Tamil Nadu) to complete for control of the river's waters [2]. Even after independence, the issue of sharing and utilization of water resources has persisted and has resulted in numerous legal battles, protests, and political maneuvering. An in-depth deep analysis of the historical background of the conflict is given below.

The dispute dates back to the early 19th century when the parties to the dispute were the Madras Presidency and the princely state of Mysore. Before India became independent in 1947, the British tried to resolve the issue, and after, the government of India continued as well. After independence, state boundaries were redrawn. More specifically, the Madras Presidency was broadly divided into the states of Tamil Nadu, Kerala, Andhra Pradesh, and Pondicherry (the union territory now known as Puducherry). The princely state of Mysore was roughly divided into the state of Karnata

taka [3]. "At the end of the 19th century, Mysore planned to revive various irrigation projects, but the Madras Presidency resisted any movement in that direction. However, the state of Mysore proposed to build a dam upstream, but the state of Madras did not agree, as it wanted to build as to rage dam downstream. Mysore state approached the then British government, requesting the intervention. As a result, a conference was held in 1890 with the objective of reaching an agreement. The potential arrangement allowed Mysore to deal with irrigation works and gave Madras practical security against any mishaps. The agreement was signed on 18 February 1892" [6].

After the government intervention in 1892, Mysore decided to construct dam with reduced storage. However, during construction, the foundation dam with a capacity of 41.5 TMC (thousand million cubic feet), which hirked Mysore state. The matter was as referred for consideration under the provisions of the convention of 1892.⁸ "The arbitration started in 1913 and gave its verdict in favor of Mysore in 1914. However, Madras did not agree with the ruling and a new pact was signed in 1924 [7]. This pact was to stay in place for 50 years. After Indian independence in 1947, the state boundaries changed, which brought Kerala and Pondicherry (Puducherry) into this dispute. Nonetheless, Tamil Nadu and Karnataka remain the biggest parties in the dispute."

As the 1924 agreement was about to expire, the Cauvery-Fact Finding Committee (CFFC) was setup in 1970. A series of interstate meetings based on CFFC's reports was held during 1973 and 1974. At the final meetings of this sequence held on November 1974 and February 1975, a draft agreement that would act as a replacement for the 1924 agreement was discussed, but not adopted. However, in August 1976, a draft agreement prepared by the Union was accepted by all the states, and this fact was announced in the Parliament by the Minister for Agriculture. However, in the next meeting of the Chief Ministers, Tamil Nadu backed out of the agreement and Karnataka followed suit. Many inter-state meetings were called to amicably resolve the issue. However, these meetings, many being under the auspices of the Union Government, went on in vain. Farmer groups were one of the most affected strata of society. No agreement could be reached between the states, and farmers in both states suffered huge losses.

Main issues: The main dispute is over allocation of water-resources during periods of water scarcity, distribution of water during regular years, and the construction of reservoirs and dams along the river. Both states are competing for a greater portion of the river's water to meet needs of their growing populations and agricultural activities [7]. Overtime, the Cauvery dispute has witnessed a series of agreements, disagreements, and legal battles. The Cauvery Water Disputes Tribunal (CWDT) was setup in 1990 to resolve water disputes in the state of Tamil Nadu, Karnataka, Kerala, and Puducherry. It took 17 years for the CWDT to deliver its verdict in 2007 detailing the distribution of Cauvery water to

the four coastal states. In cases where water is scarce water will be distributed proportionally. In February 2007, the CWDT issued its final award detailing the total water allocation of 740 TMC to the four states in the Cauvery Basin based in normal year. The final order which decided to divide the annual water supply between Karnataka and Tamil Nadu, proved difficult to implement; both states had been expressing dissatisfaction with the court or derfors ometime. In 2018, the Supreme Court declared the Cauvery River as anationalre source and supported water sharing throughthe CWDT. A part from this, the central governmental so proposed to implement the Cauvery Managementplan. [8].

3. Cauvery Water Dispute: Recent Issues

The 2023 has being a distress water year for Karnataka and Tamilnadu. Rainfall is solow, that as of September 23, only half of the water storage capacity is available in four special areas in the Cauvery basin. So inspite of having their capacity of 104.5 they onlyhave 51.1 TMC of water in thesereservoirs. According to the Karnataka government the stateneeds at ot alof 1,120 TMC of water, meaning Karnatakawill face water shortage this year. So this year, the situation is even worstthis year. The latest controversy is over Karnataka's refusal to comply with the water release a greed upon earlier. While Tamil Nadu has sought release of 10,000 cusecs of water in 15 days, Karnataka has sought a reduction of 8,000 cusecs of water in 15 days. Karnataka said that due to deficient rainfall in the Cauvery basin, which includes thehistorical fabric of Kodagu, [8] water supply was in adequate. The state government said that Kodaguhad witnessed 44% rainfall from june to august. Tamil Nadu had sought the permission from the Supreme Court to allow that Karnataka to release 24,000 cubic feet per second (cusecs) of water from its reservoirs to meet its demand. [9] Inresponse, Karnatakahad argued to the Supreme Court that Tamil Nadu had failedto recognise that 2023 was a "flood year" and nota" normalflood year. "Karnataka Deputy Chief Minister D K Shivakumarhad then sought review of the decision in view water scarcity issues in the Cauvery basins in cearly summerthis year. As per the law, the state has written to the Cauvery Water Management Authority (CWMA), asking them to follow the decision to release 10,000 cubic feet to Tamil Nadu. [9]

While the Supreme Court refused to interfere with the Cauvery Water Management Authority(CWMA)'s decisionon September 27 that Karnataka should release 5,000 cubicfeet of water per second(cusec) of water to Tamil Nadu, it chose to extend the expertise of experts to the structures thatcan distribute water more efficiently in years of low rainfall.

Karnataka has approached the supreme court challenging the decision, saying it can not release 5,000 cusecs of water in 15 years as flow of water into the country's rivers has reduced by morethan 53 percent this year due to the low westerly winds. To their credit, the above states have followed the CWMA's order despite pressure and oppostion from some

politicians and organisations. Earlier, Tamil Nadu had approached the court seeking directions to release water from the Karnataka reservoir so that the release can be completedby mind august and throughtout september. The Court ordered the CWMA to submit a report detailing the nature orpoverty this year. The current 15-day period under the CWMA order ends on September 27 and the Commission CWRC is scheduled to meet on September 26 to reassess the situation. The clash, which comes after several years, has reiterated the fact that both sides need regular modoles to show the pain of budget deficits and years offailed monsoons.

Later, the Cauvery water board then ordered the Karnataka government to release 5,000 cubic feet of Cauvery water to neighboring Tamil Nadu. However, the court refused to entertain the Tamil Nadu government's demand that the current Cauvery water flow be increased from 5,000 cusecs to 7,200 cusecs per day [10]. The National Southern Indus Interconnected Farmers Association' led by Ayyakannu, protested against the partial human skeleton being held in Trichy, Tmil Nadu demanding sharing of Cauvery water [11]. The protesters are demanding sharing of the Cauvery river to save the existing 'kuruvai' crop in TN. The video from Trichy shows the protesters demanding that karnataka release water to Tamil Nadu and save the farmers. Earlier on Sunday, a group of farmers in Trichy stood in the waters of the Cauvery River to protest the dispute with Karnataka. The protests were witnessed in the two states after Karnataka adopted its stance on sharing Cauvery water sharing citing severe violence in some state.

"In years of abundance, there is little difficulty in Karnataka releasing the water in compliance with the final award of the Cauvery Water Disputes Tribunal, as modified by the Supreme Court in 2018. It is well-known that much of this release is the natural downstream flow of water during heavy rainfall from brimming reservoirs. It is only during deficit years that the States involved feel that the Court will pass favourable orders even if the CWMA does not. This kind of yearly adjudication and seasonal litigation should not become the norm. The CWMA should utilise the opportunity to come up with a permanent formula on how to assess deficit in a given year. Even on the manner of assessment of deficit, the two States have divergent views. It is now up to the CWMA and the CWRC in gathering data on rainfall, inflows and storage, to evolve an acceptable formula to apportion the shortfall in an equitable way. It is inevitable that neither State will be satisfied with the quantum of release ordered by the CWMA, but it is at this point that politics should yield to domain expertise."

4. Cauvery Water Dispute: Reason

1. The root cause of this problem is the concession given by the British government and Tamil Nadu's dependency on Cauvery water.
2. The second problem is the instability of rainfall. While

the rainfall in the lower basin was 1502 mm, it decreased by 6 times to 241 mm in August 2002. Similarly, the rainfall in the upper region changed by 30% from 2522 mm in 1992 to 1782 mm in 1996. So every time there is less rainfall the Cauvery dispute escalates to the next level and this is not a new thing at all [4].

With the development of industries and agriculture the demand for water has increased significantly and the availability of 740 TMC water is not sufficient to meet the needs of both Tamil Nadu and Karnataka even in normal years. The total demand of all four states combine is 1150 TMC out of which Tamil Nadu needs 566 TMC Karnataka needs 465 TMC Kerala needs 99.8 TMC and Pondicherry needs 9.3 TMC. So even if Kaveri is used only for Tamil Nadu and Karnataka we will need 566+465 TMC which is 1031 TMC of water but in good season we have only 740 TMC when in good season [4].

5. Cauvery Water Dispute: Political Tug of War

The farmers of Karnataka have been grappling with water shortages. Politicians have used the controversy to appease the public and win votes. "BJP leaders and former Karnataka Chief Ministers, HD Kumaraswamy and Basavaraj Bommai, have criticised the state government, accusing it of putting politics ahead of the welfare of the people. The BJP has alleged that the Congress government is releasing Cauvery water to support its fellow DMK, part of the newly formed opposition block in India, in preparation for the upcoming Lok Sabha elections. Union Minister of State for Agriculture and Farmer Welfare, Shobha Karandlaje, expressed concern that release of Cauvery water for political reasons could lead to a drinking water shortage for farmers in Mandya and Mysuru, as well as residents of Bengaluru."

Former Chief Minister Kumaraswamy questioned the Karnataka government's stance on the issue, emphasising the critical water shortage faced by farmers. The politicisation of water resources has made it a recurring dispute between Tamil Nadu and Karnataka. Shifting the focus from water sharing to water conservation will help both sides arrive at an acceptable water-sharing formula [10].

"Pro-Kannada organizations in Bengaluru have called for the formation of a 'Bengaluru Bandh' on 26 September. The call came after Mandya city observed a total bandh, to protest against a Supreme Court order. Karnataka CM Siddaramaiah said the farmers have the right to protest but political parties were fanning the people's anger."

"In a democracy there is an opportunity to protest. We are not going to disrupt the protest. But the BJP-JDS party is playing politics in this. The opposition BJP and JDS have alleged that CM Siddaramaiah has failed in Cauvery river water protection. In his reply, the Karnataka CM said he was bound by the order of the Apex Court." "There is a decision of

Supreme Court. Our petition was dismissed in the Supreme Court; we argued that we cannot release water. We have moved the petition against the Cauvery decision in the court" he said [11]. Tamil Nadu has sought fresh directions for the release of Cauvery River water from Karnataka, claiming that the neighbouring State has changed its mind and is releasing less water than agreed upon earlier. "Karnataka's claim is that there is a water shortage in Cauvery and Tamil Nadu is suffering, while the delta farmers are totally dependent on agriculture. The Tamil Nadu government is trying all possible avenues to resolve the social problem through legal action, seeking support from the Union government and Jal Shakti Minister as well as coordinating through all the possible sources to settle this issue amicably" said DMK MP Tiruchi Siva "Our CM is very diplomatically handling this issue and we are hopeful that Tamil Nadu will get its due" he added.

6. Cauvery Water Dispute: A Human Rights Perspective

Access to fresh water is a universal and human right for all people and an important tool to achieve all the sustainable development goals. But the reality is that millions of people around the world are suffering because water resources are diminishing [12].

Cauvery river water shedding escalates between southern States Karnataka and Tamil Nadu. The farmers of Karnataka have lost billions of rupees in crop production. The water crisis in Karnataka is becoming more serious with each passing year. The citizens of Karnataka have faced water shortages on the daily basis. The suddenly cut off of water supply would lead;

1. It will suddenly reduce the crop yield.
2. It will lead to huge financial and job losses to the farmers and the state.
3. Both these problems could escalate farmer deaths or even farmer suicides.

"Over the years, the suffering of farmers and their suicides in Tamil Nadu and Karnataka in Cauvery basin made national headlines. The depletion of Cauvery and the distress of farmers are two manifestations of the same problem."

Farmer Distress

1. 83% of farmers in Tamil Nadu and 77% of farmers in Karnataka are in debt.
2. 17 districts in Tamil Nadu were drought-hit in 2019.
3. 15 of the last 18 years leading up to 2019 have been drought years in Karnataka [13].

The National South Indian River Interlinking Farmers Association under the leadership of Ayyakannu held a protest. The protesters demanded the sharing of Cauvery water to save the standing 'kuruva' crop cultivation in Tamil Nadu. Karnataka organisations have declared a day-long shutdown across the state opposing releasing Cauvery water to neighbouring Tamil Nadu.

“Following the announcement of the bandh by Kannada organisations, numerous other organisations, such as public and private transportation unions, private school administrations, the film industry, as well as hotel and restaurant associations, declared their support. This bandh is expected to disrupt the daily lives of residents, with the possibility of private and public transport going off roads, shops, eateries and theatres shutting down, even as schools and colleges have been declared a holiday, as a precautionary measure. City residents may face disruptions in their access to hotel food as hotels have also supported the bandh.”

“Holiday for schools and college in Bengaluru-The district administration has declared for schools and colleges in Bengaluru urban district following the Karnataka Bandh call given by various Kannada organisations. Deputy Commissioner K. A. Dayananda, has issued an order declaring the holiday. Following this, the schools, colleges and universities have postponed the examinations scheduled. And, the Bengaluru University has also postponed its 58th convocation, which was scheduled on September 29, earlier. The protesters had come down to the streets to shutdown the entire state of Karnataka” [16].

As mentioned before, lack of access to clean drinking water is a human rights issue, and an obstacle to development. At the same time, unbalanced distribution of the world's freshwater resources has led to the expansion of cross-border and cross-border relations.

Water scarcity is not only a cause for rising inequalities among the social classes, but is also contributing to the rising inequalities between the sexes. Women are severely affected by the water crisis. It has a dangerous impact on their menstrual hygiene, impacting the education of young girls. Even some school going girls sometimes compromise with her education due the lack of stored water at her home [15]. When drinking water is not readily available, it usually falls on the shoulders of women to collect and carry water for long distances for their household [16]. So, the right to women empowerment goes in vain, even some girl children are not able to go to school due to this water scarcity; they have to look after their siblings at home in the absence of their mother or go with her to collect water. This led to even more violence for the right to education. So, all the conflict resolving agencies or institutes should also focus on human rights aspects.

7. Cauvery Water Dispute: Suggestions for Effective Water Conservation Strategy

“The tussle between the lower riparian state of Tamil Nadu, with a share of 404.25 TMC annually, and the upper riparian state of Karnataka, which has a share of 284.75 TMC, has aggravated today due to the failure of southwest monsoons in Karnataka this season. Judicial and qua-

si-judicial bodies formed to resolve the issues over the years have failed. Despite these efforts, a lasting resolution still needs to be achieved, with both states continually vying for their rightful share of the river's water. This paper focuses on the key findings that must guide the dispute resolution mechanisms. It is high time to advocate not for the rightful share of water for each state but the reasonable share in water conservation mechanisms by both states given the climate crises” [2].

“In transboundary water disputes, upstream states typically apply the Harmon doctrine (source-based water rights). In contrast, downstream states adhere to historical principles (prioritising primary water rights for historical users) as per a study by the Observer Research Foundation (2018) [17]. International guidelines can advocate for equitable and reasonable utilisation of transboundary waters and offer valuable insights into the resolution process.”

“The Supreme Court judgement in 2018 on Karnataka's appeal discusses the water-sharing formula in the Cauvery basin and references the Helsinki, Berlin, and Compoine rules. Water allocation to each party state is based on the total available yield generated in the Cauvery basin. According to the judgement, the full yield figure of the Cauvery basin areas within the states of Karnataka, Kerala, Tamil Nadu, and the Union territory of Pondicherry was estimated at 740 tmc, assuming 50% dependability. Of the 740 tmc, 14 tmc is apportioned for environmental protection and inevitable flows to the sea, leaving around 726 tmc of water shared among the four riparians. The judgment mentions that the Cauvery basin's rainfall, flows, and crop pattern will determine water release during a year of distress” [18].

While the water sharing plan is important, it should integrate water conservation strategy, that reflects cooperation between the Cauvery states as a single property. While sharing water, investment should be made in water efficiency, changing cropping patterns, water conservation or any measure that will manage the water needs of both the states. These conditions become relevant in situations where water resources are limited and water scarcity occurs repeatedly throughout the year.

“Firstly, the actual cost of irrigation water becomes inconsequential, making agricultural water almost a free resource in the basin. The free resource has resulted in inefficient demand-side management of irrigation water as farmers in other irrigation command areas habitually utilise large amounts of water from the river for a longer time with low end-use efficiency. Conserving scarce resources must take precedence over subsidising agriculture for redistributive justice during crises.”

“Secondly, diversifying crop patterns in the Cauvery Delta, in both states, forms a solution for managing demand for irrigation. A sudden shift from high-value crops to other crops may be challenging, but promoting crop diversification through a minimum support price regime favoring drier

crops, millets, horticulture, and oilseeds (which are suited to both States geographical conditions) to nudge farmers promotes less water-intensive crops in both States.”

If the crops (rice and wheat) consumed most of the water and depleting the groundwater and the change in rainfall can cause serious losses. Therefore, it needs excellent crops that use less water, are resistant to changes in rainfall and do not deplete the water table. Most importantly it should be able to replace the rice in the market. It's millets, which are such miracles crops that be rich in nutrients and yet they need so much less water. Millets made 4 times less water than rice two times less water than wheat 5 time less water than sugarcane. They are also drought resistant crops. They don't need fertilizers and they do not pollute the groundwater. Currently less than 10% of the millet demand is being fulfilled this is the reason why Karnataka government has taken some big steps to increase minutes production in Karnataka. Firstly they include the millets in public distribution system 2015. As water shortage is become more and more frequent it will give rise to the military revolution in India.

“Thirdly, water conservation is neglected by the states because, Bengaluru, which depends on Cauvery for its water needs, ranks second among Indian metros in water wastage as per an article in *The Wire* [19]. In addition, it is ironic to note that Tamil Nadu received a \$100 million loan from the Asian Development Bank [20] to reduce water stress in the Cauvery Delta in 2016 and the projected completion in 2020, yet the water demand persists.”

Finally, water pollution in the Cauvery basin is an overlooked dimension. According to research by IIT Madras, the Cauvery River is plagued with chemical pollution. In adding, industrial effluents, untreated sewage, and agricultural runoff have severely compromised the quality of the Cauvery's waters.

“Hence, water demand management and conservation are pivotal in resolving the Cauvery dispute. The politicisation of water resources has exacerbated the Cauvery dispute, and shifting the focus from water sharing to water conservation is imperative for the water-sharing formula, given the long-time and recurrent battle between the states. California, for instance, implemented a 15-year plan to reduce its dependence on Colorado River water, emphasising water conservation, recycling, and storage as part of its separation from an overreliance on the river [21]. Currently, the seven states involved in Colorado River water sharing are considering how to cut the demand for water. Hence, the Cauvery water dispute is far more intricate considering the water conservation than a mere dispute between the states” [21].

8. Conclusion

To move forward, stake holders must recognise the urgent need for a new narrative that prioritises the sustainable use of

water resources, minimises ecological harm, and embraces the challenges posed by climate change. Legal requirements advocating for water conservation and demand management, as a prerequisite for water sharing rights, is the only lasting solution to the age old conflict. Consequently, Cauvery River remains a lifeline for both Karnataka and Tamil Nadu in the future. A humble attempt has been made through this study to present the inter-state river water disputes over Cauvery river water. This research work has tried to understand the geographical, political, legal, social and human rights context of how unresolved river water dispute is causing problems. It has been the focus throughout the study to highlight the least mentioned aspect of such disputes, that is, violation of human rights of the people. This study has made an attempt to connect the political and legal approach to addressing the inter-state river water disputes by using a human rights perspective in the front.

Abbreviations

TMCft	Thousand Million Cubic feet
CFEC	Cauvery Fact Finding Committee
CWDT	Cauvery Water Disputes Tribunal
CWMA	Cauvery Water Management Authority

Author Contributions

Teghbir Kaur is the sole author. The author read and approved the final manuscript.

Conflicts of Interest

The authors declare no conflicts of interest.

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