

# Understanding and Resolving Inter State Water Disputes in India

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## ABSTRACT

India, a diverse and populous country, faces constant challenges in managing and resolving transnational water disputes due to its complex river systems and competing territorial interests. This report examines the diversity of transnational water conflicts in India and explores possible strategies for understanding and resolving these disputes.

The main problem comes from the fact that many large rivers flow through several states, creating conflicting claims over water resources. Countries often compete for most of these resources, leading to protracted disputes that hinder socio-economic development and strain relations between countries. Understanding the root causes of these conflicts is critical to finding effective solutions. Historically, water disputes in India have been exacerbated by factors such as population growth, urbanization and changing agricultural practices. In addition, variability in rainfall patterns due to climate change will further increase pressure on water resources, exacerbating disputes. A thorough understanding of these dynamic factors is essential for designing sustainable water management policies.

The resolution of interstate water conflicts requires a multifaceted approach that combines legal frameworks, technological interventions, and cooperative federalism. Legal mechanisms such as the Inter-State River Water Disputes Act play a central role in resolving disputes. However, these mechanisms must be complemented by strong data strategies that include technologies such as remote sensing and GIS and#40; GISand#41; mapping for accurate assessment of water availability and consumption.

In addition, it is important to promote the spirit of cooperative federalism. Dialogue and cooperation can be facilitated by the creation of intergovernmental watershed organizations with representatives of the countries concerned. Those platforms should be complemented by public education campaigns to support fair water distribution and sustainable water use. Resolving interstate water disputes in India requires a comprehensive understanding of historical, environmental and socioeconomic factors influencing these conflicts. A holistic approach combining legal frameworks, technological innovation and cooperative federalism is needed to promote sustainable water management practices and ensure harmonious interstate relations. As India moves forward meeting these challenges is not just about allocating resources, but also an important step towards achieving water security and promoting inclusive development.

**Keywords:** Interstate water disputes, water conflict, Riparian states, water sharing

## INTRODUCTION

Water resources are spread over a wide area, often covering interstate rivers to varying degrees. Socio-economic conditions and conflicting interests that requires functioning machinery consider the general

interests of the Country. The framers of the constitution understood that this could be achieved only if a workable and fair mechanism is put in place to share river water between states.

Legislative and executive power of the Union, states and municipalities as of water, it is stipulated in the constitution delegates to the states. General power to regulate water under become necessary. In addition, farmers were reluctant to cede the power to regulate their water to a distant federal government. After Independence because they had already acquired those rights during the British Period rule through the reform (1935). Now water is mostly spacing excluding interstate waterways. Item 17 of schedule 2 of the 7<sup>th</sup> schedule. The schedule that deals with the questions about which states have power is as follows: water, that means water provides irrigation and canals, drainage and embankments, reservoir and hydroelectricity to the provisions of point 56 of Annex 1;( list of union), where it is written regulation and development interstate rivers and river valleys according to such development and regulations the parliament declares by law that the administration of the Union is in accordance with the general interests. Dr Ambedkar was given the responsibility to solve the interstate river water problem. “The mission trusting Ambedkar was difficult and complicated because under the 1935 Act, irrigation was brought under the jurisdiction of the state Government of British India and the Central Government role was limited to mediation in interstate disputes. Dr Ambedkar proposed a change. The need to create a permanent institution for dispute resolution, incidence which was forced to grow with full utilization and independent power generation India. Based on these considerations, the current article 262 was added, which concerns resolve interstate river valleys disputes; says the article as follows section 262 subsection 1 states law stipulates the settlement of a dispute or complaint relating to the use, distribution or control of the water of any interstate river or river valley. Article 262 (2) regardless of the provisions of the constitution, the parliament can take care of it by law that the Supreme Court or any other court has no jurisdiction over any matter the dispute or complaint specified in clause 1.

Parliament passed the interstate river water disputes Act in 1956. The ISRWD Act 1956, provided an exception by inserting the definition unlike the mandatory settlement system of the negotiated dispute resolution procedure. If the Central Government believes that the water dispute cannot be resolved through discussion. According to section 4(1) and ad hoc tribunal must be established. According to section 11 of the act, whatever the questions of water, which may be referred to the court under this act, is not subject to the supreme authority jurisdiction of the court. However, the Supreme Court has the right to issue interim orders to maintain the status quo until the tribunal is formed. So was the river board Act of 1956. Parliament approved it with aim of giving the Union Government the opportunity to form governments which would advise on integrated development of interstate watersheds after consultations with state governments. Creating growth plans and identifying each state’s coastline. <sup>i</sup>

### **Constitution and Statutory provisions**

The constitution contains a number of provisions on water and related issues. Parliament also passed a law to resolve water disputes in border rivers. Some of these regulations and legislation are discussed below.

A] Article 262 of the Constitution of India

Article 262(1) of the Treaty provides that Parliament may pass legislation to resolve disputes or grievances relating to the use, allocation or control of transboundary waters in a river or river valley. According to

subsection 2 of § 262, the legislature can adopt a law that can prevent the competence of the Supreme Court or another court with respect to the dispute/complaint specified in subsection 1 of § 262. According to Rule 262(1) of the Standing Orders, Parliament can "enact" a specific law. This shows that it is the role of Parliament to pass such a law. Article 262(2) of the Treaty also provides that "Parliament may adopt legislation ...". For the purposes of Article 13 (3) of the Constitution, the term "law" may include a statute, order, statute, order, regulation, notification or legal force in India. The subject of such a right may be a trans-state river or river valley. Article 262(2) begins with the words "notwithstanding this Constitution...". This means that other provisions of the Constitution that violate Article 262(2) are not valid. For example, when examining Article 262(2), Article 131 does not apply because it provides for the primary jurisdiction of the Supreme Court in disputes between two or more states. If Parliament removes the jurisdiction of the Supreme Court in transboundary river water disputes, it must do so through the mechanism specified in § 13(3), because it uses the term "judicial".

If the Parliament has not adopted the law according to § 262 (2), it can appeal to the Supreme Court or a higher court. The expression "can" be used here which means that the making of such a law is subject to the discretion of the Parliament.

B] Item 17 of List II (List of States) of Schedule 7

Item 17 of List II (Lands) of Schedule 7 covers water sources, irrigation and canals, drainage and dams, reservoir and hydropower. Interstate rivers are subject to water supply, irrigation or hydropower regulations. Most disputes about transboundary rivers revolve around these issues. Therefore, the government would have the right to legislate on these matters. <sup>1</sup>However, the provisions of **Article 56** of Schedule I apply to the authorization of the Government of that State.

List I (Union List), read with **Section 246 (1)** of the Constitution, Section 56 authorizes parliament to make laws for the regulation and development of rivers and valleys. States to the extent that these regulations and parliament confirm that the development is in the public interest. **Clause 17** expressly states that the provisions of Clause 56 of Schedule I shall apply to such authority of the Board.

**Section 17**, which is inconsistent with a law passed by Parliament under part 56 of Schedule I, would not apply. Article 246 of the Constitution is also important in this discussion. Article 246, paragraph 1, uses the word "despite what is in paragraphs 2 and 3". This means that despite the provisions of Article 246 (2) and (3), the Parliament has the exclusive power to legislate on the subjects listed in List I. the words "paragraphs 1 and 2" and declaring that the Government has the exclusive right to legislate in matters enumerated in List II in accordance with clauses 1 and 2.

Although water resources are a national responsibility, Parliament has considerable legislative power in this area. These parliamentary powers are important enough to prevent states from making laws contrary to the orders of their parliament.

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<sup>1</sup> Indian constitution Bare Act

MP Jain

JN Pandey

### **C] Articles 131 and 136 of the Constitution of India**

There have been cases where states invoked Articles 131 and 136 of the Constitution in transboundary watershed disputes. For example, in 2001, Tamil Nadu filed a preliminary appeal against Article 131, arguing that interim measures were not effectively regulated. The states of Karnataka, Tamil Nadu and Kerala, aggrieved by the 2007 Cauvery Water Disputes Tribunal verdict, sought special permission under Article 136. The Supreme Court approves them.

### **D] Inter-State River Water Disputes Act, 1956**

The Water Disputes Act, 1956 was enacted under Article 262 of the Constitution. The Centre plays a very important role in legislation. Section 4 (1) of the Act, which has the power to establish a water court under the Provincial Government against the Water Act.

According to § 5 (2) of the Act, the public service court must send a report containing the circumstances and the related decision to the central government within three years. The central government publishes the decision of the court in the official newspaper. A decision published in the Official Journal of the European Union has the same value as a decree or regulation of the Supreme Court. Thus, the central government can deal with the commission, which has to carry out the orders of the court. The board can make decisions. The Centre can dissolve the court. Sec. 11 excludes the competence of the Supreme Court and other courts based on the law. This law does not exclude the central government, but intervenes in various areas of the court. The arbitral tribunal must submit its report to the central government and is therefore competent. In resolving river water disputes, the central government is in the hierarchy of each state government and its dependent court.

### **E] River Boards Act, 1956**

Although the River Act was passed in 1956, no river basin was formed under that Act. However, it is important to study this Act to analyse the role of the Centre in the inter-river dispute between the States under this Act. Under Section 2 of the Act, the Centre monitors the development and progress of interstate rivers and river valleys. At the request of the district administration, the centre can establish a river council. The term used here is "may" which means that the flow rate is at the discretion of the central government. The agency can draft, modify or reject transboundary rivers or river development projects.

According to the law, the central government gives the council the powers to carry out its tasks. The expression "deemed necessary by the State" as used here means that the amount payable to the Government is clearly at the discretion of the State, which is the annual report to the State and State Governments. the relevant countries.

This shows that the council is accountable for its actions to the central government. The state has the opportunity to develop rules to achieve the goals of the law. Therefore, it seems necessary to dismiss the government "if the central government agrees<sup>2</sup>".

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<sup>2</sup> <http://indianlawyers.wordpress.com>

Inter state river water disputes act by kk Lahiri

The main actors in the dispute are the national governments, but how the conflict with the central government takes place is clear. The mechanisms established to resolve such disputes are the responsibility of the central government and their existence is the responsibility of the central government. So, to say that water and inter-state water disputes are within the jurisdiction of state governments because it is in the state list is fallacious. The central government plays an equally if not more important role in inter-state river water disputes.

#### Ongoing and resolved water disputes in India

According to the Ministry of Water Resources, River Development and Regional Rejuvenation, eight courts have been established under the ISRWD Act to manage river waters. In addition, 114 intergovernmental agreements were signed to resolve water disputes. Some persistent and resolved watershed conflicts are discussed below.

#### Cauvery dispute

Cauvery is the original of Karnataka. It passes through Tamil Nadu and Pondicherry before flowing into the Bay of Bengal. In both countries, food production and livelihoods depend on the water of the Cauvery River. Tamil Nadu believes it needs help during Karnataka's grace years, but it cannot liberate Tamil Nadu if water is not available to its farmers.

The Madras Presidency and the Principality of Mysore reached an agreement which ended in 1974. Between 1968 and 1990, 21 tripartite meetings were held with the Ministers of Karnataka and Tamil Nadu and the Union Irrigation Ministers. Between 1972 and 1976, the Indian government acted as a mediator, but no agreement was reached. At the request of Tamil Nadu, the Central government established the Cauvery Water Dispute Tribunal in June 1990. In 1991, the tribunal issued a preliminary injunction ordering Karnataka to supply one tonne cubic feet of water to Tamil Nadu. Dissatisfied with the 1991 interim award, Karnataka took the matter to the Supreme Court in that scenario.

The Supreme Court in *Re Cauvery Water Disputes Tribunal Vs. the respondent* said that the Karnataka Ordinance must be superseded. Demonstrations took place in Karnataka where five people were killed. In 1998, the central government established a control committee under Cauvery River Authority (CRA) and ISRWD. The classification society ordered Karnataka to release 9,000 aquatic animals in Tamil Nadu. Karnataka and Tamil Nadu were happy with this arrangement and Karnataka refused to implement this arrangement.

In 2007, CWDT received its final award. There were two Tamil Nadu Water Supply Agreements between Madras and Mysore between 1892 and 1924.

The main problems faced by Tamil Nadu were:

1. He wanted this final agreement to be published in the official gazette.
2. He wanted to constitute Cauvery Management Board. It was finally done in 2013.

The case came to a head in September 2016 when the Supreme Court asked the Karnataka government to release 15,000 water bodies in Tamil Nadu within the next 10 days. Karnataka applied court rulings to the protests in the state. Police officers were killed and four were wounded. The troops of the Tamil companies attacked. Traffic on the Bengaluru-Mysore highway was paralyzed due to the violence.

Meanwhile, on the request of the Attorney General, the Supreme Court constituted a technical team to visit the Cauvery basin to assess the reality of the site. The team reported to the Supreme Court in October 2016. The Karnataka government was ordered to release 2,000 cubic meters of water. The hearings are still ongoing.

The Cauvery conflict has led to strained relations between Tamil Nadu and Karnataka. This was exacerbated by the violence and disorder associated with the conflict. The central government acted as a mediator in interstate negotiations. He formed an arbitration court, and also a technical group was formed based on the request of the state board. In addition, the Cauvery River Authority (CRA) monitored the activities of the prime minister. Thus, the central government played the role of a negotiator in an interstate dispute.<sup>3</sup>

### **Legal Regime**

The legal system for interstate water disputes in India mainly includes the interstate water disputes Act 1956 in India. This act provides a mechanism for resolving interstate disputes over the sharing of river waters. The Act led to the establishment of tribunals like Krishna water disputes tribunals, the Godavari water disputes tribunals etc. To resolve certain disputes, in addition to this law, depending on the specifics of the research may be important, including constitution principles, environmental legislation and international principles of water law.

### **Conceptual framework**

Analysing of existing laws and treaties governing the sharing of water between the states. Historical perspective includes examining the past water disputes to identify recurring patterns and influencing factors. Assessment of the effectiveness of water availability uses and effects of climate change on water resources also the effectiveness of existing institution and mechanism for water dispute resolution. It also becomes the duty of the stakeholders such as government, communities and industries to understand their roles. Proposing policy initiatives and framework to promote more effective and sustainable interstate water management.

### **Issues**

#### **1. water distribution and rights**

This section discusses issues related to the fair distribution of water between states and the legal framework governing the water rights.

#### **2. upstream dynamics**

It basically focuses on how water use and infrastructure development in one state affects the others. It examines the water quality, environmental aspects and the need for coordinated management across the national borders.

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<sup>3</sup> MP Jain  
Indian constitution Bare Act  
<https://legallaffairs.gov.in>

### 3. Climate change and variability

It impacts the climate change on water resources and assesses its role in exacerbating transitional water dispute.

### 4. Infrastructure development and dams

The construction of dams and other water infrastructure can be a contentious issue in international water disputes.

## Mechanism for Resolution of Interstate River Water Disputes

The settlement of water disputes is governed by the Interstate River Water Disputes Act of 1956.

According to its provisions, a water dispute tribunal is established to resolve a water dispute if the state government submits a request for the water dispute and the National Assembly finds that it is not possible to resolve the water dispute through negotiation.

The Act was amended in 2002 to incorporate the most important recommendations of the Sarkaria Commission.

The changes gave a one-year deadline for forming a water dispute tribunal and also a three-year deadline for making a decision.

## There are river water dispute tribunals in India

Krishna Water Disputes Tribunal II (2004) - Karnataka, Telangana, Andhra Pradesh, Maharashtra

Mahanadi Water Disputes Tribunal (2018) - Odisha and Chhattisgarh

Mahadayi Water Disputes Tribunal (2010) - Goa, Karnataka, Maharashtra

Ravi and Beas Water Tribunal (1986) – Punjab, Haryana, Rajasthan

Vasudhara Water Disputes Tribunal (2010) – Andhra Pradesh and Odisha.

## Matters of Interstate Water Disputes Tribunals

Lengthy procedures and extreme delays in dispute resolution. For example, in the case of the Godavari water dispute, the application was made in 1962, but the tribunal was constituted in 1968 and the award was made in 1979, which was delivered in 1980. Established in 1990, the Cauvery Water Dispute Tribunal gave its final award in 2007. The institutional framework and guidelines that determine these procedures, transparency; and ensuring compliance. Although the decision is final and outside the jurisdiction of the courts, both countries can appeal to the Supreme Court under Article 136 (request for special leave) Article 32, which links the case to a violation of Article 21 (right to life). The composition of the court is not interdisciplinary and consists only of representatives of the judicial system. The lack of authoritative water data acceptable to all parties currently makes it difficult to even determine the basis for a solution. The change in the approach of the courts from consideration to opposition contributes to the expansion of litigation and the politicization of the water division dispute. The growing connection between water and politics has turned the debate into a vote bank for politics. This politicization also led to increasing defiance of states, constant lawsuits and the cancellation of settlement mechanisms. For example, the Punjab government acted as a visiting school in the Ravi-Beas case. Too much discretion at too many

steps in the process. Partly because the procedures are complex and involve multiple stakeholders from different governments and agencies. India's complex federal state and its colonial legacy.<sup>4</sup>

### **Inter – state River water disputes (Amendment) Bill, 2017**

To improve the resolution of inter-state river water disputes, the Inter-state River Water Disputes Bill, 2017 was introduced in the Lok Sabha in March 2017 to amend the existing ISRWD Act, 1956. The purpose of the bill is to create an independent court with a fixed location and permanent office space and infrastructure to avoid the need to create a separate court for each water dispute, which is always a time-consuming process. The proposed bill requires the central government to set up a Bilateral Resolution Committee (DRC) to peacefully resolve water disputes between states within a maximum period of one year and six months. All disputes that cannot be resolved through negotiation will be referred to court for resolution. The president of the court submits the dispute sent to the court to the court for consideration. The bill removes the requirement to publish the final decision of the court in the official newspaper. The draft law adds that the decision of the court is final and binding for the parties in the dispute.

The draft also calls for a transparent data collection system for each river basin at the national level and a single data bank and data system management authority. The proposed amendments to the bill will accelerate the resolution of water disputes directed to it. The bill was sent to the Standing Committee on Water Resources of the Parliament. The Standing Committee gave its recommendation and accordingly the Ministry drafted a Cabinet Memorandum as a formal amendment to the Inter-State Water Disputes (Amendment) Act, 2017.

### **Analysis**

Understanding and resolving interstate water disputes in India is a complex and multifaceted research topic of critical importance. The issue is characterized by a combination of historical contradictions, legal ambiguity, differing regional interests and water scarcity concerns. An effective analysis and solution require a thorough review of historical agreements and an understanding of the socio-economic and environmental factors that affect the availability of water in different regions. Political and legal frameworks play an important role, and research should delve into existing dispute resolution mechanisms by proposing innovative approaches that take into account the different needs and concerns of countries. In addition, addressing the management structure and management capacity of water resources management bodies is essential to ensure effective implementation of decisions. In conclusion, this research topic is essential for the socio-economic development, ecological sustainability and regional harmony of India and requires a holistic approach that integrates historical, legal, political and environmental aspects.

### **Literature Review**

#### **1 Interstate Water disputes: Perils and prospects of democratisation by Srinivas as Chokkakula economic and political weekly, March 1, 2014, vol 49 no 9 pp 75-81**

The politicization of transnational states water disputes in India. The inevitable decline of history and structural conditions acquired during formation. Watching 2012-13 escalation in Cauvery River water

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<sup>4</sup> <https://jalshakti-dowr.gov.in>  
<https://www.jstor.org>



disputes, this article examines how politics affects in forming such quarrels and series our answers to them by legal means. considering effects of politicization, it claims that contrary to predictions of water wars, this policy can have positive effect emphasizing interdependence between spaces and deepening democratic spaces, if any with appropriate subsidies

## **2 Inter- state water disputes act 1956: Difficulties and solutions by Ramaswamy R Iyer economic and political weekly, July 13-19, 2002 vol 37, no 28(July 13-19, 2002) pp 2907- 2910**

This article speaks about interstate water operations disputes act 1956(ISWD Act), critique schemes of the judicial system and Sarkaria are often present recommendations of the commissions. It explains the changes to the ISWD Act approved by parliament at the beginning of 2002 and a test of criticism.

## **3 Cauvery courts and some larger questions: elusive search for judicial reason by Videh Upadhyay economic and political weekly Aug 31- Sep 6, 2002, vol, 37, no 35(Aug 31- Sep 6,2002) pp 3583-3585**

This article shows the long running Cauvery dispute, the side is often turned to mediation which reflects politicization based on legal orders to resolve complaints instead of receiving them. Using of forums specially of receiving them for 2 ways discussions and negotiations allowing faster solutions. Forums designed for participation conversations lacks the necessary framework to be a meaningful a gap that outlines national water policy guidelines for water allocations.

### **Conclusions**

International disputes that have always been a source of political imbalance. These disputes involve elements of national pride and prestige. National conflicts with water are also an important issue for politicians in elections. Politicians and governments have always promised to get the best possible deal for their country and people. This shows how important a role such controversies play in India's political and federal system. The constitution mentioned water and water management as a national issue. Entry 56 of Schedule I empowers the Centre to regulate and develop interstate rivers and valleys.

Section 262 also gives Parliament the power to regulate the intergovernmental dispute resolution procedure in river waters and the power to prohibit the Supreme Court and other courts from making decisions in such matters. At first glance, however, national governments seem capable of resolving transboundary water disputes. A closer look shows that the central government has indeed invested in the authorities. Issued under Section 262 of the ISRWD Act, 1956 by the Central Govt. This means that states cannot enact their own water dispute resolution laws and rely on the ISRWD to resolve such disputes. The ISRWD Act empowers the central government to settle such disputes by setting up tribunals, while the states are only litigants. Thus, the central government has real power in resolving transboundary water disputes. Section 11 of the ISRWD Act excludes the jurisdiction of the High Court. Cauvery and Godavari disputes were also discussed in the project. The Cauvery dispute is pending until the Godavari dispute is resolved. The Centre acted as a mediator in these conflicts. These included the establishment of courts at the request of states, the convening of the same assembly, and the search for an agreement between them. In such disputes, the focus is on the negotiator with the countries at the top of the hierarchy. Such disputes naturally aggravated the relations between the countries. International disputes have often shown the pride and prestige of the contracting states. On the other hand, politicians brought fire for political advantage. The Cauvery conflict has even turned violent, with members of the latter being physically assaulted. This

development is not good for India. The Sarkaria Commission discussed the inter-riverine disputes in its report. Some of its recommendations were incorporated in the ISRWD Act. The proposals for the establishment of a database, the establishment of a court at the request of the state within a year, and the proposals for judgments are the same as those of the Supreme Court. Other proposals, such as establishing a court on its own initiative and carrying out the judgment within five years, were not investigated, although they were desirable. The ISRWD Amendment Act, 2017 provides for the creation of one permanent tribunal. The project also investigated the feasibility of connecting rivers, the proposal to eliminate water shortages and thus prevent water conflicts between countries. However, such a project would involve huge capital and energy requirements and have disastrous environmental consequences. Therefore, it is better to stay away from this practice.

The dispute over the Godavari Falls has shown that negotiation between states is often the best way to resolve water disputes. In both cases, the intergovernmental agreements entered into force decades ago. However, the contracting states follow it, and there is no new dispute in this regard. On the other hand, disputes between courts on border water issues have been resolved for centuries without any real development. When the Civil Service Tribunal makes its decision known, the States Parties often refuse to comply with the judgment. This was observed in the Cauvery dispute. For example, negotiations between contracting states are the best way to quickly and permanently end watershed disputes.

## Recommendations

To expedite the resolution of river water disputes in India, several recommendations can be considered:

### 1. Empower Dispute Resolution Bodies:

Strengthen and empower institutions responsible for water disputes resolutions, such as inter state river water disputes tribunals, to ensure they have necessary resources and authority to make swift decision.

### 2. Timely appointments of tribunals

To insure timely the appointment of tribunals is prompt and transparent to avoid delays in the initiation of disputes resolution processes.

### 3. Mediation and Negotiation

Promote mediation and negotiation as the primary methods for resolving disputes, encouraging states to engage in dialogue and find amicable solutions.

### 4. Integrated water resources management

Promote IWRM principles to ensure the holistic and sustainable management of river basins, which can help prevent disputes by balancing the needs of various stakeholders.

### 5. International water treaties

International best practices and water sharing treaties guide dispute resolution processes and leverage external expertise when necessary.

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<sup>i</sup> <https://www.jstor.org>  
<https://www.scconline.com>