Water in Concurrent List

Why in news?

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The Centre recently held discussions with states on the issue of bringing water into the Concurrent List of the Constitution.

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What is the current situation?

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- India water is a State subject, but the provisions are quite complicated.
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- The primary entry in the Constitution relating to water **Entry 17** in the State List.
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- It brings water including water supplies, irrigation and canals, drainage and embankments, water storage and water power under state list.
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- But it also enables the Union to deal with Inter-State rivers if Parliament legislates in public interest, via Entry 56 in the Union List.
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- This provision has not been used by Parliament.
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- Under Entry 56, Parliament enact the River Boards Act 1956 to the establish River Boards for inter-State rivers.
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- But no such board has been established under the Act.
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- It is because of the strong resistance by State governments to any enhancement of the role of the Central government.
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- Therefore each riparian state has an unrestrained hold over the portion of the river that runs through its territory.
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- The Centre cannot intervene unless asked by the contending parties or directed by the judiciary to do so.

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What will happen due to the change?

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- If a subject is added to the concurrent list, both the state and the centre can make laws on that subject.
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- In case of conflict between the central and state law on the subject, the central law prevails.
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- But if the state law is reserved for the consideration of the President and he gave his accent, then the state law will prevail in that state.
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What is the need?

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- **Principle -** The current provision disregards the principle of equitable sharing of common property.
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- Countless inter-state water disputes of the present days are due to this.
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- **Resource depletion -** The extravagant and wasteful usage of river water one state deprives other states to meet even their essential needs.
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- Same is the case of over-exploitation of ground water at one spot can have detrimental effects in neighbouring areas.
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- **Non Compliance -** The states most often reject pleas by the Centre or awards of tribunals appointed by it to arbitrate on these matters.
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- The court judgments also remain unimplemented. e.g Verdict on Cauvery waters and Sutlej-Yamuna Link Canal.
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- **Constitutional Error -** Moreover, the Constitution-makers could not have anticipated the water scarcity and crisis of present times. Neither they could have a foreseen the climate change and its impact on water resources.
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What should be done?

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- In 2011 Ashok Chawla Committee underscored the need for a comprehensive national legislation on water either by bringing water in the Concurrent List or through a legal framework for treating water as a unified common resource.
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- The parliamentary standing committee on water resources and Parliament's Public Accounts Committee also have favoured the shift.
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- The states should co-operate with centre on this.
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- If the states refuse, the Centre should explore other options effectively using Entry 56 in the Union List.
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- But at the same time enough safeguards should be taken to avoid centralisation which deprives states of their rights.
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