The Academic
International Journal of Multidisciplinary Research

An Online Peer Reviewed / Refereed Journal
Volume 4 | Issue 10 | October 2026
ISSN: 2583-973X (Online), SJIF IF(2026): 5.6
Website: www.theacademic.in

Grievance Mechanisms Are Not Remedies: Architectures of Redress for Water-Service Exclusion in Nepal, Kenya and Colombia

Prajwal Bhattarai, Nepal

Legal Researcher, Development Consultant and Policy Analyst

ORCID iD: https://orcid.org/0009-0004-3313-7772

Google Scholar Profile: https://scholar.google.com/citations?user=Bdrgc5QAAAAJ

DOI : https://doi.org/10.5281/zenodo.24417547

ARTICLE DETAILS

Research Paper

Received: 31-10-2026

Accepted: 05-11-2026

Published: 20-11-2026

Keywords:

Nepal; Kenya; Colombia; right to water; administrative remedies; tutela; water regulation; grievance mechanisms; comparative public law; service exclusion

ABSTRACT

A household excluded from a water system may possess a constitutional right, a provider complaint channel and a court remedy while lacking a fast, enforceable means to restore service. This doctrinal comparison examines that institutional difference in Nepal, Kenya and Colombia. Nepal's Constitution recognizes access to clean water and sanitation; the official Water Supply and Sanitation Act 2079 and Rules 2081 have been located but their complete complaint and appeal provisions have not yet been authenticated for this study. It is therefore not established that Nepal lacks a sectoral administrative remedy. In Kenya, the Water (Services) Regulations 2025 provide provider and Regulatory Board complaint procedures; the Water Act §121 confines Water Tribunal jurisdiction to specified orders, appeals and contractual water disputes. A published Colombian tutela judgment illustrates supervised temporary supply without removing underlying regularization conditions. These are comparisons of legal design rather than measured service outcomes. The article develops a remedy-sufficiency test that distinguishes a usable legal order from interim protection, feasible implementation and independently observed water restoration.

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1. Introduction: the connection that is refused

Consider a decision that is administratively unremarkable and personally decisive. A household applies for a connection to a piped water scheme and is refused or is connected and then cut off or is told that its settlement lies outside the service area that a newly commissioned scheme was designed to cover. Nothing about the decision is dramatic. It is made by a utility officer applying a rule about documentation, tariff arrears or network boundaries. For the household, the consequence is that water must be bought, carried or shared, with effects on health, on the time of whoever does the carrying and on school attendance where that person is a child.

The question this article asks is what the household can do about it. That question is less obvious than it appears, because contemporary water governance supplies several things that resemble an answer without necessarily being one. There may be a constitutional provision declaring a right of access to water. There may be a sector regulator with a statutory objective of protecting consumers. There may be a complaints desk operated by the utility. Where the scheme was financed by an external agency, there will usually be a project grievance mechanism, often described in the project documentation as providing affected people with a channel for raising concerns. Each of these is real. None of them is necessarily a route by which this household can require this utility to reverse this decision.

The article therefore distinguishes four things that the word remedy is made to cover. A declaration of right states an entitlement without specifying who must do what. A complaint channel receives a grievance and may produce an explanation, an apology or an internal correction but need not produce a decision that binds. An administrative appeal produces a decision by a body with power over the original decision-maker. A judicial remedy produces an order enforceable by the coercive power of the state. Systems differ not in whether they contain these elements but in how the elements are connected and the connection is what determines whether the household gets water.

Three jurisdictions are compared because they connect the elements differently. Nepal places a right in its constitution and provides a constitutional remedy through the writ jurisdiction of its superior courts, while its recent sectoral legislation organises the supply side of the problem through licensing, standards, tariff-setting and inspection. Kenya provides provider and regulator complaint processes alongside a specialist tribunal whose jurisdiction is confined by Water Act §121; these mechanisms are not an automatic continuous appeal ladder. Colombia allows an individual to bring a constitutional action directly against the utility and its Constitutional Court has used that action to specify a minimum daily quantity and to appoint a local official to supervise compliance.

The argument is that usability, rather than the formal strength of the underlying right, distinguishes these architectures. Three features do most of the work: how close the entry point is to the person affected, how specific the standard is that the decision-maker must apply and whether anyone is charged with supervising what happens after the decision. A system can score high on the declared right and low on all three. The article also makes a negative claim that follows from the same analysis, namely that project grievance mechanisms attached to externally financed works do not, without a separate legal basis, create domestic enforceable entitlements, so that treating their existence as evidence of available remedy is a category error.

The study's limits are stated at the outset. It is doctrinal and institutional and it rests on constitutional text, statutory text, a published constitutional judgment and a specialist legislative database. It examined no project file, no utility record and no complaint register. It reports no rate of exclusion, no number of complaints and no resolution rate for any of the three jurisdictions, because no figure meeting the evidentiary standard applied here was obtained. Nothing in the analysis establishes that any of the three architectures produces better water outcomes than the others.

Published WASREB Impact Reports offer aggregate operational context for Kenya, including coverage, water quality, hours of supply and cost-recovery indicators. Such sector metrics can explain service constraints but do not establish whether an excluded household received a reasoned determination, interim supply or successful enforcement. The article therefore keeps service performance, procedural access and actual redress as distinct empirical questions (WASREB, Impact Reports).

2. The decision, the standard and the supervisor

A usable route of redress can be described in terms of three variables and it is worth setting them out before any jurisdiction is examined, so that the comparison is not simply a sequence of national descriptions.

The first variable is the entry point. Every route has a threshold at which a person must present a grievance in a form the system recognises. Thresholds differ in their distance from the person, measured in travel, cost, literacy, representation and time. A complaint made at a utility office in a district town has a low threshold. A writ petition in an apex court located in the capital has a high one, even where the right being asserted is constitutionally entrenched and the court is sympathetic. Distance is not merely practical inconvenience; it selects which grievances enter the system at all and it selects systematically rather than randomly, favouring urban, literate and represented complainants.

The second variable is the specificity of the applicable standard. A decision-maker asked whether a refusal was unreasonable must construct the content of reasonableness in the individual case. A decision-maker

asked whether a provider met a prescribed quality norm or whether a household received a specified minimum quantity, applies a standard that already exists. Specificity reduces the cost of adjudication, makes outcomes more predictable and makes it possible for a complainant without representation to know in advance whether a grievance is worth bringing. It also constrains the adjudicator which is a cost as well as a benefit, since a specific standard may be the wrong standard for an unanticipated case.

The third variable is post-decision supervision. An order that a utility connect a household is not self-executing. Someone must know whether it happened. Systems vary in whether that function is assigned at all and if so to whom: the original adjudicator retaining seisin, a regulator with monitoring powers, a local public official or nobody. Where it is assigned to nobody, the practical value of the order depends on the utility's own compliance culture which is precisely the thing the complainant has already found wanting.

These three variables interact. A low entry threshold combined with a vague standard produces a channel that absorbs grievances without resolving them. A specific standard combined with a high entry threshold produces precise justice for the few who arrive. Supervision matters most where the respondent is a monopoly provider, because the complainant has no exit option and therefore no leverage independent of the order itself. The framework is offered as an analytical instrument rather than as a scoring system and it is not claimed that the three variables exhaust what makes redress effective.

3. Prior scholarship and the contribution claimed

The article intersects rights-based water scholarship, utility regulation, administrative justice and development-project accountability. The research question is not merely whether the right to water exists; it asks whether a refused, disconnected or excluded household can obtain a competent decision and effective follow-through. Gauri and Brinks (2008) examine the institutional causes and consequences of judicial enforcement of socioeconomic rights; their work cautions against equating constitutional recognition with universal service delivery. This article extends that concern to a service-level diagnostic of complaint entry, substantive standard, reviewing jurisdiction and post-decision supervision. The framework's contribution is bounded and its distinctiveness from specialized utility-grievance scholarship remains subject to a reproducible comparison of the nearest studies.

The gap addressed here lies between the first and third of these. Rights scholarship asks whether an entitlement exists. Administrative justice scholarship asks whether a given institution works. Neither systematically asks how the architecture connecting right, channel, appeal and order determines which complainants can reach a binding decision. In the water sector specifically, the question is sharpened by the

presence of a fourth element, the financed-project grievance mechanism which occupies institutional space that resembles redress while operating on a different legal logic. International human-rights analysis of water access supplies a normative benchmark but General Comment No. 15 does not itself establish the jurisdiction and enforcement powers of a particular Nepalese utility or court (CESCR 2002).

The contribution claimed is a three-variable framework for assessing redress architecture, applied to three contrasting systems, together with a specific negative finding about the legal character of project grievance mechanisms. The framework is analytical and its value lies in portability to further cases. No claim is made that the framework is novel in the strong sense. A systematic search of subscription databases and of Nepali, Kenyan and Colombian legal periodicals was not conducted for this study and originality accordingly remains formally unestablished.

4. Method, case selection and the evidentiary record

The method is functional comparison organised around a single decision type, the refusal or withdrawal of a household water connection. Each jurisdiction is examined by asking the same four questions: what entitlement exists and in what instrument; by what route may an individual challenge the decision; what standard governs that challenge; and who supervises compliance with the result. Organising the comparison around a decision rather than around national systems avoids the common defect of sequential country description, in which jurisdictions are reported in parallel without being compared on anything in particular.

Case selection is justified by variation in architecture rather than by similarity of context. Nepal is the governing setting. Kenya is selected because it combines a constitutional right to water with a detailed statutory ladder which allows the effect of institutional specification to be observed while holding the constitutional variable roughly constant. Colombia is selected because it represents the opposite design choice, a low-threshold direct constitutional action against the service provider, developed through a court rather than through a regulator and because its jurisprudence has generated an unusually specific substantive standard. Alternatives were considered: South Africa offers the most developed constitutional water jurisprudence and would be the obvious fourth case but its free basic water policy and the litigation around it are extensively analysed elsewhere; India would supply a South Asian writ-based comparator closer to Nepal and is recommended for extension; Chile and Peru offer regulator-centred Latin American models that would complement rather than replicate Colombia.

Income and development differences between the three are substantial and are not treated as controlled. The comparison does not assert that Nepal could adopt Kenyan or Colombian institutions and section twelve

addresses transferability directly. What the comparison supports is an inference about the properties of architectures, not a recommendation that one country copy another.

The method is doctrinal and functional. The published Nepal Constitution and the existence of the Water Supply and Sanitation Act 2079 and Rules 2081 are identifiable but the present review has not authenticated a complete subsection-by-subsection Nepali account of household complaint, review and enforcement powers; therefore no negative claim about their absence is made. By contrast, the published Kenya Water (Services) Regulations 2025, regulation 91(1)–(6), directly supports the provider-to-Regulatory Board review structure, stated twenty-one-day Board response and review periods and an expressly available appeal to the Water Tribunal. The Colombian judgment is examined as a fact-bound constitutional decision, not as a national dataset. This difference in source completeness confines the strength of the Nepal comparison (Kenya LN 54/2025, reg 91).

5. Nepal: an entrenched right and a supply-side statute

The official Water Supply and Sanitation Act 2079 can now be read beyond its index entry. Section 21(1)–(3) provides for an application for tap and meter connection to a licensed provider, a connection within the prescribed period upon payment of the prescribed fee and an alternative arrangement where meters cannot technically be installed. Section 24(1)–(2) permits temporary interruption for specified circumstances beyond the provider's control, with advance information and alternative clean-water arrangements; §24(5) addresses charging when distribution fails, while §24(6)–(7) addresses disconnection for non-payment, misuse or breached conditions and restoration upon a qualifying request and fee. These are concrete service duties and restoration conditions but they do not themselves identify an independent administrative appellate body for every contested household refusal (Ministry of Law, Justice and Parliamentary Affairs, Water Supply and Sanitation Act 2079, §§21, 24).

Nepal's Constitution places access to water among the fundamental rights. The provision concerned with health declares that every citizen has the right to seek basic health services from the state and that no citizen shall be deprived of emergency care, provides for equal access to health care and separately declares that each citizen has the right of access to clean water and hygiene. The Constitution then provides a right to constitutional remedy for the implementation of the rights in that part, exercisable through the jurisdiction of the Supreme Court or the High Courts. A further provision required the state to make the legal arrangements necessary for the enforcement of those rights within three years of commencement.

Two features of this design matter for the present analysis. The first is that the right is individually held and constitutionally entrenched which places Nepal among the jurisdictions where a water-access grievance can in principle be framed as a rights claim rather than only as a consumer complaint. The second is that the Constitution itself anticipated that the right would require implementing legislation which is an acknowledgement that a declared right does not by itself specify an administrative route.

Nepal's Water Supply and Sanitation Act 2079 also differentiates provider duties, compensation and judicial jurisdiction. Section 43(1) provides a statutory compensation rule in specified circumstances where required water quality is not supplied or a consumer suffers adverse health effects. Section 45 identifies the Government of Nepal as plaintiff for cases under the Act; §46 assigns first-instance jurisdiction for proceedings under the Act to District Courts; and §47 provides for appeal to the relevant High Court within 35 days after the District Court decision. The 35-day deadline belongs to that court-appeal route, not to an independently verified utility-complaint appeal to a local water board. General supervisory direction under §57 is also different from an individual's cause of action. The exact consumer-initiated administrative procedure under the separately published Rules 2081 still requires a complete, current rule-level check. Accordingly the article does not claim that an administrative appeal is absent, nor invent a local-committee appeal or interim-restoration order (Act 2079, §§43, 45–47, 57).

The presently demonstrated Nepalese route is therefore more definite than a purely constitutional entitlement: the Act addresses service applications (§21), conditional discontinuance and reconnection (§24), certain compensation (§43) and cases before the District Court with a specified High Court appeal (§§45–47). None should automatically be called a utility grievance appeal. The Rules 2081 must still be independently examined before assigning an administrative appellate committee, a 35-day *administrative* filing deadline or an interim water-supply order to any rule. A contrary text supplied for rule 35 is not authenticated; importantly, the similarly numbered rule 35 of the different, older Drinking Water Rules 2055 addresses advance notification of some stoppages, not an appeal and interim restoration power. The respective laws and dates must not be conflated.

Against the comparison's three criteria (accessibility, decision standards and post-decision supervision), Nepal has identifiable primary-law service and judicial remedies but their accessibility and interaction with any administrative appeal under Rules 2081 remain to be mapped. A constitutional writ may be available for an appropriate fundamental-rights claim, yet that does not prove ordinary administrative remedies are unavailable, exhausted or ineffective. The identity of the relevant utility and the allocation of federal, provincial or local jurisdiction must also be specified. For an individual excluded from service, the

immediate doctrinal investigation should establish whether an application, complaint or reconsideration route is created by enacted rules or contract, then compare its time and remedial reach with constitutional jurisdiction under Articles 133 and 144. No completed primary-text review of those constitutional remedial provisions is claimed here; their existence is not a license to infer their detailed procedure.

6. Kenya: a ladder with deadlines

Kenya's Water (Services) Regulations 2025, Legal Notice No. 54, establish a provider complaint mechanism and a distinct process for complaints to and review by the Water Services Regulatory Board (regulations 90–91). The filing route, response periods, internal review and any further appeal must be tested under the actual instrument and the tribunal's enabling statute. Section 121 of the Water Act 2016 does not make the Water Tribunal an automatic first-instance forum for every household refusal. This structure offers a concrete procedural comparator but documented provider and regulator compliance is a separate empirical question.

Kenya's Water Act of 2016 presents the most institutionally articulated of the three architectures. It establishes a water services regulatory board whose principal object is expressed in terms of protecting the interests and rights of consumers in the provision of water services. The board is constituted with a chairperson appointed by the President, members appointed by the responsible Cabinet Secretary and a chief executive. Its powers and functions include setting licence conditions, monitoring and enforcing those conditions and establishing a mechanism for handling complaints from consumers regarding water services.

Licensing is mandatory. Providing water services without a licence from the regulatory board is prohibited and constitutes an offence. The licensing process itself contains participatory and appellate features: applications are subject to requirements the board must be satisfied of, the process provides for public participation and objections, a determination period is specified and an appeal lies to the tribunal within thirty days. The board maintains a register of licensed providers and may revoke a licence.

Kenya's Water (Services) Regulations 2025 establish provider complaint handling under regulation 90 and a written escalation to the Regulatory Board under regulation 91(1). The Board must respond within twenty-one days under regulation 91(2) and under regulation 91(3)–(4) a dissatisfied party may request Board review, on which the Board must provide a written reasoned response within a separate twenty-one-day period. Regulation 91(5) expressly permits a dissatisfied complainant to appeal the Board's decision to the Water Tribunal; regulation 91(6) requires a complaint number used to monitor action and response. These

legal channels do not establish that every disconnection falls within every remedial route or is physically remediable (LN 54/2025, regs 90–91).

Kenya thus supplies an articulated provider–Regulatory Board–potential Tribunal sequence for the relevant decision category, though not a guarantee that every service grievance receives an enforceable individual restoration order. Regulation 91(2) calls for a Board response within twenty-one days after receiving a complaint; regulation 91(4) sets a separate twenty-one-day period for Board review, while regulation 91(5) addresses a subsequent appeal. Neither period is a universal deadline for the provider to restore service and Tribunal timetables and jurisdiction must be established from their own governing sources. A complaint identifier under regulation 91(6) facilitates tracking; whether this sequence produces effective redress remains an empirical question.

A distinct statutory route must also be kept visible. Water Act 2016 §82(1) provides that a party aggrieved by a water-service provider's decision may appeal to the Regulatory Board, in the prescribed manner, within fourteen days of that decision; §82(2) empowers the Board to vary, reverse or confirm it. This statutory provider-decision appeal should not be collapsed into the written consumer-complaint, response and review processes under the 2025 Services Regulations 90–91. The governing procedure, qualifying decision and filing clock must be identified before a household is advised that a deadline applies. Neither route, standing alone, proves restoration of supply or a successful Tribunal appeal (Water Act 2016 §82(1)–(2); Legal Notice 54/2025 regs 90–91).

The apparent jurisdictional tension is resolved for appeals from a relevant Regulatory Board decision. Regulation 91(5) expressly supplies the appeal route, while Water Act 2016 §121(1) recognizes Tribunal appeals by a directly affected person from decisions or orders of the Regulatory Board and specified other authorities. Section 121(2)'s additional contract-dispute jurisdiction is distinct: it should not be misused to exclude Board-decision appeals. The Water Tribunal's published Coldstone ruling recites both statutory limbs and demonstrates that jurisdiction must still be assessed against the claims actually pleaded. Thus neither an unqualified 'all grievances are appealable' nor an unqualified 'no appeal exists' is defensible (Water Act §121(1)–(2); Water (Services) Regulations 2025, reg 91(5); Coldstone Investment Ltd v Nairobi City Water & Sewerage Co, [2024] WAT 1196, jurisdiction discussion).

The functional test can be applied to a constructed Kenyan disconnection without treating the illustration as a decided case. Entry occurs first through the provider's complaints procedure under regulation 90; if dissatisfaction remains, the complainant submits the required written material to the Regulatory Board under regulation 91(1). The decisional standard must then be identified in the license, service rules and reasons

given by the provider, rather than inferred from the existence of the channel. Review and possible Tribunal appeal depend on a qualifying Board decision, while supervision must be evaluated through recorded compliance and any authority to require corrective action. This demonstrates how an identified appellate route can coexist with uncertainty about practical restoration.

7. Colombia: direct access and the supervised minimum

The published Colombian judgment is a decision in a particular tutela proceeding, not a general water-sector appeal statute. In Sentencia T-140/17 (7 March 2017), section III orders one to three, the Constitutional Court ordered EPM, within ten days, to take effective steps ensuring at least 50 litres of potable water daily for each member of the claimant household. The order was transitional: the claimant was given six months to pursue cadastral regularization, subject to loss of the temporary protection if she failed to do so. The judgment was sent to the Medellín municipal Personero to support oversight. The result combines immediate basic-needs relief with retained building-regularization requirements; it neither grants unconditional network connection nor fixes a universal daily quantity for every Colombian claimant (T-140/17, operative orders 1–3).

Colombia's architecture is built around the tutela, a constitutional action available to individuals for the protection of fundamental rights, characterised by informality, short timeframes and availability against private parties performing public functions. Its operation in the water context can be illustrated by a decision of the Constitutional Court delivered in March 2017, in which a woman living with her elderly parents and two minor daughters was refused the installation of water and sewerage service by the municipal utility of Medellin. The refusal rested on a regulatory requirement that the applicant produce a cadastral certificate or building licence which she could not obtain because the property had not been formally subdivided.

The Court's reasoning separates two questions that are often merged. On the first, it held that water constitutes a fundamental right where it is destined for human consumption, where it is necessary to preserve life, health or sanitation in dignified conditions or where there is a threat of irreparable harm, drawing on the interpretation of the right developed in United Nations treaty-body commentary in terms of availability, quality and accessibility. On the second, it accepted that a utility is not obliged to effect a formal connection to a property that does not meet the applicable legal requirements and that users remain subject to those requirements.

The resolution of that tension is the decision's analytically interesting feature. The Court granted protection on a temporary basis and ordered the utility, within ten days, to adopt adequate measures to ensure the daily

supply of water to the applicant and her family by whatever technological means would work, at a quantity of not less than fifty litres per household member per day, a figure the Court derived from World Health Organization benchmarks in the range of fifty to one hundred litres per person per day. It simultaneously required the applicant to complete the subdivision process and obtain the cadastral certificate within six months, failing which the protection would cease. It directed that the decision be communicated to the municipal personero, a local public official with ombudsman-type functions, for monitoring of compliance.

Assessed against the three variables, this architecture has the lowest entry threshold of the three, since the tutela is designed to be brought without a lawyer and decided quickly and it was held admissible here as the principal rather than merely the subsidiary mechanism given the involvement of minors and an elderly person. Its standard is the most specific of the three on the critical question of what the household must actually receive, because the Court quantified the entitlement. Its supervision is explicitly assigned, to a named local official rather than to the court itself which is a design choice that distributes the monitoring burden away from the adjudicator.

The decision also illustrates a limitation inherent in individualised constitutional remedies. The order resolved this family's access while leaving the regulatory requirement in place and placing the burden of regularisation back on the applicant within a defined period. It did not address other households in the same settlement facing the same obstacle, each of whom would need to bring a separate action. Individual constitutional relief can be fast, specific and supervised and still fail to produce systemic change and a system that relies on it may generate a jurisprudence of exceptions rather than a reform of the rule. Whether Colombian practice in aggregate has produced systemic effects is an empirical question this study does not answer.

8. Project grievance mechanisms and the category error

Externally funded water projects often establish grievance channels through financing and safeguard arrangements. Their legal effect cannot be classified categorically without the particular lender policy, borrower agreement, domestic project instruments and operating contract. A project channel may yield an internal correction, facilitate dialogue, lead to a lender-supervised action plan or occasionally create an undertaking enforceable through a separate document; it does not, merely by existing, prove a domestic cause of action against the utility. Conversely, its lack of independent judicial power does not make it valueless: a functioning operational channel may restore service faster than litigation. This article accordingly distinguishes the source and enforceability of each remedy rather than asserting that all project mechanisms exclusively serve financiers.

Three consequences follow and they are legal rather than evaluative. First, a finding of non-compliance addresses the financier's requirements, not the complainant's domestic entitlements, so a complainant may be vindicated in that forum without acquiring any right enforceable against the utility in a domestic court. Second, the mechanism's reach is bounded by the project, so a household excluded by a decision that falls outside the project's scope or made after its closure, is outside the mechanism altogether. Third, the mechanism's remedial capacity depends on the financier's leverage over the implementing entity which is at its maximum while disbursements continue and diminishes thereafter.

The category error this article identifies is the treatment of such a mechanism as evidence that redress is available. The error appears in two directions. Project documentation may characterise the mechanism as providing access to remedy which overstates its legal effect. Equally, domestic policy discussion may treat the presence of a project channel as reducing the need for a statutory complaint route which mistakes a temporary and externally oriented instrument for a permanent and domestically enforceable one. The practical test proposed here is simple and can be applied to any mechanism: can its output be enforced against the provider by the complainant, in a domestic forum, after the project has closed? Where the answer is no, the mechanism may still be valuable but it is not a remedy in the sense used in this article.

This section makes a structural argument about how financed-project mechanisms are constituted. It does not assess any particular financier's mechanism and no institution's grievance procedure was examined in detail for this study. A fuller treatment would compare specific mechanisms against the test just stated and would consider whether any of them has been given domestic legal effect through incorporation into a project agreement enforceable by third parties which would materially change the analysis.

9. What the comparison shows

The three-variable comparison produces provisional, not exhaustively established, contrasts. Nepal constitutionally recognizes water access and offers superior-court writ jurisdiction, while the precise household complaint and administrative appeal provisions in the current sectoral Act and Rules require a complete operative-text review. Kenya specifies provider and Regulatory Board stages with a possible Tribunal appeal from the Board under regulation 91(5), subject to Water Act §121. Colombia's cited tutela illustrates accessible constitutional litigation and supervised interim relief in the circumstances of one judgment. It would be premature to rank Nepal's complaint entry threshold or the general efficacy of any national system before their complete legal pathways and actual complaint records are compared.

The first inference is a separation of access from adjudicative competence. A provider help desk may accept a complaint without power to substitute an enforceable decision; a court may possess jurisdiction but require procedural steps a household cannot readily navigate. In Kenya, the provider, Regulatory Board and possible Tribunal stages must be distinguished from the separate statutory appeal described in Water Act §82. Nepal's statutory connection, interruption and court provisions likewise cannot be represented as one undifferentiated local complaint scheme. The functional question is which actor can decide which challenged act, under which route and with what relief.

The second inference is that a legal order and delivered water are different outcomes. A reasoned decision may establish the household's legal position but leave financing, pipe works, tanker provision or compliance monitoring unresolved. The comparison should therefore track four timestamps separately: complaint received, determination issued, any interim protection supplied and actual service restored. The third inference is institutional complementarity: courts may produce fact-specific relief, while specialized providers and regulators may resolve repeated technical failures across many users. Colombia's supervised tutela illustrates one possible link between decision and follow-through, not a guaranteed national success rate or a remedy automatically applicable in Nepal or Kenya. A policy proposal is justified only where an identified domestic actor has legal power, feasible resources and a mechanism to check completed performance.

9.1. The same household refusal tested in three systems

Assume one household seeks an ordinary connection, receives a refusal citing network capacity and cannot finance an alternative supply. Hold the facts constant: no assertion is made that the household has a legal entitlement to immediate physical connection under every system. In Nepal the first inquiry concerns the provider and licensing conditions for the application under the Water Supply and Sanitation Act 2079 §21, followed by any applicable suspension or restoration rule under §24 if service previously existed. Proceedings under §§46–47 follow their own court and appellate sequence, not the invented local-committee appeal used in some summaries. In Kenya the researcher must distinguish the provider complaint under regulation 90, Regulatory Board complaint and review under regulation 91, any applicable statutory appeal under Water Act §82 and Tribunal jurisdiction subject to its statutory predicates. In Colombia the tutela inquiry asks whether the specific facts meet constitutional admissibility and the substantive vulnerability and minimum-service reasoning of the cited judgment.

Apply the same outcome scale: E0, complaint merely received; E1, a reasoned decision identifies the applicable entitlement or lawful refusal; E2, an authorized interim or final order requires action; E3, the

specified service or alternative supply is physically delivered and verified. E1 is not E3. None of the three legal sources establishes the rate at which real households advance through the stages. The analytic finding is that a system can excel at E0 and E1 while failing E3, so grievance-volume reports and even successful litigation counts cannot substitute for verified restoration data. The scale is a proposed assessment instrument rather than an additional legal remedy.

9.2. A remedy-sufficiency test: entitlement, capacity and compliance

The comparison requires a demanding definition of success. Receipt of a grievance, a reasoned determination, a legally binding order, an interim substitute and verified restoration of a service are five different events. A household may win at the third stage and remain without water at the fifth. The decision sequence is therefore evaluated twice: first for *legal sufficiency*, meaning an eligible claimant can reach a competent actor capable of giving a reasoned and enforceable response; and second for *delivery sufficiency*, meaning the response can be implemented under the relevant physical and financial conditions. Neither a high number of complaints processed nor an impressive judgment alone demonstrates the second result.

Hold one difficult case constant across the three jurisdictions. A household lies within the provider's existing service area, has submitted the required connection documentation and is refused without a reason while neighbouring households receive service. Under the Nepalese model the research question is which statutory administrative or judicial route addresses the specific refusal, what obligation the decision-maker may enforce and what practical order is available. In Kenya the analyst must separate the provider complaint, competent Regulatory Board review and any legally available further appeal; a timetable applicable to one step must not be mechanically copied to another. A Colombian tutela judgment supplies evidence that constitutional adjudication can produce case-specific supervised protection, not that its particular interim water quantity or monitoring agent binds the other jurisdictions. In all three, the comparative object remains the same household's path from refusal to delivered water.

Now alter only one assumption: the neighbourhood has no physical source or feasible network capacity. An otherwise well-founded order to connect cannot instantaneously create a source and interim water delivery, infrastructure prioritization or a time-bound works plan may be the only physically meaningful form of protection *if the competent forum has the relevant power*. The resulting limitation is not that constitutional rights are meaningless; it is that a legally sound remedy must specify an implementable subject, responsible institution, schedule and monitoring mechanism. A court's ability to issue an order is a

necessary institutional capacity for court-ordered relief but no finite bundle of procedures alone is sufficient to establish continuous service when water is unavailable.

A further counterexample is a provider that voluntarily restores supply within hours after an informal phone call. This household obtains the practical result without a formal appellate ruling. It would be misleading to rank that outcome below a published judicial order merely because it involved less visible law. Yet a provider's discretionary concession may be unreliable for similarly situated households where exclusion is repeated or discriminatory. The proper comparative test records both *individual result* and *institutional repeatability*: a legal route matters when the provider refuses voluntary correction or the same defect reappears. The thesis is thus narrower and stronger than the claim that all informal grievance mechanisms are worthless.

A credible performance measure follows individual files over time: date of refusal, acknowledgement, written reason, interim supply, binding outcome, date and quantity of restored water, subsequent interruption and the institution responsible for compliance. To avoid rewarding providers for excluding applicants whom they never register, the denominator should include rejected or unacknowledged applications, not only formally admitted complaints. Results should be stratified by network access, ability to pay and alleged ground for refusal. These indicators are proposed for future measurement; the present article compares legal design and does not invent delivered-water statistics.

The same household: necessary questions at each remedy stage

Stage	**Legal question**	**Outcome that would count**
Access and decision	Can this claimant contest this refusal before a competent actor?	A reasoned finding addressing the actual refusal, not merely a docket number.
Interim safety and final order	Can the actor lawfully require realistic interim supply or connection?	An order with an identifiable obliged party and implementable terms.
Compliance and recurrence	Is performance monitored and can noncompliance be addressed?	Verified household access over time, with a route if exclusion recurs.

10. Public policy, management and institutional capacity

For policy, the analysis yields a sequencing proposition rather than a model to adopt. The element most likely to improve usability at least cost is a specified provider-level complaint procedure with a defined response period and a written outcome, because it places the entry point where the complainant already is and generates the documentary record on which any later rung depends. Without a written outcome, an appeal has nothing to review. The second element, in order of cost, is an identified appellate body with a realistic time limit. The Kenyan design demonstrates that such a body need not be judicial and the Colombian decision demonstrates that supervision can be assigned to an official who already exists.

For management, the implications fall on the service provider. A complaint procedure that produces a written reasoned decision requires a records system capable of reconstructing why a particular household was refused which in many utilities is not currently maintained because the refusal was not previously a reviewable event. It also requires a delegation framework identifying who may reverse a refusal, since a complaints officer without authority to grant the remedy converts the procedure into a correspondence exercise. These are organisational design questions rather than legal ones and they are frequently the binding constraint on a legally well-designed system.

For institutional capacity in a federal structure, Nepal presents a specific coordination problem. Where responsibility is shared across federal, provincial and local levels and where water users' associations operate schemes alongside public providers, the household's grievance may concern an entity whose supervisor is not the body to which the household has access. A redress design for such a system must specify not only the rungs but the mapping between provider type and supervising authority, failing which the complainant's first obstacle is identifying whom to address. Nothing in the materials consulted for this study establishes how that mapping currently operates and it is identified here as a question for research rather than answered.

11. Economic and development dimensions

The economics of water-service exclusion are asymmetric in a way that bears directly on redress design. The cost to a utility of refusing a marginal connection is low and immediate: it avoids capital expenditure and avoids adding a customer whose consumption may not cover the cost of service. The cost to the household is high and diffuse, falling on health, on time and on the cash price of water from alternative vendors which in many settings substantially exceeds the tariff charged to connected households. Because the costs fall on different parties and are measured in different units, neither the utility's accounts nor the

household's budget registers the full social cost of the refusal. A redress mechanism is, in economic terms, an instrument for making a portion of that cost visible to the party that can act on it.

Three distributional consequences follow. Redress systems with high entry thresholds transfer the cost of exclusion to those least able to absorb it, since the capacity to reach a superior court is unevenly distributed. Systems with short limitation periods have a similar effect through a different mechanism, selecting for complainants with the information and support to act quickly. Systems that rely on individualised judicial relief distribute remedy according to the distribution of legal assistance rather than according to the distribution of need.

A countervailing consideration deserves weight. Connection requirements of the kind at issue in the Colombian case which tie service to the regularisation of land tenure, are not arbitrary. They serve purposes relating to planning, safety and the integrity of the network and relaxing them has consequences that fall on other users and on the public purse. The Colombian Court's response which was to separate the immediate human need from the regulatory requirement and to satisfy the former on a temporary and conditional basis while preserving the latter, is analytically more interesting than a simple override would have been, because it acknowledges the legitimacy of the requirement while denying it the power to produce destitution.

These observations are reasoned from the structure of the problem rather than measured. No cost data on alternative water sources, no connection-cost figures and no information on the distribution of legal assistance were obtained for any of the three jurisdictions and no numerical claim is advanced.

12. Rival explanations, limitations and competing mechanisms

A serious rival explanation is that infrastructure, hydrology and utility finance determine many water-service outcomes regardless of complaint design. An unserved settlement may lack a network altogether, in which case an order against a provider cannot itself produce the necessary infrastructure. The article's proposed remedy analysis principally concerns decisions to refuse, disconnect or otherwise deny a potentially available service; even there, affordability, capacity and safety may constrain interim relief. How common such decisions are, as opposed to exclusion caused by absent infrastructure, cannot be established without provider records. The framework must therefore be assessed separately for entitlement disputes and physical-supply deficits.

A second objection is that formal architecture tells us little about operation and that a well-designed ladder may be inert while an informal channel works well. This is accepted and it is the most serious limitation of a doctrinal study. The design features identified here are hypotheses about what makes redress usable and

they would be tested by evidence of use: complaint volumes, resolution rates, time to decision and the characteristics of complainants who succeed. None of that evidence was obtained and the article does not claim that Kenya's ladder functions as designed or that Nepal's writ route is in fact inaccessible.

One objection to a low-threshold complaint pathway is that connection refusals may reflect physical scarcity, illegal encroachment, environmental protection or tariff arrears rather than arbitrary administration. That objection is serious: a regulator cannot order delivery beyond the infrastructure and water available to it and an individualized court order may shift shortage to other households. A procedurally sound design should therefore distinguish an immediate safety-critical minimum from a permanent connection, require recorded reasons for network constraints and permit staged or shared interim supply where authorized. Such safeguards test whether the redress model improves reasons-giving without promising water that cannot physically be delivered.

A third objection concerns the Colombian material. A single judgment, however instructive, cannot represent a national architecture and the decision described is one of a large body of water-related tutela jurisprudence whose overall tendency this study has not assessed. The decision is used here as an illustration of a design logic, namely the combination of low entry threshold, quantified standard and delegated supervision and not as a summary of Colombian law. A fuller treatment would examine whether the fifty-litre figure has been applied consistently, whether subsequent decisions have varied it and whether compliance monitoring by municipal officials has in fact occurred.

The most important evidence limitation concerns the operative Nepali remedy, not the existence of Nepali water legislation. The Act 2079 has now been examined for applications, service interruption and restoration, compensation and court proceedings (§§21, 24, 43, 45–47) but the complete Rules 2081 administrative-grievance, commencement and repeal framework has not been authenticated in this research. The study therefore does not claim the absence of an administrative complaint procedure, nor does it equate a constitutional writ with the only possible route to service restoration. Kenya's 2025 regulatory instrument and Colombian tutela judgments provide useful functional contrasts but their outcomes cannot establish what a Nepali authority is competent to order. A defensible empirical extension would use provider complaint registers, restoration orders and actual compliance records, none of which were examined here.

Infrastructure absence, drought, affordability, land status and administrative error should be coded separately from procedural failure. Where no network capacity exists, a faster appeal may improve reasons or interim protection without producing an immediate connection; that outcome would not by itself falsify the procedural argument. Where capacity exists but comparable households receive different decisions or

compliance follow-through, the entry-standard-supervision architecture becomes more explanatory. Neither pattern was measured in this doctrinal study.

13. A proportionate design and its disconfirming conditions

The design suggested by this comparison has four elements. First, a provider-level complaint procedure producing a written, reasoned decision within a specified period, with the reasons identifying the rule relied on and the evidence applied. Second, an identified appellate body which need not be judicial, with a limitation period long enough to be usable by an unrepresented complainant and with power to substitute its own decision rather than merely to remit. Third, a specified minimum service entitlement applicable where full connection cannot lawfully be effected, so that regularisation requirements do not operate as a bar to any water at all. Fourth, an assigned supervisor for individual outcomes, preferably an official who already exists at local level, with a duty to report non-compliance to the licensing authority.

Each element is contestable and the conditions under which the design would be shown to be wrong can be specified. If complainants with written reasoned decisions were found to fare no better on appeal than those without, the first element would lose its justification. If lengthening limitation periods produced no change in the composition of appellants, the claim about selection effects would be weakened. If a specified minimum entitlement were found in practice to operate as a ceiling, reducing full connections, the third element would be counterproductive. If assigned local supervisors were found not to act on non-compliance, the fourth would be nominal.

Input / actor	Decision gate / test	Evidence and permissible output
Household and provider	Does the request concern an existing network, disconnection, tariff or area exclusion?	Dated application, stated service standard, reason and physical-supply constraints.
Provider complaint channel	What response must the competent provider give, under verified law or rules?	Accessible complaint, acknowledgement, written finding and any interim safety measure.
Regulator / court / Tribunal	Does the instrument give this forum review and order-making competence?	Nepal original-law remedy map; Kenya regs 90–91 and Water Act §121; case-specific writ/tutela.

Implementation and review	Was the order complied with and could it physically restore service?	Compliance evidence, independent follow-up, water availability and a remedy for noncompliance.

Institutional diagnostic matrix 3. Decision-to-enforcement test for a constructed household water-service dispute.

An accessible channel, a binding decision and deliverable water are separately observable. The matrix does not infer the absence of Nepalese administrative remedies from an incomplete text search and it does not treat Colombian case-specific temporary supply as a universal quantitative standard.

A feasible research programme would be documentary and comparative. It would assemble refusal decisions and their outcomes across a set of providers, coded for the stated ground of refusal, the existence and form of any written decision, the route taken by the complainant, the time to resolution and the eventual service outcome. Negative cases, meaning refusals that were reversed without recourse to any formal mechanism, would be as important as the successful complaints and their omission would bias findings toward the formal architecture this article describes. Access would require the cooperation of providers and would raise data-protection questions that must be resolved in advance.

Kenya's current Water (Services) Regulations 2025 offer a useful procedural contrast but the availability of a written regulator decision does not itself establish timely physical restoration. Regulation 90 concerns the provider's complaint mechanism; regulation 91 provides a complaint to the Regulatory Board, internal review and appeal language, with twenty-one-day periods for the Board's response and review decision. An empirical evaluation should trace complaint numbers into actions actually completed on the ground, distinguishing reasons issued, decisions modified and service restored. The existence of the route is a legal finding; its effectiveness remains an empirical question.

13.1. Three-tier implementation sequence

Tier 1: service providers identify the legally applicable connection and interruption rule, supply a reasoned response channel and record the physical action, where any, that follows; in Nepal this begins with Act 2079 §§21 and 24 and the appropriate court route rather than an assumed Rules 2081 appeal. Tier 2: regulators or competent authorities standardize E0–E3 coding, retain dates and reasons and distinguish a timely paper response from actual delivery without sharing personal household data publicly. Tier 3: only if documented case files reveal an uncovered enforcement step should lawmakers consider an appropriately funded supervision or interim-supply mechanism, preserving technical feasibility, standing and statutory

jurisdiction. The performance indicator is completion of lawful relief, not complaints resolved on a dashboard.

The common-case test yields a qualified but important result: an available forum is not the same as an effective legal remedy and an effective legal remedy is not identical to completed service delivery. A claim becomes legally meaningful when the relevant official can address the actual denial through a competent, reasoned and enforceable decision. It becomes materially protective when the ordered response is feasible, timely and monitored or an authorized interim alternative prevents immediate harm. The Colombian case illustrates one form of supervision; Kenyan staged processes and Nepalese constitutional and sectoral routes illuminate different entry and order-making questions. No institutional design alone proves that water reached the household.

14. Conclusion

The research question is whether a household denied a potentially available water service can secure a reasoned, competent and enforceable response. Nepal's constitutional right is accompanied by enacted service and court provisions: Act 2079 §§21 and 24 address connection and specific interruptions/restoration, §43 provides conditional compensation and §§46–47 specify District Court proceedings and a 35-day High Court appeal from the District Court decision. The separate administrative complaint and interim-relief provisions, if any, in Rules 2081 still require authentication. Kenya supplies provider and Regulatory Board procedures under regulations 90–91 and a possible appeal from the Board to the Water Tribunal under regulation 91(5), read with Water Act §121. The published Colombian tutela supplies an example of supervised, fact-bound temporary relief. The paper develops criteria for evaluating those legal routes; it does not rank observed national performance or prove that the proposed Nepalese reforms would improve household supply.

The paper's contribution is a remedial translation test. It applies the same six questions to distinct legal forms: claimant, contested service decision, competent forum, governing standard, enforceable directive and responsible compliance supervisor. The additional E0–E3 scale makes the last distinction observable. A grievance system may be accessible yet nonbinding; a court may issue an enforceable direction that is not implemented; and a provider may restore service informally without a litigated entitlement. None of those configurations is logically contradictory. Comparing them prevents the error of counting complaint access, favorable legal decisions and delivered water as interchangeable measures of redress.

This study establishes limited features of the published legal architecture, not empirical remedy performance. It observed no actual Nepalese complaint or utility decision and cannot claim a completed negative finding about administrative redress. The decisive next legal test is a provision-by-provision review of the full Rules 2081, any relevant transition provisions and the specific provider's applicable instruments, followed by the conditions and grievance records of a named service provider. Only then may a comparative claim about practical availability of individual relief be made.

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