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# The Role of the Currently Applicable Water Treaties in Conflict Resolution

*The Middle East and South Asia are hydropolitical hotspots, where the competition for freshwater has dramatically increased and the amount of available resources decreased, due to several reasons. This paper offers an analysis about two water conflicts, in which relevant paragraphs of the international water law would only provide a temporary water conflict resolution, because present water treaties must be urgently updated to enhance hydropolitical resilience. Overexploitation of the water resources, development of the critical region's hydroecological conditions, hydrohegemony's unilateral decisions can be handled with an effective international water governance and waterpolitical reforms.*

**Keywords:** *international water conflict resolution, hydropolitical resilience, hydrohegemony, international water and environmental law, water wars*

## Introduction

Water is one of the main geopolitical issues of the world. It has been central for humans, therefore it is a source of several conflicts. Instead of generating conflicts, with the help of diplomacy, water can be an asset for peace and cooperation. Waterdiplomacy can ease tensions over water issues and manage international relations. Water geopolitics identifies three dimensions:<sup>2</sup>

1. Conflicts when water resources are causes of a violent confrontation.
2. Water is a tool in achieving political, economic, military interest.
3. Weaponisation of water as a military strategy.

This paper examines two of the most serious water conflicts in the world. I conducted analytical investigations about some significant indicators of hydropolitical vulnerability of the territories involved. Factors, that cause water stress. International rules and treaties are available and were applicable in different cases, I will enlighten their influence. The hydropolitical vulnerability of the basins will be treated in relation with the political systems and their institutional resilience, infrastructural background as categories of hydropolitical risks. I am trying to underline that both internal and foreign policy are the most influencing factors of the hydropolitical dynamics. The literature identifies common

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<sup>2</sup> Dinar, Shlomi – Dinar, Ariel (2000): Negotiating in International Watercourses: Diplomacy, Conflict and Cooperation. *International Negotiation*, 5(2), 193–200.

features of serious water conflicts like levels of tensions changing parallel with the population size, territorial extension, level of democracy.<sup>3</sup>

Several cases of conflicts are mostly non-violent and more likely to be resolved with cooperation in transboundary basins. The literature about political background, geopolitics or diplomacy showed that water-related interactions between countries are mostly based on socio-economic factors.

## Serious water conflicts that can lead to war

The related conflicts are

- India and Pakistan's water conflict, the Indus Water Treaty
- water conflict in the Middle East: Iraq, Turkey, Syria: large-scale uncoordinated projects on the Euphrates<sup>4</sup>

Freshwater as a limited resource is influenced by geographical conditions, geopolitical agendas and social-political dynamics on several scales. In my essay, I intend to enlighten regional geography characteristics related to two continent's freshwater problems. Freshwater resources are under pressure when alterations are done to serve individual needs. By 2030, water scarcity is predicted to grow and will affect 40% of the world's population. Water security is the criterion of the world's security. Within many international river basins including those in the Middle East and Asia, the demand for water for domestic, industrial, environmental purposes is growing. Waters will become more vulnerable to tensions, conflicts, climate change. "In the international community, freshwater resources are still debated as to whether they are a human right or a global commodity. Worldwide, an estimated 1.2 billion people lack access to safe drinking water and more than 2.4 lack access to sanitation. The problem may have technological and economic solutions, but scholars increasingly see the problem nested in the imbalance of power, lack of agency in marginalized populations, and lack of political will in local or national governments."<sup>5</sup>

River is an ecosystem. It gives freshwater and flood services such as water purification or natural flood protection. Alterations like channel construction, dikes, closures, deepening has severe direct and indirect impacts on the entire river and floodplain ecosystem. Nature's interest is the free-flowing river, industry's and trade's interest to increase income through navigability. Wetland and riparian areas are the most productive ecosystems. People benefit from rivers directly and indirectly. The economic values of waters seem higher than just exploiting the advantages of the international trade. River modifications cause environmental and social consequences. A river performs a lot of ecosystem services

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<sup>3</sup> Wolf, Aaron T. (2008): Healing the Enlightenment Rift: Rationality, Spirituality and Shared Waters. *Journal of International Affairs*, 61(2), 51–73.

<sup>4</sup> Turkey, Syria and Iraq: Conflict over the Euphrates–Tigris. [online], Climate Diplomacy, 2009. Source: climate-diplomacy.org [06.05.2023].

<sup>5</sup> Veilleux, Jennifer C.: *Relationship Between Freshwater Resources, Socio-Cultural Dynamics and Geopolitical Stability*. [online], Oregon State University, 2021. Source: researchgate.net [03.02.2021].

such as purifying water, drinking water, moderates floods and droughts, support ground-water resources, maintains habitat for wildlife. It supports fishery, forestry, agriculture activities. The water quantity and quality streams reflect the conditions in the watershed including the riparian areas and the upland areas.<sup>6</sup> Rivers and lakes across the world have been heavily modified, anthropogenic reasons are floods, navigability, domestic, agricultural. Freshwater plays a significant role in political and economic stability, it influences sustainable development, democracy and equity, but within these sectors its importance fluctuates. Scarcity persists, in large part due to politics, power and competing interests rather than technology or economics. The imbalance of power within and between nation states, and lack of political will of governments to take action to improve sanitation and freshwater distribution can lead to serious water conflicts.<sup>7</sup>

In South and Southeast Asia, people have to face some challenges like population growth, urbanisation, industrialisation, overexploitation of the natural resources such as water; economic changes mean a pressure on the water resources. There is a competition for freshwater resources, demand is increasing. Water management is more complicated than in other parts of the world as transboundary water systems are shared by several countries that have differing development goals. These countries – referring to our examination points – do not have proper institutional systems with legal mechanisms, they cannot always manage occurring water issues. In most cases, the politically dominant and powerful country, the hydrohegemon dictates and controls the development process. The dominant country is basically upstream and it often acts unilaterally, its behaviour leads to a water conflict. Building dams on international rivers is a serious source of a dispute, the flow regime in downstream countries could be affected concerning the water use and the whole riparian environment.

## The water conflict between India and Pakistan

There are four transboundary river basins of the region, the Indus River is in the focus of the first part of the paper. As it was pointed above, overpopulation, traditional agricultural practices, rapid urbanisation, increasing industrialisation and a general lack of pollution control facilities are exerting growing pressure on the water resources.<sup>8</sup>

In responding to the water challenges around the world, several treaties and agreements emerged. The world needed a document, that can work in several circumstances, both in water-rich and water-scarce countries. The UNECE<sup>9</sup> Water Convention was designed to manage water issues in very different conditions. The water treaties have a lot in common: they manage availability, quality of water (environmental and ecological aspects of water management), economic utilisation of transboundary water resources

<sup>6</sup> Veilleux 2021.

<sup>7</sup> Veilleux 2021.

<sup>8</sup> [Hydropolitical Vulnerability and Resilience along International Waters: ASIA](#). [online], UNEP, 2009. Source: unep.org [02.05.2022].

<sup>9</sup> United Nations Economic Commission for Europe.

(mainly navigation, hydropower development, storage/irrigation, fishing), management of hydrological variability (floods, droughts, etc.) and institutional questions.<sup>10</sup>

The global treaties' success largely depends on the effectiveness of their administration and enforcement. The UNECE Water Convention regulates water management indirectly, so it does not often have a practical impact on local issues.

In several cases regional and basin treaties can be more effective. The experts of the UN (United Nations) think workable monitoring provisions, enforcement mechanisms, and specific water allocation provisions are needed in managing global water issues. Treaties try to follow key principles to guide the conduct of nations regarding shared watercourses: as they emphasise “equitable and reasonable use” and “the obligation not to cause significant harm” to neighbours. However, it is up to countries themselves to spell out precisely what these terms mean in their watersheds, those regional methods that follow the international principles usually depend on the socio-economic aspects of water management and highlight the links between water, energy, food and human security from a regional perspective, historical context, legal aspects, frameworks for negotiation and mediation and system analysis.<sup>11</sup>

According to the UN literature, there is a consensus among experts that international watercourse agreements need to be more clear, setting out measures to enforce treaties made and giving detailed conflict resolution mechanisms in case disputes are generated. Better cooperation also requires identifying clear yet flexible water allocations and water quality standards, taking into account hydrological events, changing basin dynamics and societal values.

In this paper, several treaties and sources of international law will be mentioned relating to the water cases concerned: the Indus Water Treaty, UN Watercourses Convention, Helsinki Law, Harmonie Doctrine. The UN Water Convention can work as an international legal instrument and as an intergovernmental platform which is applicable in transboundary water debates, since it facilitates cooperation.

## **The treaty was born to avoid a water war**

The Indus Water Treaty had to face several challenges. Earlier, it was established as a short-term agreement that survived two wars between nuclear-armed neighbours. The treaty is more than 50 years old, and India may not be obliged to take it into consideration. Indian–Pakistani cooperation was a step in the global hydrodiplomacy, in which the World Bank had an important role, when two countries needed financial support to extend their irrigated areas and create suitable infrastructure for water.

Their political goal was to avoid serious water scarcity. India is in the position to handle disputes over the projects on the western rivers of the Indus system. India opposed to join the UN Watercourses Convention, that contributes the norms of the relevant paragraphs of the international law.

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<sup>10</sup> Baranyai, Gábor: *European Water Law and Hydropolitics: An Inquiry into Resilience of Transboundary Water Governance in the European Union*. [online], Pázmány Péter Catholic University, 2019. Source: real-phd.mtak.hu [07.04.2021].

<sup>11</sup> *Transboundary Waters*. [online], UN Water, 2021. Source: unwater.org [22.04.2022].

The Indus Water Treaty is considered to be a successful mediation because it brought a resolution. A greater conflict could have happened over the past 60 years. In reference to any other conflicts surrounding poverty, infectious diseases and environmental degradation are factors that, when combined with other factors such as social and political instability, can lead to war. Some experts emphasise and a large amount of research underlines that scarcity of resources, like water, could contribute to social instability and violent conflict. Often times, debates over resources could deteriorate into something violent. In the case of India and Pakistan, the resolution surrounding the Indus Basin came early and helped the parties avoid water wars.<sup>12</sup>

## Political and social background

### India

India is usually categorised as a growing superpower, as it plays an important role in the international affairs, its population is enormous and it has the fifth largest economy in the world.<sup>13</sup> India is a Sovereign Socialist Secular Democratic Republic with a parliamentary form of government which is federal in structure with unitary features.<sup>14</sup> The country is a multiparty democracy, the government is led by Prime Minister Narendra Modi and his Hindu nationalist Bharatiya Janata Party has presided over discriminatory policies and a rise in persecution affecting the Muslim population. The constitution guarantees civil liberties.

The most serious challenges that India has to face are

- overpopulation
- poverty
- malnutrition
- illiteracy
- malnutrition
- spyware detection
- prevention of terrorism, Islamic fundamentalists

When considering the indicators of a water conflict, the background of hydropolitical vulnerability and resilience in Asian countries, climatic reasons should be highlighted: there is a variety of climatic conditions, in some parts it is tropical, elsewhere there is humid tropical. Water management is considered to be poor, so water issues are sensitive. There are four major transboundary river basins in the south and southeast region of Asia. Water problems are predicted to grow and affect other sectors here.<sup>15</sup>

<sup>12</sup> Nax, A. Natalie: [The Indus Water Treaty and Climate Change](#). Thesis. [online], University of Oregon, 2019. Source: [scholarsbank.uoregon.edu](#) [12.05.2022].

<sup>13</sup> [GDP by Country](#). [online], Worldometer, s. a. Source: [worldometers.info](#) [10.10.2022].

<sup>14</sup> [Governance and Administration](#). [online], National portal of India, 2022. Source: [india.gov.in](#). [11.10.2022].

<sup>15</sup> [Hydropolitical Vulnerability and Resilience along International Waters: ASIA](#). [online], UNEP, 2009. Source: [unep.org](#) [02.05.2022].

The geographical-geopolitical location, the ethnic-religious composition, the economic developmental rates, the ground for political rights, territorial disputes, religious and political extremism gives the picture of the relevant country's status, its position in a conflict resolution process. India is called the 'partly free' category as it is officially a parliamentary democracy but its system is instable.

India's foreign policy is based on the concept of neighbourhood. Millions of Indian people live and work abroad and constitute an important link with the mother country. Countries considered India's closest foreign partners are the United Arab Emirates, the Russian Federation, Israel, Afghanistan, France, Bhutan, Bangladesh and the United States. Russia is the largest supplier of military equipment to India, followed by Israel and France. It has diplomatic relations with hundreds of countries all around the world, and a member of different international organisations such as the World Trade Organization, International Monetary Fund, and a lot of relevant regional organisations in Asia.<sup>16</sup>

## **Pakistan**

Pakistan is an Islamic Republic, with an important Muslim population. Its economy is growing, it has got a democratic multi-party parliamentary system. It has to face serious challenges such as terrorism, overpopulation, religious extremism, poverty. Extreme political activities, terrorist attacks are not rare in the country.

As for Pakistan's foreign relations, it is a significant ally of China, its international relations mainly focus on other Muslim countries. The Kashmir conflict determines its relations with India, so Turkey and Iran also play an important role in its policy against India. Pakistan is an influential member of the Treaty on Nuclear Non-Proliferation, it has got a nuclear deterrence program to counter India's nuclear ambitions. Geopolitically, the country is becoming a nuclear power. It is located in a geopolitical corridor of the oil supplies.

## **Indian–Pakistani water conflict**

In the first part, the function of the Indus Water Treaty was briefly summarised. The population growth in both countries challenged their effectiveness.

The Indus Water Treaty does not monitor border states properly, the climatic conditions changed significantly since the two countries agreed. It has to be updated. Climate change can reduce access to freshwater and lead to a conflict, if it does not adapt to the future changes. Water access affects human and economic conditions. All in all, the whole region's integrity is involved in the water issues.<sup>17</sup>

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<sup>16</sup> Kapur, Ashok (2011): *India and the South Asian Strategic Triangle*. London – New York: Routledge.

<sup>17</sup> According to the latest UN Water Report, understanding the region's hydroecological conditions, water demands, social and economic needs would be necessary for an effective policy-making. Overpopulation, frequent droughts, therefore the overexploitation of groundwater resources usually lead to unilateral actions. India behaves as a hydrohegemon. Figure 8.6 (p. 135) shows the natural recharge of groundwater in the region, that is very low. *UN World Water Development Report 2022*. [online], UN Water, 2022. 135–136. Source: unwater.org [14.11.2022].

Due to the fact that India and Pakistan had serious conflicts over the ownership of Kashmir, the roots of the water dispute lead back in time. In this paper, it was described that two large countries with growing population need a huge amount of water. The potential is reducing, real cooperation is missing. The importance of the political stability and democratic background was emphasised. The Kishan Ganga Project on the River Jhelum and the Baglihar Hydropower and the Dam Project on Chenab are two cases that have caused controversy,<sup>18</sup> which is due to the tense foreign relations between them. There is a competition also in the division of natural resources. Climate change contributes to the serious consequences of overexploitation, the water quantity is feared to diminish, although water is the backbone to life in both countries.

The Treaty needs updating, it has to include flexibility and variability in order to become resilient. It should manage climate change effects, stop disproportionate division, address water pollution. Water management in this region should be considered a joint responsibility.<sup>19</sup>

## Water conflict in the Middle East

### *Iraq, Turkey and Syria in the Euphrates–Tigris River Basin*

This region supports a diverse number of cultures and people for nearly 6,000 years. When examining the roots of conflicts, the fact has to be highlighted that people living here are from a variety of origins and have completely different ways of life. “In the lowlands live peasant cultivators, *fellahin* who irrigate lands along the banks of the rivers. Nomadic desert *Bedouin* graze their flocks on the arid plains, and semi-nomadic *Madan*, or “Marsh Arabs,” reside in the swamps and marshes.”<sup>20</sup> Furthermore, “an increasing number of urbanites who inhabit the cities are using water for domestic uses. In the highlands of Kurdistan, the Kurdish mountaineers rely on water sources as do a few remaining Armenians, who though now largely displaced were expelled by the Turks early in the twentieth century. Such basin diversity demands regional cooperation for its survival”<sup>21</sup>

Tigris–Euphrates River Basin is earlier called the Cradle of civilisation and the Garden of Eden, where water became the root of life and therefore the source of serious conflicts. One of them is the Turkish GAP project (Güneydoğu Anadolu Projesi or Southeastern Anatolia Project). Its construction started in the 1960s but there is an ongoing debate on the Turkish dam building. The GAP project includes some 22 dams, 25 irrigation projects and 19 hydroelectric power plants. It is divided into 13 major sub-projects, 7 of which is located on the Euphrates River and 6 on the Tigris. On the Euphrates, the Lower Euphrates is the largest sub-project, encompassing the Atatürk Dam and tunnels together

<sup>18</sup> Nax 2019.

<sup>19</sup> Nax 2019: 40.

<sup>20</sup> MacQuarrie, Patrick: *Water Security in the Middle East. Growing Conflict in the Development of the Euphrates–Tigris River Basin*. Thesis. [online], Trinity College, Dublin, Ireland, 2014. 7. Source: [transboundarywaters.science.oregon-state.edu](https://transboundarywaters.science.oregon-state.edu) [22.05.2022].

<sup>21</sup> MacQuarrie 2014: 8.

with five smaller sub-projects.<sup>22</sup> Before the introduction of the water conflict and the role of the international law in the Tigris–Euphrates River Basin, it would also be relevant to enlighten the political background of the riparian states.

## Political background of the rivalries

### *Turkey*

It is a middle power in the region with its significant role in international relations. It is situated in the intersection of three important areas: the Middle East, Europe and the previous ‘near abroad’,<sup>23</sup> such as Ukraine. It is clear, why it is considered a regional power, why it is so dominant in the regional issues and behaves like a hydrohegemon. The Atatürk era was very determining in the relevant water conflict. Turkish foreign policy was trying to avoid confrontation during the Kemalist times. The main doctrine was about ‘Peace at home, peace in the world’, so Turkey did not seek territorial expansion. At present, the country seems more active. In the third age of Erdogan’s foreign policy, Turkey moved in an authoritarian direction: political purging is not rare to stabilise the present power of Erdogan. The country has a powerful military potential, ‘zero problems with neighbours’ doctrine works in the foreign relations. Turkey is not striving to influence regional affairs. Its economic position has remarkably improved, its diplomatic network was build up precisely. Turkey gets diplomatically consolidate gains from several military victories in Libya and Syria. Regional competition has increased with Russia and Iran.

Turkey has economic success, social progress. Cooperation with the regional countries such as Syria and Iraq has not reached a good dimension. Turkey is a western-oriented state in the Middle East, as it is a member of the Council of Europe and applied for a full membership. But there was a set-back in the Turkey–EU relations when Turkey supported North Cyprus in the Cyprus conflict.<sup>24</sup> Another problematic issue is the Turkish attitude against the Kurds. In the shadow of the Russian–Ukrainian war, Erdogan started a military operation against the Kurds in Iraq. The Turkish military campaign against PKK (Kurdistan Workers Party) fighters is a keynote event in world politics. After the Peace Treaty, Turkey ignored the Kurdish demand for autonomy and inducted a series of violent actions against them. Another critical factor of the EU membership is the Turkish support for Northern Cyprus in the Cyprus debate.<sup>25</sup> Turkey is a chief ally of the U.S., in the 1950s it became a member of NATO and the salient American support to Turkey endangers the power of Russia in the region.<sup>26</sup>

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<sup>22</sup> MacQuarrie 2014: 13.

<sup>23</sup> The post-Soviet states around Russia, the former Soviet Union.

<sup>24</sup> The Cyprus debate is a conflict between the governments of Turkey and Greece. Only Turkey recognises the Turkish Republic of Northern Cyprus.

<sup>25</sup> A debate emerges between the Greek and the Turkish government, they cannot agree on serious territorial questions of Cyprus.

<sup>26</sup> Egeressy, Zoltán: *Enyhülés az EU és Törökország között*. [online], KKI Elemzések, 2021. Source: kki.hu [02.02.2022].

## Iraq

Another dominant member of this tripartite water conflict is Iraq, comes second after Turkey, because it has not got such a political power. Although it controls the world's third largest oil reserves, cross-border terrorism twisting away from here to the broader Middle East makes it one of the most dangerous nations. After 11 September 2011, President Bush introduced the Great Middle East Initiative, which is about the democratisation of the region in an American style. The Iraq war in 2003 had concentric circles here, and so did terrorism. The American intervention created a new strategic environment. Before it dissolved, the Soviet Union was the main partner of Iraq. Iraq and Syria both belonged to the former socialist states. The Great Middle East Initiative was established against terrorism. Traditionally, the conflict between Arab, Iranian and Turkish ethnic groups derives from the Sunni and Shiite Islamic religious groups. After 1978, the Egyptian–Israel peace agreement was a cardinal step to the unity of the Arab world but was the beginning of a serious regional competition. Interference of the great powers of the world increased. Iraq has an important role in the Middle East with its geopolitically strategic location. Its characteristic is a mixture of its ancient, traditional culture and modernism, that is supported by the international community. It has got tribal characteristics, radical religious groups, Sunni and Shiite confrontation. Furthermore, the country is a cross point of different ethnic groups, such as Arabic, Persian and Turkish.<sup>27</sup>

## Syria

Lastly, Syria in this conflict has got the most politically instable background. According to the Global Peace Index (2018), it is the most dangerous country in the world.<sup>28</sup> It is very diverse both ethnically and involving its religion: Syrian Arabs, Kurds, Turkmen, Assyrians, Greeks live here. During the phenomenon of the Arab Spring,<sup>29</sup> President Assad was accused of human rights abuses and violence. The wave of Arab spring revolutions reached Syria, the civil war has not ended since 2011 having serious effects in the international policy. Due to the great powers involved, it turned to a never ending proxy war. Millions died, millions escaped causing refugee conflicts all over Europe. There were protests against the Assad Government that practically led to the present military conflict. Since the beginning of the war, alternative governments were formed but did not work. Without a stable political background, conflicts cannot be solved. Syrian–Turkish and Syrian–Iraqi interactions, political relations are very tense, Syria is politically isolated from its neighbours. Syria's traditional allies are Turkey and Iran.

<sup>27</sup> N. Rózsa, Erzsébet: *The War in Iraq and the Broader Middle East*. [online], KKI Elemzések, 2008. Source: kki.hu [23.05.2022].

<sup>28</sup> *The Global Peace Index Report 2018*. [online], Institute for Economics and Peace, 2018. Source: reliefweb.int [05.07.2022].

<sup>29</sup> N. Rózsa, Erzsébet: *The Geostrategic Consequences of the Arab Spring*. [online], IE Med analysis, 2013. Source: euro-mesco.net [12.10.2022].

Before the details of the water conflict, the situation of four million Kurds has to be enlightened in the shadow of the tense foreign relations in the Middle East. Kurds have a major role in the Middle East. Iraqi Kurdistan influences the policy of each country where they live. Kurdish minority lives in Turkey, Iran, Iraq, Syria and Armenia. They believe in the unification of their nation in a united Kurdistan but they are considered one of the most critical security threat, because they are not usually afraid of armed struggle in a political issue. The Kurds always renew their terrorist activities and try to maintain and reinforce Kurdish identity, power and want to gain representation in politics. In the shadow of the Russian–Ukrainian war, Erdogan was quite decided to start a military attack against the PKK rebels in Iraq. In Syria, Turkey led several operations against the Kurds in the northern part of the country.

“On the Iraqi front, Turkey has been reinforcing its alliance with the Kurdistan Regional Government, which controls northern Iraq, by negotiating a new energy deal. Given Russia’s invasion of Ukraine, these energy relations have become even more important. With Turkey looking to diversify its energy portfolio in various directions, the recent discovery of large, untapped natural gas reserves to the east and south of Kirkuk, Iraq, is just another reminder for Ankara that the KRG is an important strategic partner.”<sup>30</sup> Concerning energy deals, Turkey is trying to diversify its energy sector. In the question of the present military action against the Kurds, it is more important for Erdogan to be re-elected in 2023 than being aware of the transatlantic will.

## Water conflict between the riparians

Political instability and lack of cooperation between Turkey, Iraq and Syria led to a water conflict. Turkey is using water as a weapon against Kurds, Syria is trying to harmonise the interests of riparian countries, monitoring water issues. There is no tripartite agreement, therefore there are recent conflicts over water usage. Syria and Iraq have historical rights. Cooperation so far has not worked between riparians, international water course law could not be implemented in the regional water management. Water security management strategy would be necessary but the complex way of pursuing a water sharing agreement makes it impossible.

Turkey treats the other two countries involved as historically political rivals; the historical and political contradictions were underlined in the previous chapter. Turkey wants to develop without being aware of the other two riparian countries’ historical rights. Water scarcity, inefficient water abstraction, land and water use, unilateral objectives, ignored international water law led to several water conflicts. The Turkish GAP project<sup>31</sup> became the source of conflict. Southeast Anatolia Development Project was started in the Atatürk era, which was a hydroelectric and irrigation development scheme. The Turkish hydrodevelopment program, first of all, had its main objective: economic growth by

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<sup>30</sup> Siccardi, Francesco: [Why Has Erdogan Ramped up Turkey’s Clash with the PKK?](#) [online], Foreign Policy, 23.05.2022. Source: [foreignpolicy.com](#) [02.01.2023].

<sup>31</sup> Güneydoğu Anadolu Projesi (Southeastern Anatolia Project).

developing economic structure of the southeast region. Economic growth can lead to social stability, utilisation of resources in the region.

Turkey was striving to increase productivity and employment opportunities. The GAP project includes many dams, among which the Atatürk Dam causes serious conflict between Turkey and Syria. Once Turkey stopped the whole Euphrates river flow for a month.

According to Patrick MacQuarrie, the GAP project lost its original mission. It became a multi-sectoral socio-economic program. The name changed in 1995 to GAP RDA (Regional Development Administration Strategy) and some new elements were introduced comparing to the firstly issued GAP Plan. Its objective is to manage water and land resources, introduce better farm management, improve manufacturing industries and social services by responding to regional needs. Originally, it focused on hydroelectric planning but later turned into a regional economic project touching international relations with the EU and the Kurdish issue.

## The role of treaties and international law in the resolution

At the beginning of the twentieth century Britain and France, two coloniser countries had an agreement, the Convention of 23 December (1920) that recorded the role of the powers in the water issues: any plans for irrigation works undertaken in the basin that affect the countries had to be examined by the British and French commission. Later it was followed by some similar documents, such as the Franco-Turkish Agreement (1921), the Treaty of Lausanne (1923), Water Treaty of Ankara (1926), Agreement about the Joint Usage of the Euphrates (1930). All of them were written with the supervision of the colonisers. Finally, the Treaty of Friendship and Neighbourly Relations (1946) was signed first by Iraq and Turkey, which was the first legal instrument of their cooperation.<sup>32</sup> Syria was involved, when the first major dam was built. It was the Turkish Keban Dam and it motivated the first tripartite talks on the Euphrates water issues. The Keban dam was financed by the United States Agency for International Development (USAID) and recorded: Turkey must not harm downstream riparians but has to guarantee flows downstream, and that both sides agree to the plans. The World Bank financed the Karakaya Dam and requested similar downstream guarantees. Turkey thought that international donors favoured downstream riparians, so it tried pursuing their own financing for subsequent projects. It also led to the establishment of the Joint Technical Committee between the three countries.

“The Joint Technical Committee or JTC met trilaterally for the first time in 1965, although an earlier meeting between Syria and Turkey occurred a year earlier. The main concern at the time was the filling of Keban dam in Turkey, Syrian planning for Tabqa Dam and the Haditha Dam in Iraq [...]. The thorny issue of diverting Tigris river water to the Euphrates created a big stir amongst water academics, with Iraq strongly opposed to the idea, following by Syria. The early 1970s were characterised by field trips and

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<sup>32</sup> MacQuarrie 2014: 38.

occasional meetings, but no one dare make reference to a water rights agreement lest a wrath of haste descend upon ye from all three sides.”<sup>33</sup>

The JTC was still active in the 1980s and 1990s. They mainly discussed the plans of the GAP project, the building of the Atatürk Dam and the consequences downstream. The issue divided the group to share the ‘international rivers’, or a regime to determine the ‘utilisation of a transboundary watercourse’. Turkey insisted that both watercourses are Transboundary Rivers that cross international boundaries, but do not constitute them. However, Syria and Iraq claim they are international rivers and that they are co-riparians, justifying an equal share of their waters. “Conflict over filling Atatürk reservoir did produce a water sharing agreement between Syria and Iraq, normally adversarial toward one another. This was a positive outcome but is also limited to the provision that Turkey sends Syria sufficient flowrates on the Euphrates. The treaty does bind Syria and Iraq together against Turkey, but does little to advance a solution to the basin-wide water sharing security dilemma.”<sup>34</sup>

The International Law Commission, a UN affiliated body involved in the formulation of the Law of Non-Navigational Uses of International Watercourses states that basins shared by two or more states (successive rivers) or constitute the boundary between them (contiguous rivers) define an international river, ‘international watercourse’ refers to hydrographic components such as rivers, lakes, canals, glaciers and groundwater constituting, by their physical relationship, a unified whole. The UN Convention states that ‘Watercourse’ means a system of surface waters and groundwaters constituting by virtue of their physical relationship a unitary whole and normally flowing into a common terminus. ‘International watercourse’ means a watercourse, parts of which are situated in different States.<sup>35</sup>

There were some crucial principles of the international law that could be used in this tripartite water dispute. The Helsinki Law regulated the equitable and reasonable use of transboundary rivers and states that national water policy has to consider the rights of each riparian state. The Harmone Doctrine was also involved, the absolute territorial integrity gave the right to use fluvial water within its own territory without limitation. Turkey was not the only country that could take its position in the case. Absolute territorial integrity records that no state may utilise the waters of an international river that would damage a co-riparian. This usually serves to maintain the natural regime of the river basin. Iraq uses this principle to state it claims to Euphrates and Tigris river water, particular in reference to its historical water rights. In this way, Iraq insists that it deserves an appropriation of water based on its historic and established regime. Syria also wants to take its right to develop 24% of the Euphrates river that flows there.

Equitable and reasonable utilisation principle with the Convention for the Non-Navigation Uses of International Watercourses pushed international watercourse law a step further toward mutual shared resource law, or common jurisdiction. Syria and Iraq

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<sup>33</sup> MacQuarrie 2014: 62.

<sup>34</sup> MacQuarrie 2014: 63.

<sup>35</sup> MacQuarrie 2014: 65.

both agree, that this tact is in their best interest, particularly Iraq, but Turkey is objecting strongly and contends the UN convention. Painfully, the international law interprets equitable uses without giving priority to one of them, each riparian has an equal right to use the Euphrates river. Politically, national preferences can dominate in the economic and social factors concerning the water usage. If national will dominates, countries usually do not cooperate.

## Conclusion

I have chosen two critical water conflicts to enlighten the fact that political background is a determining factor in the question of water. Both cases show that there is always a dominant party who acts unilaterally. Their position is upstream and developments influence the downstream countries' economy and society. The regional geography characteristics in water questions are crucial. Water is under pressure if alterations and demand for it have dramatically increased. There is a debate around using water resources, because it needs new technological and economic investments. Building dams on the international rivers is always a serious source of dispute.

In this paper, it can be seen how much influence the political and social background have in the serious water issues in Asia and in the Middle East. Asia has to face a dramatic population growth with overexploitation of the natural resources. Earlier, the Middle East was the Cradle of civilisation based on water. At present, it is the most dangerous part of the world, where war and terrorism have unstopably been lasting for decades.

Considering the role of the international law in the relevant water issues, Indian–Pakistani cooperation was a step in the global hydrodiplomacy, India is in the position to handle disputes over the projects on the western rivers of the Indus system. It opposed to join the UN Watercourses Convention that contributes the norms of the relevant paragraphs of the international law. The Indus Water Treaty is considered to be a successful mediation because it brought a resolution, without the international law a greater conflict could have happened due to any other conflicts surrounding poverty, infectious diseases, and environmental degradation are factors that, when combined with other factors such as social and political instability, can lead to war. The Treaty besides, needs updating.

In the Middle East, Turkey, Iraq and Syria are in a tripartite water debate in the Euphrates–Tigris River Basin. UN Watercourses Convention, Helsinki Law, Harmone Doctrine, absolute territorial integrity could give a temporary resolution to the problem, although Turkey, the greatest regional power as the hydrohegemon in the basin, refuses the UN Convention.

All in all, global water law treaties, like the UN Convention or the UNECE Water Convention<sup>36</sup> considers the relevant factors in the water debate like geography, hydrology, climate, social and political background of the country concerned. Hopefully, the Indus Water Treaty will be updated implementing some present trends of successful water

<sup>36</sup> UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes.

management to avoid an international water conflict. Turkey, Iraq and Syria have to come to a conclusion by a trilateral water agreement, in which tripartite consultation and equitable water usage is provided.

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