HUMAN RIGHTS AND SUSTAINABLE DEVELOPMENT

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The Balance of Justice: The Water Right and Large Dams in the Tigris and Euphrates Basin

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Abstract: This research investigates the political dimensions related to the implementation of top-down planning strategies for the development of extensive hydraulic infrastructure within the Euphrates-Tigris basin. Considering an increasingly severe water issues and a deficiency of collaboration among nations sharing transboundary river systems, the presence of dams and reservoirs has become a subject of contention due to conflicting interests in resource depletion and utilization. This analysis draws upon the theoretical perspectives of post-structuralism in the field of human geography, particularly focusing on the politics of scale, as well as the existing body of literature on megaprojects. The key argument put out in this study is that hydraulic infrastructures play a significant role, both physically and rhetorically, in shaping and sustaining waterscapes at various sizes, hence supporting wider political agendas. Utilizing ethnographic fieldwork as a primary source, this paper examines the narratives propagated via both non-state and state actors in relation to the construction of supplementary dams, with a specific emphasis on the autonomous territory of Iraqi

Kurdistan. The Kurdistan Regional Government (KRG) perceives hydraulic infrastructure as a means of ensuring security and promoting wealth, aligning with the broader narrative of Kurdish fate. However, transnational civil society organizations have united to oppose the adverse consequences of large-scale projects and have campaigned for a shared framework in the Mesopotamian region. The hydraulic infrastructure, in every scenario, serves as a structural foundation for political endeavours aimed at securing the acknowledgment of rights and establishing the suitable extent of government. In addition, the implementation of bottom-up defence strategies is complemented by the advocacy for a participatory and inclusive attitude towards the shared water resources management. From this particular standpoint, the spatial politics of large-scale projects overlap with issues pertaining to identity, fairness, and sustainability.

***Keywords*:** water right; water politics; dams; politics of scale; megaprojects; governance

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Contents

I. Introduction

The political aspects of large dams in the Tigris-Euphrates basin are examined in this paper. Dams and reservoirs in river systems are a difficult issue for parties competing for precious water. Hydraulic

infrastructures are supposed to help build political imaginations by creating waterscapes at different levels in the face of a growing water shortage and insufficient collaboration. Mega dams can be seen as both physical locations and discursive tools that can reinforce the spatial distribution of power and the established patterns of collective decision-making within a river system by incorporating post-structuralist perspectives from human geography and megaproject literature.

This research emphasizes the Kurdistan Region of Iraq (KRI), which is a mostly Kurdish territory located in the north of Iraq. It gained recognition as an autonomous area with the adoption of the 2005 federal constitution. The research demonstrates the transformation of the terrain occurring at the state level and beyond. Within the larger context of self-determination, the KRG perceives dams as a crucial element of security of the nation. Conversely, the Save the Tigris and Iraqi Marshes Campaign (STC) appeals to the historical significance of the heritage of Mesopotamia for resisting large-scale projects and advocate for a comprehensive method for managing the shared water resources. Hydraulic infrastructures, in both instances, serve as a structural foundation for political endeavours aimed at safeguarding rights and asserting an optimal degree of governance.

II. Dam Construction and Water Allocation Issues

The utilization of hydraulic infrastructures, which are nourished by the sedimentation of the Euphrates and Tigris rivers, has played a crucial impact on ensuring the prosperity of Mesopotamian societies from the inception of early civilizations. From Mosul to the Shatt al-Arab, the confluence of the twin rivers prior to their discharge into the Persian Gulf, villages, towns were strategically located along the meandering watercourses. These watercourses were meticulously arranged into vast drainage canals and irrigation system, facilitating agricultural cultivation in regions with limited precipitation. Additionally, flood walls were constructed for mitigating the detrimental impacts of seasonal floods that regularly inundated the basins. Nevertheless, following the decline of the Ottoman Empire, the development of contemporary nation-states resulted in the fragmentation of the water

system's unity into distinct national sectors. In Baghdad, Damascus and Ankara, water bureaucracies were established enabling the delineation of state authority and its expansion into novel domains of political and social existence (Stahl, 2014, p. 152).

Various elements play a crucial role in the transboundary basins' management, including legal frameworks, structures, and the involvement of various countries. The intricate nature of this phenomenon necessitates a significant level of coordination among various jurisdictions and sectors, thereby potentially giving rise to conflicts. While the national infrastructure is widely acknowledged for its commendable performance, it is important to note that the advantages and disadvantages of water supply systems are not uniformly dispersed across different geographical regions and user groups. Consequently, alterations in the ecological dynamics of the river system have the potential to intensify pre-existing political divisions or give rise to novel ones. Furthermore, the collision between social and technical imaginaries can function as a platform for the expression of divergent viewpoints regarding identities, economic interests, and eventually power dynamics.

The notion of a static and site-specific structure is supported by these factors, as hydraulic projects are not limited to a singular event or practise in terms of their spatial and temporal reach (Bichsel, 2016, p. 359). Mitchell highlights that the construction of the world's largest dam involved more than the mere application of scientific knowledge and expertise based on a pre-existing blueprint. Instead, it was a dynamic process that incorporated local knowledge and required the resolution of numerous challenges encountered during the construction phase (Mitchell, 2002, p. 21). Similar to contemporary engineering projects like the Three Gorges Dam or the Grand Ethiopian Renaissance Dam, unforeseen adverse effects may arise from the implementation of extensive water schemes. Although the displacement of humans is readily apparent and occurs rapidly, alterations in the ecosystem of the river are transpiring at a more gradual and incremental rate. Firstly, the process of fully isolating a dam can span several months or even years. The parties involved in negotiations regarding water allocation are faced with challenges due to the uncertainty surrounding the construction

and planning of engineering waterscapes. This uncertainty arises from the reliance on volumetric estimations of the river's outflow after filling reservoir. As a result, decision-making becomes more difficult for these parties as they must navigate a changing context with imperfect information.

The dynamic nature of water management practises and their relationship with water infrastructures pose ongoing challenges and transformations in the realm of numerical politics (Menga and Swyngedouw, 2018, p. 482). However, a significant question that persists is how to effectively implement a normative framework when dealing with conflicts arising from dam-related issues. The activation of the scale is difficult to ascertain in numerous studies. A noteworthy instance can be found in the research conducted by Harris and Alatout (2010) in the field of hydrometrics. Their study offers a comprehensive empirical analysis of the profound correlation between extensive construction projects and the processes of state and nation building. The Turkish government has reportedly utilised technical information regarding the Tigris-Euphrates basin to establish it as an unquestionable benchmark for hydrological evaluations. This strategy aims to strengthen the credibility of centralized water management, while simultaneously disregarding and marginalising alternative assertions made by local or regional entities. Notably, this approach has been employed to downplay the significance of claims made by Kurdish communities, historically portrayed as posing a risk to the nation's unity. Nevertheless, it is noteworthy that Ankara regards the two rivers as a watershed, attributing them as the primary sources, despite their contribution amounting to only 40 % of the total flow of the Tigris. Therefore, the expansive nature of the basin allows Turkey to take back and affirms a more prominent position, at the detriment of Iraq. According to Conker and Hussein (2019, p. 229), the Turkish elites have effectively utilized the hydraulic mission as a powerful instrument for both domestic and foreign policy purposes. This observation highlights the utilization of numerical constructions to advance political objectives, while also emphasizing that these constructions vary depending on the specific goals and intended recipients.

II.1. Benefits of Water Allocation

One of the benefits associated with the proposed water distribution approach lies in the provision of a predetermined water distribution for each state, ensuring clarity and certainty. Given that the states will possess knowledge of their designated allocation ratio, they will possess a level of understanding regarding the customary quantity of water they should receive from the shared water sources, which will be informed by long-term statistical data pertaining to the river's discharge during various time intervals. This mitigates the likelihood of unexpected outcomes in both the countries located upstream and downstream. This would additionally enable nations to autonomously strategize and oversee the allocation and administration of their quota. Water distribution will be facilitated in a manner that is both accessible and unrestricted, catering to a variety of applications in accordance with the nation's specific needs. Additionally, this will compel governments to optimise the utilisation of their allocated portion. Water procurement from neighbouring riparian countries can be facilitated through contractual agreements. Nevertheless, there will be a cost associated with it. Additionally, its purpose is to mitigate the potential for reliance or addiction. This measure would effectively optimise water utilisation, thereby fostering heightened vigilance among nations regarding their water consumption practises. This particular strategy also seeks to mitigate conflicts among states. Particularly in arid basins, the implementation of water regulation projects presents a potential for conflict. Nations routinely engage in the surveillance of water infrastructure initiatives undertaken by foreign nations, with the aim of assessing potential impacts on their water resources allocation and the potential environmental ramifications associated with these projects. The Euphrates-Tigris (E-T) basin serves as a compelling demonstration of this particular scenario. Turkey, Iraq, and Syria exemplify instances in which governmental entities have encountered difficulties in achieving a trilateral consensus regarding the allocation of a predetermined volume of water to each respective nation. The construction of water infrastructure projects often leads to heightened tensions among

governments. The hesitancy of numerous nations to engage in the establishment of transboundary freshwater distribution agreements stems from concerns regarding the potential for inter-state conflicts among riparian states. Consequently, it is common for stakeholders to engage in benefit-sharing arrangements, specifically those pertaining to the construction of hydroelectric dams for power generation, flood management, or agricultural irrigation (Lorenz and Erickson, 1999, p. 18). Furthermore, certain governmental bodies may not impose regulations on water sharing due to the abundant water resources within the basin. Water-rich governments, such as certain European countries, aim to establish contractual agreements pertaining to various water-related matters, including but not limited to hydropower, flood management, and water quality. The equitable distribution of water resources is of paramount significance in the basin, given its limited availability. The exacerbation of tensions among countries is primarily attributed to the lack of effective water distribution mechanisms. Scientists have indicated that climate change is anticipated to have varying impacts across different regions of the globe. Nevertheless, it is anticipated that precipitation patterns and climatic conditions will undergo alterations across various global regions, leading to a state of climate unpredictability. According to scientific estimates, there is a projected decrease in precipitation and increased variability in various global regions, potentially resulting in arid conditions. Conversely, certain areas may experience heightened intensity and magnitude of rainfall, thereby increasing the risk of flooding. The effect of temperature and precipitation fluctuations on riparian states can be deleterious, as sudden and uncontrolled alterations in water flow impose challenges on states with constrained capacities for movement. According to the concept of appropriation, nations will undergo transformations in accordance with their respective allocation. Nevertheless, the objective of this proposal is not to impede ongoing collaboration among nations or to forbid potential future collaboration. The majority of basins in which riparian countries engaged in cooperation witnessed improved outcomes in terms of water use and management. Nevertheless, the collaboration

among nations in specific basins poses significant challenges. The aim of this personalization technique is to empower states to exercise independent agency when deemed necessary, while concurrently preserving the possibility of collaboration. The implementation of such a strategy would yield advantageous outcomes for riparian nations.

II.2. International Law Issues between the Riparian States

The dispute about the freshwater resources of the Euphrates River, and to a smaller degree the Tigris River, has spanned many decades of debates and negotiations among the three Riparian States: Iraq, Syria and Turkey. The three nations have substantiated their entitlements based on the requirements of the International Water Laws, numerous hypotheses, and established principles. The principles underlying the International Water Law include the Helsinki Rules (International Law Association, 1967),[1] Berlin Rules (International Law Association, 2004),[2] and the UN Convention on the Law of the Non-navigational Uses of International Watercourses (UN General Assembly, 1997).[3] One of the key elements of this legal framework is the principle of equitable use, which emphasizes fairness and acceptable usage. The second principle is to adhere to the norm of nonmaleficence. Both provisions stem from the concept of restricted regional sovereignty, which limits the control of riparian countries to the portion of an international fresh water system that is situated within its territory. The riparian state must also acknowledge and uphold the rights of other riparian states to use the system. The notion of community interest offers an alternative solution to the issue of sharing fresh water. It is rooted in the concept of limited sovereignty and recognizes the interconnected nature of freshwater systems. It treats all worldwide freshwater systems

[1] Available at: https://www.internationalwaterlaw.org/documents/intldocs/ILA/Helsinki_Rules-original_with_comments.pdf [Accessed 11.06.2024].

[2] Available at: https://www.internationalwaterlaw.org/documents/intldocs/ILA/ILA_Berlin_Rules-2004.pdf [Accessed 11.06.2024].

[3] Available at: https://legal.un.org/ilc/texts/instruments/english/conventions/8_3_1997.pdf [Accessed 11.06.2024].

as a single legal entity, independent of country boundaries. Therefore, it is imperative for all riparian governments to collectively strive for the maintainable growth of the natural water resources. The riparian states must acknowledge the constraints obligated via the hydrological cycle. This means that the quantity of water taken from the freshwater system should not surpass the quantity replenished by the hydrological cycle. Additionally, the water should not be contaminated to the point where it cannot be restored by the hydrological cycle (Bremer, 2013, p. 157).

During the extensive discussion and talks on water sharing, Iraq, Syria and Turkey have each substantiated their entitlements and counterclaims using the different provisions of these international requirements. Iraq and Syria contend that Turkey has an excess of freshwater that surpasses its actual needs. Turkey disputes this claim, asserting that out of the total annual runoff of 180 billion cubic metres (BCM), only 110 BCM is usable. Furthermore, due to technological, topographical, and geological constraints, only 25.9 BCM can actually be made available for use. Consequently, these water resources are not consistently accessible at the appropriate time and location (Yuksel, 2015, p. 151; Oei and Siehlow, 2016, p. 146).

A further point of contention arises among Turkey, on one hand, and Iraq and Syria, on the other, over the assertion made by Syria and Iraq that they possess longstanding legal entitlements to the utilization of the Euphrates River waters, dating back to olden periods. Turkey denies these rights because it only considers water rights that are according to equitable utilization, as defined by the Helsinki rules. These rules, specifically Art. I and V, take into consideration some factors like hydrologic, socioeconomic, and geopolitics, as well as the need to avoid redundant waste in using the basin's waters. Turkey alleges that both Syria and Iraq are depleting their water supplies via outdated techniques and inefficient water management processes. Indeed, Turkey made progress in the technical negotiations with the other riparian governments in 1984, proposing a three-phase plan to address the fair distribution of resources. This proposal was reaffirmed in subsequent discussions. The stipulation mandates that allocations must be carried out in the subsequent phases. Firstly, an evaluation of the existing resources must be conducted. Secondly, an inventory

analysis of the available land resources should be carried out. Finally, only after the ongoing projects have been modernized and rehabilitated, and irrigation practices have been improved to assess their economic feasibility, the total demand and utilization of water can be measured. Subsequently, a fair and balanced distribution of water shares among the three states can be achieved. This action plan is designed on the basis of two fundamental assumptions. The first perspective regards the Tigris and Euphrates Rivers as a one transboundary watercourse, whereas the second perspective asserts that the specific water necessities of each nation should be determined by scientific investigations.

Iraq and Syria excluded this idea because to its lack of specificity and its potential to benefit Turkey while encroaching upon the sovereignty of the riparian nations. Furthermore, Iraq opposes the notion of a single basin that forms the basis of this proposal, arguing that the Euphrates and Tigris Rivers have distinct geographical basins. Turkey has advocated for a one basin resolution, suggesting that Iraq can address the shortage of water in the Euphrates River by moving water from the Tigris River basin via the Tharthar canals. This transfer is already taking place. Currently, subsequent the Ilisu Dam becomes operational, the foundation for this argument is weakening since the Tigris River's basin will experience water stress. The three riparian countries are in conflict over the interpretation and implementation of the "causing no harm" principle outlined in Art. X of the Helsinki Rules, Art. 16 of the Berlin Rules, and Art. 7 Part II of the Convention on the Law of the Non-navigational Uses of International Watercourses. The aforementioned principle, which encompasses the Latin principle translated as "use your own property in a way that does not result in damage to the property of others," was put out and debated during the long debates and proceedings that occurred among the all riparian governments.

In this particular situation, Iraq and Syria consistently maintained that Turkey was disregarding this regulation by extensively advancing the GAP project, which resulted in a reduction of the fair portions allocated to both countries, thereby causing significant harm to their health sectors, municipal water supplies and agricultural sectors. Consequently, this may lead to difficulties for the populations of

both nations, perhaps leading to societal turmoil. Furthermore, the construction of extensive reservoirs in both Turkey and Syria has resulted in complex circumstances and heightened tensions among the three riparian governments due to their disregard for this principle.

The "causing no harm" philosophy, as previously mentioned, applies to both the sharing of water as well as the quality of provided water. The Sub-chapter 6.6.3 has already discussed the issue of growing salt and pollution in the two rivers. Both Turkey and Syria have responsibility for the deterioration of water quality inside their borders, as outlined by the International customary laws cited above. The Iraqi government has a moral and legal obligation to ensure the well-being of its people by implementing necessary steps to mitigate some kinds of pollution in the Tigris and Euphrates Rivers (for example, salinity) inside Iraq's borders.[4]

III. Megaprojects and Spatial Strategies

This section discusses large-scale projects along the Tigris and Euphrates rivers and the nations' geographical strategies. By comparing other countries' techniques, we can identify common challenges and successful strategies for managing these essential water channels. This approach illuminates how dams and irrigation systems affect regional development, water rights, and international relations. Understanding these processes is essential for developing sustainable and equitable water management methods in the region.

III.1. Nationalism and Water Regionalization

The Tigris-Euphrates river system lacks a complete collaboration agreement among the riparian states (Kibaroglu and Scheumann, 2013, p. 190). For the purpose of governing the allocation of the Euphrates River, the Turkey-Syria Protocols of 1987[5] and the Syria-Iraq Protocol

[4] Law No. 27 (2009). Protection and Improvement of the Environment Law. Iraqi Government. (In Arabic).

[5] Protocol signed by Turkey and Syria on 17 July 1987. Available at: https://www.un-ilibrary.org/content/books/9789210596435s002-c001/read [Accessed 11.06.2024].

of 1990[6] are utilised as the exclusive legally binding instruments. However, these protocols fail to adequately consider the significant fluctuations in the river's water flow. Consequently, they prove to be inadequate in establishing a solid foundation for the effectual and impartial management of the river, particularly in the context of climate change (Kibaroglu, 2019, p. 11). The history of transnational water relations is characterised by its extensive duration and turbulent nature. The consultations conducted within the Joint Technical Committee, the sole tripartite entity recognised at the transboundary level, persisted for an extended duration without yielding any outcomes owing to a fundamental divergence concerning the underlying matter in question. Turkey's assertion that the two rivers ought to be treated as a unified hydrogeological entity was believed unsatisfactory by Iraq and Syria. These countries maintained that a fair allocation framework should be established solely for the Euphrates River. The prevailing perception is that Turkey holds a dominant position in the region due to its continuous enhancement of water schemes on the Euphrates and its reluctance to comply with relevant international legal frameworks (Zeitoun and Warner, 2006, p. 450). In actuality, notwithstanding the power disparities that have been intensified by their respective geographical positions, all of the riparian nations have pursued distinct trajectories. The current state of integrated management at the basin level is severely deficient.

The KRG aspires to substantially augment the quantity of water projects and river control initiatives in order to guarantee water security. According to Heshmati (Heshmati, 2009, p. 86), the Kurdistan Region of Iraq possessed three major dams (Dokan, Darbandikhan, and Dohuk) and an additional twelve dams of smaller and medium sizes as of 2007. The recently established Ministry of Agriculture and Water Resources has undertaken a thorough evaluation, wherein it has identified in excess of 100 prospective locations for the construction of dams. In the year 2014, the Directorate General of Dams introduced a comprehensive blueprint outlining the strategic growth and advancement of 245 reservoirs, with

[6] Law No. 14 of 1990, ratifying the Joint Minutes concerning the provisional division of the waters of the Euphrates River. Available at: https://faolex.fao.org/docs/pdf/irq15920.pdf [Accessed 11.06.2024].

35 of them being designated as high-priority projects at a later stage (Save the Tigris Campaign, 2020). In November 2019, the KRG allocated a sum of US$ 27.9 million to recommence building eleven dam projects that had been previously suspended as a result of the Islamic State in Iraq and Sham (ISIS) insurgency. This allocation is expected to enhance storing capability by approximately 59 million cubic metres. In light of numerous instances of dam failure in the surrounding area, the KRG has intensified its endeavours to mitigate susceptibility arising from upstream nations and enhance its influence over the central government.

III.2. Unifying Vision: Mesopotamia as a Shared Spatial Paradigm

The following excerpt is derived from the introductory statements of the Declaration issued in 2012[7] by Iraqi sheikhs at Hasankef, an ancient settlement in southeastern Turkey with a rich history spanning 12,000 years. This town faces the imminent risk of submersion due to the construction of the Ilisu Dam, which forms part of the extensive Gap Project. In addition to expressing solidarity, community leaders participating in Arab marches and Kurdish activists in the northern region of Turkish Kurdistan underscored the significance of safeguarding a common ecological and cultural environment against detrimental megaprojects. The neutrality of terminology within a region characterised by ethnic diversity and political divisions is inherently compromised. The utilisation of the Mesopotamian toponym serves to underscore a geographically and historically unique multicultural area, which brings together various ethno-national divisions within a politically fragmented river system. Additionally, it encompasses social and ecological challenges posed by human-induced hazards. Instead of being an isolated occurrence, the Declaration served as a catalyst for an emerging discourse of resistance against nationalist ideologies. The STC has experienced significant expansion and now functions as a civil society network that facilitates the collaboration of social and

[7] The declaration was made on 22 May 2012. Available at: https://www.iraqicivilsociety.org/wp-content/uploads/2012/05/20120-05-22-The_Mesopotamian_Tigris_Declaration.pdf [Accessed 11.06.2024].

environmental activists and movements in Iraq, Turkey, and Iran. Its primary objective is to advance environmental justice within the Mesopotamian region.

The inaugural Mesopotamia Water Forum, organised by the STC partner organisations in Iraq, took place in Sulaymaniyah in April 2019. The event was held under the theme "Water Knows No Borders." Aligned with global initiatives promoting the concept of unrestricted rivers, participants expressed their disapproval of the use of water manipulation as a means of political leverage, while advocating for the implementation of sustainable practises and fair distribution of shared water resources. The focus was shifted from climate change to the harm resulting from the negligence or pursuit of personal gain by coastal governments, which serves as a representation of their failure to adhere to international legal obligations, specifically the aforementioned 1997 UN Convention on the Law of Use of International Non-Navigable Waterways[8] and the 1971 Ramsar Convention on Wetlands.[9] The conclusive assertion made without any doubt was that the water resources in Mesopotamia are facing significant challenges due to irresponsible policies that have led to pollution and degradation of river ecosystems. In contrast to the prevailing perspective on the impact of the country, the utilisation of dams and irrigation systems to manage substantial water volumes was posited as a method of exerting social regulation and facilitating expropriation, with the aim of deliberately inducing water scarcity and manipulating the distribution of electricity. The forum emphasised the importance of recognising access to water as an inherent human right. It asked for a cessation of the construction of dam on the Tigris River and emphasised the necessity of a fundamental change in perspective to harness the potential of water as a catalyst for peace and collaboration.

[8] On 21 May 1997. Available at: https://legal.un.org/ilc/texts/instruments/english/conventions/8_3_1997.pdf [Accessed 11.06.2024].

[9] It is named after the city of Ramsar in Iran, where the Convention was signed on 2 February 1971. Available at: https://www.ramsar.org/sites/default/files/documents/library/scan_certified_e.pdf [Accessed 11.06.2024].

IV. Conclusions

Within the Tigris-Euphrates basin, which is a region that is marked by rising conflicts over water supplies, this study investigates the political factors that are linked with the building and operation of big dams. People have a tendency to see hydraulic facilities as instruments that may be used to manipulate political agendas and coordinate the arrangement of geographical landscapes. This research puts its emphasis on the Kurdistan Region of Iraq, where the government views dams as necessary for guaranteeing security. On the other hand, activists place a higher priority on the preservation of history and the development of collaborative water management practices. One of the obstacles that stands in the way of the effective management of the whole basin is the absence of a comprehensive cooperation agreement among the governments that receive water from the basin. The Mesopotamia Water Forum, which aims to create a unified vision that transcends boundaries, places a strong focus on the need of putting into practice water management techniques that are both sustainable and fair. The purpose of this article is to highlight the importance of collaboration between riparian countries in relation to the formation of new regulations for the purpose of avoiding conflicts, equitable water distribution, and the harmonious integration of development and preservation efforts in order to achieve sustainable management of the water resources in the basin for future generations.

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