

Trans-Boundary Waters of Turkey and An Examination From The Legal Aspects: Syria Example

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ABSTRACT

Despite the fact that water resources are quite limited on earth, the rapid increase in population, unconscious consumption, pollution, and, irregular urbanisation led to the consequence of water as a significant problem on earth. Thus, trans-boundary water resources have always been a problem between countries throughout the course of history.

The trans-boundary water resources in Turkey are the rivers Fırat and Dicle, as well as Asi, Meriç, Çoruh and Aras. Turkey, for several years, has accepted the rivers Fırat and Dicle as trans-boundary water, and has defended that these two rivers constitute a single basin. However, Syria has accepted Fırat and Dicle as international water and defended that these two rivers constitute two separate basins. Due to this disagreement about how to accept Fırat and Dicle, the problem has remained unsolved in the one-to-one negotiations.

Turkey attempted to solve the problem through a three-stage plan, but Syria's approach was not moderate. On the basis of the protocol of economic cooperation between the two parties in 1987, Syria takes 500 m³ of water per second from the river Fırat. On 1 October 2010, Turkey and Syria have signed a treaty for the construction of a Waterpump Station in the land of Syria, in order for Syria to take water from the river Dicle. On the basis of this treaty, Syria will be able to take a maximum of 1.250 billion m³ of water on the river Dicle. If the National Assembly (TBMM) approves of the Treaty, then it will be legalised and come into force. This treaty is signed by Turkey with the presupposition that Fırat and Dicle constitute a single basin.

The present study aims at considering the solutions for the problems concerning border-transcending water between us-Turkey and our neighbour Syria.

INTRODUCTION

The water resources necessary for the survival of mankind is decreasing, due to global climate change, pollution, and unconscious consumption. Subsequently, the amount of water per a single individual is also decreasing. As a result of the developments in technology, economy and social life, countries have a demand to use water resources efficiently, which results in problems between neighbour countries on the issue of trans-boundary water.

If a river grows out of a definite country and disembogues within the borders of that country, then it is defined as national water, and is subject to the national law. However, if a river transcends the borders and disembogues within the borders of another country, or, sets the borders between two neighbouring countries, then it is accepted as trans-boundary water.

There is no agreement in the international law about how to define phrases like trans-boundary water and international water. The reason for this is that both have different legal implications. Once it is accepted as border-transcending water, the sovereignty of the country out of which the river is born is the case. On the other hand, once it is accepted as international water, there will be no claim for sovereignty on the river by any country, and, all the countries through which the river flows before disembogement will have equal rights of share for using the resource.

The basic elements used in the solution of problems by international law are as follows:

- a) Treaties
- b) Practices
- c) General principles of law
- d) The views of the authorities on jurisprudence

It has for quite a long time been impossible to construct binding legal grounds for all states concerning trans-boundary water in the international stage. [1]

The present study aims at evaluating the current developments concerning trans-boundary water between us-Turkey, and our southeast neighbour, Syria, and their implications.

THE TRANS-BOUNDARY WATER OF TURKEY

Due to the fact that Turkey remains an upland compared with her neighbours, she has many rivers which are considered trans-boundary water.

On the northwest, northeast and southeast regions of Turkey are: (a) Meriç and its affluents; (b) Little individual rivers; (c) The river Çoruh; (d) The basin of Aras; at the basin of Van, near Özalp, the affluent Kotur; (e) The river Asi and its affluent Afrin; (f) Fırat-Dicle and their affluents which directly transcend the border; in short, lots of rivers and affluents which are " trans-boundary ".

Among those basins which could be considered in six groups, Turkey basically has the position of upper shoreline in the cases of Fırat-Dicle, Aras, Çoruh, and individual rivers; but has the position of lower coastline in the cases of Asi and Meriç. [2]

The river Fırat, after being grown out of the land of Turkey, flows through to the land of Syria, and from that route, to the land of Iraq. The river Dicle also is grown out of Turkey, and, after 30-40 kilometres of flow right on the border between Turkey and Syria, flows through to the land of Iraq. In Iraq, the rivers Fırat and Dicle unite, and disembogue to the gulf of Basra, from the destination called Şattül Arap on the border between Iraq and Iran.

Within the total potential of the river Fırat at Mesopotamia which is averagely 37 km^3 per year, 32 km^3 of flow per year is from Turkey, 4 km^3 of flow per year is from Syria, and 1 km^3 of flow per year is from Iraq. Within the total potential of the river Dicle at Mesopotamia which is averagely 58 km^3 per year, 24 km^3 of flow per year is from Turkey, a very minute contribution is from Syria, 10 km^3 of flow per year is from Iran (The river Karkeh, whose rain fall area mostly is in Iran and which flows through to Iraq near Amara, and, the river Karun, which flows totally within the borders of Iran and disembogues to the gulf Basra on the edge of the delta, are not included in the calculation), and 23 km^3 of flow per year is from Iraq. [3]

The river Asi is grown out of Lebanon, and then flows through to the land of Syria, and from there, to the land of Turkey and disembogues.

THE PROBLEM BETWEEN TURKEY AND SYRIA CONCERNING TRANS-BOUNDARY WATER

The trans-boundary water resources between Turkey and Syria are the rivers Firat, Dicle and Asi. Regarding Firat and Dicle, Turkey has the position of upper shoreline, and regarding Asi, has the position of lower shoreline. While Turkey accepts these rivers as trans-boundary water, Syria claims that Firat and Dicle are international water and demands an equal share of water. Moreover, Syria does not accept the river Asi as international water and stipulates the usage of water between themselves and Lebanon. This is due to the fact that Syria still claims Hatay-a Turkish province- as their own land.

Until 1960's, since there had been no plans of improvement on trans-boundary water between Turkey and Syria, there had been no problems. The first crisis between coastliner countries due to water had arised, when Syria started to build up the Tabqa Wall, and Turkey, the Keban Wall. On those days, both states have seen the water of Firat as the resource of their projects for improvement. The reason for Turkey to start building up Keban on Firat was to meet the electricity supplies, whereas the reason for Syria was to increase the agricultural production [4].

Turkey has completed the construction of Keban in 1975, and started to build up a new wall, namely Karakaya. Since both of these walls are built for the production of electricity, there is no harm for Syria concerning the flow of water. However, the evaluation of Syria on this issue was not the same, and hence, they created problems. Moreover, during 1980's, the Southeastern Project (Turkish abbreviaton: GAP), furthered the problematic situation on the side of Syria.

Turkey and Iraq had agreed on the establishment of an associate technical committee concerning the allowance of regional water resources, within the context of the formal negotiations on economic cooperation, which took place in Ankara on the dates 22–25 December 1980. On 1983, with the joining of Syria, the mentioned associated committee had three participants [4].

Turkey had submitted her plan to Syria and Iraq for the utilization of the water resources of the rivers at the Associated Technical Committee meeting on 1984. The full name of the plan is “The Three Staged Plan for the fair, rational and optimum utilization of trans-boundary rivers along the basin of Firat-Dicle” [4].

The first stage of this plan is related with the inventory studies of water resources. In other words; the examination of all existing data belonging to three selected measurement stations of the three countries, and, of the monthly data of evaporation, heat, rainfall and snow depth belonging to weather stations selected in the basin of Firat and Dicle as representative of the basin by specialists from three countries through mutual exchange of ideas, to cut it short, the mutual exchange of ideas on the data for water resources is the first stage of the plan. The second stage is related with the studies of the inventory of land. Within this stage; the objective is to specify the needs for irrigation and for cleaning, on the basisi of the information gathered through mutual exchange of ideas on the criteria applied for land drainage and classification within three countries, and, through the control of the projects in management, of those under construction and those that are planned. The third stage aims at providing the debate and determination of the types and systems for hydration required for minimizing the loss of water in the planned projects, researching on the opportunities fort he modernisation and renewal of those projects in management, and, the debate on the methods and criteria for the determination of the economic applicability of those projects that are stil at the planning stage, within the context of the evaluation of water and land resources [4].

Syria and Iraq did not agree with this three staged plan, either. The reasons for the disagreement are; Turkey's presumption that Fırat and Dicle are two rivers but a single basin, Syria's and Iraq's interpretation of Fırat and Dicle as international water instead of trans-boundary, and, for the most important, that Syria and Iraq demand for acquiring more water resources through sharing Fırat's water based on a mathematical proportion.

Hence, Turkey's Three Staged Plan for the fair, rational and optimum utilization of water resources had failed. After these disagreements, Syria has attempted to support terrorism against Turkey. In 1987, Turkey has restarted negotiations with Syria for stopping terrorism.

The Protocol of Economic Cooperation Between the Republic of Turkey and The Arabic Republic of Syria provides that the following issues concerning the utilization of water resources are agreed upon:

6- During the filling of the reservoir of the Atatürk Wall and until the final allocation of the water of Fırat between the three countries, the Turkish party commits herself to leaving more than 500m³ per second from the boundary of Turkey-Syria annually. Turkey accepts that if the monthly flow is less than 500 m³ per second, the remainder will be supplied the following month.

7- The two parties as soon as possible will work in cooperation with the party of Iraq, for the allocation of the water resources from Fırat and Dicle.

8- The parties accept quickening the studies of the Regional Associated Technical Committee for Water Resources.

9- The parties principally accept conducting and managing common projects for hydration and energy on the lands surrounding Fırat and Dicle, provided that the technical and economical studies of feasibility are performed through the cooperation of the specialists from both countries.

10- The Turkish party has made a declaration on the details of the Project, namely The Peace Pipeline Project, which is a plan to meet a limited amount of need for hydration and drinking water in the region, through carrying some amount of water from the rivers Seyhan and Ceyhan through two pipelines, one for the countries of the Gulf and the other for Jordan and Saudi Arabia by way of Syria.

The Syrian party accepted the project in principle and paid attention to the economical and technical feasibility studies by the Turkish party with the consent of an international advising company projeyi prensip olarak kabul etmiş. If the studies have positive outcomes, then the Syrian party will start negotiations for the actualisation of the project [5].

In spite of the fact that Turkey's contribution of stream to Fırat is 32km³ per year, and Syria's contribution of stream is 4 km³ per year, Turkey left 500m³ of water per second monthly to Syria. Syria has started to await the final allocation, i.e. the sharing of water resources, assuming that the present treaty is temporary. However, Turkey accepts the idea of the distribution of the rights for utilization, but not the sharing of water actually.

The Peace Pipeline Project was not actualised, either, due to the fact that the countries of the Gulf did not have a moderate attitude for this project. The main reasons for the absence of moderate approach are; 1. the thought that Israel, being a country of the Gulf, will take advantage of the Project, and 2. the fear that the Middle East will be dependant on Turkey concerning water supplies. Instead of this Project, the countries of the Gulf have preferred to build treatment facilities and purify sea water, which would cost almost the same amount of money as the project proposed by Turkey.

The diplomatic negotiations and meetings between Turkey and Syria have increased in the last 10 years. Subsequently, on 23rd December 2009, the meetings of The Council of Higher-Level Strategical Cooperation with Syria have taken place in Damascus. As a result, agreements have been signed with Syria concerning many subjects, one of which is The Memorandum of Understanding Between The Republic of Turkey and The Arabic Republic

of Syria Concerning The Construction of Waterpump Station in The Land Of Syria For Taking Water From the River Dicle. The law approving this memorandum has come into force by the authorisation of the National Assembly and by the publication of this authorisation in the official journal on 22nd March 2011, as law number 6187.

According to this treaty, Syria will build a waterpump station within their boundaries, in order to take water for hydration at the region where the river Dicle sets the boundaries between Turkey and Syria. In addition, Syria will share all the information with Turkey, concerning the project, planning, etude and construction, and the annual working schedules of this station. Syria will take a maximum amount of 1. 250 billion m³ of water per annum from Dicle. The amount of water that could be taken per month is also specified in the treaty, and Syria will take the monthly amounts as basis.

Through this treaty, Turkey has put forward her own perspective, based on her ‘two rivers but a single basin’ thesis. If the share of information takes place through this treaty, it will have a significant contribution to possible projects in the future. The 1987 treaty which committed Turkey to leave 500 m³ of water per month from Firat, and the new treaty which provides Syria with the right to take water from Dicle although the contribution of stream for Dicle by Syria is almost none, demonstrate the fact that Syria also accepts the perspective of ‘two rivers but a single basin’.

The law approving The Memorandum of Understanding Between The Republic of Turkey and The Arabic Republic of Syria Concerning The Construction of a Common Wall Titled “The Wall of Friendship” on the river Asi has come into force by the authorisation of the National Assembly and by the publication of this authorisation in the official journal on 22nd March 2011, as law number 6186. By the construction of “The Wall of Friendship” on the river Asi, at the boundaries of both countries, the main goals are, to regulate the regime of stream of the river Asi, to prevent possible flood in the plian of Amik in rainy seasons, and, to meet the demands of water by both countries for agricultural production in arid seasons.

CONCLUSION

The trans-boundary water has for years been a problem between Turkey and Syria. Furthermore, water has been considered an important problem in the Middle East, which might even be a cause for war. However, the relations between Turkey and Syria have acquired a new dimension, due to The Council of High-Level Strategical Cooperation, and, to the economical, social, and security treaties signed. Through the treaties, Turkey has shown the way for a fair, rational and optimum utilization of trans-boundary water to all the countries in the world. Firat and Dicle are not problems anymore, between the two countries. The acceptance of the rivers Firat and Dicle as a common basin will provide opportunities for developping new plans and projects with neighbouring countries, for a better utilization and for further development of the water resources.

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