



Control and Distribution of Water Resources Among Israel and Arab States in the Middle East

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CONTROL AND DISTRIBUTION OF WATER RESOURCES AMONG ISRAEL AND ARAB STATES IN THE MIDDLE EAST

From the time of the Assyrian empire up to 1918 four of the six main rivers in the Middle East, the Euphrates, the Jordan, the Litani, and the Orontes, were contained within a succession of large empires covering large portions of the region, as shown in the enclosed map.¹ The legal significance of this situation is that prior to 1918 no questions of international law were raised with regard to these rivers. During the mandatory period after 1918 the British and the French reached the following agreements: the Convention Between Great Britain and France for the Settlement of Certain Points Connected with the Mandates for Syria, Lebanon, Palestine and Mesopotamia, signed in Paris on December 23, 1920,² and the Agreement Between Great Britain and France Respecting the Boundary Line Between Syria and Palestine from the Mediterranean to El Hamme, signed in Paris on March 7, 1923.³ Accordingly the French agreed not to develop upstream consumptive uses in Syria and Lebanon. Furthermore, they agreed to permit Palestinian authorities to construct works in Syria for the benefit of downstream users. As to the resolution of disputes, the council of the League of Nations was responsible for supervising the implementation of the mandates, whereas disputes were submitted to the Permanent Court of International Justice.⁴ The Anglo-French water agreements were never implemented during the mandates, either because of the undeveloped state of water use in the region during that period or due to the mutual interest of both British and French in cooperating in Europe against Germany. The process of separation of formerly unified regimes to several independent countries has created controversies over the region's water resources.

The Jordan River's basin is shared among Israel, Jordan, Lebanon and Syria. Currently there is no binding international agreement between these countries on control and distribution of water resources. According to customary law or general principles of law, certain claims may be raised. One such claim by upper riparian states is for absolute territorial sovereignty. Lower riparian states may claim absolute integrity of the river, which means that they are entitled to have the river flow without change in its natural condition. Another theory is that of restricted sovereignty. The latter holds that the right to consumptive use of water is tied to objective criteria of need. One other customary rule is the Riparian Rule according to which no state has a right to extract water from a watercourse if that state is not riparian to the watercourse.⁵

There is a view that the use, administration and protection of water resources in international relations can be satisfactorily regulated only by specific arrangements establishing some kind of permanent cooperation between the states concerned.⁶ Agreements between Israel and other riparian states over the distribution and control of the Jordan river water are essential for guaranteeing peace in the Middle East.

¹ *Water in the Middle East*, Thomas Naff and Ruth C. Matson, eds., 1984, p. 2.

² 113 *British and Foreign State Papers* [hereafter B.S.P.] 359 (1920).

³ 117 B.S.P. 293 (1923).

⁴ *Supra* note 2 at 356.

⁵ *Water in the Middle East*, Thomas Naff and Ruth C. Matson, eds., Chapter 7, "Legal Aspects of National Claims to Middle Eastern Rivers," (1984), p. 157-179.

⁶ Dante A. Caponera, "Patterns of Cooperation in International Water Law: Principles and Institutions," 25 *Natural Resources Journal*, 563, 587 (1985).

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