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# **Troubled Waters. The Iran-Iraq Sovereignty Dispute Over The Šaṭṭ al-‘Arab River (1961-1980)**

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## **ABSTRACT**

The Šaṭṭ al-‘Arab, a river formed by the confluence of the Euphrates and the Tigris Rivers, traces part of the Iran-Iraq border and has been one of the main drivers of conflict between the two states. The rivalry dates back to 1639 and has been the object of several treaties, which, however, have never put a definitive end to the issue. The aim of this paper is to analyze the conflict management processes that were carried out between 1961 and 1980 on the Šaṭṭ al-‘Arab dispute. This research attempts to understand the fragility of the agreements negotiated by the two co-riparian states through the quantitative and qualitative analysis of the events that characterized the evolution of the dispute. Mediation theories and the Hydro-Hegemony frameworks are used to characterize each state’s behavior, attitude, and evolution according to the political circumstances and mutual relationship. Central to the analysis are the patterns of escalation and negotiation that first culminated in the Algiers Agreement of 1975 and then led to the relapse into conflict after the 1980 Iraqi invasion of Iran. Through a multidisciplinary approach, this paper aims to provide a more comprehensive understanding of the dispute and its relevance within the evolution of rivalry and cooperation between Iran and Iraq.

## **KEYWORDS**

Iran-Iraq / Šaṭṭ al-‘Arab / border dispute / water sovereignty / escalation and negotiation

## **1 - Introduction and methodology**

The confluence of the Tigris and Euphrates rivers creates a new watercourse that runs from the city of al-Qurna in Iraq to the Persian Gulf: the Šaṭṭ al-‘Arab. Since ancient times, the river has been a source of water, irrigation, and transportation for the civilizations that have inhabited the region. Besides its use for human necessity, in mo-

modern history the river has been a source of conflict, initially between the Ottoman and the Safavid Empires and then with the subsequent political entities that have inherited their borders. This dispute is still ongoing, with alternate fortunes of conflicts having led to both de-escalation into agreements or escalation into crises and all-out wars. In this paper, we will take into consideration the events that took place between 1961 and 1980, the most significant period of the Iran-Iraq dispute. The opposing trends of de-escalation and escalation are key to our analysis, as both 1961 and 1980 mark crises between Iran and Iraq. The main discussion is thus centered on the de-escalation path that brought the two states from a hostile relationship (with several military crises since 1961) to a structured agreement signed in 1975 and on the escalation that led to Saddam Hussein [Şaddām Ḥusayn]'s invasion of Iranian territories in 1980, only a few years after the ratification of that treaty.<sup>1</sup>

To analyze this period, we combined a variety of theoretical frameworks to quantify and qualify the events related to the dispute. The starting point of the analysis is Timothy Sisk's theorization of the escalation/de-escalation process, in which the parties «progress across thresholds or transition points that link phases of the negotiation process».<sup>2</sup> To grasp the dynamic essence of these transitional points, influenced by actors' behavior and contextual contingencies, we refer to the Water Event Intensity Scale, or “Basin at Risk” (BAR) Scale, elaborated by Shira Yoffe and Kelli Larson. The BAR Scale is then applied to the NATO conflict development scale of 1999, as suggested by Mark Zeitoun and Jeroen Warner.<sup>3</sup> The BAR Scale relies on a database of events that occurred between 1948 and 2008 and are related to international water relations. The intensity of each event is classified through a numerical range with +7 being the highest level of cooperation and -7 the lowest (the latter entailing the outbreak of a declared war).<sup>4</sup> Zeitoun and Warner merge the BAR Scale with the NATO conflict development scale, attributing each level to a stage of peace or conflict, spanning from “war” (-7) to “durable peace” (+7).<sup>5</sup> For our case study, the major events have been thus appointed alongside the aforementioned scales and can therefore be seen in their evolutionary perspective towards the de-escalation and outbreak of war.

The qualitative aspects of de-escalation and escalation were analyzed primarily

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<sup>1</sup> For a broader context and event background, see Annexes I and II.

<sup>2</sup> Sisk, Timothy D. 2009. *International Mediation in Civil Wars. Bargaining with Bullets*. New York: Routledge. 44.

<sup>3</sup> Zeitoun, Mark, & Warner, Jeroen. 2006. “Hydro-Hegemony. A Framework for Analysis of Trans-Boundary Water Conflicts”, *Water Policy* 8(5). 435–60.

<sup>4</sup> Yoffe, Shira, & Larson, Kelli. 2001. *Basins at Risk. Water Event Database Methodology (Basins at Risk Research Project Chapter 2)*. Corvallis: Oregon State University. 36.

<sup>5</sup> NATO. 1999. “Environment & Security in an International Context. Final Report”, *Committee on the Challenges of Modern Society Report No. 232*. Berlin: North Atlantic Treaty Organisation.

through the theoretical contributions of William I. Zartman and his notion of the «ripe moment» concerning the phases of mediation. The concept of “ripeness” – a conflict being considered ripe when negotiations would lead to a positive outcome – is not the definition of a given time in the conflict, but rather the combination of three scenarios. The first is the mutually hurting stalemate «associated with an impending, past or recently avoided catastrophe».<sup>6</sup> This concept is «based on the notion that when the parties find themselves locked in a conflict from which they cannot escalate to victory and this deadlock is painful to both of them [...] they seek an alternative policy or Way Out».<sup>7</sup> A stalemate differs from the second scenario, a deadlock, in that the latter does not leave any room for concessions or constructive action, while the former constitutes an impasse that leaves no room for possibilities of escalation, consequently allowing for chances of de-escalation. In this case, efforts from both parties to impose unilateral solutions are blocked. This situation implies that none of the belligerent parties have the necessary strength or capacity to crush or overcome the opponent, thus creating space for alternative, bilateral, and conceivable solutions «leading antagonists to believe that there is a workable alternative to combat».<sup>8</sup> The third scenario leading to ripeness consists of changes in power relations, such as the balance of strengths and capacities among belligerent parties. An example of this is when «a party that previously had the upper hand in the conflict starts slipping and the underdog starts rising».<sup>9</sup>

Alongside mediation theories (and given that the dispute is centered around a water-course and on its sovereignty, navigation, and access), we refer to the broader Hydro-Hegemony framework and its interpretations to explain the fragility of the agreements reached and the recurring outbreak of hostilities among the two competing actors. The actions of Iran and Iraq were considered according to Filippo Menga’s framework, from the standpoint of the *material*, *bargaining*, and *ideational* influence of one state over the other. The material or coercive influence generally refers to power and dominion through military means. The other two forms of influence belong to the category of soft power – i.e., «the ability to get what you want through attraction rather than coercion or payments»<sup>10</sup> – and entail the *consent* of the hegemonized. These three aspects are considered by Menga as necessary to display hegemony in the critical

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<sup>6</sup> For a definition of “mutually hurting stalemate” see Zartman, I. William. 2001. “The Timing of Peace Initiatives. Hurting Stalemates and Ripe Moments”, *The Global Review of Ethnopolitics*, 1. 8-18. P. 8.

<sup>7</sup> *Ibid.*, 8.

<sup>8</sup> Kleiboer, Marieke. 1996. “Understanding Success and Failure of International Mediation”, *The Journal of Conflict Resolution* 40(2). 360-389. P. 363.

<sup>9</sup> *Ibid.*, 363.

<sup>10</sup> Nye, Joseph S. 2004. “Soft Power and American Foreign Policy”, *Political Science Quarterly* 119(2). 255- 270. P. 256.

neo-Gramscian sense, in which a hegemonic order survives as long as the «hegemonized perceive the existing situation as right and proper».<sup>11</sup> Thus, the efforts of both countries in attempting to earn the best pay-off through coercive or bargaining means were conceptualized under this framework, considering in particular how the lack of soft power and the rapid shifts in power relations did not provide either of the two co-riparians of the Šaṭṭ al-ʿArab the opportunity to emerge as hegemonic and establish a sustainable order at the expense of the other.

Our contribution seeks to add a further layer to this framework by analyzing the most crucial period of the dispute through a comprehensive, multi-disciplinary approach. In fact, the Šaṭṭ al-ʿArab dispute is mostly considered in existing literature through three main lenses: history, international law, and the environmental-scientific analysis. Although historical and treaty law analyses were crucial in developing the content of the paper, they nonetheless offer a mere introduction to the wider argument of the Iraq-Iran conflict, considering the dispute over water only as functional to the outbreak of the war, and thus overlooking the centrality that the attempts to gain control over the river had on the competitive or cooperative attitude of the two actors. The environmental approaches, on the other hand, proved more useful in understanding how the government and local communities' usage of the waterway and necessities affected the watercourse and its ecosystem. In our view, the combination of these approaches with conflict management and Hydro-Hegemony theories is necessary to explain and contextualize the spiral of events and the changes in Iranian and Iraqi behavior, further enriching the existing literature.

## 2 - Historical evolution of the dispute

The dispute along the Šaṭṭ al-ʿArab River is deep-rooted, dating back to the 17<sup>th</sup> century.<sup>12</sup> Tensions already existed between the Ottoman and Safavid Empires, who both considered the watercourse as relevant to their domestic interests. The Ottoman Empire – and subsequently Iraq, as its successor – have long referred to the river as a «vital artery of communication»,<sup>13</sup> due to its direct access to the Gulf. On the other hand, the Šaṭṭ al-ʿArab – or Arvand Rūd, as it is known in Persian – had relevance for the Safavid and Persian Empires for strategic and commercial reasons, and it subsequently had vital importance for Iran due to the presence of the Abadan and Ḥorramšahr oil refineries,

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<sup>11</sup> Menga, Filippo. 2016. “Reconceptualizing Hegemony. The Circle of Hydro-Hegemony”, *Water Policy* 18(2). 401-418. P. 408.

<sup>12</sup> Bakhash, Shaul. 2004. “The Troubled Relationship. Iran and Iraq, 1930-80”, Potter, Lawrence G., & Sick, Gary G. (eds.), *Iran, Iraq, and the Legacies of War*. New York: Palgrave Macmillan.

<sup>13</sup> Cusimano, Joseph J. 1992. “Analysis of Iran-Iraq Bilateral Border Treaties”, *International Law* 24(1). 89- 113. P. 91.

the biggest and most productive on Iranian soil.<sup>14</sup> The controversy has repeatedly been addressed through various treaties and agreements without, however, succeeding in putting a definitive end to the issue. Rivalries and tensions were regularly revived. The issue was first thought to be settled in 1639 with the Treaty of Zuhāb laying down a general border division and minor arrangements. These principles were reaffirmed in the Treaty of Kurdan in 1746 and in the Treaty of Erzurum in 1823. The first consistent escalation of tension erupted in 1824 when Persians began fueling Kurdish-driven rebellions in Ottoman territories, and the Ottomans attacked the port of Muhammara (later Ḥorramšahr), on the Persian side of the Šaṭṭ al-ʿArab.<sup>15</sup> The Second Treaty of Erzurum was signed – thanks in part to the efforts of Russian and British offices – and defined the southern part of the Šaṭṭ al-ʿArab as the border between the two States, establishing their full sovereignty on their respective banks of the river. Indeed Article 2 of the treaty established that :

[...] The Ottoman Government formally recognizes the unrestricted sovereignty of the Persian Government over the city and port of Muhammara [now Khurramshahr], the island of Khizr [now Abbadan], the anchorage, and the lands on the eastern bank – that is to say, the left bank – of the Shatt al-Arab which are in the possession of tribes recognized as belonging to Persia.<sup>16</sup>

Later disputes regarding the interpretation of certain provisions in the treaty led the two countries to disagreement once more, both pushing for the establishment of a new treaty. It is in this context that the Tehran Protocol of 1911, the Constantinople Protocol of 1914, and the Delimitation Commission’s Agreement of 1914 were adopted, reasserting «the Ottoman Empire’s sovereignty over the entire Shatt al-Arab up to the Persian side».<sup>17</sup>

The strategic importance of the Šaṭṭ al-ʿArab for British political, commercial, and oil-related interests further complicated the issue. The British Empire’s presence in the region dates back to the 17<sup>th</sup> century with the establishment of the East India company.<sup>18</sup> While initially motivated solely by commercial and strategic purposes (the Per-

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<sup>14</sup> Melamid, Alexander. 1959. “The Geographical Pattern of Iranian Oil Development”, *Economic Geography* 35(3). 199-218. P. 199. Considering the several changes in the political and governmental domains, we will refer to the institutional names of the two countries that were in use in the related historical period.

<sup>15</sup> Cusimano, “Analysis of Iran-Iraq Bilateral Border Treaties”, *op. cit.*, 93.

<sup>16</sup> Quoted in Edmonds, Cecil J. 2007. “The Iraqi-Persian Frontier: 1639-1938”, *Asian Affairs* 6(2). P. 149.

<sup>17</sup> Cusimano, “Analysis of Iran-Iraq Bilateral Border Treaties”, *op. cit.*, 95.

<sup>18</sup> Rabi, Uzi. 2006. “Britain’s ‘Special Position’ in the Gulf. Its Origins, Dynamics and Legacy”,

sian Gulf's position rendered it a useful refueling point on the route to India) the British presence began to be politically driven at the end of the 18<sup>th</sup> century. The perceived threat of Napoleon's occupation of Egypt in 1798 resulted in the British's development of lasting commercial and political interests in the Gulf.<sup>19</sup> As summed up in the words of Sir Anthony Parsons, one of Britain's senior diplomats, the British:

[...] have a strong interest in the stability of the Gulf, that is to say in the continued existence of political structures which will ensure an uninterrupted supply of crude oil at stable prices, a rational policy of investment of surplus funds from the Gulf in the West and steady progress in the implementation of social and economic development programmes.<sup>20</sup>

The collapse of the Ottoman Empire following World War I granted the British Empire a mandate under the authority of the League of Nations, laying the foundation for formal control over the newly established Iraqi state.<sup>21</sup> Later negotiations led to the signature of a Treaty of Alliance between Iraq and Britain in 1930, further consolidating British influence over the country. Thus, British authorities once again considered the dispute over the Şatt al-ʿArab as crucial, and since 1930 have directly entered into negotiations in support of a mediated agreement that would lead to stability and to a better pay-off for their commercial and political position among the two opponents. However, the British stance reflected a propensity towards the Iraqi claim of full sovereignty over the river and opposition to the Iranian argument of introducing the *thalweg* principle – the line defining the lowest points along the river – to divide the watercourse and sovereignty over it.<sup>22</sup> The British position influenced the Iranian attitude towards the newly independent Iraqi State, thus Teheran considered the delimitation of the river border not compliant with the International Water Law principles. On the other side, Great Britain was not willing to make concessions, given that «any transfer of sovereignty over the river to Iran could give the means of interference in this line of communication

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*Middle Eastern Studies* 42(3). 351–64.

<sup>19</sup> Hurewitz, Jacob C. 1972. “The Persian Gulf. British Withdrawal and Western Security”, *The Annals of the American Academy of Political and Social Science* 401(1). 106-115.

<sup>20</sup> Quoted in Nonneman, Gerd. 2001. “Constants and Variations in Gulf-British Relations”, Kechichian, Joe (ed.). *Iran, Iraq and the Arab Gulf States*. New York: Palgrave Macmillan. 325-350. P. 329.

<sup>21</sup> Omissi, David. 1989. “Britain, the Assyrians and the Iraq Levies, 1919-1932”, *The Journal of Imperial and Commonwealth History* 17(3). 301-22. P. 311.

<sup>22</sup> In other words, the *thalweg* is considered as «the main channel of the river» (see Amin, S. H. 1982. “The Iran-Iraq War. Legal Implications”, *Marine Policy* 6 (3), 197), the one mainly used by boats to navigate the watercourse. However, it should be noted that it cannot be a fixed line as it may shift in time alongside the natural and artificial modifications of the river.

to the Iranian hands and endanger the position of Great Britain».<sup>23</sup>

Open tensions began in the '30s when Iran contested the validity of the previous arrangements. The Iranian argument was based on the lack of an official acceptance of the explanatory note to the Treaty of Erzurum and the absence of the Iranian Parliament's approval of the 1913 Protocol. These motivations, combined with the fact that the 1914 delimitation arrangements were considered invalid, resulted in Iran's declaration that the arrangements «have no force, either in law or in equity, to determine the frontier».<sup>24</sup>

British consideration of the potential economic losses due to the necessity of moving the Anglo-Iranian Oil Company (AIOC)'s affairs<sup>25</sup> away from the port of Abadan resulted in the recognition of the urgency of the question of sovereignty over the waterway. Therefore, under the British government, a new bilateral agreement between Iran and Iraq was signed in 1937.<sup>26</sup> It established that the waterway delimitation would follow the *thalweg* line only in front of the ports of Abadan and Ḥorramšahr while the rest of the river would remain under full Iraqi sovereignty.<sup>27</sup> However, the agreement conferred, though only in substance, the right of free navigation to Iranian vessels, establishing under Article 4 (a) that the river «shall remain open on equal terms to the trading vessels of all countries» and further re-asserting under Article 4 (c) that «the circumstance that the frontier [...] sometimes follows the low-water mark and sometimes the *thalweg* or medium filum aquae shall not in any way affect the two High Contracting Parties' right of user along the whole length of the river».<sup>28</sup> Although the agreement contributed to a temporary settlement of the dispute, it later became a source of discontent once more. While Iranian claims for shared sovereignty remained dormant since the 1937 Agreement, they were revived in 1969 with the abrogation of the treaty. The application of the *thalweg* principle remained Iran's constant request in further negotiations.

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<sup>23</sup> Zargar, Aliasghar. 2011. "A Historical Review of British Role in Iran-Iraqi Dispute on the Shatt-Al-Arab Waterway", *International Journal of Political Science* 1(2). 21-35. P. 25.

<sup>24</sup> Quoted in Lauterpacht, Elihu. 1960. "Legal Aspects of the Shatt-Al-Arab Frontier", *The International and Comparative Law Quarterly* 9. 208-236. P. 215.

<sup>25</sup> For more information on AIOC, see: Beck, Peter J. 1974. "The Anglo-Persian Oil Dispute 1932-33", *Journal of Contemporary History* 9(4). 123-51; Sander, Michael. 2019. "Why Companies Bring the State Back In. The Voluntary Self-Nationalisation of the Anglo-Persian Oil Company and the Rise of 'Governance by Government'", *New Political Economy* 25(6). 926-43.

<sup>26</sup> Sirriyeh, Hussein. 1985. "Development of the Iraqi-Iranian Dispute, 1847-1975", *Journal of Contemporary History* 20(3). 483-92. P. 484.

<sup>27</sup> Zargar, "A Historical Review of British Role in Iran-Iraqi Dispute on the Shatt-Al-Arab Waterway", *op. cit.*, 33.

<sup>28</sup> Quoted in Lauterpacht, "Legal Aspects of the Shatt-Al-Arab Frontier", *op. cit.*, 227-28.

### 3 - Escalation and negotiations: the Algiers Agreement

The 1937 agreement initially contributed to the easing of tensions between Iran and Iraq. However, this renewed rapprochement was destined to be short-lived; latent discontent with the previous arrangements resulted in scattered low-intensity tensions. Consequently, the period extending from 1961 to 1973 was characterized by a progressive deterioration of relations between the two states, resulting in a renewal of claims to redraw the water border along the Šaṭṭ al-‘Arab. It could be argued that Iraq’s perception of its geographically disadvantaged position and its need to secure safer access to the Gulf played a crucial role. Iraq initially implemented «a triangular territorial pattern»<sup>29</sup> involving Kuwait, claiming its sovereignty on the Kuwaiti islands of Warba and Bubiyan in exchange for some territorial concessions. However, as Schofield’s analysis of the matter emphasizes, concrete improvements were made in the mid-1950s, when:

[...] the British government hit upon the idea of linking proposals for Iraq to pipe fresh water from the Shatt al-Arab to Kuwait for domestic consumption and for Kuwait to lease to Iraq the island of Warba and a strip of northern Kuwaiti land territory to finally allow unhindered development of Umm Qasr.<sup>30</sup>

Nonetheless, negotiations stalled in 1958 due to the coup d’état of General Brigadier ‘Abd al-Karīm Qāsim in Iraq, which resulted in the establishment of the Republic of Iraq. This change of regime put an end to the direct British influence in the country, but was rapidly replaced by the influence of the Soviets.<sup>31</sup>

The importance of an agreement with Kuwait lied in the necessity to secure diverse avenues of access to the Gulf, thus reducing Iraqi dependence on the Šaṭṭ al-‘Arab. However, the fact that an agreement with Kuwait was not reached forced Iraq to reconsider the value of the shared Iranian-Iraqi watercourse. On the Iraqi side, the latent discontent derived from the perception that the 1937 Agreement excessively favored Iran’s position and the claim of «complete sovereignty over the entire Šaṭṭ al-‘Arab without regard to any of the exceptions in the Treaty».<sup>32</sup>

The situation culminated with the Iraqi refusal to aid Iranian oil tankers in anchoring in the Abadan refinery, while they were supposed to pilot Iranian ships with

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<sup>29</sup> Schofield, Richard. 2004. “Position, Function, and Symbol. The Shatt al-Arab Dispute in Perspective”, Potter, Lawrence G., & Sick, Gary G. (eds.), *Iran, Iraq, and the Legacies of War*. New York: Palgrave Macmillan.

<sup>30</sup> *Ibid.*, 49.

<sup>31</sup> Bakhsh, “The Troubled Relationship”, *op. cit.*, 11–27.

<sup>32</sup> Cusimano, “Analysis of Iran-Iraq Bilateral Border Treaties”, *op. cit.*, 99.

Iraqi personnel. The so-called “Abadan incident” caused direct economic damage to the Iranian oil trade route. To resolve the emergency, Iran resorted to having military ships escort the vessels, which were now piloted by Iranian personnel.<sup>33</sup> The incident can be classified as -3 on the BAR Scale, as it entailed «diplomatic-economic hostile actions» such as «hindering movement on [...] waterways; [...] blocking free communication; [and] halting aid»<sup>34</sup> and opened a situation of unstable peace, leaning towards crisis. The mounting escalation following the Abadan Incident, combined with complete British withdrawal from the Gulf (announced in 1968),<sup>35</sup> allowed Iran to glimpse an occasion to «seize an advantage or target of opportunity».<sup>36</sup> The intensification of Iranian calls for a thalweg delimitation of the Šaṭṭ al-‘Arab watercourse reflects what has been defined by Zartman and Faure as an «escalation of risk» in which one party’s actions – Iraq, in this case – can «increase the danger that the other will increase its demands, then refuse to talk or simply take unilateral action directly».<sup>37</sup>

Indeed, in April 1969, Iran unilaterally abrogated the treaty signed in 1937. In doing so, Iran presented a threefold argument in which they claimed that: (1) Iraq had breached the agreement, (2) a fundamental change of circumstances had occurred, and (3) the principle of equality between the two co-riparians had not been ensured. Following Joseph J. Cusimano’s analysis of Iran-Iraq bilateral border treaties, it is worth noting that these arguments were instrumental in reaching an advantageous position to advance political claims and eventually re-negotiate the agreement.<sup>38</sup> The alleged breach of the treaty was based on Iraq’s unilateral administration of the watercourse, in overt contrast with the 1937 Agreement’s intent to encourage joint participation in such affairs. According to Amir K. Afshar, deputy minister of Iranian Foreign Affairs at the time, the Iraqi government:

[...] never showed any inclination to bind itself to the obligations resulting from that treaty, so that the two fundamental clauses Mo. 4 and 5 and clause 2 of its attached protocol which refers to the joint administration of the affairs of Shat-ul-‘A-

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<sup>33</sup> Schofield, “Position, Function, and Symbol”, *op. cit.*

<sup>34</sup> Yoffe & Larson, *Basins at Risk*, *op. cit.*, 36.

<sup>35</sup> British withdrawal from the Gulf was officially announced on January 16, 1968 on the basis of budgetary constraints. However, as widely highlighted in Gause’s analysis, the economic effect was minimal. See Gause, Gregory F. 1985. “British and American Policies in the Persian Gulf, 1968-1973”, *Review of International Studies* 11(4). 247-73.

<sup>36</sup> Zartman, I. William, & Faure, Guy O. 2005. “The Dynamics of Escalation and Negotiation”, Zartman, I. William, & Faure, Guy O. (eds.), *Escalation and Negotiation in International Conflicts*. Cambridge University Press. 3-20. P. 9.

<sup>37</sup> *Ibid.*, 7.

<sup>38</sup> Cusimano, “Analysis of Iran-Iraq Bilateral Border Treaties”, *op. cit.*, 100.

rab, and the manner of expenditure of the revenue derived from it, have never been carried out by the Iraqi Government, and the continuous efforts of the Imperial Government of Iran to cause the Iraqi Government to fulfill its undertakings and the obligations emanating from it have proved ineffective, and the Iraqi Government has conducted the affairs of Shat-ul-<sup>c</sup>Arab in a unilateral manner illegally keeping the administration under its own control.<sup>39</sup>

By invoking the *rebus sic stantibus* principle, Iran referred to the lack of a proper consent on its part while accepting the 1937 Agreement. The Iranian Minister of Foreign Affairs claimed that the treaty was «concluded in a time when the British colonial system was at its height of power, and was keeping Iraq under its protecting wings, using force and bringing pressure upon Iran to sign that treaty».<sup>40</sup> Therefore, given the withdrawal of British presence from the Gulf, the special situation existing when the 1937 Agreement was signed no longer existed and was then to be considered null. Lastly, the treaty was considered void by the Iranian government because the principle of equality between the two co-riparian states had not been respected; the application of *thalweg* only in front of the cities of Abadan and Ḥorramšahr left the rest of the river under Iraqi sovereignty. The reaction from Iraq was expressed in an international letter to the President of the United Nations Security Council from the acting permanent representative of Iraq, reading:

The Iranian renunciation of the 1937 Treaty was accompanied by massive disposition of troops, naval and air force units all along the Iraqi borders. This constitutes a serious threat to the security and the territorial integrity of the Republic of Iraq. In fact, some of these troops and military units have actually been used in violating Iraqi sovereignty in Shatt-al-<sup>c</sup>Arab, and in conducting acts which constitute a serious intervention in the Iraqi administration of Shatt-al-<sup>c</sup>Arab which is an indivisible part of Iraq's internal jurisdiction.<sup>41</sup>

The gravity of the situation, as expressed by the national leaders, is classified on the BAR Scale as -3 (similar to the Abadan incident) because of the «abrogation of a water treaty».<sup>42</sup> However, even though the two events are categorized at the same level of severity, in relative terms, this unilateral abrogation acquires greater importance, and

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<sup>39</sup> 1969. "Iran-Iraq: Documents on Abrogation of 1937 Treaty Concerning Shatt-Al-Arab Waterway", *International Legal Materials*, 8(3), American Society of International Law. 478-492. P. 482.

<sup>40</sup> *Ibid.*, 483-483.

<sup>41</sup> *Ibid.*, 487.

<sup>42</sup> Yoffe & Larson, *Basins at Risk*, *op. cit.*, 25.

it can be seen as a “transition point” as theorized by Sisk.<sup>43</sup> In other words, this event created a more significant change of circumstances and gave rise to two main possible courses of action: escalation or de-escalation.

The escalation occurred through Iran’s exploitation of the Kurdish insurgence in the disputed provinces at the northern border, shared with Iraq. The Kurds, declaring and believing in their distinctive ethnic identity, have long contended that their right to self-determination should be recognized. The overthrow of the Hashemite dynasty in Iraq in 1958 and the establishment of a new Republican political system resulted in the approval of a new provisional constitution that, for the first time, recognized the Kurds as a legitimate ethnic group with national rights. However, continuous changes in the Iraqi political regime did not favor a definitive resolution of the issue due to the different attitudes towards Kurdish claims. Tensions between the Iraqi army and the Kurdish military force (the Peshmerga) arose in 1974 in response to a disagreement concerning the administrative center of the Kurdish autonomous region; the Iraqi government’s proposal was to keep it in Erbil, while the Kurds wanted it to be in Kirkuk.<sup>44</sup>

In the context of rivalry between Iraq and Iran, it has been argued that «the Kurds had been used as pawns and that Iranian realpolitik had taken over».<sup>45</sup> The Iranian engagement with the Kurdish militias evolved through the ‘70s only to stop completely after the Algiers Agreement in 1975. Initially, Iran offered support which «consisted of money needed by the Kurds to purchase rifles abroad; food [...]; medical supplies [...]; small mortars; small rifle ammunition, [...] and safe refuge for the Kurdish families».<sup>46</sup> After a short-lived ceasefire mediated by the Mexican ambassador dispatched by the United Nations Security Council, the armed conflict was revived in 1974 when Iraq attempted to regain control of the areas under the control of Kurdish rebels. In this instance, Iranian support was more evident and entailed a significant military component, as it provided «artillery and [...] some limited sophisticated weaponry», with the aim of making sure that «the Kurdish revolts would be as prolonged as possible».<sup>47</sup> As Zartman points out:

In 1974, the third round of the border crisis between Iran and Iraq took a specific turn with the involvement of Iranian support for the Iraqi Kurds, and the limited escalation of the previous rounds of 1959 and 1969 took a much more serious form,

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<sup>43</sup> Sisk, *International Mediation in Civil Wars*, *op. cit.*

<sup>44</sup> Entessar, Nader. 1984. “The Kurds in Post-Revolutionary Iran and Iraq”, *Third World Quarterly* 6(4). 911-933. P. 920.

<sup>45</sup> Tomasek, Robert D. 1977. “The Resolution of Major Controversies Between Iran and Iraq”, *World Affairs* 139(3). 206-230. P. 224.

<sup>46</sup> *Ibid.*, 220-221.

<sup>47</sup> *Ibid.*, 222.

which led to stalemate and the negotiation of a mediated agreement in Algiers in March 1975.<sup>48</sup>

The support to the Kurds was thus interrupted by the so-called Algiers Agreement in March 1975, the aim of which was to settle border and territorial disputes on the Šatt al-‘Arab and in the northern provinces. The agreement, later ratified in Baghdad as the “Treaty Concerning the State Frontier and Neighbourly Relations between Iran and Iraq” in June 1975, was the result of the alignment of several factors as well as the success of Iran’s bargaining power.

Timing plays a crucial role in ensuring the peaceful resolution of conflicts and disputes, as «parties resolve their conflict only when they are ready to do so – when alternative, usually unilateral means of achieving a satisfactory result are blocked and the parties feel that they are in an uncomfortable and costly predicament».<sup>49</sup> By 1975, the convergence of all the elements characterizing the “ripe moment” was evident. The progressive worsening of Iranian-Iraqi relations, combined with Iran’s desire to achieve more pervasive control in the Gulf, led to a tit-for-tat power game with the two countries engaged in several low-level clashes, finally resulting in a direct military confrontation. However, Iran and Iraq found themselves in a circumstance which had more drawbacks than benefits. It was a mutually hurting stalemate from which neither party could unilaterally retract. The use of material power in the form of coercion revealed itself to be insufficient in securing an improvement in either country’s position, and no concrete uni- lateral action seemed to be possible.<sup>50</sup>

In Game Theory terms, the mutually hurting stalemate occurred when Iran and Iraq acknowledged that neither a negative-sum nor a zero-sum outcome were viable. In contrast, a positive-sum path – a negotiated agreement – became attractive. The change in power relations between Iran and Iraq, compared to the situation in 1937, played a crucial role in the evolution of the water border dispute. Taken together, all these factors provided a convincing rationale as to why a negotiated agreement – and therefore a de-escalation of conflict – would be a better option for both actors. It is worth noting that on the BAR Scale the 1975 Treaty marks a solid +6, entailing an «International Freshwater Treaty» and a «major strategic alliance»,<sup>51</sup> which can be considered as “durable peace”. The event therefore stands out as a transition point towards de-escalation and peaceful relations between the belligerent parties and expresses the convergence

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<sup>48</sup> Zartman, I. William. 2005. “Structures of Escalation and Negotiation”, Zartman, I. William & Faure, Guy O. (eds.), *Escalation and Negotiation in International Conflicts*, *op. cit.*, 172.

<sup>49</sup> Zartman, “The Timing of Peace Initiatives”, *op. cit.*, 1.

<sup>50</sup> Schofield, “Position, Function, and Symbol”, *op. cit.*, 54.

<sup>51</sup> Yoffe & Larson, *Basins at Risk*, *op. cit.*, 27.

of specific reciprocal interests. The most compelling interest was the maintaining of territorial integrity. On one hand, the Iraqi Representative at the United Nations Security Council, during a debate concerning the Iranian occupation of the Gulf islands of Abu Musa and Tunbs in 1971, referred to the Iranian policy after the withdrawal of the British power as «expansionist».<sup>52</sup> On the other hand, Iraq's «support for subversive activities in the area [and] Iraqi territorial ambitions in Kuwait» resulted in the Shah's concern over Iraq as a possible «major rival power in the Gulf».<sup>53</sup> The reciprocal anxiety over the other's interest and desire for territorial expansion – heightened by the pressing stalemate – encouraged Iran and Iraq to initiate negotiation rounds and secure their fundamental needs. At the same time, economic reasons contributed to the de-escalation: both countries desired to have a more prominent role in the Organization of Petroleum Exporting Countries (OPEC) and to consolidate the strength of the organization after the 1973 crisis,<sup>54</sup> limiting the political and commercial expansionism of foreign actors, in particular the Soviet Union.<sup>55</sup>

The agreement, mediated through the good offices of Algeria and other OPEC member States, in Article 2 established that «the frontier line in the Shatt al-ʿArab shall follow the *thalweg*»<sup>56</sup> while Article 7 granted complete freedom of navigation in any part of the waterway. Considering the contrasting stances on the river sovereignty dispute, it appears that the Iranian stance gained a prominent role. This outcome can be explained through Iran's exploitation of the Kurdish rebellion. While bargaining, Iran used its role in the conflict between Iraq and the Kurds as leverage, considering the possibility of withdrawing its support of the rebellion in exchange for a better trade-off over the Šaṭṭ al-ʿArab, namely the application of the *thalweg* principle. Leveraging Iraqi domestic instability, Iran strategically took advantage of its material power, rapidly enhancing its bargaining capacity. This facilitated a «shift [of] the balance in negotiations limiting the options and alternatives of the counterpart»,<sup>57</sup> especially when considering

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<sup>52</sup> Sirriyeh, “Development of the Iraqi-Iranian Dispute, 1847-1975”, *op. cit.*, 484.

<sup>53</sup> *Ibid.*, 485.

<sup>54</sup> The 1973 oil crisis is strictly linked to Western countries' attitude towards the Arab-Israeli dispute. Indeed, ten days after the onset of the Yom Kippur war the country members of the Organization of Arab Petroleum Exporting Countries (OAPEC) proclaimed an oil embargo and started cutting their oil production. For further information see: Painter, David S. 2014. “Oil and Geopolitics: The Oil Crises of the 1970s and the Cold War”, *Historical Social Research / Historische Sozialforschung*, 39(4). 186-208.

<sup>55</sup> See Amin, S. H. 1982. “The Iran-Iraq War. Legal Implications”, *Marine Policy* 6(3). 193-218; Ismael, Tareq Y. & Kreutz, Andrej. 2001. “Russian-Iraqi Relations: A Historical and Political Analysis”, *Arab Studies Quarterly* 23(4). 87-115.

<sup>56</sup> Treaty Concerning the State Frontier and Neighbourly Relations between Iran and Iraq, June 13, 1975, Iran-Iraq, 1017 U.N.T.S. 136. [Hereafter “1975 Treaty”].

<sup>57</sup> Menga, “Reconceptualizing Hegemony”, *op. cit.*, 412.

that the «use of force/coercion (sticks) and consent/attraction (carrots) coupled with the establishment of ideas on a basin is much more determining of the outcome than international water law, water sharing ethics or riparian position». <sup>58</sup> However, as will be discussed later, the inherent fragility of the agreement also laid in the lack of the ideational power (the mentioned “establishment of ideas on a basin”), a feature considered as a key pillar in the establishment of a sustainable hegemonic or hydro-hegemonic order.

#### 4 - 1979-1980: Iranian Revolution and relapse into conflict

The Iranian revolution marked a turning point in the relations between the two countries. The friendly behavior that followed the 1975 Agreement soon turned into antagonism and mutual distrust. On one side, Iraq showed a timid commitment to the preservation of the relationship, while on the other, the new Iranian revolutionary leader – the Ayatollah Ruhollah Khomeini [Rūḥ Allāh Ḥomeynī] – began to perceive their Iraqi neighbor as both a threat and a place where the revolution could be exported. <sup>59</sup> Iraq, however, perceived such scenario as less contingent than its counterpart, and the prevailing idea of an internally weak Iran made the possibility of a unilateral action to acquire disputed territories more appealing, especially on the Šaṭṭ al-‘Arab and in the region of Ḥūzestān.

In 1980, the unilateral abrogation of the 1975 treaty by Iraq expressed the intention of one party to prevail over the other, first on a material and then a moral ground. The Iraqi argument on the abrogation was twofold: the first part concerned Iran’s material breach of the treaty, while the second part was related to the alleged lack of genuine consent to the treaty’s ratification. In support of its claim, Iraq invoked Article 4 of the treaty, which states that:

The High Contracting Parties confirm that the provisions of the three Protocols, and the annexes thereto, referred to in articles 1, 2 and 3 above and attached to this Treaty as an integral part thereof shall be final and permanent. [...] a breach of any of the components of this over-all settlement shall clearly be incompatible with the spirit of the Algiers Agreement. <sup>60</sup>

Iran’s alleged continued military operations within Iraqi territory would thus invalidate the whole agreement, therefore allowing Iraq to retreat. Moreover, by arguing

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<sup>58</sup> Zeitouna, Mark, & Allan, J. A. 2008. “Applying Hegemony and Power Theory to Transboundary Water Analysis”, *Water Policy* 10(2). 3-12. P. 10.

<sup>59</sup> Nonneman, Gerd. 2004. “The Gulf States and the Iran–Iraq War: Pattern Shifts and Continuities”, Potter & Sick (eds.), *Iran, Iraq, and the Legacies of War*, *op. cit.*, 173.

<sup>60</sup> 1975 Treaty, *op. cit.*, 137.

that Iran extorted the ratification through the leverage it had over the Kurdish rebellion, Saddam Hussein tried to impose a narrative of revenge, exploiting Iraqi nationalism at the expense of the rampant post-revolutionary instability of its neighbor.<sup>61</sup> However, the decision's legal basis was shaky and inconsistent with Iraq's own behavior throughout the evolution of the dispute. In fact, against a similar argument advanced by Iran in 1969 concerning the 1937 treaty – i.e., that its own consent was lacking due to the pressure exerted by Britain –,<sup>62</sup> Iraq had not accepted the stance as valid. Especially because of such precedent, different international law scholars noted the incoherence on the part of Iraq, alongside the inconsistency of the thesis of an alleged material breach caused by Iran.<sup>63</sup>

To understand the course of Iraqi behavior after 1979, we propose here an interpretation of the process based on an upturning of Zartman's "ripe moment" theory. After the Iranian revolution, the three characteristics required to undergo a fruitful agreement were not met. As was shown earlier, in 1974 Iraq and Iran managed to develop an agreement that was considered equitable; as they found themselves with little to no space of unilateral maneuver, the two countries aligned over concurring interests. Six years after the treaty, the situation on the ground had drastically changed and the interests that they once shared suddenly shifted in conjunction with the revolution in Iran. The mutual perception of the neighbor as a threat increased the fear of losing territorial integrity and of expansion beyond the contested borders in the areas of the Şatt al-ʿArab and Hūzestān.<sup>64</sup>

We can observe that the first possible scenario of the ripe moment theory – the mutual hurting stalemate – was no longer present at this time, with the two countries at peace and their border disputes addressed, though not completely resolved. The significant change in the Iraqi stance in the dispute becomes more understandable if we take into consideration the other two aspects of Zartman's theory, the «perceived or real»<sup>65</sup> change in power relations and the lack of possibility of unilateral actions. In this context, it is the *perception* of superiority experienced by Iraq under the regime of Saddam Hussein that needs to be considered. The change in power relations can thus be

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<sup>61</sup> Ghareeb, Edmund. 1981. "Iraq. Emergent Gulf Power", Amirsadeghi, Hossein (ed.), *The Security of Persian Gulf*. New York: Routledge, 197-230.

<sup>62</sup> "Iran-Iraq: Documents on Abrogation of 1937 Treaty Concerning Shatt-Al-Arab Waterway", *op. cit.*, 487.

<sup>63</sup> Amin, "The Iran-Iraq War", *op. cit.*, 200; Cusimano, "Analysis of Iran-Iraq Bilateral Border Treaties", *op. cit.*, 111.

<sup>64</sup> Behrooz, Maziar. 2012. "Iran after Revolution (1979-2009)", Daryaee, Touraj (ed.), *The Oxford Handbook of Iranian History*. New York: Oxford University Press. 365-389. P. 373.

<sup>65</sup> Faure, Guy O. 2005. "Deadlocks in Negotiation Dynamics", Zartman, & Faure, *Escalation and Negotiation in International Conflicts*, *op. cit.*. 23-52. P. 34.

considered as the *perceived* superiority of Iraq vis à vis Iran's internal weakness, attributable to the reshaping of Iranian institutions after the Khomeinist revolution.<sup>66</sup> Therefore, new opportunities of expansion through unilateral actions suddenly appeared feasible to Hussein's regime.

On September 17, 1980, such unilateral action undertaken by Iraq constituted an abrogation of the 1975 treaty. The aim was to gain a better trade-off through the physical acquisition of the disputed lands, after the unsatisfactory result of the agreement signed in Baghdad. While abrogating the treaty, Saddam Hussein «claimed exclusive sovereignty over the entire Shatt al- 'Arab» and «announced that vessels using the estuary and the waterway should fly the Iraqi flag and take on only Iraqi pilots».<sup>67</sup> However, Iraq's consideration of the agreement as unsatisfactory reflects a posture developed *a posteriori*. The application of the *thalweg* principle proposed by Iran did not actually hinder Iraq's access to the Gulf; rather, it clashed with its nationalist vision of sovereignty over the river and with the potential acquisition of the territories beyond it. As Cusimano argues, «Iraq had not brought up the issue of non-consent until it claimed that the Treaty was abrogated».<sup>68</sup> At this stage, as Iran ceased to support for the Kurdish separatist movements, Iraq felt that it had an advantage it did not have before. With the aim of claiming both contested territories at once and encouraged by the allure of a swift victory, Hussein proceeded to invade Iran on the September 22, 1980.

| Event                                   | Date | BAR Scale | Event description   |
|---|------|-----------|---|
| Abadan Incident                         | 1969 | -3        | Diplomatic-economic hostile actions   |
| Iran's abrogation of the 1937 Treaty    | 1973 | -3        | Abrogation of a water treaty  |
| Algiers Agreement                       | 1975 | +6        | International Freshwater Treaty, major strategic alliance                               |
| Iraq's abrogation of the 1975 Agreement | 1980 | -3        | Abrogation of a water treaty  |
| Iraq's invasion of Iranian territory    | 1980 | -6        | Full scale air, naval, or land battles; invasions of territory; occupation of territory |

<sup>66</sup> El-Azhary, M. S. 1984. *The Iran-Iraq War (RLE Iran A)*. London: Routledge.

<sup>67</sup> Amin, "The Iran-Iraq War", *op. cit.*, 203.

<sup>68</sup> Cusimano, "Analysis of Iran-Iraq Bilateral Border Treaties", *op. cit.*, 111.

## 5 - Change of power relations: perception and reality

Applying once again the Water Event Intensity Scale, it is worth noting that the Šaṭṭ al-‘Arab dispute directly influenced the evolution of the hostilities between the two countries. Before the actual eruption of the war, the abrogation of the 1975 treaty by Iraq is valued at -3 on the scale, similar to the 1969 situation concerning Iran’s withdrawal from the treaty. The escalation is marked by a sequence of similar events leading up to the first Iraqi move. For example, the battle of Ḥorramšahr (September 22–November 10 1980), one of the first clashes in the Iraq- Iran war,<sup>69</sup> can easily be equated to a -6 – «war» – as it entailed «full scale air, naval, or land battles; invasion of territory; occupation of territory; [etc.]»<sup>70</sup> and it is directly related to the sovereignty dispute over the river.

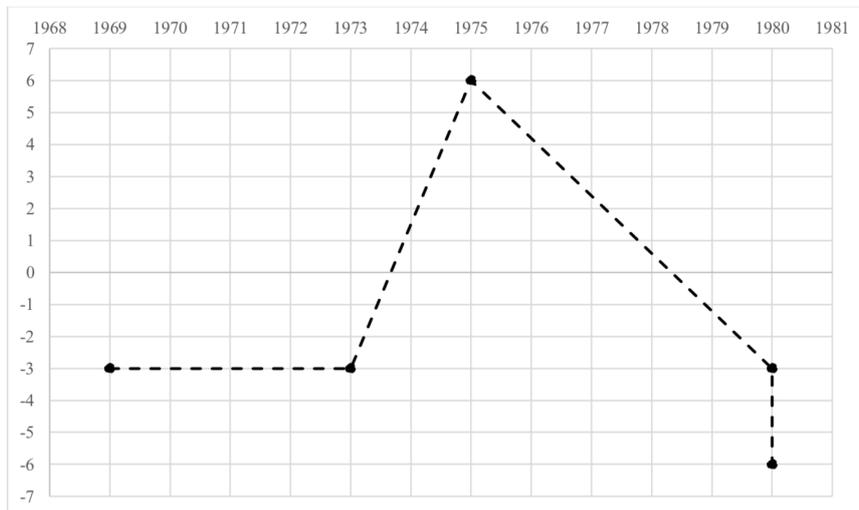


Figure 1 - Šaṭṭ al-‘Arab dispute on the BAR Scale (1969-1980)

However, to contextualize the escalation we claim that the change of power relations is a key factor in the dispute. As demonstrated in the case of Iran slowly gaining the upper hand since 1961, the recurrent switch among the most dominant – yet not hegemonic – actor paves the way for the reignition of a latent conflict, one that is deeply interconnected with other dimensions (most notably: conflicting needs, political ideologies, identities, and territorial issues). In Iraq’s case as well, the state’s attitude fails to assume the hegemonic character identified by Menga in his conceptualization of the Circular Hydro-Hegemony framework. Iraq’s lack of bargaining or ideational influence

<sup>69</sup> McLaurin, R. D. 1982. *Military Operations in the Gulf War. The Battle of Khorramshahr*. U. S. Army Human Engineering Laboratory Aberdeen Proving Ground, MD 21005.

<sup>70</sup> Yoffe & Larson, *Basins at Risk*, *op. cit.*, 25.

on its neighbor, confined it to a mere material displays of power and thus of (attempted) «domination and not hegemony».<sup>71</sup> Alongside the power relations change, the erosion of the prerogatives that aligned the two countries in 1974 proved crucial to the process. The concurring interests that led to the ratification of the treaty in 1975 had completely lost its meaning by 1979, and was additionally influenced by the change of needs and circumstances experienced by both countries in the wake of the Iranian revolution.

The «monumental staircase»<sup>72</sup> of escalation has been climbed by Iraq between 1979 and 1980 and led to a «change from incipient to full-scale crisis; change from non-violence to violence; and change from no/low violence to severe violence».<sup>73</sup> Furthermore, the formation under Saddam Hussein of a relatively new, undemocratic regime, contiguous to its rival, posed an additional condition to the outbreak of open hostilities.<sup>74</sup> The all-out war launched by Iraq against Iran in 1980 shows a change in the crisis-management pattern observable during the previous transition points of the dispute. According to Shaul Bakhash:

In the 1970s, the shah supported armed insurrection by the Kurds in Iraq and used Iranian forces to support the insurrection. But both sides understood that his aims were limited, and once the shah secured a satisfactory settlement of the Shatt issue, he abandoned the Kurds. In 1980, Saddam Hussein broke with this tradition of carefully managed crises, and for the first time in three centuries launched the two countries into all-out war.<sup>75</sup>

A discussion of the war between Iraq and Iran lays beyond the scope of this paper, it is rather the arrival point of our analysis, as we attempted to explain the patterns that led to the war. The unprecedented decision of waging war was mostly fueled by the aforementioned Iranian internal weakness and by Saddam Hussein's intention of exploiting those weaknesses. By strongly appealing to several narratives, such as the nationalist struggle for the "stolen land" of Ḥūzestān, the Arab ethnical solidarity against the Persians and the re-acquired diplomatic relations with the United States, Saddam Hussein felt not only that the *reconquista* of the sovereignty over the Ṣaṭṭ al-ʿArab and Ḥūzestān regions was feasible, but also that it could lead to regime change in Iran, top-

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<sup>71</sup> Menga, "Reconceptualizing Hegemony", *op. cit.*, 407.

<sup>72</sup> Zartman, "Structures of Escalation and Negotiation", *op. cit.*, 167.

<sup>73</sup> Brecher, Michael. 1996. "Crisis Escalation. Model and Findings", *International Political Science Review / Revue Internationale de Science Politique* 17(2). 215-230. P. 215.

<sup>74</sup> Bremer, Stuart A. 1982. "The Contagiousness of Coercion. The Spread of Serious International Disputes, 1900-1976", *International Interactions* 9(1). 29-55; Brecher, "Crisis Escalation", *op. cit.*, 227-228.

<sup>75</sup> Bakhash, "The Troubled Relationship", *op. cit.*, 22.

pling the Ayatollah Khomeini's government.<sup>76</sup>

## 6 - Conclusion

Throughout their long-standing dispute, neither Iran nor Iraq has been able to gain complete sovereignty over the Šaṭṭ al-ʿArab. At the beginning of the 20<sup>th</sup> century, the river reflected the rivalry between the neighboring Ottoman and Persian Empires. The conflict then evolved as Iran and Iraq emerged as nation states and transformed alongside the internal political changes of those two countries. As Jasim M. Abdulghani points out, the watercourse is «the barometer reflecting the vicissitudes and political temperature in Iraqi-Iranian relations».<sup>77</sup> It thus allows us to analyze the processes of escalation and de-escalation of the enduring conflict between the two countries, especially after the creation of modern nation states. The framework of analysis that we have proposed in this paper aims to develop an interdisciplinary approach to a matter which is typically addressed only in one of its main features and components. By applying complementary mediation and escalation theories to the historical context and to a quantitative delimitation of the events, we have attempted to provide an explanation of the reasons behind the inherent fragility and unsustainability of the agreements reached to govern the Iranian-Iraqi relations over the Šaṭṭ al-ʿArab. Similar to Abulghani's barometer, the BAR Scale has proven particularly effective in quantifying the conflictuality of historical events and constructing a "ladder" of escalation and de-escalation.

However, the scale alone does not offer a sufficient explanation of the nature and reasons behind the scenario to which mediation and hydro-hegemony theories have been applied successfully. In his Circular Hydro-Hegemony Framework, Menga states that to reach a hegemonic role over the management of a watercourse or a basin, it is essential that a political actor display the three dimensions of power: material, bargaining, and ideational. The latter dimension is of particular importance, considering the relevance of the *perception* of the hegemony in order for the hegemonized to consent to a given system or structure. However, as we can note from our findings, both Iranian and Iraqi attitudes failed to display such discursive soft power necessary for «the success of a basin riparian in imposing a discourse, preserving its interests and impeding changes to a convenient status-quo»,<sup>78</sup> resorting instead to their material and coercive capacities. Within this framework, and in the considered timespan, Iran displayed a strategy that in its context brought about a better pay-off between 1969 and 1974. In this case,

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<sup>76</sup> *Ibid.*, 21-22.

<sup>77</sup> Jasim M. Abdulghani. 2011. *Iraq and Iran: The Years of Crisis*. Baltimore: The Johns Hopkins University Press. 200.

<sup>78</sup> Menga, "Reconceptualizing Hegemony", *op. cit.*, 411.

Iran's bargaining power was successfully derived from the leveraging of its material power in the dispute over the northern border provinces. The assertion of the *thalweg* line principle, sustained by the International Water Law principles, at the expense of Iraq's full sovereignty not only gave a more equitable role to both parties, but also ignited a prolific «new period of 'entente' in Iran-Iraq relations»,<sup>79</sup> in which six treaties were signed, «covering trade and cultural relations; freedom of movement by Iranians in visiting Shiite holy places in Iraq; agriculture and fishing; railway systems linkages; and coordination of activities concerning the movement of 'subversive elements'». <sup>80</sup> This expansion of the issues dealt with in the agreements beyond mere border demarcation appeared to be paving the way for better and more enhanced cooperation. According to the BAR Scale, this is the highest peak in the international partnership reached by the two countries on the matter of borders, and especially in regards to case of the Şatt al-ʿArab. The establishment of «programs aimed to raise the quality of life» and of a «joint military command or alliance» are clear features of a +6 score, considered as “durable peace”. However, as demonstrated, the 1975 treaty did not lay an adequate basis for a durable and stable agreement. Iraq's quick reaction to the Iranian revolution, following Saddam Hussein's latent desire of imposing complete sovereignty over the river and other disputed territories, demonstrated that even though promising, the agreement did not resolve the underlying issues.

To conclude, this analysis identifies three main challenges yet to be addressed in order to reach a strong and sustainable agreement between Iran and Iraq in their dispute on the Şatt al-ʿArab. The first one is of a political nature and relates to the continuous changes in leadership and regime of the countries, which have hindered the development of a shared cooperation path. The impact of these changes is reflected not only in the position of the rivals towards the dispute but also – and especially – in the definition of their basic needs, affecting their national interests and interests and their interational positioning. This context influences the second challenge we identify, which is operational: the impossibility of one actor to emerge as a hegemon. Due to the lack of ideational and discursive power displayed by both states, the possibility of enhancing the level of cooperation and averting a relapse into conflict is limited. The last challenge appears to be structural. Namely, that the dispute has historically only been partially addressed by the parties involved, overlooking its interconnection, ignoring its interconnection to the other national and international issues faced by both Iran and Iraq. Often, the official decisions adopted in the treaties have soon been disregarded by the states' practices, increasing both the complexity of the issue and the mistrust between the contenders.

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<sup>79</sup> Cusimano, “Analysis of Iran-Iraq Bilateral Border Treaties”, *op. cit.*, 103.

<sup>80</sup> Amin, “The Iran-Iraq War”, *op. cit.*, 202.

**ANNEX 1 - Major events in the Şaṭṭ al-ʿArab dispute (1620-1965)**

| <b>Event</b>  | <b>Date</b> | <b>BAR Scale</b> | <b>Description</b>  |
|---|-------------|------------------|---|
| Ottoman-Safavid war   | 1623        | -7               | Formal declaration of war   |
| Treaty of Zuhab (şulh, truce under islamic principles - duration of 10 years) | 1639        | +2               | Official verbal support of goals, values, or regime, re-suming broken diplomatic or other relations |
| Treaty of Kurda   | 1746        | +2               | Official verbal support of goals, values, or regime, re-suming broken diplomatic or other relations |
| Ottoman-Persian war   | 1821        | -7               | Formal declaration of war   |
| Treaty of Erzurum I   | 1823        | +6               | International Freshwater Treaty, major strategic alliance   |
| Persia backs Kurdish rebellion in northeast Iraq                              | 1824        | -4               | Political-military hostile actions  |
| Ottoman troops attack Muhammara on Şaṭṭ al-ʿArab                              | 1837        | -5               | Small scale military acts   |
| Treaty of Erzurum II  | 1847        | +6               | International Freshwater Treaty, major strategic alliance   |
| Provisional Arrangement between Persia and Turkey for Frontier Delimitation   | 1869        | +3               | Cultural or scientific agreement or support (non-strategic)   |
| Tehran Protocol   | 1911        | +3               | Cultural or scientific agreement or support (non-strategic)   |
| Constantinople Protocol   | 1913        | +3               | Cultural or scientific agreement or support (non-strategic)   |

|  |      |    |   |
|--|------|----|---|
| Delimitation Commission Agreement  | 1914 | +3 | Cultural or scientific agreement or support (non-strategic)   |
| Iraq complains to the League of Nations  | 1934 | -2 | Strong verbal expressions displaying hostility in interaction |
| Boundary Treaty between the Kingdom of Iraq and the Empire of Iran   | 1937 | +6 | International Freshwater Treaty, major strategic alliance     |
| Abadan crisis  | 1951 | -4 | Political-military hostile actions                            |
| Iran calls for a redrawing of the border along the <i>Šatt al-‘Arab</i> following the <i>thalweg</i> principle | 1959 | -2 | Strong verbal expressions displaying hostility in interaction |
| Iraq stops to pilot Iranian ships to the port of Abadan  | 1961 | -3 | Diplomatic-economic hostile actions                           |

ANNEX 2 - Graph representation of the major events in the Šaṭṭ al-ʿArab dispute (1620-1965)

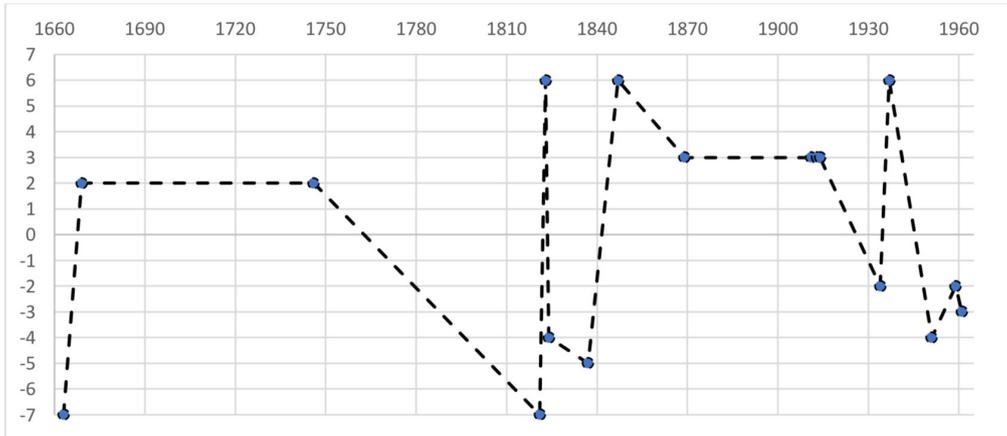


Figure 2 - Šaṭṭ al-ʿArab dispute on the BAR Scale (1620-1965)