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# 10 Water diplomacy in the Helmand River Basin: exploring the obstacles to cooperation within the shadow of anarchy

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## **Abstract**

Transboundary river basins are by their nature surrounded by political discourses and negotiations associated with the application of legal mechanisms. Although legal frameworks have contributed a great deal to formalizing transboundary water interactions, the potential power of certain legal mechanisms to influence the political dynamics over international waters is understudied. One of the most challenging examples of these issues can be found in the arid region of the Helmand River shared between Afghanistan and Iran. After long term conflicts and negotiations influenced by geopolitical interaction of the “Great Game”, Afghanistan and Iran agreed on a treaty in 1973 to share water of Helmand River. This article examines how the treaty and its considered river basin organization which is called Helmand Water Commission works under a highly geopolitical sensitive condition.

After protracted conflicts and negotiations, influenced by the geopolitical interaction of the “Great Game,” Afghanistan and Iran agreed on a treaty in 1973<sup>1</sup> to share the waters of the Helmand River, or Hirman River (as it is known in Iran). Despite significant swings in the political regime of the region, and while the treaty and the Helmand River Commission (HRC) provide a basis for bilateral cooperation, the story of the Helmand River Basin (HRB) has remained largely unchanged since the mid-nineteenth century—with one country blaming the other for not respecting the treaty and its “water rights.”

The Helmand River offers a classic example of the challenges faced in fostering transboundary water cooperation. These challenges are evident in the views of the media within both countries. Iran—as an earlier-developing downstream state—asserts a historical right over existing water uses for farming, in addition to claiming a basic human right to drinking water and an environmental right to protect the delta’s wetlands. Also, Iran, while recognizing the Afghans’ right to development, blames Afghanistan for “not providing the amount of water stated in the

treaty for downstream,” therefore “violating the treaty.” Iran also accuses Afghanistan of “not taking care of the downstream environment,” and especially the delta Hamoun wetlands because of its “mismanagement,” “inequitable” and “unfair” sharing of water, expanding irrigation lands for “opium,” and building several dams “without carrying out an Environmental Impact Assessment.”<sup>2</sup> Afghanistan—as a late-developing upstream state—in response, while not answering the downstream calls for cooperation over the Hamoun wetlands, claims a right to development in order to overcome severe poverty. There have also been accusations that Iran, by appropriating “more” water than what is recognized in the treaty, is, along the same lines, guilty of “mismanagement” and “violating the treaty.”<sup>3</sup> Within this historical context of counter-accusations that can be traced back to the 1870s, the sustainability of the entire river basin and in particular of the Hamoun wetlands has fallen victim to increased competition, unilateral water utilization, and an upstreamer reluctant to cooperate, and there is no sign of significant progress in resolving the dispute.

For many years, the HRC, as a diplomatic tool with its almost yearly bilateral meetings, has been increasingly faced with technical, managerial, legal, and political challenges. These severely hamper its ability to perform its primary function of fostering water cooperation. It is therefore important to critically assess the role of the HRC and to identify obstacles that negatively affect its contribution. Thus, a fundamental question that will be addressed through this chapter is: Why has the dispute over the Helmand remained unchanged despite the establishment of the HRC? In seeking to examine the factors that hamper the effectiveness of the HRC, much attention in the literature has focused on technical and managerial factors. This focus has emphasized challenges to cooperation such as the conflicts of interest between Afghanistan and Iran over utilization of shared waters, highly asymmetric socioeconomic patterns, local tensions over water

utilization, climatic and environmental risks, unilateral upstream dam development, mismanagement, and inefficient water uses.<sup>4</sup>

However, two major factors have not been well captured in the literature related to the dispute: on the one hand, there is an existing strong potential from interdependency and broad cultural, socioeconomic, and political commonalities between Iran and Afghanistan (which requires further study), and on the other hand, problems caused by the geopolitical complexity of the basin (which is the focus of this chapter). The dispute may indeed reflect conflicting views over the river's political and legal regime, and differing views on the utilization of shared waters.

However, the *persistence* of disputes over the Helmand waters between Iran and Afghanistan has been arguably more influenced by *geopolitical factors* in the region and the anarchic setting in Afghanistan.

As argued in this chapter, the anarchic setting, which is a byproduct of protracted foreign intervention and military occupation by the British Empire, the Soviet Union (USSR), the United States, and the North Atlantic Treaty Organization (NATO), negatively influences the effectiveness of technical and managerial solutions; and as a consequence, limits the performance of the HRC. Expanding the focus of this chapter by closely examining the geopolitical history of the Helmand River provides a more comprehensive approach to the study of the HRC in water diplomacy, and illustrates the complex political dimensions and interactions between the countries.

## **RBOs and cooperation under the shadow of anarchy: unravelling the fear of riparian states**

Despite pioneering efforts by neoliberal institutionalists to offer a more elaborate and integrated theoretical concept of river basin organizations (RBOs),<sup>5</sup> a deeper understanding of the impact of

geopolitical history on water diplomacy remains necessary. In particular, it is necessary to more fully account for the geopolitical shadow of the past and existing political forces in a specific basin when analyzing why states (and RBOs) get stuck in disputes over transboundary waters. While RBOs certainly have the potential to manage water conflicts and prevent them from becoming a high-level political concern among riparian states, the question that remains is, can they progress water diplomacy from conflict management to conflict resolution, or a transformation in the highly anarchic geopolitical setting?<sup>6</sup>

In analyzing anarchy within the HRB context, this chapter focuses on three main obstacles that negatively influence the ability of the HRC to foster transboundary water cooperation. Firstly, anarchy feeds competition and conflict among states, and the *dominant* nature of political processes is striving for *power* and *self-interest*. Such conditions of anarchy compel states to fight for their *survival* and security to protect themselves.<sup>7</sup> Accordingly, cooperation becomes difficult or, as this chapter maintains, fails to result in conflict transformation to ensure equity and sustainability—the principle foundations of transboundary water cooperation.<sup>8</sup> Thus, striving for a balance of power dominates in anarchic settings and it may result either in no or limited cooperation, or the abuse of cooperation in order to maintain the status quo.

Secondly, while states may “seek to maximize their individual *absolute* gains” in a mixed interest situation, in anarchic settings they fear being cheated out of the outcome of cooperation. Institutions can assist states in maximizing both the collective benefits that derive from transboundary water cooperation and the resultant gains to individual states. However, despite there being legal and institutional mechanisms available to address cheating, states within an anarchic setting are reluctant to make such commitments due to a fear of *relative* gains by the other riparian. Thus, fear of *relative gains* is the main barrier to cooperation that emanates from

anarchy. The major concern in an anarchic context is that cooperation “might produce a more dangerous *potential* foe in the future” because of a fear that “today’s friend may be tomorrow’s enemy.”<sup>9</sup>

Finally, another obstacle to water cooperation in an anarchic setting is *uncertainty*: “[s]tates are uncertain about one another’s future *intentions*,” thus, they must give serious consideration to each other’s future capabilities. However, the inability of states within an anarchic setting to predict or control the interests and behavior of partners foments political uncertainty and consequently makes states wary when seeking to cooperate effectively. Ultimately, while the worst possible outcome of failed cooperation might be losing the opportunity to make progress, in an anarchic setting the achievement of cooperation might result in a much greater perceived risk of loss of power, independence, or even greater insecurity. Under these circumstances, states are unwilling to commit to a durable cooperative arrangement, preferring instead “to be more readily able to exit from the arrangement if gains...come to favour the other.”<sup>10</sup>

## **The history and politics of the legal and institutional arrangements in the Helmand River Basin**

The 1,300 km Helmand River originates in the Hindu Kush mountains west of Kabul in Afghanistan. Near Qale Bist, the river’s major tributary, known as the Arghandab River, joins the Helmand River. Crossing southwest, then north, it forms 55 km of the Afghan-Iranian border and ultimately ends in the 18,000 km<sup>2</sup> Sistan delta, where it forms a large complex of three main interconnected wetlands, the Hamoun-e-Puzak, Hamoun-e-Saberi, and Hamoun-e-Hirmand, and subsequently overflows to the south into the Gaud-e-Zirreh. While most of the river basin is located in Afghanistan, a large part of the delta, in particular the Hamoun wetlands, is located in Iran. See Figure 10.1 below for a map of the basin.

The Helmand River, with an average surface water availability of 9,552 million cubic meter (MCM),<sup>11</sup> is considered the lifeblood of one of the poorest regions of both riparian states. The water resources of the HRB are used extensively for irrigation and are crucial for Afghan and Iranian farmers alike. In addition, the Helmand River is a critical resource for sustaining the transboundary Hamoun wetlands, which, from an environmental perspective, are the most important parts of the river delta. The livelihood of people living around the Hamoun wetlands is extremely dependent on the water resources of the Helmand River, supporting activities such as fishing, reeds harvesting, and bird hunting. Only the Iranian side of the wetlands is listed under the Ramsar Convention and recognized as a UNESCO Biosphere Reserve in 2016.<sup>12</sup> However, the Hamoun wetlands have gradually diminished, seriously threatening the ecosystem and livelihoods of local communities, which puts public pressure on the Iranian government.

Both Afghanistan and Iran have unilaterally implemented water development projects with the aim of achieving their respective “hydraulic missions.” According to Vincent Thomas and Manijeh Mahmoudzadeh Varzi,<sup>13</sup> Afghanistan currently uses surface water mostly for agricultural purposes (with explosive growth in opium cultivation),<sup>14</sup> yet the total irrigable 250,219 ha cannot be irrigated to its full extent while also suffering from a lack of proper infrastructure to secure drinking water. In addition to operating the Kajaki Dam and Dahla Dam since the 1950s, Afghanistan currently plans to develop several other dams like the Kamal Khan—which is upstream near the Iranian border—and increasing the storage capacity of the Kajaki Dam in order to expand irrigated areas. A further dam that is under construction is the Bakhsh Abad on the Farah River. The dams are also considered for generating electricity.

These unilateral dam developments and irrigation expansion in Afghanistan, particularly for opium cultivation, have always attracted sharp criticism from Iran. It blames Afghanistan for not

respecting the treaty and downstream rights, and the needs of the Hamoun wetlands in particular. These concerns were expressed by President Hassan Rouhani of Iran at a United Nations (UN)-backed conference on sand and dust storms in Tehran; showing his deep concern by remarking that “building dams [in Afghanistan]<sup>15</sup> without studying environmental aspects is damaging for the region.”<sup>16</sup> In response to these criticisms, Afghanistan argues that, “Iran has no right for water more than the allocated amount in the treaty.”<sup>17</sup> A few days after Rouhani’s speech, President Ashraf Ghani of Afghanistan said that “water is another major resource for Afghanistan,” and that “we are already investing in dams and irrigation infrastructure to raise agricultural productivity, and as technical designs are completed we will be accelerating investment in this sector that is key for both growth and poverty reduction.”<sup>18</sup>

Iran started to develop reservoirs in the early 1980s in order to secure water for the livelihoods of local residents, particularly in harsh times of drought. Four reservoirs known as Chahnimeh have been developed for securing drinking water and the agricultural demands of 120,000 ha. Despite the government’s effort to conduct several projects to increase efficiency and decrease the total irrigated lands in Sistan plain, in order to align the water demand with the allocated waters provided for in the treaty,<sup>19</sup> it has not yet fully achieved the desired goals.

In a similar vein, and in response to the Iranian concerns, Afghanistan blames Iran both for exceeding its allocation of water under the treaty and mismanagement that, the Afghan government argues, negatively affects the Hamoun wetlands. Iran has rejected this accusation and asked Afghanistan to be committed to the treaty and cooperate over the protection of the transboundary Hamoun wetlands.

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### ***Political and legal arrangements***



After several fruitless attempts to resolve disputes, such as the 1905 British arbitration (known as the “McMahon arbitration”) and a 1939 bilateral treaty (coming out of friendly relations between Reza Shah Pahlavi in Iran and Mohammad Zahir Shah in Afghanistan), Iran and Afghanistan, based on an American proposal, created the Helmand River Delta Commission in 1948. Focused primarily on joint fact-finding, it presented its recommendation for water allocation between the two countries in 1951.<sup>20</sup> The commission’s representatives estimated water demands at the time for merely irrigation and domestic use, without addressing the environmental requirements of the Hamoun wetlands.

Despite Iran’s initial rejection of the commission’s report, and following a period of severe drought in the downstream part of the river, the two countries signed the Helmand River Water Treaty in 1973. The agreement centers on previous recommendations that were initially rejected by Iran—namely to supply Iran with an average of 22 cubic meter per second, with an additional four cubic meter per second for “goodwill and brotherly relations” in a normal (or above normal) water year. This is about 820 MCM per year or only 8.5 percent of the average surface water availability of 9,552 MCM in the whole basin; or 14 percent of 5,661.71 MCM measured at nearby Kajaki Dam, and less than 14 percent of the overall water demand and requirement in the Sistan.<sup>21</sup> This highly asymmetric water allocation has been one of the major sources of contention.

In order to address the conflicts over the waters of the Helmand and to implement the provisions of the treaty, Article VIII directs each party to appoint a commissioner and deputy commissioner. The first protocol to the treaty sets out the commissioners’ authority and functions.

The signing of the treaty in 1973 was widely promoted by the officials of both countries. The Afghan prime minister, Mohammad Musa Shafiq, for instance, stated that the treaty “will solve

the Helmand problem” and that “another 100 years of the two nations are [not] wasted on finding a solution for this difficulty.” Similarly, the Iranian prime minister, Amir Abbas Hoveyda, pointed out that, “there is no longer any question mark in relations between the two countries.”<sup>22</sup> However, enthusiasm by the riparian states for the treaty quickly faltered. It did not enter into force until June 1977, when the instruments of ratification were exchanged.<sup>23</sup> The delay in ratification can be explained by the discontent of the Afghan government and parliament, which perceived Afghanistan as acting as a “water dealer,”<sup>24</sup> and “resented ‘giving away’ what they regarded as precious Afghan water.”<sup>25</sup> There was also disdain for the treaty by some Iranians who accused their signatory of being a “traitor.”<sup>26</sup>

The treaty remained in abeyance and no official cooperation between the countries on water-related issues took place for some 20 years due to: (1) the great political upheaval in Afghanistan as a result of the Soviet invasion in 1979, the subsequent civil war, and the US-led invasion of 2001; and (2) the Iranian revolution of 1978–1979, and the subsequent war that Iraq waged against Iran from 1980 to 1988, initiated by the Western-backed Saddam Hussein.

Then, after a period of drought, civil war in Afghanistan, and the collapse of the Taliban, the countries held the first meeting of the Joint Committee of Commissioners<sup>27</sup> (of the HRC) in Tehran in August 2004. Subsequent meetings of the HRC continued at a rate of around two per year. To date, 20 meetings of the HRC have been held in either Iran or Afghanistan. Iranian and Afghan commissaries held their nineteenth and twentieth meetings in Tehran and Kabul from 5 to 8 January and 11–12 June 2019, respectively, during which there were calls for expanding mutual water cooperation to better implement the treaty. The HRC’s administrative structure was changed at its nineteenth meeting by affording the commissioners the higher diplomatic level of

deputy ministers; this change may be understood as another attempt to strengthen the role and influence of the HRC.<sup>28</sup>

In 2017, and in parallel to a meeting of the HRC, higher-level negotiations between Iran and Afghanistan sought to establish a Comprehensive Strategic Partnership on several issues, including security and water, with an emphasis on boosting economic cooperation between the countries.<sup>29</sup> Although the HRC has a separate identity, these negotiations are assumed to provide hope as a catalyst to promote strategic collaboration between the countries over some related Helmand problems and thus indirectly improve the HRC's performance. However, it is too early to assess the impact of the negotiations and analyze how they might overcome impediments that emanate from new waves of anarchy in Afghanistan, such as the re-empowering of the Taliban and the rise of Daesh.

Although there might be some critics of the treaty, generally speaking, Iran is supportive at a high political level.<sup>30</sup> Similarly, despite decades of skepticism toward the treaty in Afghanistan, it has recently received the same official political support, and has even been described by Sultan Mahmoud Mahmoudi, a former Afghan commissioner, as "the best agreement in the region and the world."<sup>31</sup> Both countries have recognized that recent activities of the HRC will provide a basis for the creation of a constructive dialogue, not only to implement the provisions of the 1973 treaty but also to ensure the equitable and sustainable management of transboundary waters, including the preservation of the Hamoun wetlands.<sup>32</sup> The disputes, however, have continued in practice while both sides still accuse each other of violating their treaty obligations. The section below will address the following questions: Why did both countries accept the treaty despite strong national resistance? For example, why did Iran agree to receive a very low amount

of water compared to its demand? And why have there been changes in Afghan government's views about the treaty?

## **The HRC and anarchy in light of features of survival, relative gains, and uncertainty**

It should be noted at the outset of this section that water diplomacy within the HRB cannot be fully understood without considering the broader turbulent geopolitical context. The relationship between major political milestones in the region and the adoption and evolution of cooperative arrangements concerning the HRB, while meriting further analysis, is outlined in Figure 10.2 below.<sup>33</sup>

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Rarely has a river experienced such long wars, military invasions, and political swings as the Helmand. A recent UN report describes the political situation of Afghanistan as an “eroding stalemate.”<sup>34</sup> The US intervention, now in its nineteenth year, also remains stuck in “strategic limbo.”<sup>35</sup> Analysts describe the complex politics of Afghanistan as a country where “state collapse, civil conflict, ethnic disintegration and multisided intervention has locked it in a self-perpetuating cycle that may be simply beyond outside resolution.”<sup>36</sup> Thus, the situation in Afghanistan, in which most of the HRB is located, is reflected in the separation, contention, and fragmentation of authority and power either of the international community or national government. Authority belongs to whoever wins the latest battle. And conflict has deep social and political roots. The national authority has limited control over both the behavior of insiders and outsiders.<sup>37</sup> Despite international efforts to bring peace and stability to the country, chaos and anarchy remain prevalent in Afghanistan, a state “where outsiders come and go without any

records kept.”<sup>38</sup> This anarchic nature of the political setting in Afghanistan, it is argued, undermines water diplomacy in the HRB, and influences the behavior of both riparian states. Like Afghanistan, known as a buffer state between superpowers, Iran, as a regional power in the Middle East, has also experienced severe pressure from outsiders, particularly the United States. The Anglo-American coup in 1953 against a new democratic government, supporting Iraq’s 1979 invasion, and imposing economic sanctions during and after the negotiations on a nuclear deal, are just a few examples of the attempts of superpowers to assert their influence over Iran. In this respect, the former US National Security Council officials Flynt Leverett and Hillary Mann Leverett highlight that, “[h]egemonic strategies...are inherently expansionist: a state uses military, political, and economic power not just to defend its interests but to bend others into accommodating them.”<sup>39</sup>

Notwithstanding these influences, Iran shares several key objectives toward Afghanistan with the UN, such as: supporting the peace-building process; reconstruction and development; sanctioning the opium trade; and hosting refugees from Afghanistan, which has the second largest refugee population in the world.<sup>40</sup> This becomes more significant when considering that poor water management and noncooperative water development in the Helmand Basin worsen violence, and increase opium cultivation and migration in Afghanistan—factors that all have a negative impact on not only neighboring countries but also Western countries.

### ***The HRC and dominance rivalry: competition for survival, power, and self-interest***

The purpose of this section is to illustrate how the struggle for power and self-interest—largely of non-riparian states—overshadows water diplomacy in the basin. The section focuses primarily on analyzing the geopolitical nature and roles of outsiders, and their foreign policies toward Afghanistan.

Geopolitical competition in Afghanistan has been dominated by the strategic rivalry and confrontation between superpowers, namely the British and Russian Empires and later the United States versus the USSR. Regional powers have also become enmeshed in the competition over “influence, power, hegemony and profits.”<sup>41</sup> As a result, this anarchic setting has led all involved parties, including Iran and Afghanistan, to compete for power and self-interest in a way that protects their survival.<sup>42</sup> This seemingly unbreakable cycle arguably casts a dark shadow over all economic and social developments in the basin and favors the interests and security of the outsiders, who have pursued different strategies for ruling Afghanistan.

Within the nature of the Great Game, the strategies of the outsiders have highly politicized and securitized water, in line with their own geopolitical interests,<sup>43</sup> and therefore hindered water conflict transformation. Not surprisingly, for instance, almost all of the legal arrangements between Iran and Afghanistan over the Helmand River have been negotiated with the support of superpowers. Such was the case with the British-instituted Goldsmith and McMahon arbitrations of 1872 and 1905 respectively. These were followed by the US-proposed Delta Commission of 1951, and, finally, the 1973 treaty. All of these initiatives, and, in particular, the earlier ones, have been described as “the force of dictat” being applied to a local issue as a “bulwark” against Czarist or Russian expansion.<sup>44</sup> Indeed, during the Cold War the US government considered the conflict between Iran and Afghanistan over the Helmand River as a political opportunity to bring the countries under its influence in order to protect its broader geopolitical interests in the region, and protect its security against the threat of the USSR. This hegemonic strategy is illustrated by the following 1947 statement by the US Central Intelligence Agency (CIA):

The United States and Great Britain are keenly aware of this Soviet interest, which may threaten the strong traditional British influence in Afghanistan and adjacent areas. It is an

important part of American policy in the Middle East that no state in the area shall have its independence and integrity endangered and that American influence be maintained and strengthened wherever possible. A dispute such as the one between Iran and Afghanistan over the Helmand River threatens this policy.<sup>45</sup>

Just as political rivalry between outside powers emerges from ideological dispositions, ranging from imperial capitalism to Marxism-Leninism, so too are water development projects influenced by competition between the power and self-interest of countries. As Arthur Schlesinger contended, “[d]ams were the American alternatives to Communist land reform.” The US policy, “wherever possible,” has therefore strategically proposed river authority schemes as solutions to the most stubborn international conflicts, such as in Palestine and Kashmir. An example can be seen in the case of the Helmand and Arghandab Valley Authority (HAVA) in Afghanistan, which was established in 1952. HAVA was regarded by the US government as a means to “create a secure political base [against the US’s rival, the USSR].”<sup>46</sup> Thus, the process of signing (or perhaps being forced to sign) the peace agreement over shared waters, the 1973 Helmand River Water Treaty, should be seen through this lens of geopolitical imperialist rivalry among the superpowers of that moment. This is well demonstrated by Asadollah Alam in maintaining that Americans forced the Iranian regime at the time to compromise and provide incentives to Afghanistan over the Helmand waters in order to control growing Soviet influence within the latter country.<sup>47</sup> Therefore, it is expected that not only the riparian states’ rights to water but also the sustainability of water management within the whole basin, would be sacrificed in favor of superpowers’ geopolitical interests.

This influence of outsiders is still exemplified in the 2017 “US Global Water Strategy,” which refers to water as at the core of the US foreign policy agenda in Afghanistan, with the aim of

protecting “US national interests.”<sup>48</sup> This kind of foreign policy agenda and intervention by outsiders over the longer term, creates what Alfred McCoy<sup>49</sup> calls, a “black hole” of geopolitical instability. Similarly, the 2011 NATO report to the UN secretary-general concerning the construction of the Kamal Khan dam calls for “transnational water agreements.”<sup>50</sup>

This demonstrates how outside powers have highly politicized water development in Afghanistan, potentially at the risk of threatening long-term sustainable and equitable cooperation between the riparian states. This does not mean that national interests and the agreements or differences between Iran and Afghanistan over the Helmand River are without value, power, and influence, but the reality is that anarchy, and geopolitical rivalry, have severely overshadowed the priorities of the riparian states and led them to strategically focus on power, security, and self-interest for their survival, at least in the period of geopolitical vulnerability.

Thus, on the one hand, within the vulnerable political situation in Afghanistan, the government views development over water resources as a strategic resource, a symbol of nation-building, and a way of monopolizing power against its national rivals. On the other hand, within an anarchic geopolitical context, water-related projects are not solely for socioeconomic development but rather for geopolitical reasons that serve the security interests of all the actors involved. In turn, this situation has seriously impacted water diplomacy. Although there might not now be clear evidence to trace the interventions of outsiders in the water diplomacy of the HRB, the shadow of the outsiders’ past politics has its impact on the respective discourses, behavior, and the atmosphere of negotiations within the HRC.

### ***The HRC and greater fears of relative achievements and cheating***



A fear of cheating exists in the HRB, though, interestingly, the atmosphere of the negotiations inside the HRC is, according to Jabbar Vatanfada, the former Iranian commissioner, “amicable” most of the time.<sup>51</sup> Yet, problems and disputes have persisted, in part because of points of contention such as disagreement over measuring water flow. While there is not a reliable study by the HRC or others to analyze the potential impacts of natural phenomena and human-made development in the HRB, lack of common monitoring of the transboundary river by the HRC, a basic core function of any RBO the world over, has bred distrust between the riparian states. For instance, according to the 1973 treaty, one of the main sticking points concerns Article I(c), which defines a “normal water year.”<sup>52</sup> This depends on the measurements recorded by the Dehrawud hydrometric station located upstream near the Kajaki Dam. In years when the amount of water is less than a normal water year due to climatic variation, the water allocated to Iran is to be decreased proportionally. Thus, defining a “normal” water year and demonstrating the causes for a probable decline in water flow in upstream Afghanistan are crucial for proper implementation of the treaty. While Iranian officials have repeatedly requested visits to this station for verification of the Afghan reported water flow, particularly during periods of drought, the Afghans have always denied these requests based on “security” reasons.<sup>53</sup> For their part, Afghans have always criticized Iran for having “hundreds” of water pumps on the river bank and therefore claiming that they are using “more” water than is their right according to the treaty.<sup>54</sup> While Iran claims that the water abstraction by these pumps is “negligible” compared to its 820 MCM water right, a specific project has been conducted to provide water to those river bank farmers in order to remove the pumps, and accordingly ensure compliance with the treaty’s obligation.<sup>55</sup> However, the pumps still abstract water from the river, and Iran claims that its unsuccessful attempts to take out pumps are “the fault of local social resistance farmers.”<sup>56</sup> These

ongoing back-and-forth exchanges have not only damaged the trust between the riparian states, but have also severely heightened the fear of cheating.

The behavior and concerns of the riparian states of the HRB in an anarchic context may also reflect the relative achievements over the utilization of shared waters. For instance, the continued debate between the reluctant riparian states in relation to these issues of visiting monitoring stations and removing pumps might be understood in terms of a fear of relative gains.

Considering the “black hole,” there is perhaps a serious question for the riparian states that: If there is not a minimum guarantee for the future, why would the countries make promises? This critical question forces them to behave very conservatively and cautiously. Perhaps this fear can also be observed in their misleading claims over the dichotomous issues of unilateral development and environmental protection. While Iran has expressed concern about the effects of Afghan dams on its future water utilization, in particular the downstream ecosystem,<sup>57</sup>

Afghanistan is worried by Iran’s international campaign to protect the Hamoun wetlands.

On the one hand, Iran’s concern might be justified not only because an upstream storage dam may potentially provide material power (Afghanistan could essentially control water flows), but also because a dam will give Afghans the upper hand and more capabilities in future negotiations over other issues. The anarchic condition of Afghanistan may also support this interpretation; namely, it cannot give a guarantee to Iran about Afghanistan’s compliance with any agreement over water or not abusing the dams by outsiders against its security. Thus, even though dams in Afghanistan may be in line with Iran’s main interests in Afghanistan, such as security and development, Iran’s fear might be justified due to threatening its national security.

On the other hand, Afghan fears over Iranian efforts to make an international campaign to protect the Hamoun wetlands might be interpreted as providing Iran with a greater capability to force

Afghanistan—as a late-developing country<sup>58</sup>—to comply with environmental obligations or cut international support for its projects, before using waters for its development. It should, however, be noted that the protection of the Hamoun wetlands might also be beneficial for Afghanistan, but perhaps it is not the priority now; and therefore, Afghanistan might rather express concern about what Iran may achieve by this campaign. This fear may also be traced to Afghanistan's reluctance to join the Ramsar Convention. As a result, both riparian states may express concern about relative gains, which, in an anarchic setting, may override the pursuit of individual absolute gains.

### ***The HRC and uncertainties***

The uncertainty of one state over the future intentions of the other can lead to a focus not only on absolute but rather on relative gains from cooperation in order to protect security and survival. This complex security dilemma might be interpreted as explaining why Iran and Afghanistan, while not fully satisfied with the treaty's provisions and with each other's compliance with it, might nevertheless not exit. The reason may be arguably justified by a feeling of uncertainty about the future that is very murky and puzzling in an anarchic setting, leaving a state feeling vulnerable and fearful of the other achieving relatively greater gains by leaving the treaty. This is evident in the discussions related to the implementation of the 1973 treaty. On the one hand, while Iran has expressed concern over the quantity and the mechanisms for allocating water,<sup>59</sup> an alternative solution has failed to present itself—and perhaps there is a recognition that the status quo, even though it is very far from the actual needs, at least provides some degree of certainty for Iran against Afghanistan, particularly during drought seasons. Thus, Iran's behavior might be observed to support the maintenance of the treaty in its own favor while

adopting a strategy of persuading Afghanistan to cooperate over the protection of the Hamoun wetlands.

On the other hand, while Afghanistan has not—at least until recently—been satisfied with the treaty,<sup>60</sup> it maintains it because of a similar fear of uncertainty. It might be interpreted that, first, Afghanistan is afraid that if it leaves the treaty, a new round of negotiations may lead to additional obligations; and, second, Afghanistan perhaps has found some degree of certainty that the treaty gives it the upper hand in current negotiations over the Helmand River. Considering also that withdrawal from the treaty may produce obstacles to attracting international financial support, Afghanistan also strives to influence the implementation of the treaty for its own interest while not responding to the call for cooperation on the Hamoun wetlands.

Finally, the “black hole” is also observed in the HRC since there is no minimum guarantee of holding the next meeting or fulfilling commitments within the anarchic political turbulence. This is also observed in the lack of confidence in how the representatives of the HRC negotiate and commit. The vulnerability, complexity, and utmost political sensitivity of the issue, along with public pressure, make the respective negotiations for all representatives too risky. These sources of uncertainty affect the behavior of the two states, influence the outcome of every round of negotiations overseen by the HRC, and form a barrier to equitable and sustainable cooperation and conflict transformation.

## **Conclusion**

Despite cooperation through the HRC, both riparian states of the Helmand River have continued to unilaterally utilize their shared waters. While Afghanistan has been developing dams, lack of a positive response to calls to consider environmental impacts and revive the Hamoun wetlands through cooperation reflect a situation that is reminiscent of the “tragedy of the commons.”<sup>61</sup>

Despite the fact that the disputes over the utilization of the Helmand River between riparian states have been fundamental of a technical and managerial nature, the disastrous politicization of the disagreements influenced by the toxic nature of the Great Game has complicated the situation.

A global geopolitical overlay can easily be posited on top of a regional (hydro)security complex.<sup>62</sup> The review of the geopolitical history of the Helmand River shows that there is a negative correlation between anarchy and water conflict transformation. Many Western countries, in particular the United Kingdom and the United States, have demonstrated continued interest in the HRB.<sup>63</sup> This means that the HRB dispute appears both as a symptom of the anarchy created by competition between non-riparians and as a tool used by outsiders for their own interests in a broader geopolitical context. The consequence is that progress toward water diplomacy is constrained because the outsiders' priorities have served their national interests, without sufficiently paying attention to the interests of the riparian states and without an integrated vision of the whole river basin based on equity and sustainability.

Yet, the continuing anarchy presses both Iran and Afghanistan to struggle for survival in the negotiations conducted through the HRC, which are essentially imbued with power-seeking, driven by self-interest, heated by the fears of cheating and relative gains, and weakened by uncertainties. Despite Iran's call, Afghanistan may consider cooperation over shared water resources as being too risky within the present turbulent geopolitical setting. This confirms that policies and institutions within certain settings, such as the HRB, must be applied by paying attention to the impacts of anarchy on states' behavior in order to better understand the root causes of water conflict.

Finally, despite the fact that this chapter argues that the water-related institutions remain unable to effectively address the water disputes in anarchic settings, they play subsidiary roles.

Therefore, this chapter does not suggest that the HRC is entirely toothless. In the geopolitical chaos of the basin where even a little dispute may escalate into full-blown conflict, the commission may provide a forum for both states to communicate in a legitimate way to at least manage, even if they cannot resolve, their water conflicts.

Figure 10.1 The Helmand River Basin.

Figure 10.2 Timeline of developments in the Helmand River Basin.

Source: own compilation based on Pirous Mojtahed-Zadeh, "Lake Hamun, a Disaster in the Making: Hydropolitics of Hirmand and Hamun," United Nations Environment Programme, 1995, <http://www.unep.or.jp/ietc/publications/techpublications/TechPub-4/lake1-7.asp>; Vincent Thomas and Manijeh Mahmoudzadeh Varzi, "A Legal Licence for an Ecological Disaster: The Inadequacies of the 1973 Helmand/Hirmand Water Treaty for Sustainable Transboundary Water Resources Development," *International Journal of Water Resources Development* 31, no. 4 (2015): 499–518; Iran Press, "Iran, Afghanistan to Finalize a Comprehensive Cooperation Document," 6 January 2019, <http://iranpress.com/iran-i131310>; Fars News Agency, "Tehran, Kabul to Expand Energy, Water Cooperation," 7 January 2019, <http://en.farsnews.com/newstext.aspx?nn=13971017000553>; Michael H. Fuchs, "It's Time to End America's War in Afghanistan," *Guardian*, 19 August 2018, <https://www.theguardian.com/commentisfree/2018/aug/19/its-time-to-end-americas-war-in-afghanistan>

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<sup>1</sup> The Afghan-Iranian Helmand-River Water Treaty, 1973,

[https://www.internationalwaterlaw.org/documents/regionaldocs/1973\\_Helmand\\_River\\_Water\\_Treaty-Afghanistan-Iran.pdf](https://www.internationalwaterlaw.org/documents/regionaldocs/1973_Helmand_River_Water_Treaty-Afghanistan-Iran.pdf).

<sup>2</sup> Tasnim News, "Hidden Realities of the Helmand River and the 1973 Treaty" [in Farsi], 6 March 2017, <https://www.tasnimnews.com/fa/news/1395/12/16/1346429/>.

<sup>3</sup> Soltan Mahmoud Mahmoudi, "Historical Events after the Signing of the Helmand River Water Treaty" [in Farsi-Dari], *8am Daily Newspaper*, 16 May 2017, <https://8am.af/x8am/1396/02/26/historical-events-after-the-signing-of-the-treaty-helmand-river/>.

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<sup>4</sup> Eelco van Beek, Babak Bozorgy, Zoltán Vekerdy, and Karen Meijer, “Limits to Agricultural Growth in the Sistan Closed Inland Delta, Iran,” *Irrigation and Drainage Systems* 22, no. 2 (2008): 131–143; and Vincent Thomas and Manijeh Mahmoudzadeh Varzi, “A Legal Licence for an Ecological Disaster: The Inadequacies of the 1973 Helmand/Hirmand Water Treaty for Sustainable Transboundary Water Resources Development,” *International Journal of Water Resources Development* 31, no. 4 (2015): 499–518.

<sup>5</sup> Susanne Schmeier, Andrea Gerlak, and Sabine Blumstein, “Clearing the Muddy Waters of Shared Watercourses Governance: Conceptualizing International River Basin Organizations,” *International Environmental Agreements: Politics, Law and Economics* 16, no. 4 (2016): 597–619; and Susanne Schmeier and Zaki Shubber, “Anchoring Water Diplomacy: The Legal Nature of International River Basin Organizations,” *Journal of Hydrology* 567 (2018): 114–120.

<sup>6</sup> It is important to consider the spectrum from conflict management to resolution and transformation. Conflict management is a set of policies and practices to handle or control or limit conflict. Conflict resolution and transformation go further by emphasizing outcomes in terms of justice and equity. Thus, conflict resolution or transformation “is found to be more fair—procedurally—than is conflict management, and may be supported to a limited extent by international water law.” See Mark Zeitoun et al., “Transboundary Water Justice: A Combined Reading of Literature on Critical Transboundary Water Interaction and ‘Justice,’ for Analysis and Diplomacy,” *Water Policy* 16, Supplement 2 (2014): 174. See also Mark Zeitoun, Naho Mirumachi, and Jeroen Warner, *Transforming Water Conflicts* (Oxford: Oxford University Press, 2019).

<sup>7</sup> Joseph Grieco, “Anarchy and the Limits of Cooperation: A Realist Critique of the Newest Liberal Institutionalism,” *International organization* 42, no. 3 (1988): 485–507.

<sup>8</sup> Alistair Rieu-Clarke, *International Law and Sustainable Development* (London: IWA Publishing, 2005).

<sup>9</sup> Grieco, “Anarchy and the Limits of Cooperation,” 487.

<sup>10</sup> *Ibid.*, 500, 506.

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<sup>11</sup> Thomas and Varzi, “A Legal Licence for an Ecological Disaster.”

<sup>12</sup> While there have been some efforts to invite Afghanistan to join the international campaign to revive the Hamoun wetlands, their participation, so far, has not been forthcoming.

<sup>13</sup> Thomas and Varzi, “A Legal Licence for an Ecological Disaster.”

<sup>14</sup> UN Office on Drugs and Crime (UNODC), “Afghanistan Opium Survey 2017: Cultivation and Production,” November 2017, [https://www.unodc.org/documents/crop-monitoring/Afghanistan/Afghan\\_opium\\_survey\\_2017\\_cult\\_prod\\_web.pdf](https://www.unodc.org/documents/crop-monitoring/Afghanistan/Afghan_opium_survey_2017_cult_prod_web.pdf).

<sup>15</sup> He also targeted Turkey’s dam development over the Tigris River, in particular the Ilisu Dam.

<sup>16</sup> Dominic Dudley, “War of Words Heats Up between Iran and Afghanistan over Water Resources,” *Forbes*, 12 July 2017, <https://www.forbes.com/sites/dominicdudley/2017/07/12/iran-afghan-water-dispute/>.

<sup>17</sup> Mahmoudi, “Historical Events after the Signing.”

<sup>18</sup> Dudley, “War of Words Heats Up between Iran and Afghanistan over Water Resources.”

<sup>19</sup> Tasnim News, “Organizing and Establishing Rural Cooperative Unions in the New Irrigation Plan of Sistan Plain” [in Farsi], 8 May 2019, <https://www.tasnimnews.com/fa/news/1398/02/18/2007266/>.

<sup>20</sup> For an extensive legal and political history of the HRB, see, e.g., Pirous Mojtahed-Zadeh, “Lake Hamun, a Disaster in the Making: Hydropolitics of Hirmand and Hamun,” United Nations Environment Programme, 1995, <http://www.unep.or.jp/ietc/publications/techpublications/TechPub-4/lake1-7.asp>; and, A.H.H. Abidi, “Irano-Afghan Dispute over the Helmand Waters,” *International Studies* 16, no. 3 (1977): 357–378.

<sup>21</sup> Thomas and Varzi, “A Legal Licence for an Ecological Disaster.”

<sup>22</sup> Abidi, “Irano-Afghan Dispute over the Helmand Waters”: 372.

<sup>23</sup> Ibid.

<sup>24</sup> Mahmoudi, “Historical Events after the Signing.”



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<sup>25</sup> Quoted in CIA, “Iran-Afghanistan: Helmand River Dispute Still Sensitive,” declassified report, “sanitized copy,” approved for release 6 September 2012, doc. no. CIA-RDP08C01297R000100130002-7, 16 December 1981, 1, <https://www.cia.gov/library/readingroom/docs/CIA-RDP08C01297R000100130002-7.pdf>.

<sup>26</sup> Quoted in Asadollah Alam, *Yad’dashtha-ye Alam: Virayesh va Muqaddamah az Alinaqi Alikhani* [The Alam Diaries: edited by Alinaqi Alikhani] (Bethesda, ML: Ibex Publishers, 1992). Asadollah Alam, the former Iranian prime minister and the minister of the Royal Court at the time, shouted at signatories for being “cowards” and “betrayers.” See *ibid.*, 480–481.

<sup>27</sup> Under Article 7 of Protocol No. 1 of the 1973 treaty, the Afghan and Iranian commissioners constitute the “Joint Committee of Water Commissioners.”

<sup>28</sup> Fars News Agency, “Tehran, Kabul to Expand Energy, Water Cooperation,” 7 January 2019, <https://en.farsnews.ir/newstext.aspx?nn=13971017000553>.

<sup>29</sup> Iran Press, “Iran, Afghanistan to Finalize a Comprehensive Cooperation Document,” 6 January 2019, <http://iranpress.com/iran-i131310>.

<sup>30</sup> Eghtesad News, “Zarif Answered the Question Raised by Parliament Member Regarding Iran’s Helmand Right” [in Farsi], 6 May 2018, <https://www.eghtesadnews.com/fa/tiny/news-212097>.

<sup>31</sup> Quoted in Mahmoudi, “Historical Events after the Signing.”

<sup>32</sup> Islamic Republic News Agency (IRNA), “The Helmand [River] Promotes Iran-Afghanistan Cooperation” [in Farsi], 7 October 2016, <http://www.irna.ir/sb/fa/News/82259662>.

<sup>33</sup> Additional events to be taken into consideration include 1828: Iran’s loss of Caucasus to Russia; 1857: Treaty of Paris: Iran’s loss of Herat to Great Britain; 1926: crowned Reza Shah Pahlavi; 1933: Zahir Shah becomes king; Major droughts as key drivers in legal and political interactions: 1939–1940, 1946–1947, 1950, 1960, 1971, 2000–2001, 2004, and 2007.

<sup>34</sup> UN secretary-general, “Special Report on the Strategic Review of the United Nations Assistance Mission in Afghanistan,” UN doc. A/72/312–S/2017/696, 10 August 2017.

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- <sup>35</sup> Michael H. Fuchs, "It's Time to End America's War in Afghanistan," *Guardian*, 19 August 2018, <https://www.theguardian.com/commentisfree/2018/aug/19/its-time-to-end-americas-war-in-afghanistan>.
- <sup>36</sup> Max Fisher and Amanda Taub, "Why Afghanistan's War Defies Solutions," *New York Times*, 24 August 2017, <https://www.nytimes.com/2017/08/24/world/asia/afghanistan-intervention-state-collapse.html>.
- <sup>37</sup> Zalmay Khalilzad, "Anarchy in Afghanistan," *Journal of International Affairs* 51, no. 1 (1997): 37–56.
- <sup>38</sup> Kimberly Zisk Marten, "Defending against Anarchy: From War to Peacekeeping in Afghanistan," *Washington Quarterly* 26, no. 1 (2002): 35.
- <sup>39</sup> Flynt Leverett and Hillary Mann Leverett, *Going to Tehran: Why the United States Must Come to Terms with the Islamic Republic of Iran* (New York: Metropolitan Books, 2013), 332.
- <sup>40</sup> Mohsen Milani, "Iran's Policy Towards Afghanistan," *The Middle East Journal* 60, no. 2 (2006): 235–279.
- <sup>41</sup> Mohsen Nagheeby and Jeroen Warner, "The Geopolitical Overlay of the Hydropolitics of the Harirud River Basin," *International Environmental Agreements: Politics, Law and Economics* 18, no. 6 (2018): 839–860.
- <sup>42</sup> Ibid. See also Abidi, "Irano-Afghan Dispute over the Helmand Waters."
- <sup>43</sup> Nagheeby and Warner, "The Geopolitical Overlay of the Hydropolitics."
- <sup>44</sup> CIA, "The Helmand Waters Dispute between Iran and Afghanistan," declassified report, "sanitized copy," approved for release 16 November 2012, doc. no. CIA-RDP08C01297R000100130005-4, 29 June 1964, 4, <https://www.cia.gov/library/readingroom/docs/CIA-RDP08C01297R000100130005-4.pdf>.
- <sup>45</sup> CIA, "The Controversy between Iran and Afghanistan over the Helmand River Waters," declassified report, "sanitized copy," approved for release 6 September 2012, doc. no. CIA-RDP08C01297R000100130020-7, 24 October 1947, 25, <https://www.cia.gov/library/readingroom/docs/CIA-RDP08C01297R000100130020-7.pdf>. The CIA also noted that "[w]hile the dispute is essentially local it has wider significance as a source of friction between

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two Middle Eastern states and as a possible means of weakening their ability to resist pressure by the Soviet Union.” See *ibid.*, ii.

<sup>46</sup> Quoted in Nick Cullather, “Damming Afghanistan: Modernization in a Buffer State,” *The Journal of American History* 89, no. 2 (2002): 528, 529.

<sup>47</sup> Alam, *Yad'dashtha-ye Alam*.

<sup>48</sup> US Department of State, “US Government Global Water Strategy,” Washington, DC, 2017, [https://www.usaid.gov/sites/default/files/documents/1865/Global\\_Water\\_Strategy\\_2017\\_final\\_508v2.pdf](https://www.usaid.gov/sites/default/files/documents/1865/Global_Water_Strategy_2017_final_508v2.pdf).

In similar approaches to that of the United States, countries like the Netherlands, Switzerland, and Sweden have included water as a core foreign policy issue in their national interest. See Swiss Federal Council, “Global Programme Water Division,” <https://www.eda.admin.ch/deza/en/home/sdc/organisation/departments/global-cooperation/global-programme-water-initiatives.html>; Government of the Netherlands, “What Does the Special Envoy for International Water Affairs Do?” <https://www.government.nl/topics/water-management/waterenvoy>; and Government Offices of Sweden, “International Development Cooperation,” <https://www.government.se/government-policy/multilateral-cooperation/>.

<sup>49</sup> Alfred W. McCoy, “How the Heroin Trade Explains the US-UK Failure in Afghanistan,” *Guardian*, 9 January 2018, <https://www.theguardian.com/news/2018/jan/09/how-the-heroin-trade-explains-the-us-uk-failure-in-afghanistan>.

<sup>50</sup> UN secretary-general, “Quarterly Report to the Security Council on the Operations of the International Security Assistance Force,” UN doc. S/2011/760, 7 December 2011, 11, [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2011/760](http://www.un.org/ga/search/view_doc.asp?symbol=S/2011/760).

<sup>51</sup> IRNA, “The Helmand [River] Promotes Iran-Afghanistan Cooperation.”

<sup>52</sup> Article I(c) identifies a “normal water year”—the year during which the total volume of water from the first of October to the end of the succeeding September, measured and calculated at the hydrometric station of Dehrawud, upstream of Kajakai Dam, is 5661.71 MCM.

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<sup>53</sup> Mahmoudi, “Historical Events after the Signing.”

<sup>54</sup> Ibid.

<sup>55</sup> Tasnim News, “Hidden Realities of the Helmand River.”

<sup>56</sup> Mahmoudi, “Historical Events after the Signing.”

<sup>57</sup> Tasnim News, “Hidden Realities of the Helmand River.”

<sup>58</sup> For discussion about the rights and obligations of late developing states in transboundary river basins, see James C. McMurray and A. Dan Tarlock, “The Law of Later-Developing Riparian States: The Case of Afghanistan,” *New York University Environmental Law Journal* 12, no. 3 (2003): 711–761. See also Mark Zeitoun, “The Relevance of International Water Law to Later-Developing Upstream States,” *Water International* 40, no. 7 (2015): 949–968; and Mohsen Nagheebby, Mehdi Piri, and Michael Faure, “The Legitimacy of Dam Development in International Watercourses: A Case Study of the Harirud Water Basin,” *Transnational Environmental Law* 8, no. 2 (2019): 247–278.

<sup>59</sup> Tasnim News, “Hidden Realities of the Helmand River.”

<sup>60</sup> Mahmoudi, “Historical Events after the Signing.”

<sup>61</sup> Quoted in Garrett Hardin “The Tragedy of the Commons,” *Science* 162, no. 3859 (1968): 1243–1248.

<sup>62</sup> Nagheebby and Warner, “The Geopolitical Overlay of the Hydropolitics.”

<sup>63</sup> The dams in the Helmand River are still protected by the British Army. The basin is under the study of the US Army and major funding is provided by these countries. For instance, the United Kingdom invested £2.8 million over three years (2011/2012–2013/2014) to the Helmand River Study and Master Plan. See Department for International Development, International Aid Transparency Initiative, “Business Case Intervention Summary. Title: Helmand River Basin Study and Master Plan (HRBMP)—200870. What Support Will the UK Provide?” [http://iati.dfid.gov.uk/iati\\_documents/3755598.odt](http://iati.dfid.gov.uk/iati_documents/3755598.odt). The question is how much their policy and financial support are aligned with the idea of fostering mutual cooperation between riparians on a basin-wide view.