

The Evolution of War under International Law: The Iran-Afghanistan Water Conflict in the Hamoun Ecosystem

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Abstract

The exploration of emerging conflict concepts in the context of international law raises a theoretical question, particularly with the introduction of the novel concept of war. This paper analyzes the theoretical domain, emphasizing the necessity for analytical discourse that integrates legal arguments. It posits that the legitimization of conceptualizations, including the innovative notion of environmental warfare emerging from the modern concept of war, contributes to the development of a normative framework. With further in-depth study, this framework has the potential to advance theoretical discourse beyond the current epistemological boundaries of international law. The concept of environmental warfare-particularly the weaponization of border rivers-can be contextualized within the evolving landscape of international law by emphasizing the severe crises and famines caused by the destruction of vital water sources. As international law increasingly integrates environmental protection, it must confront the deliberate targeting of water resources, which poses catastrophic consequences for civilian populations reliant on these essential resources. Employing the socio-dogmatic method and utilizing quantitative measures, the current paper asserts that emerging conflicts are firstly a tangible phenomenon and secondly that all systemic rules of international law address it, encompassing the intricacies of environmental warfare as indicated in the Hamoun case study in the Iran-Afghanistan Aqua Conflict. This progressive approach acknowledges the changing nature of conflicts and emphasizes the need to address not only legal aspects but also the broader social, political, and environmental dimensions within existing normative frameworks.

Keywords: New Concept of War, Force Evolution, International Law, Aqua Conflict, Hamoun ecosystem.

Introduction

The assumption of this article is based on the finding that any warfare potentially has the capability to be considered war even when it involves non-military means due to the evolving nature of conflicts in the modern world. Chronologically, traditional wars have usually been characterized by large-scale, conventional military engagements between nation-states. However, contemporary conflicts often entail a blend of military and non-military elements, leading to the concept of hybrid warfare or non-traditional warfare. This shift is accordingly driven by various factors, including the interconnectivity of nations, technological advancements, the influence of global public opinion, economic considerations, and the complexities of contemporary geopolitics (Gomichon, 2013:8). Non-traditional warfare, encompassing types like information warfare, environmental aggression, economic leverage, cyber operations, and diplomatic maneuvers, has become a key aspect of global power dynamics (Goddard & Nexon, 2016: 4-18). Such a shift reflects the recognition that achieving strategic objectives in the present world often requires a comprehensive approach beyond traditional military force.

According to this view, anything falling below the threshold of resorting to military force is analyzed outside the scope of *jus ad bellum*. This classification suggests that emerging conflicts can manifest in various scenarios, both in times of peace and war. The prevalent type engages their application during peace, aiming to inflict maximum damage on the enemy without direct military intervention. The theory of just war traditionally focuses on severe physical harm, such as murder and injuries (Rengger, 2002: 353-363). However, addressing non-physical harms has been a persistent issue, especially with many contemporary conflicts relying on non-military means. The current international legal frameworks inadequately address issues related to the non-physical aspects of war, posing a challenge for legal scholars. Critics of the doctrine of emerging conflict in international law repeatedly center their arguments on the illegality of resorting to non-armed coercion, particularly focusing on the scope of the term "force" in Article 2, Paragraph 4 of the UN Charter. This provision does not precisely define whether force includes only military coercion or encompasses all its forms. In the present paper, legal considerations are initially discussed to substantiate the arguments concerning the imperative evolution of the concept of warfare. Subsequently, as a case study, the instance of Hamoun Lake is meticulously examined

as an innovative manifestation of environmental warfare initiated by Afghanistan against Iran. This paper is composed of two general parts. In the first part, some theoretical issues are explained, and the second part deals with practical aspects of the mentioned arguments and finally unveils the objective face of the new emerging conflict. The chosen case study of the paper belongs to the environmental realm, and all related data has been gathered and analyzed by quantitative methods, specifically including GIS software.

1. Rebuilding the Concept of Force in the World New Context

The International Court of Justice has affirmed that the prohibitions outlined in Articles 2(4) and 51 of the United Nations Charter, pertaining to the use of force and self-defense, are applicable to any employment of force, irrespective of the weapons utilized (ICJ, *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, 1996). In the context of environmental warfare, the determinant of whether the use of force threshold has been crossed is not the instrument employed but rather the consequences of the act and its surrounding circumstances. Scholars in this field acknowledge an attitude wherein any use of a method or means of warfare by one state against another constitutes a use of force. The application of the *jus ad bellum*, the aspect of international law governing a state's resort to force as an instrument of its national policy, is in the early stages of clarification concerning environmental warfare actions. (Herndon, 2020: 411-422) The lack of agreed-upon definitions, criteria, and thresholds for application introduces uncertainty when applying the *jus ad bellum* to the rapidly evolving realities of environmental warfare acts. It is evident that as environmental threats and opportunities continue to emerge and evolve, state practice may revise contemporary interpretations of the *jus ad bellum* in the environmental warfare context. The analysis presented in this part delves into the norms inherent in the *jus ad bellum* as they presently exist in the *lex lata*.

1-1. Challenges in Defining the Concept

The United Nations Charter does not provide specific criteria for determining when an act constitutes a use of force. In discussions concerning the appropriate threshold for a use of force, the Nicaragua judgment has a central role. In this case, the International Court of Justice asserted that "scale and effects" should be considered in determining whether particular actions amount to an "armed attack" (ICJ, *Military and Paramilitary Activities in and*

Against Nicaragua (Nicaragua v. the United States of America), 1986). It is predictable that the focus on scale and effects will be an equally useful approach when distinguishing acts that qualify as uses of force from those that do not. In other words, "scale and effects" is a term that encapsulates the quantitative and qualitative factors analyzed in determining whether a hostile action amounts to a use of force. It is acceptable that there is no basis for excluding environmental warfare from the scope of actions that may constitute a use of force if the scale and effects of the operation are comparable to those of non-environmental acts that would qualify as such (employed in DoD Manual, para. 16.3.1). There is no authoritative definition or criteria for "threat" or "use of force." However, certain categories of coercive acts do not qualify as uses of force. At the 1945 UN Charter drafting conference in San Francisco, states rejected a proposal to include economic coercion as a use of force (UNCIO Docs. 334, 609 (1945); Doc. 2, 617(e)(4), 3 UNCIO Docs. 251, 253–254 (1945)). A quarter of a century later, during the proceedings leading to the General Assembly's Declaration on Friendly Relations, the question of whether force included all forms of pressure, including those of a political or economic character, which have the effect of threatening the territorial integrity or political independence of any State, was answered in the negative (UN GAOR Special Comm. on Friendly Relations, UN Doc. A/AC.125/SR.110 to 114 (1970) / Rep. of the Special Comm. on Friendly Relations and Cooperation Among States, (UN GAOR, 24th Sess., Supp. No. 19, at 12, UN Doc. A/7619 (1969).

1-2. Consolidation of Power Dynamics

As examples, non-destructive soft warfare intended solely to undermine confidence in a government or a state's prohibition of e-commerce with another state designed to cause negative economic consequences do not qualify as uses of force. The International Court of Justice held in the Nicaragua case that merely funding guerrillas engaged in actions against another State did not reach the use of force threshold. (ICJ, Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. the United States of America), 1986). Therefore, merely funding a criminal group conducting soft warfare as part of an insurgency would not be a use of force against the state involved in the armed conflict with the insurgents (ICJ, Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), 2005). A use of force does not

need to involve the deployment of military or other armed forces by the state in question. In the Nicaragua case, the International Court of Justice found that arming and training a guerrilla force engaged in hostilities against another state qualified as a use of force (ICJ, *Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. the United States of America)*, 1986). Therefore, a state that provides an organized armed group with malware and the training necessary to carry out akinetic warfare against another state has engaged in a use of force against the latter as long as that supply and training enable the group to conduct akinetic acts that amount to a use of force. This situation must be distinguished from one in which the actions of a non-State group are attributable to a State pursuant to the law of State responsibility or that of self-defense.

1-3. Redefining the Criteria of Force in the Contemporary Context

In the current realm of interstate relations, there has been a notable evolution in recognizing and applying criteria to define the concept of force. This evolution is driven by the necessity to comprehend and navigate the puzzlements of modern challenges, requiring a detailed understanding of the impact and legitimacy of various actions among states. This shift has prompted a reevaluation of the factors contributing to the identification and assessment of force, highlighting their significance in the prevailing legal and diplomatic milieu. Among the primary considerations in this evolved framework are measurability and state involvement. Each of these factors holds distinctive legal significance, contributing to the establishment of boundaries and norms governing state conduct (Faraji, M. R., Ranjbar Heydari, V., 2024: 501-520). Measurability, in the legal context, emphasizes the willingness of states to characterize actions as a use of force when consequences are apparent, requiring tangible and specific terms for evaluation. State involvement, forming a continuum from direct participation by a state, such as through its armed forces or related agencies, to peripheral engagement, holds significant legal implications. The closer and clearer the nexus between a state and akinetic acts, the higher the likelihood of their characterization as uses of force by the international community (Hosseini, H., Hadian Rasanani, A. M., Sajjadpour, S. M. K., 2021: 113-128). As international law and diplomatic relations adapt to this dynamic environment, these criteria provide a legal and practical framework for evaluating the consequences and legitimacy of diverse actions. Their incorporation into the legal discourse reinforces the importance of adapting legal

principles to the complexities of the contemporary global setting, ensuring a coherent and robust foundation for addressing the various dimensions of force in today's interconnected world.

1-3-1. Measurability of Effects

The aspect of measuring the effects emerges as a crucial consideration in the evaluation of akinetic acts as potential uses of force. This factor plays a central role in determining how states categorize actions based on the visibility and quantifiability of their consequences. Unlike traditional military actions, where outcomes are repeatedly discernible through established procedures like battle damage assessments, akinetic acts may lack immediate visibility and tangible impact. In this context, the emphasis on measurability becomes even more pronounced.

States tend to characterize an akinetic act as a use of force when its effects can be evaluated in specific and quantifiable terms. Measurability gains significance when consequences can be expressed in concrete metrics, such as the extent of disruption, the percentage of impacted entities, or the scale of information compromise. Focusing on measurable parameters provides states with a practical and discernible framework for assessing whether an akinetic act has crossed the threshold to qualify as a use of force. By prioritizing measurability, this approach serves as a practical tool that enhances the state's ability to make informed determinations regarding the severity and impact of akinetic acts. In situations where immediate and visible effects might be absent, relying on quantifiable parameters offers an objective yardstick for evaluation. This matter not only facilitates a clearer understanding of the nature of the actions in question but also allows for transparent assessments of their implications. Measurability becomes particularly crucial in the context of akinetic acts due to the unique nature of these actions, where traditional markers of military engagement may not be directly applicable. In traditional military acts, the armed forces engaged in actions that were not only measurable but also designed for immediate impact. Methods like battle damage assessments provided a structured approach to evaluating the success and impact of military endeavors.

However, in the realm of akinetic acts, which often engage non-kinetic strategies, the effects may unfold over time and lack the immediacy associated with traditional military actions. Therefore, the ability to measure and quantify the outcomes of akinetic acts becomes a valuable tool for states to navigate the puzzlements of

this evolving landscape. For instance, in a scenario where an akinetic act aims at disrupting actions, affecting entities, or compromising information, the quantifiable metrics associated with these outcomes offer states a tangible basis for assessing the severity and potential consequences of such acts. Moreover, the emphasis on measurability correlates with the broader principles of international law, which repeatedly relies on clear and verifiable evidence to establish violations or breaches. Akinetic acts, being relatively novel in the context of traditional international law frameworks, benefit from an approach that stresses the need for concrete evidence and measurable criteria. The concept of measurability of effects stands as a practical and essential element in the evaluation of akinetic acts as potential uses of force. By prioritizing tangible and quantifiable parameters, states can navigate the evolving landscape of these actions, offering a transparent and objective basis for determining the nature, severity, and implications of akinetic acts under the purview of international law.

1-3-2. State Involvement

The degree of state participation in akinetic acts varies along a spectrum, ranging from direct involvement by the state through its armed forces or related agencies to instances where the state's role is more peripheral. The closeness and clarity of the link between a state and akinetic acts significantly influence how other states perceive and categorize these acts as potential uses of force by the involved state. This factor recognizes the diverse levels of state engagement in akinetic activities, understanding that acts directly orchestrated by the state, particularly through its military or intelligence entities, carry a higher likelihood of being interpreted as uses of force within the international community (Porter, 2002). The continuum model offers a framework for understanding the varying degrees of state involvement in akinetic acts, highlighting the nuanced nature of these activities. This model facilitates a comprehensive evaluation of akinetic acts within the broader landscape of international relations. By acknowledging that state engagement exists along a spectrum, it enables a more sophisticated analysis of the context and nature of these acts, ensuring that the international community can discern the degree of responsibility and involvement attributable to a state in specific akinetic activities. At one end of the continuum are akinetic acts directly conducted by the state itself, involving its armed forces or related agencies. These acts, closely tied to the state apparatus, carry a higher degree of

significance in terms of potential impact and implications. On the other end of the spectrum are akinetic acts where state involvement is more peripheral, possibly through non-state actors or entities with less direct ties to the state apparatus. In these instances, the connection to the state may be less apparent or immediate.

The continuum model recognizes that akinetic acts are not uniform in terms of state participation and impact. States engaging directly in akinetic activities, especially those involving military or intelligence components, are more likely to trigger perceptions of a use of force. In contrast, akinetic acts with more peripheral state involvement may be viewed differently, considering factors such as the level of control, sponsorship, or attribution to the state. This understanding of state involvement in akinetic acts is in harmony with the complex nature of contemporary international relations. It recognizes that states may utilize a range of strategies when engaging in akinetic activities, each carrying distinct consequences for the interpretation of these actions within the context of international law. By adopting a continuum model, the international community can better navigate the intricacies of state involvement in akinetic acts, fostering a more comprehensive and context-sensitive assessment of these activities in the realm of global affairs.

1-3-3. Presumptive Legality

The legality presumption of akinetic acts unfolds within the broader framework of international law, highlighting the restrictive nature of actions not expressly proscribed. (PCIJ, the S.S. "Lotus" (France v. Turkey), 1927). Acts falling into categories such as propaganda, psychological operations, espionage, or mere economic pressure are considered legal by default unless explicitly prohibited by treaty or acknowledged customary law. This recognition is rooted in the fundamental principle that actions not expressly forbidden are inherently permitted. In the context of akinetic acts, this principle implies that actions falling within categories traditionally deemed lawful, in the absence of explicit prohibitions, are less likely to be construed as uses of force by states. The presumption of legality serves as a protective measure for activities like espionage, which lack a direct prohibition in international law. Consequently, such acts are not automatically labeled as uses of force. However, the presumption of legality is not absolute, and its application recognizes that certain akinetic activities, despite the presumed legality of the broader category, may still meet the criteria for being considered uses of force under specific circumstances (Holsti,

1995:319-339). This practical approach ensures a balanced understanding, acknowledging the general permissibility of certain actions while allowing for exceptions when their nature or consequences align with the criteria defining a use of force. By navigating the abstruse terrain of international law, the presumption of legality provides a foundational basis for interpreting and categorizing akinetic acts. It establishes a default position that encourages states to view certain activities as legally permissible unless explicitly prohibited, fostering a degree of flexibility within the legal landscape. This recognition of presumptive legality reflects the evolving nature of international norms and the need for a dynamic framework that can accommodate the diverse array of activities in the realm of global affairs. In essence, the presumption of legality of akinetic acts is a guiding principle that encourages a comprehensive interpretation of international law, promoting a balanced viewpoint that considers both the permissibility and potential exceptions associated with various categories of activities. This approach contributes to a more profound understanding of the legal implications of akinetic acts within the ever-changing dynamics of the international arena.

2. Arming Nature: The New Frontier of Force

In recent years, environmental conflict has emerged as a significant global issue. Traditional warfare has expanded beyond conventional arms and tactics to include the strategic use of natural resources and environmental elements (Travis, 2023:155-185). This shift signifies a growing trend where nations leverage environmental factors to exert power and influence (ICJ, *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, 1997). The manipulation of ecological systems and resources for military purposes highlights the increasing importance of environmental considerations in modern conflict scenarios. This evolution in warfare stresses the need to understand and address the complex interplay between environmental change and geopolitical tensions. The use of the environment and its elements as weapons represents a novel and potent strategy in modern warfare. Nations can manipulate natural landscapes, resources, and ecosystems to gain a strategic advantage over their adversaries (ICJ, *Pulp Mills on the Uruguay River (Argentina v. Uruguay)*, 2010). For example, the deliberate destruction of forests, contamination of water sources, or the use of weather modification techniques can significantly impact an enemy's ability to sustain its population and military actions.

This weaponization of nature poses severe threats to global stability, as the environmental damage can have long-lasting and far-reaching consequences (Boyer, 2015: 40-53). Bordering natural features, such as rivers, mountains, and forests, possess significant capability in imposing force against neighboring states (ICJ, the Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica), 2015). For instance, control over critical water sources can be leveraged to exert pressure on downstream nations, as seen in the conflict over the Dijlah (Tigris) River (Adamo, Nasrat, Nadhir Al-Ansari & Varoujan, 2020: 43-76). Turkey's construction of dams on this river has sparked tensions with Iraq and Syria, as it significantly impacts water availability and agricultural productivity in these downstream countries. Similarly, the Grand Ethiopian Renaissance Dam on the Nile River has the potential to trigger regional conflict in Africa, with Egypt and Sudan expressing concerns over water security (Nasr, Hala, & Andreas, 2016: 969-989). These examples highlight how the strategic control of natural resources can be used as a form of coercion and conflict. The future of warfare is likely to be characterized by environmental conflict, where natural resources and ecosystems become primary targets and tools of war. The water conflict in Syria exemplifies how environmental issues can lead to severe unrest and destabilization (DuBois, 2015: 153-169), with access to water being a critical factor in the country's ongoing turmoil (Gleick, 2019). The conflict between Chile and Bolivia over the Silala River similarly illustrates how disputes over shared natural resources can destabilize regions (Wheater, Howard, Denis, Peach, Suárez & Muñoz, 2024: e1663). As environmental pressures continue to intensify due to climate change and population growth, the likelihood of such conflicts escalating into full-scale wars increases. Thus, understanding and recognizing environmental warfare will be crucial in preventing future conflicts and ensuring global stability.

3. Weaponization of Hirmand River as an Act of Environmental Warfare

The intricate interplay between the emerging concept of environmental warfare and the poignant reality unfolding in the Sistan region of Iran demands a critical examination. On one front, the evolving notion of warfare has birthed new dimensions, notably environmental warfare, reshaping the landscape of conflicts. Concurrently, in the Sistan area, the construction of dams on the

international Hirmand River, originating in Afghanistan, has created a highly sensitive situation. Afghanistan's construction of numerous dams not only violates international agreements but also disregards Iran's rightful share of water from this critical river. (Vemuri, 2021) The ramifications of these actions extend far beyond the geopolitical arena, manifesting in the devastating drought conditions, particularly affecting the Hamoun Lake. The consequences have been nothing short of catastrophic, profoundly impacting the lives of the people in Sistan and exacerbating the ecological degradation of the region. The severity of this situation prompts the consideration of such acts as more than mere regional disputes; it transforms them into acts of war. As the deliberate actions on the Hirmand River, marked by dam constructions and the withholding of water rights, continue to wreak havoc on the ecological and human landscape of Sistan, the situation can be contextualized within the framework of environmental warfare. This categorization becomes not only a legal but a moral imperative, as the environmental aggression perpetrated in the Sistan region transcends localized disputes, becoming emblematic of a broader issue at the intersection of international law, ecosystem, and human rights.

3-1. Root Causes of the Iran-Afghanistan Environmental Conflict

The dispute between Iran and Afghanistan over the Hirmand River is firstly about its status. In other words, the Afghani side does not believe in the international character of the Hirmand River and considers it a national river. According to British arbitrator McMahan, Afghanistan does not accept that there is a dispute over Hirmand water, because its geographical situation has made them the only owner of Hirmand, as they have been situated upstream (Mojtahedzadeh, 1996:101). Therefore, the criteria for the nomination of international rivers should be clarified. Institute of International Law in 1934 Resolution of Paris has expressed some situations for calling a river international. The first part of that refers to the possibility of navigation and division of states. The resolution concerning the rights of non-navigable users from international watercourses, adopted in 1997, has limited the usage function of international watercourses to international rivers. Accordingly, nowadays, contrary to 80 years ago, navigability is not a determining criterion in the qualification of an international river (De Chazournes, 2021). Similarly, the General Assembly of the United Nations, in its resolution, also provides for presenting criteria for the qualification of international rivers and defines it in

this way: International River is a watercourse that some of its parts are located in other countries (UNGA, 1997: Art. 2(b)). Regarding the previously mentioned definition, it can be concluded that a boundary river that forms the border between two countries is itself an international river. Hence, the Hirmand River is a boundary and international river..

3-2. Afghanistan's Implicit Emphasis on Absolute Territorial Sovereignty

Before the 1815 Vienna Congress, states were considering international successive rivers as part of their territory. In fact, the dominant view before the Vienna Congress was in favor of absolute territorial integrity over international rivers. Since the separation of Afghanistan, such a view has been more or less along with Afghanistan's statesmen that they enjoy absolute sovereignty. Interestingly, based upon the Paris contract, Afghanistan separated in 1857, i.e., 42 years after the Vienna Congress (Bellew, 2022). Actually, as long as these two states were in the same united territory, no legal claim was raised over the exploitation of the Hirmand River, and all disputes appeared after Iran and Afghanistan separated. Even though the 1973 contract has determined the legal regime of the exploitation of the Hirmand River and the contract has been ratified by two parties, in many measurements done in the past, the Afghani side has avoided delivering Iranian water-sharing rights. Such a situation has led to a remarkable decrease in runoff in the ecosystem of the region. For more information, see figure 1 as follows.

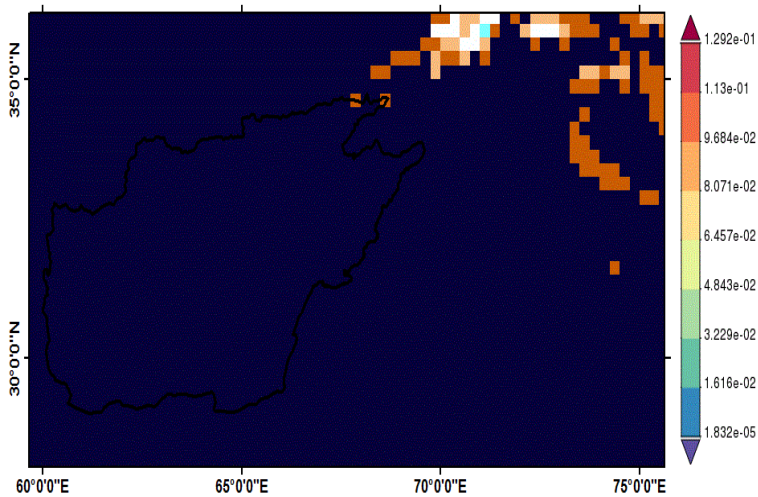


Figure (1): Time-Averaged Surface Runoff Map (1985–2015) for the Region 58.14°E, 27.93°N to 76.55°E, 36.86°N, Based on GLDAS_NOAH025_M v2.0 Model Data Processed by TRMM Satellite

3-3. Water Diversion Practices by Afghanistan

Water deviation is the easiest way to prevent downstream states from exploiting water and is considered a measure against just and equitable usage of international rivers. Helsinki rules of 1966, which have been found to have a subsidiarily customary character upon the legal regime of international rivers, prescribe: Any resorting to watercourse for maximizing interest by co-basin states, including upstream and downstream, should be just and hazardless (Elver, 2002). It is obvious that river deviation by co-basin states is against equitable usage and considered as an act contrary to international laws (ILA, Article 10). In this regard, decreasing Iranian water sharing by development of farming lands in Afghanistan, increasing electricity production by establishment of dams, deviation of watercourses, etc., are the examples that Afghanistan is maximizing its benefits in Hirmand. Such an approach has led to the drought of Hamoun and subsequently increasing of temperature and destruction of biological life. For more information, see figure 2 as follows;

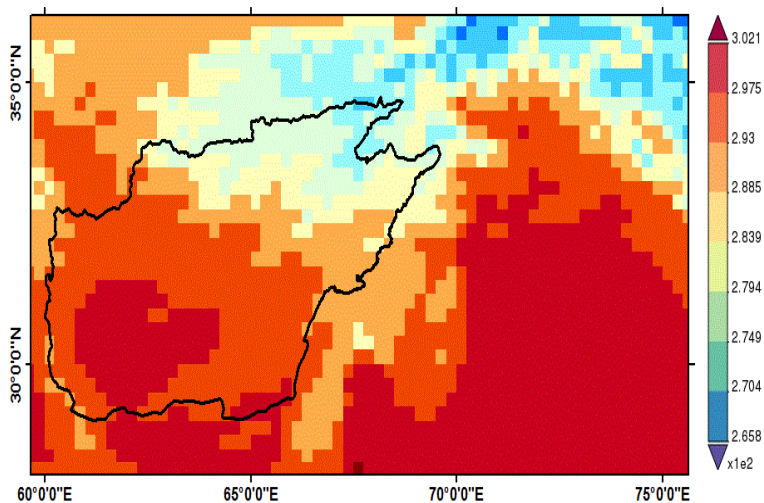


Figure (2): Time-Averaged Map of Monthly Average Surface Skin Temperature ($^{\circ}\text{K}$) from 1985 to December 2015 for Region 58.1398E, 27.9346N, 76.5527E, 38.8555N Processed by MODIS Satellite (GLDAS_NOAH025_M v2.0 Model)

Uttering waste water instead of water sharing confirms the previously mentioned instances. Principally, Afghanistan prefers to replace the seasonal floods with Iran's right on water sharing. At the first arbitration tribunal, which was performed between Iran and Afghanistan, Goldsmith expressed that neither of the two states will be entitled to interfere in farming waters or sourcing adjacent lands of the river. Goldsmith's interpretation is, in fact, an emphasis on observing the principle of limited territorial sovereignty on international watercourses. In spite of the emphasis of the limited principle, which limits the upstream state, the principle of non-harmful use of land is also the other legal tool at the disposal of the equitable regime of international watercourses. In the arbitration case of Lanoux Lake between France and Spain, Spain claimed that the French state had planned to initiate hydroelectric establishments (Fitzmaurice, 2004). It furthered, continuing such a situation inappropriately affects the rights and interests of Spain, and besides, it is contrary to the watercourse treaty, which authorizes the shared usage of the Karol River. Spain believed that France would be entitled to do it provided that it attracted the consent of Spain. The tribunal finally emphasized that the exclusive jurisdiction of a state on activities within its territory is limited to observation and respecting other states' rights. This is a textbook example of

rejecting the principle of absolute territorial sovereignty. Afghanistan has repeatedly acted to ignore Iranian water-sharing rights by establishing dams and channels over Hirmand, including the diversion dam of Boghra, the channel of Boghra, the Kajaki dam, the Arghandab dam, the Akhtechi channel, the Gohargan channel, the Joylo channel, and the Archisarvari channel. (Mojtahedzadeh, Ibid) All of them have negatively affected Iranian people's lives.

3-4. Afghanistan's Water Storage Practices

According to the opinion of the Delta Commission, which was established in 1947 by participating delegates from the US, Canada, Chile, Iran, and Afghanistan to settle the raised dispute between Iran and Afghanistan, the Kajaki Dam is a storage one, and in case of flooding, channelizing the waste waters is used in the development of some projects that do not have any prejudice to Iran's water-sharing rights. However, one of the problematic ties between two states comes back to the determination of stored water in the Kamal Khan barrier, which is located next to Kajaki dam. The size of stored water somehow determines Iran's water-sharing rights. This rate is changeable according to the drought situation and has been stipulated in the 1973 contract as the principle of relative decline of Hirmand water in time of drought for both states. As one of the justifications of Afghanistan in decreasing Iran's water-sharing rights has always been resorting to drought, Iran asked the authority to provide for this important issue. Actually, in times of drought, the Afghani side stops flowing in the wide side of Hirmand and prevents water from reaching the other side. As a result, only the Iranian side is damaged, because Sistan is geographically located at lower height (Boisson de Chazournes, Leb & Tignino, 2013). Logically, in the case of a drought happening, both sides should be equally damaged, and imposing the consequences of a drought on one side is unacceptable. The continuation of such a policy by Afghanistan during the last years has imposed much irreversible loss to Iran's territorial ecologies. As a result, the water stored on the Afghani side has led to the development of agriculture and the increasing of vegetation. For more information, pay attention to figure 3 as it follows.

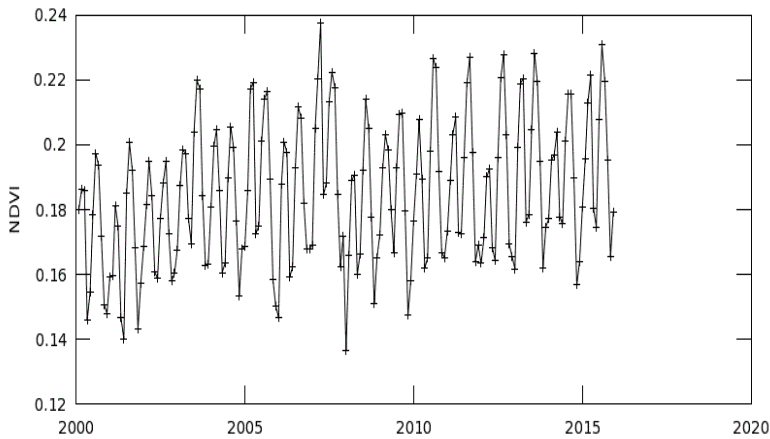


Figure (3): Time Series of Area-Averaged NDVI (2000–2015) for Region 58.1396E, 27.9346N, 76.5527E, 36.8555N, Processed by MODIS-Terra MOD13C2 v5

3-5. Climate Change as a Growing Threat to Regional Peace and Security

There is a serious consensus in academic fora on crystallizing international climate change and the centrality of human-based activities in this process. If climate change is recognized as an international threat against global peace and security, there will be new hopes for unified measures that are internationally organized to create tangible mechanisms in confrontation with hazardous measures leading to climate change. Otherwise, climate change will give rise more to acceleration of international crises and causes commencing international armed conflict over the distribution of water sources, unwanted immigration, and serious disputes among states concerning compensation of imposed damages by actors who are responsible for climate changes. (Beach, 2000). The formation process of international regimes and circles symbolizes increasing public information about the danger of climate change consequences, and it is gradually recognized by international community members. The United Nations has also initiated taking some measures in the norm-building process of prevention of climate changes. The severity of climate change consequences led to it being uttered in the Security Council of the UN in 2007. The participating states in negotiations on UN climate change brought various views in confrontation with climate change. Some of them believed that this issue should be considered as a part of general planning in prevention of hostilities,

and some others believed in the deterrence principle in climate change. (Garcia, 2011). Some other states that may have the most effective contribution in this field have considered this issue as a security challenge and believed in immediate measures. Hirmand River is the only water source of Hamoun Lake and Sistan province, which is the largest state in Iran, because underground water, or, in other words, salt semi-saline waters, are not useful, rather harmful. Water of lake is mostly significant in environmental purposes and is not considered a secure and appropriate source for agriculture. Anyway, the main water source of the lake is Hirmand. Locating the origins of the Hirmand River in the territory of Afghanistan has prompted them to use it as political leverage for affecting Iran's political positions (Etaat & Varzesh, 2012). Unfortunately, to be hopeful on raining is also fruitless, because the geographical configuration of the region does not guide the raining water to the Sistan sink. For more information, see figure 4 as it follows.

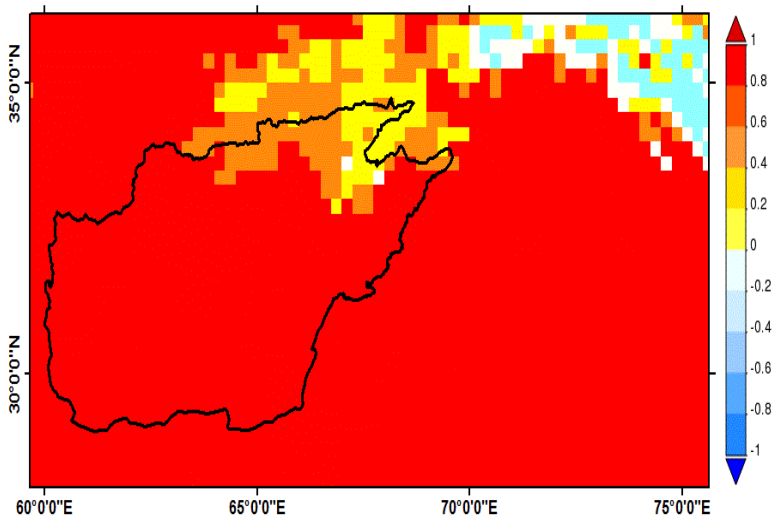


Figure (4): Correlation between Surface Runoff and Rain Precipitation Rate (1985–2015) Based on GLDAS and TRMM Satellite Data

The process of changes and fluctuations on one hand and the dramatic decrease in water sharing of Iranian rights in benefiting from Hirmand has led to the complete drought of Hamoun Lake. Hamoun Lake plays the most important role in the economic life of the eastern people of Iran, and accordingly, the drought of such an important source can lead to a perfect crisis, which potentially can jeopardize regional peace and security.

Conclusion

The elements and rules of IHL, HRL, PIL, and ACL constitute a meticulously crafted framework designed to uphold international peace and security. The intricate connections among these elements underscore the need to comprehend and acknowledge their interdependence. Consequently, any interpretation that undermines compliance with this framework poses a threat to legal security. Confining the concept of force solely to its military manifestations proves inadequate for establishing a just legal order in the international domain. The conventional economic rationale of warfare has lost its relevance in the contemporary landscape, where many international conflicts unfold outside traditional battlefields. In this evolving landscape, the concept of just defense gains prominence, especially in the context of emerging conflicts. These conflicts, marked by characteristics more destructive than traditional military aggression, unequivocally target a nation's survival. The International Court of Justice's 1996 opinion acknowledges the evolving nature of conflict, even challenging the absolute prohibition of a victim state from using nuclear weapons in the context of just defense. The increasing threat of cyberattacks and the explicit declarations by U.S. presidents to respond militarily highlight the acknowledgment of the nonmilitary scope of force when faced with potential harm. However, this recognition introduces complications that could significantly jeopardize international peace and security. In this evolving landscape, international law cannot remain static, necessitating a balance between acknowledging the changing nature of conflict and maintaining legal order. The absence of legal prescriptions in this realm creates a potential source of lawlessness, emphasizing the importance of general principles and formal argumentative mechanisms to navigate these challenges. Reference to the distressing situation in Hamoun Lake arising from Afghanistan's aggressive acts against Iran serves as a poignant example of the real-world consequences of emerging conflicts, particularly those involving environmental warfare. This instance underscores the imperative for legal frameworks to adapt to contemporary challenges and preserve the principles of justice and peace on the global stage.

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