

GOVERNANCE OF TRANSBOUNDARY RIVERS IN CENTRAL ASIA

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Abstract: *The problem of Central Asian countries using transboundary rivers internationally and its legal regulation in accordance with international legal norms and principles are discussed in the article. Speaking of the issue with transboundary rivers, it was the rivers' navigability; but, in the cases of Amudariya and Syrdaria, it was the issue with irrigation, or having equitable access to the river resources.*

The author provides a number of historical examples while paying close attention to how the issues were resolved. The author then provides a comprehensive list of international agreements and documents that address the issue, despite the fact that it is noted that there are no set standards for the usage of transboundary rivers.

Key words: *Transboundary waters, water policy, transboundary rivers, global environmental issues.*

The fall of the Soviet Union and the emergence of five new sovereign republics in Central Asia have resulted in the transboundary nature of numerous natural resources, including major waterways. Because of the unequal distribution of water resources throughout Central Asia, the upstream and downstream nations have become interdependent. Divergent water-related political and economic interests of the riparian states have also contributed to tensions, as have poor resource governance at all levels, including regional, basin, national, and municipal. The region's entire ecology is fragile due to the region's arid climate, steppes, and deserts and semi-deserts.

Moreover, we have to write a little bit about regulation of transboundary rivers by international law, and there have conventions. One of the five environmental treaties that the UNECE has negotiated is the Convention on the Protection and Use of Transboundary Watercourses and International Lakes, or the "Water Convention." This Convention aims to strengthen national efforts and regulations for the governance and conservation of transboundary surface waters and groundwaters. The Parties are required to work together and establish joint entities on a global scale. The Convention has provisions on information sharing as well as monitoring, research, development, consultations, warning and alarm systems, mutual aid, and access.

It was made available for signing in Helsinki on March 17th, 1992, and went into effect on October 6th, 1996. It has been ratified by 47 parties as of November 2022, including 46 states and the European Union. The UK has signed it, but has not yet ratified it.

The Water Convention takes a comprehensive approach to its concerns, recognizing the value of ecosystems, human communities, and economies on an equal footing and emphasizes integrated water governance over the previously employed focus on particular localized difficulties.

The deliberate move away from the outdated, Soviet-era water resource distribution principles and toward the integrated water resource governance (IWRM) system is one of the primary issues facing Central Asia at the moment. It demands an integrated strategy to the use of water in sectors like agriculture, energy, and industry because it is not just a technical issue. To prevent disputes over water allocation, the system of water governance was centralized throughout the Soviet era. Additionally, it incorporated a special system that required downstream nations (Kazakhstan, Turkmenistan, and Uzbekistan) to provide energy to upstream nations (Kyrgyzstan and Turkmenistan) in exchange for water services. Unbalances in the distribution of water resources caused by the move away from "centralism" in water governance instantly sparked political and economic tensions among Central Asian nations.

Kyrgyzstan and Tajikistan are now keenly interested in the utilization of the energy potential of the Central Asian transboundary water resources due to the diminishing fossil fuel stocks. People in Kyrgyzstan and Tajikistan experience energy shortages throughout the winter every year, which leads them to release water to generate heat. To operate their irrigated agriculture, which is the main driver of their economic development, downstream nations Kazakhstan, Turkmenistan, and Uzbekistan depend on water storage in the winter and its release in the summer.

Long-running conflicts exist between Kyrgyzstan and Uzbekistan. The majority of the water used in Central Asia, particularly that coming from Kyrgyzstan, is consumed by Uzbekistan. It should be emphasized that Kyrgyzstan is the only nation in Central Asia with nearly complete water resources on its own soil. One of its primary economic advantages is the approximately 30,000 rivers and streams that provide significant water and electricity supplies. In the summer, Uzbekistan requires water for irrigation from Kyrgyzstan's Toktogul reservoir, the largest water storage facility in Central Asia. Kyrgyzstan then uses the gas supplied by Uzbekistan. Lacking the resources to pay for gas supplies on time, Kyrgyzstan made the decision to release water during the off-growing season in order to generate energy during the winter.

A strong international legal framework must provide the foundation for transboundary water governance. For Central Asia, this calls for the creation of an interstate legal cooperation that is founded on sustainable principles and tools derived from international water law. First, the legal rules guiding the governance of transboundary waterways must be mentioned. They in turn depend on specific legislative mechanisms of collaboration for their proper implementation into interstate practice. The best method to ensure regional stability, growth, and mutual collaboration is through improved transboundary water governance of international legal standards.

Water governance in Central Asia must take into account water development, usage, protection, allocation, regulation, and control in terms of the quality and quantity of waters, in accordance with international legal standards (ILA Berlin Rules, 2004, art. 1). Application of fundamental principles contained in numerous international water law treaties and customary water laws is necessary for the governance of transboundary watercourses. The three that are most significant are (i) the principle of "no significant

harm," (ii) the principle of cooperation, and (iii) the principle of equitable and appropriate use of waterways. These have been somewhat included into the transboundary interstate cooperation's currently enforceable legal framework (Rahaman, 2012). All three principles serve as general guidelines for determining a state's rights and responsibilities with regard to international watercourses for uses other than navigation. The legal practice of Central Asian interstate relations will eventually see these concepts applied more effectively.

These precepts' legal significance can be summed up as follows. First, not all riparian states necessarily have an equal share in a given watercourse even while all governments have an equal right to use an international watercourse. Second, appropriate use of water resources is used to define international water policy instruments but does not equate to the most productive use or application of the most effective techniques currently available.

Third, no state has the right to use or permit the use of its territory in a way that harms the territory or the properties therein (for example, transboundary water resources), or the people therein, when the case is of serious consequence and the injury is established by clear and convincing evidence. This is because countries are required to take appropriate measures to minimize environmental harm within a state as well as across borders. The obligation of states to cooperate is a requirement for implementing equitable, rational, and non-harmful transboundary water governance (UN Water Convention, art. 8).

Implementing rules derived from international water law acts effectively is essential for the proper governance of transboundary waterways. Such acts establishing legal guidelines and transboundary water governance procedures impose legally binding responsibilities on the state parties. According to a variety of international standards that each Central Asian state has agreed to, it has unique legal and institutional responsibilities to neighboring nations that share transboundary watercourses. These international agreements have a significant impact on how Central Asia manages its water resources, but they haven't been able to provide a clear legal framework that is mutually advantageous to all parties involved in the governance of transboundary water resources.

The first category of such laws has a general focus: (i) the UN Convention on the Law of the Non-Navigational Uses of International Watercourses, agreed in 1997, only came into effect in 2014. Only Uzbekistan is a member of the Convention on the Protection and Use of Transboundary Waters and International Lakes and its Protocol on Water and Health, which brings together Kazakhstan, Turkmenistan, and Uzbekistan as downstream nations in Central Asia. Both pieces of legislation present a cutting-edge framework for collaboration and conflict resolution based on a hydrological perspective, as well as for the preservation of ecosystems, which would aid in the development of Central Asian water basins. It seems unlikely that Tajikistan and Kyrgyzstan, which are upstream nations in the Aral Sea Basin, will ratify the framework of the pact. As a result, a more robust multilateral framework for regional legal cooperation in the area of water governance cannot be developed (Ziganshina, 2011).

The interests of all Central Asian nations and their neighbors are impacted by the complex problem of water distribution and governance that exists today. In Central Asia, water is currently considered an issue that might be utilized to undermine regional security.

The issue of water distribution is a part of the larger picture of political security; the threat at this level typically stems from assertions of hegemony and the propensity to use force to resolve conflicts both between and within governments. The weakening of democratic institutions, the lack of pluralism, and the inadequate advancement of the rule of law all contribute to these developments.

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