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International boundary disputes in the northern Gulf: taking us back to 1975

Richard Schofield*

Abstract

In this article, the author reflects upon decades of covering Iraq's territorial disputes in the northern Gulf - suggesting a scheme for better understanding their complex operation. This links contemporary technical status with the traditional political and historical drivers of dispute, the latter supposedly having been addressed in a momentous Iran-Iraq package settlement of 1975 (the focus of the article). New research of the relevant British and American archives establishes the frenzied regional context of the mid-1970s and the degree to which that old imperial spatial imaginary of Iraqi access to Gulf waters was put to bed with the agreements of 1975.

Résumé

Avec cet article, l'auteur réfléchit à la façon dont ont été analysés depuis plusieurs décennies les disputes territoriales dans la partie Nord du Golfe et propose un plan pour leur meilleure compréhension. Celui-ci lie les aspects techniques contemporains avec les principales et traditionnelles causes historiques et politiques des disputes. Ces dernières seraient du reste supposés avoir été traitées lors d'un important règlement entre l'Iran et l'Irak en 1975 (le point central de l'article). De nouvelles recherches dans les archives britanniques et américaines permettent d'esquisser le contexte très agité du milieu des années 1970 ainsi que le niveau auquel le vieil imaginaire spatial impérial de l'accès de l'Irak aux eaux du Golfe a été mis en veilleuse avec l'accord de 1975.

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Introduction: Back to 1975 and all that

While the Iraqi state is faced in the summer of 2016 by much more pressing territorial concerns with ISIS and the future shape and character of its Kurdish north, it would take a bold strategist to confidently forecast that we have seen the last of international boundary disputes in the northern Gulf, ones that have often been associated with conflict. Yet on one level, all seems quiet on this front. Iran and Iraq have moved to a position where they recognise the legality of the Shatt al-Arab river boundary delimitation introduced by their momentous 1975 treaty settlement (the focus of this article) - even if they can't agree on its precise details, while the Iraq-Kuwait boundary remains ostensibly settled by the UN Secretary-General's demarcation ruling of 1993. A pragmatic technical focus has generally characterised efforts to tidy up territorial definition in the Shatt al-Arab river mouth in recent years, while, in similar vein, Iraq and Kuwait signed an agreement during January 2013 to ease navigational access in their maritime borderlands¹. Counter-balancing this dynamic have been Iraqi political statements of various levels and persuasions pointing to continuing issues of dispute - during March 2009, for instance, its Foreign Ministry underlined that «very serious problems» persisted in finalising boundaries with Iran, while - during the summer of 2011 - sizeable protests were led in Basra by Shi'ite leader Muqtada al Sadr against Kuwait's proposed development of a new super-port on the eastern shores Bubiyan Island². So maybe that classic old imperial imaginary of Iraqi access to Gulf waters remains politicised potentially in an Iraqi context.

The case for better integrated coverage of technical, political and historical aspects of international boundary disputes is argued in the paper³, centring around the sophisticated package of agreements concluded between Iran and Iraq in 1975 and their all-important regional and temporal context. Structurally, we make use here of the manner in which international law treats boundary disputes (i.e., by taking us back in time to the last treaty instrument that defined the boundary in question) in an attempt to better link contemporary technical status, current legal regulation and the historical and political drivers of dispute. So, having first summarised the histories of Iraq's border questions at the Head of the Gulf by way of orientation, we then characterise their current technical status. In pondering how contemporary change in the position of

1 *All Iraq News*, 20 January 2013.

2 *Reuters*, 29 June 2011.

3 A call also made in Richard Schofield (2015), « Back to the Barrier Function? Where Next for International and Boundary Disputes in Political Geography », *Geography*, 100/3 (Autumn 2015), 133-143.

the Shatt al-Arab river boundary should be referenced, we zoom back to the specifics of the 1975 agreements themselves. We then move back much further in time to consider the baggage of disputes and mind-sets associated with the territorial questions that the 1975 package of agreements would address. We review how a classical geopolitics of colonial boundary drawing developed in this region (the colonial imaginary that was or still is Iraqi access to the Gulf), one that focused upon relative territorial positioning and deterministic perceptions of how disputes actually linked and operated. This allows us to view the 1975 territorial package in context – how it was received, what it was seen to represent and some sort of discernment of claims made at the time that its conclusion had altered the regional geopolitics of the northern Gulf. Utilising primary source materials from the UK National Archives (Kew, London) and the Gerald Ford Presidential Library (Ann Arbor, Michigan) we chart the immediate reactions of the major regional players and seasoned Western diplomatic observers.

Orientation: Evolution of state territory in the Northern Gulf

An international boundary along the Shatt al Arab was introduced in 1847 as the result of Anglo-Russian intervention, with the river characterised vaguely but fairly unmistakably as an Ottoman waterway. Exclusive Ottoman/Iraqi control was gradually eroded by two follow-up settlements of 1913, over which Britain respectively exercised formal control, and 1937, where it still exercised considerable informal leverage. It was only in 1975 that the 2 local riparians sat down themselves to define the boundary as running down the *thalweg* of the river. This seemingly satisfied an Iranian positional claim that had been around for much of the previous half-century, premised on the legal norm – established with the 1919 Versailles settlement – that access to shared navigable rivers should be defined on an equal basis in international law⁴. Three broad chronological contexts can be provided for this evolution in territorial definition. The period before the Great War represented an applied phase of Britain and Russia's Great Game, where both states sought the regional and territorial stability necessary to project and safeguard political and economic interests. A second stage inevitably reflected the northern Gulf region's emergence in the early twentieth century as the world's most important

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 4 See: Kaiyan Kaikobad, *The Shatt-al-Arab boundary question: a legal reappraisal*, (Oxford: Clarendon Press 1988); Richard Schofield, « Position, Function and Symbol: the Shatt al-Arab dispute in perspective » in Lawrence G. Potter and Gary G. Sick (eds.) *Iran and Iraq and the legacies of war* (New York: Palgrave 2004), 32-41.

source of oil and gas – access to which demanded positional exactitude in the definition of territorial limits or at least arrangements that could be effectively optimised to Britain’s advantage. The end of Hashimite rule in Iraq ushered in a third phase from 1958, as the Shatt al Arab progressively symbolised developing state rivalry between Baghdad and Tehran, often formulated on an inter-regional, Arab-Persian basis.

Comparatively less complicated and with a history dating back only to the early twentieth century, the main challenge to finalising the vague Iraq-Kuwait boundary originally defined by Britain and the Ottoman Empire back in 1913 had been in arriving at an interpretation acceptable to both sides that could be marked on the ground⁵. Despite controlling the foreign affairs of both states for significant portions of the last century, Britain could not broach a settlement here. A significant complication was the intermittent if dramatic Iraqi territorial claim to the entirety of Kuwait, justified on its supposed former inclusion within the Ottoman Basra province in the late nineteenth century. Iraq’s ultimate and unequivocal recognition during November 1994 of the United Nations Secretary General’s 1993 ruling on the boundary was, of course, elicited in far from routine circumstances – the state’s self-inflicted regional and international isolation in the wake of its disastrous invasion of Kuwait in August 1990. At least the UN ruling was a determinedly serious attempt to interpret and refine the old colonial boundary, even if questions remain about the commission’s starting assumptions on the boundary, its employment of terminology and discharge of mandate⁶.

Contemporary technical status: boundary definition and physical change in the northern Gulf

Where they haven’t been distracted by more pressing concerns, it has generally been in a pragmatic, post-conflictual context of regional reconstruction that Iran and Iraq have been discussing finalising territorial questions at the head of the Gulf since the end of the Saddam era. Any dispute is less about whether the 1975 river boundary arrangements are

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- 5 See: Richard Schofield, *Kuwait and Iraq: Historical Claims and Territorial Disputes* (London: Royal Institute of International Affairs 1991 [2nd edn. 1993]); David Finnie, *Shifting Lines in the Sand: Kuwait’s Elusive Frontier with Iraq* (Cambridge, MA: Harvard University Press 1992); Habib Rahman, *The Making of the Gulf War: Origins of Kuwait’s Long-standing Territorial Dispute with Iraq* (Reading: Ithaca Press 1997)
 - 6 Schofield, *Kuwait and Iraq...* (2nd edn., 1993), 150-198; M. Pinther, «Demarcation of the Iraq-Kuwait Boundary » in H. Srebro (ed.) *International Boundary Making* (Copenhagen: International Federation of Surveyors 2013), 94-117.

applicable – it seems broadly that both sides agree that they are - and more about how these details might be implemented in any new settlement.

The massive regeneration of Iraq's super-giant Rumaila oilfield on the Kuwait border, where \$36 billion of projected investment from a consortium headed by BP and the Chinese National Oil Company was designed to expand production capacity to 2.85 million barrels per day⁷, was logically premised upon an improvement of transboundary access on land and sea. Similarly, Shell's planned large-scale development of the Majnoon oilfield on the Iran border further east (the western part of the transboundary structure that stretches to Azadegan in Iran) is reliant upon the improvements in cross-border access that they hope might flow from a tidying up of territorial definition along the Shatt al-Arab. The exact position of the main navigable channel needs to be agreed here – particularly at the estuary mouth, while territorial water boundaries then need to be established between Iran and Iraq that match up to those already agreed to the west and south.

The character of physical change in the Shatt's main navigable channel has only been appreciated as significant relatively recently. Iraq is known to be frustrated that channel movement has all been to the south and west of the coordinates officially nominated for the Shatt's southernmost reaches in 1975 (see **Map 1**). If nature has recently favoured Iran, it was the incidents of summer 2004 and spring 2007, involving the capture of British sailors by Iranian patrols near the estuary mouth, that demonstrated how the technical question of locating an international river boundary can quickly magnify into a political crisis. It seems likely that in the former instance, the capture took place in Iranian internal waters. This at least was the Iranian government's claim but with the significant present disjuncture between the positions of the 1975 boundary and the then current navigation channel (see **Map 1**), the picture was far from clear. The spring 2007 incident highlighted, above all, the absence of a territorial waters boundary between Iran and Iraq south of the terminal point of the 1975 river boundary delimitation. The claims of both Iran and the British government that the capture had taken place in Iranian and Iraqi territorial waters respectively were disingenuous since territorial water limits have never been defined between Iran and Iraq⁸.

One important consequence of the first incident was that Iran and the occupying powers (US and UK) would agree – Or so I am reliably informed - that the current position of the *thalweg* as it existed at any one

7 Peg Mackey, « Iraq: huge logistical challenge », *Energy Compass* (London 11 December 2009)

8 Jill Junnola, « Mideast Gulf: border clashes », *Energy Compass*, (London, 13 April 2007)

time along the Shatt would serve as an operative international boundary. While, as of June 2016, this is not a position that has been formalised at state level, it will still be a major surprise if the express terms of the 1975 package agreement are not formally reconfirmed – for a number of reasons. A consensus of legal opinion holds that Iraq had basically enjoyed « no right to abrogate the Baghdad treaty of 1975 » in launching war on Iraq in September 1980⁹. Secondly, Iraq went a very long way towards formalising its reacceptance of the 1975 arrangements with the UN-registered Hussein-Rafsanjani correspondence of April-August 1990, a move designed to neutralise its eastern neighbour after the decision to invade Kuwait had been taken. Debate exists as to the degree to which it did recommit itself¹⁰ but the intent to do so had clearly been there, albeit in charged regional circumstances. Thirdly and perhaps most importantly, a *thalweg* delimitation remains by far the most practical and workable territorial arrangement for the Shatt al-Arab and the 1975 treaty was a demonstrably well-conceived and appropriate settlement¹¹.

Legal regulation: the model territorial settlement of 1975

Let us now briefly review the 1975 package of Iran-Iraq agreements as they exacted territorial definition and catered for future physical change. The 6th March 1975 Algiers Accord had simply recorded that the two parties had « decided to delimit their river frontiers on the *thalweg* line »¹². A follow-up ‘Protocol for settlement of all outstanding border disputes between Iran and Iraq’, concluded 12 days later, provided for the establishment of a tripartite committee (on which would also be represented technicians from mediating Algeria) « to determine the water border in the Shatt al Arab estuary on the basis of the *thalweg* principle »¹³. Two

9 Kaikobad, 59.

10 Shaul Bakhsh, «The troubled relationship: Iran and Iraq, 1930-80 » in Potter and Sick (eds.), 12-27; Schofield, *Kuwait and Iraq...*(2nd edn.) , 127-132.

11 In truth the latter reality had always been known. Two months before an international treaty first nominated the river as a boundary in the mid-nineteenth century, British Foreign Secretary Lord Palmerston cautioned in March 1847 that it would be «contrary to international usage» to nominate any boundary other than the mid-channel of the river (Schofield, 2008, 154).

12 United Nations, *Treaty Series*, 1017, 14903; Minute by Chris Rundle, 10 March 1975 in the National Archives [TNA] file: *FCO 8/2546*; Richard Schofield, « Introduction » in Richard Schofield (ed.), *Arabian Boundaries: New Documents, 1966-1975*, (Cambridge: Cambridge Archive Editions [CUP] 2009), 16, vii.

13 Telegram 184 from Tehran, 18 March 1975 in TNA file: *FCO 8/2547*; Schofield, « Introduction » in Schofield (ed.), *Arabian Boundaries...*, 16, vii.

other committees had been charged simultaneously with responsibility for demarcating the land boundary further north and establishing border security check points along its course.

Only a month behind schedule, the ‘Treaty relating to the state boundary and good neighbourliness between Iraq and Iran’ was signed in Baghdad on 13th June 1975¹⁴. This was supplemented by three protocols ratifying the outcomes reached by each of the 3 committees. The ‘Protocol relating to the delimitation of the river frontier between Iraq and Iran’ seemingly provided every conceivable safeguard against future dispute over the status and alignment of the new *thalweg* delimitation. In Article One it was declared that « the State river frontier between Iran and Iraq in the Shatt al-Arab has been delimited along the *thalweg* »¹⁵. This had been calculated by the mixed Iraqi–Iranian–Algerian committee on the basis of surveys they had undertaken and subsequently depicted on four (British Admiralty) charts attached to the agreement that were specified in its first article¹⁶.

Article Two’s first paragraph provides the most detailed existing definition in treaty law for a *thalweg* river boundary: « The frontier line in the Shatt al-Arab shall follow the *thalweg*, i.e., the median line of the main navigable channel at the lowest navigable level...»¹⁷. While paragraph 2 held that the said frontier line « would vary only with changes brought about by *natural* causes in the main navigable channel », paragraph 3 specified that these needed to be attested and verified by the appropriate technical authorities of the two contracting parties. Paragraph 4 elaborated the principle that the international boundary would move with changes in the river bed brought about by natural causes – no matter what effect this might have in transferring sovereign territory, landed property or other installations. It was then left to the protocol’s fifth paragraph to deal with the practical ramifications of all of this – its prescription was less than crystal-clear, undoubtedly a factor in the two sides continuing failure to formally recommit to the 1975 arrangements. Paragraph 5 held that should agreement not be joined that the river (and the boundary) had moved to a new bed, then one of the parties could request that « *the water shall be re-directed at the joint expense of both parties to the bed existing in 1975* »¹⁸. Perhaps it was meant to be helpful but it ended up sounding confusing, while the implication that nature could be reined in to conform to what a boundary treaty specifies was obviously modernity gone too far.

14 United Nations, *Treaty Series*, 1017, 14903.

15 United Nations, *Treaty Series*, 1017, 14903.

16 For copies, see Schofield (ed.), *Arabian Boundaries...*, 18, maps 27-30.

17 United Nations, *Treaty Series*, 1017, 14903.

18 United Nations, *Treaty Series*, 1017, 14903.

Importantly, Article Six of the river boundary protocol committed the two sides to jointly survey the main river channel afresh every ten years, or even more frequently should one of the parties request as much. This was never implemented as Iran and Iraq embarked upon a war that they have still never formally settled. This remains a crucial provision, since the coordinates of the actual 1975 delimitation (i.e., the median line of the *thalweg* as it existed in 1975) now run through sandbars at the designated river mouth. Article Seven specified a liberal, state of the art freedom of navigation regime for the estuary – here all Iranian and Iraqi vessels (commercial and military) were granted complete freedom of manoeuvre in any part of the Shatt al Arab or its approaches, a right extended to third-party trading vessels except in the contingency of belligerency, armed conflict or war¹⁹.

Historical drivers of dispute: the linkage and operation of Iraq's access question

The geographical proximity of Iraq's international boundaries at the Head of the Gulf with the general unsuitability of its short, intervening coastline for any kind of infrastructural development evidently cultivated in the mind of its territorial architects, the deterministic view that Iraq was a geographically-disadvantaged state. To a degree, this has been a self-view subsequently proclaimed over the years in the formal and informal statements of Iraqi governments, politicians and latter-day factions, an imaginary that has proved capable of easy politicisation. Long-running jokes and jibes that Iraq is a 'big garage with a very small door' or that Kuwait is the 'cork in the bottle that is Iraq' stem from a fairly widespread belief that Britain deliberately connived as colonial power to deny Iraq (and its Ottoman predecessor) a proper footing on the Gulf shoreline²⁰. Maybe this might have been a case of what Strandsbjerg has coined *cartopolitics*²¹, an awareness (and psychology) of relative positional disadvantage occasioned more by repeated cartographic representation than anything else.

While Britain was in Iraq and Kuwait during the inter-war years – the Colonial Office in Baghdad and the Government of India in Kuwait – it generally saw the problematic of access to the sea as an unchanging structural reality, whose worst effects could be ameliorated by

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- 19 Schofield, « Introduction » in Schofield (ed.), *Arabian Boundaries...*, 16, x.
 - 20 Richard Schofield, « The historical problem of Iraqi access to the Persian Gulf: the interrelationship of territorial disputes with Iran and Kuwait, 1938-1990 » in Clive Schofield and Richard Schofield (eds.) *The Middle East and North Africa: World Boundaries Volume 2* (London: Routledge 1994), 158-172.
 - 21 Jeppe Strandsbjerg, *Territory, globalisation and international relations: the cartographic reality of space* (Basingstoke: Palgrave 2010)

pragmatic accommodation. This would be urged most notably when Britain's commercial interests in the region appeared to be constrained. For instance, the charismatic head of the Basra Port Authority, New Zealander John Ward, would call during the late 1930s for the construction of a new Iraqi port facility outside the Shatt al-Arab²². His suggestion that Britain look southwards to Kuwait to improve Iraqi port capacity was hugely significant. It was the first occasion upon which the status of Iraq's boundary with Iran began to cause political and commercial elites within Baghdad and Basra to look south and press the case for a more advantageous boundary definition with Kuwait. A pattern was hereby born whereby the perception of successive Iraqi governments that Iran held the upper hand of its conduct in the positional boundary dispute over the Shatt would persuade it to press territorial claims on Kuwait.

Tellingly, this newly-perceived triangular basis of dispute soon persuaded Britain that the problematic of Iraqi access to the Gulf possessed the potential for conflict. While there was clear sympathy for Kuwait's reticence to yield to suggestions that territorial concessions be made to Iraq, there was also the realisation from British government officials - and no less a figure than the British Foreign Secretary himself - that to do so might be in its interest: « [i]t is understandable that the state which controls the Mesopotamian plain should desire to have undivided control of at least one good means of access to the sea and Lord Halifax thinks that on a long view, it is likely that, if Iraq were given this access, it would make for steadier conditions in that part of the world in years to come »²³.

This was an assessment that, if anything, hardened in the minds of British government officials stationed in the northern Gulf following the Second World War. At a time when Britain was characterising Iraq-Kuwait relations as « distinctly bad », the advice was repeated that « ... it would be in Kuwait's interest to make an earlier frontier settlement at the coast of ceding the territory necessary to provide Iraq with a deep water channel... »²⁴. Ironically, this had followed on from the failure of the most imaginative scheme ever envisaged for treating the stalemated Iraq-Kuwait boundary question, involving Iraq's supply by pipeline of freshwater from the Shatt for large-scale domestic use in Kuwait in return for Iraq being granted a 99-year lease over north-eastern Kuwaiti land territory

22 Schofield, *Kuwait and Iraq...* (2nd edn.), 76-85.

23 Despatch from Baggallay, Foreign Office, 16 December 1939 in the TNA file: CO 732/86/17.

24 Quoted in Richard Schofield, « Down to the usual suspects: boundaries and territorial disputes in the Arabian Peninsula and the Persian Gulf at the millennium » in Joseph Kechichian (ed.) *Iran, Iraq and the Gulf Arab states* (New York: Palgrave 2002), 227.

and Warba. It would stall on the Kuwaiti government's unwillingness to commit itself formally to such a dependent position²⁵.

The pattern whereby perceptions of a disadvantageous position vis-à-vis Iran over the Shatt seemingly affected the Iraqi government's policy and actions towards the Kuwait boundary continued into the post-1958 Republican (and effectively post-British) era, though we would have to wait a decade or so before it became obvious with the March 1969 crisis that culminated in Shah Muhammad Reza Pahlavi unilaterally abrogating the 1937 Shatt treaty. In early 1969 a decade of functional disputes over the waterway's messy sovereign arrangements came to a head, primarily as the result of a new Iranian determination and confidence to steer the course of the dispute to its own advantage - for instance, in linking policy towards the Iraqi Kurdish question for the first time with its long-standing demand that the boundary along the Shatt be adjusted to the *thalweg*²⁶. The Iraqi government responded to such heightened tensions by substantially reinforcing its troop presence in Kuwaiti land areas south of its second dry cargo port of Umm Qasr under the ruse that it was protecting its neighbour in the face of Iranian aggression towards the eastern Arab world.

One official Iraqi government statement that genuinely evoked Britain's deterministic language of old came quite a few decades later - in response to the United Nations verdict on the Iraq-Kuwait maritime boundary announced in March 1993. The language of Foreign Minister Muhammad al-Sahaf's letter of 6 June 1993 resonated with those classic earlier British cautions in complaining that the ruling threatened « Iraq's right to enjoy freedom of access from the sea, ..., to an extent that will, in the future, place it in the position of a landlocked state »²⁷.

The political and regional context of the 1975 package and the fate of a British imaginary

Long divested of any responsibility for managing the territorial constellation Britain had bequeathed to the northern Gulf, UK diplomats were nevertheless increasingly concerned by the conflict potential of Iraq's boundary disputes in the south as we moved through the early 1970s. A Foreign and Commonwealth Office (FCO) review of April 1971 described the Iraq-Kuwait boundary question as « the touchstone of their relationship », adding that the consequent « possibility of fighting cannot be ruled

25 Schofield, *Kuwait and Iraq...* (2nd edn.), 94-97.

26 Richard Schofield, « Introduction » in Schofield (ed.), *Arabian Boundaries...*, 9, v-vi; Bryan Gibson, *Sold Out? US Foreign Policy, Iraq, the Kurds and the Cold War* (New York: Palgrave 2015).

27 See UN Security Council document S/25905, 8 June 1993.

out »²⁸. Britain's Embassy in Kuwait would comment during November 1974 that « it looks as we are in for an uneasy winter! »²⁹.

Reacting to the breakthrough in Algiers of early March 1975, Johnny Graham, Britain's Ambassador in Baghdad, voiced generic Western surprise at Iraq's climb-down on the Shatt: « as seen from here, Saddam deserves credit for statesmanship. He has paid a big price in the Shatt al Arab for the Shah's agreement to end his support for the Kurds, a price that most people here, including myself, doubted he would be willing to pay »³⁰. Quai d'Orsay officials would add that « the agreement between Iran and Iraq was very surprising and most important »³¹.

But maybe the surprise should not have been so great. By the end of 1974 there were clear hints of the upcoming Shatt deal but they were clouded by a regional geopolitical context that seemed threatening and uncertain. Everyone seemed agreed that there was a possibility that Iran and Iraq might come to blows but the British government also seemed genuinely concerned about a possible Iraqi move on Kuwait or Kuwaiti territory. Unexpected progress had been made in Foreign Minister level talks during November 1974 in Istanbul, with King Hussain of Jordan now acting as mediator. Here Iran first put forward proposals for quelling its support for the Kurdish rebellion in the Iraqi north in exchange for admission of its own claims to the Shatt. Its significance was initially underestimated. By the mid-1970s, Britain's intelligence was not as effective as it would have been when it was a colonial power in the region – and here it had to rely on the Soviets to hint at a potential diplomatic breakthrough³². The conflicting signals sent by the major regional players also provided a confusing smokescreen, one that was now proving much harder to decode for Western diplomats. It was hard, for instance, to reconcile the following American assessment with prospects for an immediate breakthrough: « [t]he Shah sees the Bakr/Saddam Hussein regime as a bunch of thugs and murderers implacably hostile to him... »³³

28 Richard Schofield, « Introduction » in Schofield (ed.), *Arabian Boundaries...*, 12, vi.

29 See the content of the following file at TNA, 'Iraq-Kuwait: political relations': *FCO 8/2193*, particularly minute by P. Hinchcliffe, 12 November 1974.

30 See despatches from J. Graham, Baghdad, 13 and 15 March 1975 in TNA file: *FCO 8/2546*.

31 'Verbatim Record of Anglo/French Talks on the Middle East', Wednesday, 26 March 1975: Afternoon Session in TNA file: *FCO 8/2546-7*.

32 Schofield, « Introduction » in Schofield (ed.), *Arabian Boundaries...*, 16, x-xi.

33 Despatch from Miklos, Tehran, 30 December 1974, Iran - State Department telegrams to SEC STATE – EXDIS/NODIS, *Presidential Country Files for the Middle East and North Africa*, Gerald Ford Presidential Library, University of Michigan (North Campus), Ann Arbor.

What also comes through the cables is the degree to which seasoned Arabists and Persianists in Western diplomatic service continually underestimated the Shah's obsession with securing a favourable deal over the Shatt. Iranian Minister of Court Asadollah Alam had tried to drive this home in conversations with America's Tehran Embassy during December 1974: « Alam...quite independently identified the Shatt al-Arab as the basic ingredient of any Iranian-Iraqi settlement. Alam explained...that the Shah was most anxious to rectify the...colonialist treaty of 1937. It sticks in his craw and he wants to remove it »³⁴. By the time the Algiers Accord was signed, the centrality of the Shatt in the Shah's thinking had at least sunk in, even if its intensity still baffled observers: « [t]his issue has assumed an importance in his mind out of all proportion to how others would see it »³⁵. While the French and Soviets would concur that the Shah had only entertained one objective in his handling of the Kurdish problem - a favourable solution to the Shatt al Arab dispute³⁶, Britain's diplomats continued to ponder whether there wasn't more to it all. What had been the regional geopolitical calculations and where did Kuwait lie within them?

Britain's bleak view of the prospects for Kuwait-Iraq relations in early 1975 had been highlighted within a rather pithy memorandum penned by its Ambassador in Kuwait, Archie Lamb: « Kuwait and her neighbours [and a friend or two] »³⁷. Its summary read as follows: « An apparently insoluble frontier problem causing tension between Iraq and Kuwait and the possibility of armed conflict. Kuwait cannot defend herself...Kuwait's need for friends; she has no allies ». And its conclusion reflected further: « [t]he spring of 1975 is almost with us; with it the Iraqis may finally 'solve' the Kurdish problem; they will then have the time, energy and resources to deal with Kuwait ». Once the possible implications of Iraq's impending climb-down over the Shatt had been digested, British concerns became only more profound with Lamb commenting that « Kuwait had the most to fear »³⁸ following the signature of the accord on 6 March 1975 and Tony Parsons, Britain's Ambassador to Iran, when communicating the Iranian government's astonishment at how readily « Saddam had conceded Iran's point on the Shatt al Arab », adding that « [t]he Shah was still uncertain about Iraqi intentions towards Kuwait »³⁹. When the Iraqi Vice-President

34 Despatch from Helms, Baghdad, December 1974, Iran – State Department telegrams...

35 Despatch from Helms, 18 March 1975, Iran – State Department telegrams...

36 Schofield, « Introduction » in Schofield (ed.), *Arabian Boundaries...*, 16, xi.

37 A. Lamb, Kuwait, 26 February 1975 in TNA file: FCO 8/2443.

38 Lamb, Kuwait, « Iraq/Kuwait after Algiers », 22 March 1975 in TNA file: FCO 8/2445.

39 A. Parsons, Tehran, « Iraq/Iraq », 6 May 1975 in TNA file: FCO 8/2547.

was moved to address such concerns in an interview with *al-Siyasa* in early May 1975, it suggested that these views may not just have been hysteria on Britain's part: « [a]fter we had reached agreement with Iran, I had talks with the Amir of Kuwait so that our Kuwaiti brothers might not think that after our agreement with Iran we shall devote our attention to facing them »⁴⁰

Room for uncertainty about Iraqi intentions seemed to exist. On the one hand, as Lamb commented four days after the Algiers Accord's conclusion, « when the Amir of Kuwait asked Saddam Husain in Algiers when he intended to visit Kuwait, Saddam replied that he would come when Kuwait was ready to lease to Iraq the eastern half of Bubiyan island, the whole of Warba island and a strip of land territory along the coast from Umm Qasr »⁴¹. On the other, by the early Autumn and following conclusion of June's comprehensive package of agreements, the Iraqi Vice President was already hinting to Kuwaiti officials that they might not be the definitive treatment they seemed on paper: « Saddam Hussein had recently stated...that the Iran/Iraq agreement of last spring was because they had an acute problem with the Kurds in the northern part of their country. ...the Government of Iraq can abrogate the agreement any time it wants »⁴².

Britain's diplomats in the region seemed only too aware of the old rules of the game where the territorial geopolitics of the northern Gulf were concerned. However, the river boundary dispute had been settled to finally satisfy Iran's long-harboured positional claims so would this now mean that Iraq would try to gain a permanent territorial advantage at Kuwait's expense? Graham in Baghdad would comment in mid-March 1975 that « it is not easy to understand why the Kuwaitis should not be prepared to lease at least some of the territory the Iraqis want »⁴³, essentially continuing the same line of advice British officials had offered consistently since 1939. But he'd soon go further, offering a mischievous 'heretical thought': « I wonder... whether an Iraqi take-over of Kuwait, especially if it were achieved 'peacefully' would or should lead to war. Indeed in terms of Western interests, or even in terms of specifically British interests, is the continued independence of Kuwait really a matter of such great moment? »⁴⁴.

40 See despatch from Lamb, Kuwait, 5 May 1975 in TNA file: FCO 8/2443.

41 Telegram 133 from Kuwait, 10 March 1975 in TNA file: FCO 8/2445.

42 Despatch from American Embassy, Tehran, 20 September 1975, Iran – State Department telegrams...

43 Schofield, « Introduction » in Schofield (ed.), *Arabian Boundaries...*, 16, vii.

44 Graham, Baghdad, « Kuwait and her neighbours », 25 March 1975 in TNA file: FCO 8/2547.

Would an Iraqi takeover of Kuwait then be the culmination of that old imaginary Britain had introduced and cultivated within the region – the thorny question of Iraqi access to Gulf waters? If so, it would not materialise for another 15 years though a good decade before then, the lavish technical river boundary settlement of 1975 (with other aspects of the bilateral package settlement) had demonstrably failed to deliver on its main purpose – ushering in a harmonious relationship between Iran and Iraq.

In concluding their discussion of the implications of the Algiers Accords' conclusion in the early spring of 1975, Britain's regional diplomats would ultimately adopt a more pragmatic reading of the situation. Speculation had been rife that Kuwait had figured prominently on the informal agenda in Algiers, with part of an unwritten regional security deal comprising an understanding that Iraq wouldn't move physically on the emirate. A young Shahram Chubin, soon to be a prominent academic, thought it likely that the Shah might have agreed to encourage Kuwait to lease the borderland territory and islands the Iraqis had always hankered after. In the end, the FCO ultimately concluded that it might be best all round if Kuwait accommodated any proposals from Baghdad for a boundary settlement, just as we had seen it urged back in the late 1930s and mid-1950s⁴⁵. So, perhaps no decisive regional geopolitical shift had been struck in the British government's mind with the 1975 settlement after all. Seemingly, the old rules still applied – that is pragmatic accommodation by Kuwait remained the best means of ameliorating what was still deterministically perceived as the unchanging structural reality of restricted Iraqi access to the Gulf.

Conclusion

An effort has been made in this article to review the content and conclusion of the 1975 Iran-Iraq territorial package deal in broader terms than is usual. Current technical questions are referred back to the text and letter of the treaties and protocols of that year (which both Iran and Iraq see as basically applicable today) – heralded at the time as something of a model, certainly the most sophisticated river boundary treatment signed to date in international law. Yet, to consider the conclusion of the 1975 package outside of its regional and historical context would be obviously reductionist. Here it seemed particularly instructive to view the Iran-Iraq deal in light of the perceived deterministic rules of that classic old British spatial imaginary – Iraqi access to Gulf waters. To someone who had written extensively about territorial questions in this region before the relevant primary record for the mid-1970s was released, the degree to

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45 Schofield, « Introduction » in Schofield (ed.), *Arabian Boundaries...*, 16, xii.

which Britain genuinely harboured fears of an Iraqi move on Kuwait at this time was genuinely surprising. If one was to buy in to the deterministic logic of the rules by which the access question supposedly operated, the Iran-Iraq agreements of 1975 ought to have effected a geopolitical shift in the northern Gulf. I recall a lively discussion on this very question with French geopolitician Michel Foucher on an earlier airing of this paper at Durham in 2009. The fact that Britain was seriously contemplating in the spring of 1975 how its interest would be affected by an Iraqi takeover of Kuwait still surprises. While it would revert by the middle of 1975 to its stock advisory position that it would be in Kuwait's best security interest to make the territorial concessions that Iraq was demanding of it, we all know what happened on 2nd August 1990. The frenzied regional context of 1975 simply could not have been appreciated without reviewing how complex patterns in the operation of disputes had been previously perceived and characterised.

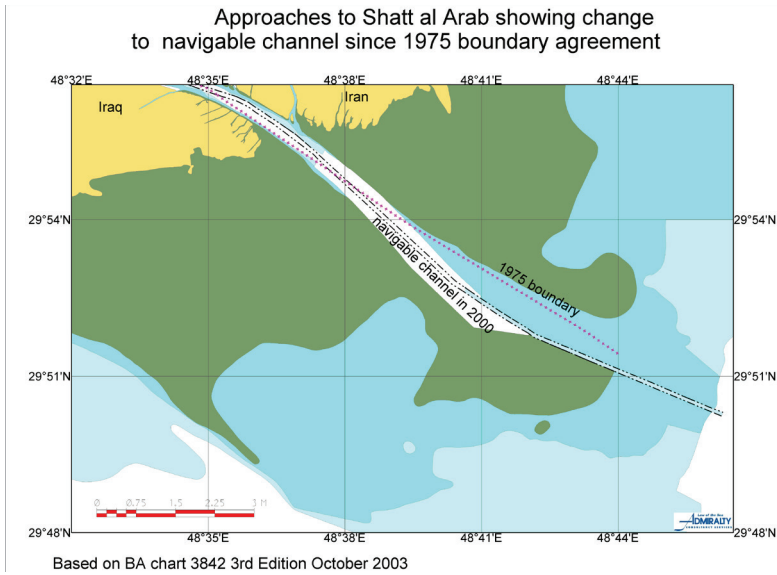


Figure 1: Approaches to the Shatt al Arab showing change to navigable channel since 1975 boundary agreement (Source: kind acknowledgements are extended to John Brown, Head of the Law of the Sea Division at the UK Hydrographic Office, Taunton for producing this diagram and allowing its publication here).

A ne pas diffuser