

Persian – Arabic Gulf: Old Conflicts, New Solutions: The Convention of the Legal Status of the Caspian Sea

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Abstract

The area of the Gulf is synonymous not only to the huge amount of resources but also to the fact that it resembles to the setting of inexorable disputes and fights. The disputes in the Gulf emanate from various reasons, namely religious, factious, national and racial. Undoubtedly, disputes over sovereignty, borders and resources have human, economic, environmental and cultural cost. It may be suggested that the evolution and the continuity of such disputes in the region mainly consists an effect of a perpetual quest for power and resources. Iran consists one of the fundamental powers in the region, which attempts to establish its terms and status quo. At the same time the Caspian Sea tends to provide rich resources to Iran as well. However, are these resources enough to render Iran regional hegemony? The present study examines this scenario in light of the newly adopted Convention on the legal status of the Caspian Sea between the five littoral states.

Keywords: Persian - Arabic Gulf, Caspian Sea, Iran, Caspian Convention.

Introduction

The location of the Middle East joining the Old World's three continents is deemed to be of utmost importance in terms of its vast reserves and its transit ways (Cohen, 2015). Furthermore, the region of the Middle East is enclosed by major water bodies, namely the Caspian, eastern Mediterranean, Red Sea and Persian- Arabic Gulf. In light of this event, this particular region has been the bone of contention for Great Powers, who sought to establish their status quo.

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power and resources. However, it goes without saying that the region of the Persian- Arabian Gulf constitutes one of the most prominent and major sources of crude oil on a global scale, which means that energy politics and strategy- establishment tend to consist the cornerstone of disputes. Typical instance of the aforementioned vast oil reserves consists the field of Al-Safaniya, which is the biggest offshore field with 35 billion barrels of remaining reserves (EIA, 2017). To be more specific, the Persian Arabic Gulf is characterized by heavy concentration of crude oil reserves, estimated to 50% of the world's oil reserves (OPEC, 2016).

The history, the extent and the ambition of Iran in the Gulf and the rivalries with neighboring countries appointed it the center of numerous unsolved disputes (with Iraq and United Arab Emirates) for islands, adjoining water and sovereignty. Tension between Iran and the rest of the Arab world is also projected on the name of the Gulf. Regarding maritime delimitations in the area, it is important to mention that the peculiar morphology of the Persian-Arabian Gulf entails in the whole seabed and subsoil's appertaining to international jurisdiction while the need of delimitation of maritime zone is obvious. However, two special circumstances should be taken into consideration during the process of maritime delimitation; the great number of islands and the enormous amounts of oil reserves.

Regarding Iran's oil reserves and exports, it is worth mentioning the fact that Iran had an estimated 157 billion barrels of proved crude oil reserves, representing almost 10% of the world's crude oil reserves and about 13% of reserves held by the Organization of the Petroleum Exporting Countries (OPEC) (EIA, 2019). Furthermore, Iran holds the second position- after Russia- of largest proved reserves of natural gas (EIA, 2019). The majority of Iran's reserves tend to lie onshore with the Khuzestan Basin (North Persian Gulf) containing almost 80% of the onshore reserves (EIA, 2019).

It is worth mentioning the fact that despite the efforts having been made, little have been achieved in the utilisation of renewable energy sources in Iran. To be more specific, although it is urged Iran use alternative energy resources for the sake not only of its economic development but also as a means to minimize the environmental impact of the use of fossil fuel, the legislative gap has led to minor use of eco-friendly resources. However, it is of utmost importance to briefly mention a core part of Iran's renewable energy sources. Solar power consists one of the most prominent renewable resource for energy, on the grounds that it is covered in deserts and it is characterized by high solar radiation (Khojasteh, Khojasteh, Kamali, Beyene, Iglesias, 2017). What should be stressed is that Greater Tunb Island- the bone of contention as analysed in the section below- has demonstrated great potential for utilisation of tidal energy (Radfar, Panahi, Javaherchi, Filom, Mazyaki, 2017)

At the same time, the existence of numerous islands in the Gulf as well as their significance due to oil reserves demonstrates the need for a brief analysis of the International Law of the Sea in the area. Typical instance is Abu Musa island located between Iran and United Arab Emirates (Emirate Sharjah, Umm- Al- Qaywayn and Dubai) as its territorial water is rich in recourses.

According to the United Nations Convention of the Law of the Sea 1982 (henceforth UNCLOS 1982), islands are entitled to territorial sea, continental shelf and exclusive economic zone. Territorial sea is a term used to describe a belt of sea adjacent to a coastal or archipelagic state where the sovereignty of the coastal or archipelagic state is extended. Each state is entitled to establishing the breadth of its territorial sea (extended to the air space over it and to its bed and subsoil as well) up to 12 nautical miles measured from baselines (UNCLOS, 1982). Additionally, under UNCLOS 1982 the continental shelf of a coastal state consists of the seabed and the subsoil of the submarine areas beyond its territorial sea to a distance of 200 nautical miles. In the particular maritime zone, the coastal state exercises exclusively sovereign rights for purpose of exploring and exploitation of natural resources (UNCLOS, 1982). Finally, according to Article 57 of UNCLOS 1982, Exclusive Economic Zone (hereinafter EEZ) can extend up to 200 nautical miles from the baselines. EEZ is a sui generis maritime zone where the coastal state exercises sovereign rights, namely exploring and exploiting natural resources, over waters, seabed and subsoil. At the same time, other states, both coastal and land- locked enjoy the freedom of navigation, overflight and laying cables and pipelines as established in Articles 58 and 87 of UNCLOS 1982 (UNCLOS, 1982).

The Main Dispute

The dispute between United Arabian Emirates (henceforth UAE) and Iran concerning sovereignty over Abu Musa and Greater and Lesser Tunbs dates back in 1971. Abu Musa Island (measures 12,8 km² and inhabited by approximately 2000 inhabitants) is located on the east part of Persian- Arabian Gulf, on the mouth of the strait of Hormuz. Abu Musa and Tunbs Islands (only Greater Tunb is inhabited by 350 residents) are of great geopolitical importance due to the fact that their seabed and subsoil are rich in natural resources (Rubin, 2002). Iran claims that the word “Tunbs” is of Iranian linguistic origin and means “hill”. On the contrary, the UAE tend to advocate that the word is purely Arabic and means “long rope being used for assembling a tent”. In addition, their strategic location is of great geopolitical importance on the grounds that that they are in control of energy, environmental, commercial and shipping activity not only in regional but also in global level as well.

The springboard to the dispute between the UAE and Iran over Abu Musa Island and Tunbs Island was 1971 (Al- Nayhan, 2013). In 1968 Great Britain announced the end of its administrative and military presence in the region of Persian- Arabian Gulf. Consequently, the administration of Abu Musa Island was assigned to Sharjah (one of the seven sheikdoms that later constituted the United Arab Emirates). However, Tehran stated that Iran is historically entitled to the Persian Gulf, while sovereignty over the under-dispute islands were given to the Arabs during 19th century (Ahmadi, 2008).

After Great Britain had resigned from the Persian- Arabian Gulf in 1971, a Memorandum of Understanding (MoU) was signed between Iran and Sherjah sheihdom, according to which Sherjah would retain sovereignty over Abu Musa island, while Iran was entitled to establish military troops on the island (Ahmadi, 2008). Furthermore, according to the aforementioned MoU, oil deposits and natural resources surrounding Abu Musa island would be allocated. After Iranian military force's establishment on Abu Musa island, Iran occupied Tunbs island, which entailed in triggering a new sequence of reaction in the Arab world. In 1980 (a few years after United Arab Emirates were constituted) United Arab Emirates appealed to United Nations and simultaneously collaborated with five states of Persian- Arabian Gulf (Saudi Arabia, Bahrain, Kuwait, Qatar and Oman) founding Gulf Cooperation Council- GCC. Events of 1992 were determining for the region of Persian- Arabian Gulf as a new strategy against Iran was established by not only United Arab Emirates but also by moderate conservatives. The particular strategy focused on Abu Musa island, while it extended to Greater and Lesser Tunbs later, due to which the dispute was intensified. The peak of intensity was the Abu Musa occupation by Iran and at the same time the expulsion of island's Arab population (Ahmadi, 2008). This action suggests an Iranian attempt for the island to be entirely inhabited by Iranian population so that it could be incorporated in the corpus of Iran and consequently be under Iran governance. It can be assumed that this circle of actions and reactions having taken place in 1992 consists a byproduct of new tendencies in the region (Askari, 2013, p.94) as well as the deterioration of relations between Iran and states of Gulf Cooperation Council (Ahmadi, 2008). Thus, the dispute over Abu Musa island was both a product and means of promoting a strategy aiming at confining and isolating Iran. Bilateral relationships had already suffered were it to be taken into consideration that Arab nations did not recognize the diplomatic approach of Iran (Ahmadi, 2008).

The Mubarak oilfield located six miles off Abu Musa island is claimed to be "an inseparable part of Iran" (Rahnema & Behdad, 1996) and it was a fundamental reason for Iran's extending its continental shelf up to 12 nautical miles (Act on the Marine Areas of the Islamic Republic of Iran in the Persian Gulf and the Oman Sea, 1993). The particular expansion is of paramount

importance should be taken into account the size and the proximity in the Persian- Arabian Gulf.

On the contrary, United Arab Emirates, whose economy is based upon oil (UAE Economic Report, 2015), attempt to gain as many as possible oilfields. Despite the remaining dispute, neither the United Arab Nations nor Gulf Cooperation council have planned to escalate the dispute. The major reason of choosing this particular policy is the border dispute between United Arab Emirates and Saudi Arabia.

Overall, Iran has recognized the significance of the three islands in the region of the Persian- Arab Gulf. The islands dominate in the mouth of the Gulf and it seems that control and sovereignty over the islands is the key to regional security and domination in the particular area.

The Caspian Basin

The Caspian basin, despite the fact that its legal status has not been established yet as to whether it is a sea or a lake, is one of the most important and significant regions of the world. The reason? The vast amount of hydrocarbons deposits that lie along both the coastline and inland and they can be used as an alternative source to meet the global energy shortage.

Specifically, the Caspian basin consists an enclosed or inland body of water, which is located in the northwest Asia and is surrounded by five littoral states; Russia, Iran, Kazakhstan, Turkmenistan and Azerbaijan. According to the estimations of the US Energy Information Administration (henceforth EIA) there are 48 billion barrels of oil and 292 trillion cubic feet (henceforth Tcf) of natural gas in proven and probable reserves in the Caspian region (EIA, 2013). Additionally, according to the estimations of the Iranian company “*Petroleum Iran*” the region of Caspian holds 17-33 billion barrels of proven oil reserves and about another 233 billion barrels of probable oil. Moreover, according to the estimations of the aforementioned company, it holds 177-182 Tcf of proven natural gas deposits and 293 Tcf of unproven natural gas reserves (Petroleum Iran, 2019). The difference in estimations lies on the ground that its legal status has not been determined yet and each of the littoral states tend to claim the “lion’s share” of the deposits.

Until the beginning of the 20th century, the Caspian basin was identified as a lake and was controlled only by two littorals states, namely Iran and the Union of Soviet Socialist Republics (henceforth USSR). Their relations were regulated by two treaties; the first one was the “*Treaty of Friendship between Persia and the Russian Socialist Federal Soviet Republic*”, which had been signed in 1921, recognizing equal rights for both parties in the Caspian basin, as long as the right of free navigation was under their flag, while the second one was the “*Treaty of Commerce and Navigation*”, which was signed in 1940, reaffirming the same rights (Treaty

of Friendship between Persia and the Russian Socialist Federal Soviet Republic, 1921: Article 11 & Pawletta, 2007 & Bahgat, 2007 & Koutsouradi, Karkazis, Siousiouras & Chondrogianni, 2018). The situation changed drastically in the beginning of 1990s when the USSR was dissolved and the new independent states (Kazakhstan, Turkmenistan and Azerbaijan) claimed more space in the region and asserted equal rights and participation in the oil and gas deposits. The last ones belonged to the category of the “land-locked” states (UNCLOS, 1982) and the access to the high seas was of vital importance to them. As a result, they were in favor of its proclamation as a sea and wanted to be enforced the 1982 Convention in order to ensure their rights in the region (Koutsouradi, Karkazis, Siousiouras & Chondrogianni, 2018).

After twenty years of lasting and active conflicts and turmoil in the region, the solution to this situation seems to be the newly adopted Convention on the Legal Status of the Caspian Sea (henceforth the Convention), which had been signed on 12th August 2018 by the five littoral states and according to the Russian President, Vladimir Putin, “*it replaced the aforementioned treaties of 1921 and 1940*” (BBC, 2018 & Putin, 2018).

The Convention tries to establish a stable, secured and peaceful environment for the littoral states, by eliminating the hostilities of the past and by prohibiting the presence of third parties’ armed forces. In order to achieve these, it is pointed out that each country in the region could claim a territorial zone, which cannot be extended more than 15 nautical miles (henceforth nm). The delimitation of the maritime zone between states with adjacent coasts shall be determined in accordance with the rules of international law (Convention on the Legal Status of the Caspian Sea, 2018: Article 7). Moreover, the states shall delimit the seabed and subsoil into sectors by mutual agreements, which should be made between their adjacent and opposite states. In its sector, every state shall exercise exclusive sovereign rights and the rest of the countries can not interfere in its sector (Convention on the Legal Status of the Caspian Sea, 2018: Article 8).

Additionally, the neighboring states could have the opportunity to delimit a fishery zone until 10 nm, in which every coastal state shall hold an exclusive right to harvest aquatic biological resources (Convention on the Legal Status of the Caspian Sea, 2018: Article 9). The remaining the sea is called “common maritime sea” and is free and open for all the surrounding countries. In this area every littoral state shall enjoy the freedom of navigation, the freedom of transit and the freedom of access to the oceans (Convention on the Legal Status of the Caspian Sea, 2018: Article 10).

As it is concluded from the above analysis, the Convention divides the Caspian’s water into three zones; the territorial waters, the fishery zone and “the common maritime space”, which operates as the high seas.

The Outcome of the Convention

The Caspian Sea is of vital importance to the littoral states and each of its “players” knows it. Although the Convention does not define the Caspian basin as a sea or a lake and it has not entered in force yet¹, its “special legal status” may be a positive step towards settling this long-lasting dispute for all the surrounding states. Moreover, it can be advocated that the aforementioned Convention is a milestone and establishes a “sui generis” regime for the Caspian basin, which may lead to a positive outcome for the stability and the good – neighborly relations among the states not only in the region, but at a global scale as well.

It is a fact that by signing the Convention the parties accept that they have the same rights and duties, enjoy the freedom of navigation and reassure their access to the oceans regardless of whether it is a coastal state or a land-locked one. This prospect seems to be favorable for all the participants and especially to Iran for multiple reasons. First of all, the prohibition of any armed presence in the region of a third country, which does not belong to the Caspian basin, means that Iran is protected from the absence of the USA and their allies. Second of all, although Iran has the least oil and gas reserves in the region, it could use the Caspian basin as one of its diversified energy sources, in order to confirm its reputation as one of the major oils and gas producers in the world. Thirdly, by the adoption of the Convention it is probably that new, foreign companies will be willing to invest in the region, in order to construct new pipelines and new projects. This is a very positive prospect, because the economy of the country will flourish. Last but not least, Iran’s position and role in the region is being upgraded by the fact that without its acquiescence the rest of the countries cannot exploit the available deposits.

Conclusion

The Persian – Arabic Gulf is one of the most important regions of the world, due to its location and to the vast amount of the deposits it holds. It is a fact that controlling the aforementioned sea could easily increase the power of every littoral state and Iran not only knows that, but it wants to be the protagonist in the region as well. The Persian – Arabic Gulf could function as the pivotal space for Iran, which in combination with the Caspian basin could maximize Iran’s power, increase its protection and its space to the point of becoming the only regional superpower. Thus, this particular region could provide Iran with more hydrocarbon’s deposits, namely oil and natural gas, and as a result it would become one of the world’s largest suppliers. Moreover, the control of the aforementioned Gulf will upgrade Iran’s position on the world map and strengthen its “profile” in the region, while the New

¹It will enter into force, when all the signatories ratify it.

Convention in the Caspian Sea tend to be an integral part of Iran's upgrading. However, in order this prospect to be achievable, Iran should solve its regional active disputes and settle down its conflicts in accordance with the international law, international rules, and to its commitments to its neighboring states.

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