

Maritime Political Geography: *Iran's legal dilemma in the Caspian Sea ends up in geographical certainties for all*

Pirouz Mojtahed-Zadeh Ph.D * - Hashem Amiri * - Ramtin Salarian *

(Received 10 Nov 2014 Accepted 1 Jul 2015)

Abstract

In this, the concluding episode of the series of our studies into Caspian political geography, I will try to discuss, after briefly assessing the background to what has been known in the past twenty years as 'the legal regime' of the Caspian Sea, the latest development in Iran's perspectives of the shaping of maritime political geography. In the 1990s, as the world order began to shift, following the collapse of the Soviet Union, the Caspian Sea's position in global geopolitics also changed. In debates over geo-legal delimitation of the Caspian Sea in the wake of the Soviet collapse, Iran articulated a position sometimes identifiable with Russia's initial approach—that the Caspian Sea should be a condominium or an 'area of common use' for the littoral states. In late 1996 Tehran argued that the Soviet-Iranian treaties of 1921 and 1940 should determine the legal status of the Caspian Sea as a condominium. Slow progress in hammering out a legal regime on that basis was almost brought to an end for Iran in mid-1990s as outside influence increased over the Caspian oil resources pertaining to states other than Russia and Iran. By 1998 Iranian government shifted its position to a complete curve up of the sea in equal shares for the five coastal states. In May and September 2002, Russia signed protocols demarcating its relevant maritime areas of the Caspian Sea with Kazakhstan and Azerbaijan, respectively. Meanwhile, academic delegates from the Caspian littoral states in an international seminar at Mazandaran University on the Caspian Sea - Babolsar, October 19–20, 2003 - issued a declaration, on the initiative of this author which put forward a solution on the basis of a) creation of a strip of offshore zone 25–45 miles from the coastline into the sea to allow an exclusive economic zone for each of the five littoral states, &b) creation of a common use zone in the remaining body of the sea to allow equal rights of use for commercial, navigational and other maritime activities by each of the five. In the latest development, together with the other four states, Iran signed on September 29, 2014, a declaration whereby it was agreed that: there will be two fixed zones determining the legal status of the sea: a zone of state sovereignty and a zone with exclusive fishing rights. These two zones will be 25 nautical miles: a 15 miles territorial sea for each state from their shoreline, and a 10 mile exclusive fishing zone.

◆ International Studies Journal (ISJ) / No.45 / IV

Keywords: Caspian Sea, Maritime Law, Political Geography, Geopolitics, Iran.

* Professor of Political Geography and Geopolitics South Tehran Azad University
pirouz_mojtahedzadeh@hotmail.com

* Ph.D. Candidate for Political Geography at the Islamic Azad University of Science and Research of Tehran

* Post-graduate in International Law Islamic Azad University of Chalus

Maritime Political Geography: Iran's legal dilemma in the Caspian Sea ends up in geographical certainties for all

Pirouz Mojtahed-Zadeh Ph.D *
Hashem Amiri *
Ramtin Salarian *

Introduction

Whither Maritime Political Geography

Understanding the concepts relating to the practice of maritime geopolitics in the Caspian Sea ought to be seen as a prerequisite for any study of functionality of international maritime regulations and political geography that is taking shape in that land-locked maritime region. Conceptually however, maritime political geography may be described as an academic subject closely resembling the study of implementation of international laws and regulations in maritime

* Professor of Political Geography and Geopolitics South Tehran Azad University
pirouz_mojtahedzadeh@hotmail.com

* Ph.D. Candidate for Political Geography at the Islamic Azad University of Science and Research of Tehran

* Post-graduate in International Law Islamic Azad University of Chalus

areas of the world. It deals with the study of the geopolitical imperatives that help shaping state sovereignty over maritime areas of the world, with special reference in this particular study, to territoriality and boundary issues in the Caspian Sea.

The control and ownership of the maritime areas adjacent to state territories and their seaward extensions have for a long period of time been a controversial topic. Since ancient empires began to sail and trade over the seas, control of coastal areas has been important to states. However, it wasn't until the twentieth century that countries began to come together to discuss a standardization of maritime boundaries. Surprisingly, the situation still has yet to be resolved.

While establishment of a distance of 3 nautical miles from their coastline was first adopted by the British in early 20th century, others gradually established in the same period their territorial waters at 12 nm, which was internationally adopted later on. These *territorial waters* are considered part of a country's jurisdiction, subject to all of the laws of the land of that country.

In 1952, Chile, Peru, and Ecuador claimed a zone 200 nm from their shores.

The need for standardization of the maritime areas at sea was realized first by the United Nations Conference on the Law of the Sea (UNCLOS I) in 1958. In 1960 UNCLOS II was held and in 1973 UNCLOS III took place. Following UNCLOS III, a treaty was developed that attempted to tackle the boundary issue. It specified that all coastal countries would have a 12 nm territorial sea and a 200 nm Exclusive Economic Zone (EEZ). Each country would control the economic exploitation and environmental quality of their EEZ.

However, a more recent study on environmental impact on maritime political geography (Murphy, 2012) suggests that rising sea levels in the wake of climate change has the potential to undermine existing legal regimes that govern control of the world's oceans and continental shelves. Climate-driven environmental changes are already destabilizing the Arctic and fostering new types of alliances. By altering commonly accepted baselines that are used to determine the right of states to extend state control outward from their shores, these environmental changes also have the potential to undermine fragile accords in the maritime arena, and to create new sources of instability. From a policy perspective, recognizing that rising sea levels will likely undermine existing maritime

regimes points to the need for proactive agreements that anticipate changes in the configuration of coastlines.

Conceptually, the potential for environmental changes altering legal arrangements pertaining to jurisdictional issues highlights the importance of challenging the tendency to treat the environment as a constant in geopolitical analyses (Murphy, 2012).

An introduction to Caspian story

Though the former Soviet Union accepted Iran as a Caspian country, and in accordance with the terms of the treaties of peace and cooperation of 1921 and 1940, recognized its privileges in that Sea, for many decades Iran's rights to sea resources and navigation were never fully respected. In the 1950s, for example, Iran was denied the opportunity to maintain a naval presence in that sea and Moscow discouraged any attempt by Iran to drill for oil even in the inland areas of Mazandaran.

In the 1990s, as the world order began to shift, following the collapse of the Soviet Union, the Caspian Sea's position in global geopolitics also changed. Littoral states, including Iran, began to claim positions in the region and, most significantly, the United States chose to view this region as important to its geopolitical vision of the New World Order. In the American view, this image would be achieved only when control over the two main energy deposits of the 21st century, the Persian Gulf and the Caspian Sea, was established.

U.S. companies signed oil concession agreements with the new Caspian states (Kazakhstan, Turkmenistan, and the Azerbaijan Republic) and began exploration activities, ignoring the absence of a Caspian legal regime and its consequential maritime delimitation. This new gold rush led to territorial and boundary contentions among Caspian littoral states, impacting negatively prospects for regional stability and cooperation.

In conclusion to the introductory remarks we deem it necessary to note that this chapter provides a perspective on the geopolitical factors that have influenced international relations in and around the Caspian Sea. It also discusses the sea's legal regime in terms of which nations have access and rights to its resources.

The evolution of Caspian-centric regionalism or block politics owes

as much to geo-economics as to the post-Soviet political geography of the region. While discussing the central role of the Caspian legal regime, this chapter will focus on how this, and other factors, shape the region's political landscape (Mojtahed-Zadeh, 1998, 69–86).

Legal background

Prior to the disintegration of the Soviet Union in 1991, the boundaries between Iran and its northern neighbor – the Tsarist Russia in the beginning, and Soviet Union later, - comprised Iran's longest borderlines. After the disintegration of the Soviet Union the said borderline was inherited by the Republic of Armenia, the Autonomous Republic of Nakhchevan and Ganja in South Caucasus, an Azeri claimed enclave within the Republic of Armenia, the Republics of Azerbaijan and Turkmenistan, whereas the Russian Federation and the Republic of Kazakhstan remained Iran's neighbor only in the waters of the Caspian Sea. Before the breakup of the Soviet Union the Caspian Sea was deemed to be a Soviet - Iranian sea, used almost solely for navigation in accordance with regulations determined by a series of bilateral treaties heavily concluded to favour Soviet interests in that sea. However, the new geopolitical climate that emerged after the collapse of the Soviet Union in late 1991 called into question the pre-existing legal regime, affording Iran (as well as the four newly independent countries of Russia, Azerbaijan, Kazakhstan, and Turkmenistan, which replaced the USSR around the sea) a long-awaited opportunity to assert its claim to Caspian resources as well as bolster its national interests in the region (Mojtahed-Zadeh 2006, 73).

Historical Background

Following the Russo-Iranian Wars of 1804–1813 and 1826–1828, Russian commercial vessels exercised the right to navigate the entire Caspian and its shoreline, and by the terms of Turkamanchai treaty of 1828 only Russian naval vessels was granted the right to sail the Caspian Sea to the exclusion of all other powers (Turkamanchai Treaty, 1828). Thus it is not surprising that Russia's navy was able to establish, over Iranian protests, a naval station on an island in the south-eastern Caspian in 1840. This period was accompanied by Russian expansion, on land, into areas of present-day Turkmenistan that were claimed by Iran. The

Russo-Iranian land boundaries, east of the Caspian Sea, was finally demarcated by the 1881 Boundary Convention as beginning at Hassangholi Bay and extending eastward along the Atrek River, and was more finely delineated through two protocols in 1886 (Mojtahed-Zadeh, 2006, 608.).

The Bolshevik Revolution of 1917 in Russia changed that country's colonial attitude towards Iran and ushered in a new stage in Russo-Iranian relations, and thereupon, although not immediately, in the legal regime governing use of the Caspian waters by the two countries. Gradually, Iran's rather limited rights in the Caspian Sea region were augmented by the signing of a number of legally binding instruments with the Soviet Union. Of note is the 1921 Treaty of Moscow, which restored Iran's use of the sea for navigation that had been prohibited by the 1828 Treaty of Turkamanchai. Also of similar significance (albeit of little practical substance) were the bilateral Iran-USSR Trade and Seafaring Agreement of 1940. On the appearance at least, the new legal regime of the Caspian Sea began to resemble more of a jointly held 'Soviet - Iran sea', than an exclusive 'Russian lake' as was popularly perceived previously.

Maritime Delimitation Process

Delimitation and demarcation of the seabed has always been the main feature in various options for Caspian legal regime in the post-Soviet era. From a geographical point of view any division of the Caspian seabed will need a three sections division of the entire sea: 1) The northern section, comprising Russia, Kazakhstan, and Azerbaijan: 2) The middle or central section, comprising Azerbaijan, Kazakhstan, and Turkmenistan: 3) The southern section, comprising Iran, Azerbaijan, and Turkmenistan.

In debates over delimitation of the Caspian Sea in early 1990s, Iran articulated a position sometimes identifiable with Russia's initial approach—that the Caspian Sea should be a condominium or an 'area of common use' for the littoral states. In late 1996 Tehran argued that the Soviet-Iranian treaties of 1921 and 1940 should determine the legal status of the Caspian Sea as a condominium. Slow progress in hammering out a legal regime on that basis was almost brought to an end for Iran in mid-1990s as outside influence increased over the

Caspian oil resources pertaining to states other than Russia and Iran. By spreading their influence in the region the United State and its allies in European Union and Turkey (Askari & Taghavi, 2006, 85) introduced a new dimension to the Caspian debate on legal regime, at one point going as far as arguing for *the internationalization* of the Caspian legal regime (Butler, 1995), which was ignored by all parties concerned. It is also of consequence to note that Caspian Sea was considered in Washington to be one of the two largest oil depots of the world, the other being the Persian Gulf. This geopolitical view of the region (Kemp, 1997), together with the perception of Iran's newly enhanced geo-strategic position, sandwiched between the Caspian Sea and the Persian Gulf, led to US strategy of alienating Iran in the exploitation of Caspian resources and in its geopolitics of Caspian-Central Asian access to international oil markets (Mojtahed-Zadeh, 2003 b).

Late in 1996 however, Russia's original position of 'condominium' changed partly owing to pressure from Western oil companies (Sciolino, 1998, p. WK16) to that of dividing the seabed within a 45-mile coastal zone into national sectors, with the interior portion of the sea continuing to be administered as a condominium. This general concept was followed in early 1998 by an agreement in principle between Russia and Kazakhstan to demarcate their adjacent sectors (Blum, 1998a, p. 149; Sciolino, *Ibid*).

By 1998 Iranian government shifted its position to a complete curve up of the sea in equal shares for the five coastal states. In an accommodating response, Russia adjusted its position in favor of some form of maritime division in the sea. But in July 1998, a joint communiqué issued in Tehran by the deputy foreign ministers of the two states proclaimed that, until a new Caspian Sea regime could be determined, the condominium legal regime would remain in effect (Sciolino, 1998, WK16). Nevertheless, Iran continued involving its state-owned companies in oil and gas development and exportation with the republics of Azerbaijan, Kazakhstan and Turkmenistan (Blum, 1998a). Meanwhile, since 1995 Iran has consistently taken the position that unilateral actions (for exploitation of seabed resources) by coastal states are not permitted until rules for exploitation of mineral resources of the sea are worked out with the agreement of all the coastal countries (UN document, 1996). In July 1998 the presidents of Iran and Turkmenistan agreed that the legal regime,

which should be agreed among all five littorals, ought to be composed of a condominium seaward belt of national jurisdiction, or the water column and the seabed should be divided equally among all littoral states if there could not be agreement on the condominium approach (UN doc., 1998).

In response to the 2002 summit meeting of leaders of the Caspian countries in Ashgabat, officials of Iranian Foreign Ministry advanced the idea that: if some division of the seabed into economic zones is *fait accompli*, then the division should be into five equal parts of 20% for each, among the littoral states (Akhondov, 2002, 1). In May and September 2002, Russia signed protocols demarcating its relevant maritime areas of the Caspian Sea with Kazakhstan and Azerbaijan, respectively (*Daily Iran*, 2002, 3). These actions were seen in Tehran as formulas designed to put pressure on other Caspian states, particularly Iran, to come to terms with Moscow's new approach to a Caspian legal regime. The Iranian Foreign Ministry declared the tripartite agreements of 2003 and 2004 between Russia, Kazakhstan, and Azerbaijan based on equidistance as unacceptable (Interfax Information Service) and continued to insist on a one fifth slice of the lake.

Meanwhile, academic delegates from the Caspian littoral states in an international seminar at Mazandaran University on the Caspian Sea - Babolsar, October 19–20, 2003 - issued a declaration, on the initiative of this author that included the following principles (Babolsar Declaration, 2003):

- (1) Creation of a strip of offshore zone 25–45 miles from the coastline into the sea to allow an exclusive economic zone for each of the five littoral states.
- (2) Creation of a common use zone in the remaining waters and surface areas to allow equal rights of use for commercial, navigational and other maritime activities by each of the five littoral states. This common use area will allow the littoral states to remain neighbors of geographical contiguity.
- (3) Creation of common use zones for seabed areas and the subsoil resources that underlie the common use areas by following the same principles that divided the exclusive economic zones among the five coastal states.



Formula for delineation of Caspian based on a 25-mile territorial zone (dark grey pattern) or 45-mile exclusive economic zone (light grey pattern) in coastal areas, with a central area designated as an area of common use (condominium regime).

Though Iranian Foreign Ministry decided to ignore this advisory declaration, it seems that eventually the terms specified in this declaration became the terms of reference for all five littoral states. Even the Iranians seem to favor the curve up the seabed and subsoil resources.

The main reason for Iran's changes and modifications of position on the issue of Caspian Sea legal regime which had started from the beginning in 1991 and continued throughout the following twenty years was that the Foreign Ministry preferred to have the public opinion on side at every step of the way. This was in accordance with the changing mode of a national debate throughout this period, which was encouraged by the Ministry of Foreign Affairs. These changes and modifications of national debate began with Iran's argument for the implementation of the terms of 1921 and 1940 Iran-Soviet agreements, with muted hints that these treaties provided for a 50% share of the sea to each of the two signatories etc., to a more practical idea of "dividing the sea to five equal shares guarantying 20% share of the Caspian Sea for Iran". By the year 2010 the national debate in Iran over the country's share of the Caspian Sea and her position on its legal regime reached a categorical conclusion in a lengthy debate among experts of varying views, that Iran ought not to continue

arguing for the percentage of share in the task of delimitation of the entire body of the Caspian Sea (khabaronline, 09, 2010). The underlined advice of the conclusion in that national debate is recommendation that Iran should attempt to build a consensus among all littoral states based on a combination of condominium and seabed division as well as delimiting a strip of 25-mile width of an exclusive zone along the coastline of each state, in much the same way as advised by Babolsar declaration. On 24 November 2010 the Iranian envoy on Caspian Sea affairs announced that his country would no longer press for a percentage share of that sea and confirmed that Iran believes that a convention among all littoral states based on equity and justice can be adopted by the end of March 2012

(www.casfactor.com/en/news/61.html).

In the latest development, IRI President Hassan Ruhani signed on Monday September 29 2014, together with heads of other Caspian Sea states a declaration at the end of their summit meeting at Astrakhan whereby, according to a Russian presidential aid: As a result of the works done by experts, it was agreed that: there will be two fixed zones determining the legal status of the Caspian Sea: a zone of state sovereignty and a zone with exclusive fishing rights. These two zones will be 25 nautical miles: a 15 miles territorial sea for each state from their shoreline, and a 10 mile exclusive fishing zone. The documents for this agreement was said to be signed officially according to the following report, in next meeting at the next summit to be hosted by Kazakhstan (http://en.apa.az/xeber_political_statement_on_caspiansea_legal_216937.html). And this was how years of Iran's legal dilemma in the Caspian Sea status ends up in geographical certainties for her and all others in the issue of Caspian maritime political Geography.

Meanwhile Iran and Russia in the same summit jointly built unanimous consensus among the Caspian states, which also feature Azerbaijan, Kazakhstan and Turkmenistan, over the inadmissibility of a foreign military presence in that Sea, ruling out any possible future deployment of NATO forces therein. (*Russian council.ru/en/inner/?id_4=4463*)

Sources & References

1. Askari, Hossein & Taghavi, Roshanak, *Iran's Caspian Oil and Gas*, in Pirouz Mojtahed-Zadeh ed. *Boundary Politics and International Boundaries of Iran*, Universal Publishers, Florida 2006, pp. 85-99.
2. *Babolsar Declaration* of principles for settlement of Caspian legal regime, issued by a committee of academic experts from Caspian littoral countries during an international seminar at the University of Mazandaran on October 19–20, 2003, on the initiative of this author.
3. Blum, Douglas (1998a), "Domestic Politics and Russia's Caspian Policy," *Post-Soviet Affairs*, 14, 2:137-164, April–June.
4. Butler, W. E. (1995), in Caspian Seminar, London, 24 February 1995 as appears in *Ettelaat International*, No. 200, Monday 27 February 1995, p. 10.
5. Caspian Curve-up", in *NEFTE Compass*, Vol. 2, No. 43, November 24, 1993.
6. Dr. Bavand and Dr. Mojtahed-Zadeh in debate over the Caspian legal regime dated 18 Aban 1389 = 9 November 2010.
www.khabaronline.ir/news-107204.aspx
7. Embassy of the republic of Kazakhstan (1991), declaration of replacement of 12/29 <http://www.kazakhembus.com/index.php?page=contribution-to-international-security>
8. Interfax Information Service, B.V., October 24, 2003, available at http://www.rigzone.com/news/article.asp?a_id=9084.
Iran daily of Tehran (Persian), May 23, 2002.
9. Kemp, Geoffrey (1997), *Energy Superbowl: Strategic Politics and the Persian Gulf and Caspian Basin*. Washington, DC: Nixon Center for Peace and Freedom, USA.
10. Mojtahed-Zadeh, Pirouz (2006), *Boundary Politics and International Boundaries of Iran*, Universal Publishers, Florida, USA.
11. Mojtahed-Zadeh, Pirouz (2003 a), *Prospective on the Caspian Sea Dilemma: An Iranian Construct*, *Eurasian Geography and Economy*, Vol. XXXIV, No. 8, pp. 607-617.
12. Mojtahed-Zadeh, Pirouz (2003 b), *Territorial Disputes and Security of West Asia*", in Majid Tehranian ed., *Bridging a Gulf, Peacebuilding in West Asia*, IB Tauris, London, pp. 69-86.
13. Murphy, Alexander (2012) *lecture delivered at the University of Tehran*, arranged by Pirouz Mojtahed-Zadeh at the faculty of Geography.
14. Sciolino, Elaine, "It's a Sea! It's a Lake! No. It's a Pool of Oil," *New York Times*, June 21, 1998, WK16.
15. Scott Horton and Natic Mamedov (1999), "Legal Status of the Caspian Sea," in Hooshang Amirahmadi ed, *The Caspian region at a Crossroad*, Chapter 15, p. 267.

16. Tavafoq-e Irano Russiyeh dar bareh-e masael-e daryay-e Khazar” (1998, p. 12).
17. Trade and Seafaring Agreement between the Imperial Government of Iran and the Union of Soviet Socialist Republics, signed in Teheran and dated 5 Farvardin 1319 (March 25, 1940
18. Treaty Concluded between Iran and Russia at Turkamanchai on February 22/10 1828 Corresponding to 5 Shaban 1243),” 1828), www.infoplease.com/ipa/A0107305.html
19. UN docs. A/51/59, annex, Jan. 27, 1996 (Joint statement of Iran and Russia Oct. 30, 1995).
20. UN doc. A/53/453, annex Oct. 2, 1998 (Joint Statement of Iran and Turkmenistan, July 8, 1998).
www.casfactor.com/en/news/61.html
http://en.apa.az/xeber_political_statement_on_caspian_sea_legal_216937.html