

## **THE LEGAL STATUS OF THE CASPIAN SEA: AN IRANIAN PERSPECTIVE\***

### **HAZAR DENİZİ'NİN HUKUKİ STATÜSÜ: İRAN'IN PERSPEKTİFİ**

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### **ABSTRACT**

The Caspian Sea is one of the strategic regions in the world due to its vast oil and natural gas resources. The mineral wealth of the Caspian Sea attract the most attention, not only from the littoral states but also especially from Europe, the United States, India and China, whose energy needs continue to rise day by day. Until the breakup of the Soviet Union in 1991, Soviet-Iran treaties governed the exploitation of the Caspian Sea, but since then, a longstanding dilemma in utilization and delimitation occurred. After 22 years of discussions involving 5 summits and 50 special working group meetings, the Caspian littoral states (Iran, Russia, Turkmenistan, Kazakhstan and Azerbaijan) settled the Convention on the Legal Status of the Caspian Sea on 12 August 2018 in Aktau. In this regard, this paper aims to outline the views and the efforts of Iran to develop a legal regime for the Sea and to evaluate the decisions of the Aktau summit with regard to its effects on Iran.

**Keywords:** Iran, Caspian Sea, Aktau Convention, Legal Status, Mineral Resources.

### **ÖZ**

Hazar Denizi, zengin petrol ve doğalgaz kaynakları nedeniyle dünyanın stratejik bölgelerinden birisidir. Hazar Denizi'nin mineral kaynakları, yalnızca kıyı devletlerinden değil, aynı zamanda enerji kaynaklarına olan ihtiyaçları her geçen gün artan Avrupa, Amerika Birleşik Devletleri, Hindistan ve Çin'in ilgisini çekmektedir. Sovyetler Birliği'nin 1991'de dağılmasına kadar, Hazar Denizi'nin kullanımı Sovyet-İran anlaşmalarıyla belirlenmekteydi ancak o zamandan beri denizin kullanımı ve sınırlandırılması hususlarında yüzyıllardır devam eden bir ikilem ortaya çıkmıştır. 50 özel çalışma grubu toplantısı ve beş zirve dahil 22 yıllık yapısal müzakerelerin ardından beş kıyıdaş devlet arasında 12 Ağustos 2018 tarihinde Aktau'da Hazar Denizi'nin Hukuki Statüsü Konvansiyonu imzalanmıştır. Bu çerçevede, çalışma, tarihi arkaplan ile birlikte Hazar'ın hukuki statüsünün belirlenmesi için girişimlerde bulunulan jeopolitik ortamı İran'ın perspektifinden ana hatlarıyla belirlemeyi ve Hazar'ın nihai statüsünün belirlendiği Aktau zirvesini İran'a etkileri açısından değerlendirmeyi amaçlamaktadır.

**Anahtar Sözcükler:** İran, Hazar Denizi, Aktau Konvansiyonu, Yasal Statü, Mineral Kaynaklar.

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## 1. Introduction

The Caspian Sea is the world's largest inland body of water. It holds great historical significance and has several special geopolitical, environmental and economic features. Five countries- Azerbaijan, Russia, Kazakhstan, Turkmenistan and Iran- border the sea. It has a surface area of 376,000 square kilometers. The maximum depth of the sea is 1,025 meters, and the coast of the sea has 7010 kilometers long in total (Oğan, 2001: 145). The northern section of the Caspian Sea is very shallow with average depths of 4 to 6 meters. The southern part, which has a maximum depth of 1000 meters, constitutes approximately one-third of the total area. The Middle region of the sea is largely a shelf area with depths up to 100-150 meters (Vinogradov and Wouters, 1995: 606). However, those numbers are unstable due to the fluctuations in water levels.

The Caspian basin is among the world's oldest oil-producing areas and is a highly significant source of global energy production with its huge hydrocarbon reserves. It has great importance for Caspian bordering states as it provides them with a source of wealth. US Energy Information Administration (EIA) predicts that the Caspian Sea has 48 billion barrels of oil and 292 trillion cubic feet of natural gas in proven and probable reserves. Nearly 75 % of oil and 67 % of natural gas reserves lies throughout 100 miles of the seacoast (EIA, 2013: 8). The Caspian Sea is connected to the White, Black and Baltic Seas through the channels of Volga-Dnepr-Don Rivers. Therefore, it has great importance for navigation. Meanwhile, the Caspian Sea includes vast and various fish types and is known as the sea of sturgeon, as it supplies more than 90% of caviar in the world (Abdolhay, 2004: 133).

The legal dispute over the Caspian Sea emerged just after Kazakhstan, Turkmenistan, and Azerbaijan gained their independence with the breakup of the Soviet Union in 1991. Previously, only the Soviet Union and Iran controlled the Caspian Sea, and both countries referred to it as the "Soviet-Iranian Sea" with regard to the bilateral treaties of the 1921 Treaty of Friendship and the 1940 Treaty of Commerce and Navigation (Mamedov, 2000: 127). However, as newly independent states arose, crucial problems and confrontations occurred within the region. The adverse interests and different views of littoral states on the principles that should define the legal status and division of the sea led to longstanding problems between them (Shafiyev, 2001). The vast mineral resources of the Caspian Sea have both regional and international significance. Russia has first rejected the existence of international companies in the Caspian Basin- mainly Western ones, which were virtually threatening Russia's dominance and effect within the region. Iran is also concerned about the activities of the former Soviet republics to cooperate with the Western oil companies to manage Caspian mineral resources. However, for the three newly independent coastal states, the exploit of their energy reserves has been crucial for their economic boast, self-reliance, and self-determination (Griffith, 1998: 426).

The study tries to outline the historical process and current negotiations on the division of the Caspian Sea and the distribution of its vast mineral resources, especially considering Iran's claims and desires. Firstly, Iran has always insisted that the 1921 and the 1940 treaties were valid; Caspian resources were subject to common usage and joint ownership between the Soviet Union and Iran. In addition, Iran has rejected all agreements unilaterally and bilaterally signed among Caspian bordering countries for the use of the sea. Iran asserts that all Caspian states should make a gain from such an agreement mutually signed that defines the legal regime of the sea (Mohsenin, 2001: 170). Iran long referred to the Caspian Sea as a "boundary lake" and offered the delimitation of the Caspian Sea in equal proportions (Ghafouri, 2008: 89). Iran proposed that

each coastal country would gain a 20 percent share irrespective of their coastal length. However, this proposal was rejected first by Azerbaijan and then other littoral states as a whole (Cohen, 2002; Karimov, 2014: 133).

Eventually, five littoral states signed the Convention on the Legal Status of the Caspian Sea on 12 August 2018 and have now resolved the longstanding confrontations by establishing a sui generis regime for the sea. The deal generates sovereign and unique rights for all Caspian littoral states in their private “territorial waters” and “seabed and subsoil sectors”. In addition, it brings broad liberties to utilize the Caspian Sea by the five parties. Third states could not have access to the Caspian Sea and use it. However, some issues still need to be decided by bilateral or multilateral agreements in the forthcoming years (Müller and Betaneli, 2018).



**Figure 1:** Map of the Caspian Sea Region, Present Day

Source: The U.S. Energy Information Administration (EIA)

The deal has provoked fierce criticism of Iran's elected officials and revolutionary authorities by Iranians, at home and abroad. Because, it does not satisfy the main Iranian demands, notably about nautical borders and equal access to mineral resources below the seafloor. Iranian delegation has been accused of not defending their country's interests. However, by taking into consideration that Iran remains the shortest Caspian coastline; its sea status decreases considerably Iran's property of the seabed and the mineral resources that lie under it. However, Iran's obdurate stance on the delimitation of Caspian Sea into five equal parts is one of the main reasons behind the prolongation of the sign for more than two decades. Therefore, the key factor that enabled the Aktau agreement and in the formalization of a legal framework for the sea is thought to be Iran's formal abandonment of its claim of an equal partition of the Caspian Sea. The Aktau deal has clearly indicated that at present, Iran gives priority to security and geopolitical matters more than only economic benefits.

## **2. The Caspian Sea Legal Dispute From Past to Present**

The Caspian legal status and the terms of its usage- mainly for navigation and fishing- were based on several bilateral agreements signed between the Soviet Union and Iran. The Treaty of Resht (1729) was the first treaty signed between the Russian and the Iranian Empires. This treaty granted many rights to the Russians and ensured their freedom of commerce and sailing (Ghafouri, 2008: 85-86).

In the nineteenth century, great battles occurred between two empires due to Russian desire to gain access to the warm waters. As a result of these wars, the Treaty of Gulistan was signed in 1813, which would completely lead Iran off the Caspian Basin. The restrictions against Iran were renewed with the Turkmenchay Treaty in 1828. Both of the treaties provided Russia with the right of keeping a naval force in the sea. While these agreements included military limitations, the Caspian was open to both sides on the commercial issues, and no sharing was made. Nevertheless, the Treaty of Friendship (1921) invalidated the agreements signed before and determined the direction of the bilateral relations between Iran and Russia, reinstating Iran's rights of navigation and fishery (Bantekas, 2011: 50-51). During the 1930s, because of increased navigation and fishing in the Caspian Sea, the Treaty of Establishment, Commerce and Navigation (1935) and then the Treaty of Commerce and Navigation (1940) were signed. These two treaties banned foreign vessels flying their flags from navigating on the Caspian Sea, and third-country nationals were not permitted to be port personnel or crewmembers (Janusz, 2005: 2). The determination of a 10-mile zone for fishing in the sea was an innovation of the 1940 treaty. The two parties had the right to exploit and utilize resources anywhere on the sea, apart from the 10-mile fishing zone (Janusz, 2005: 2; Cherniavskii, 2002: 85-86). Overall, the two coastal states had never legally delimited their sea borders. In essence, they determined the closeness of the basin to third countries. It should also be noted that, at that time, these treaties did not draw a frame for settling the certain status of the Caspian Sea (Mamedov, 2000: 125). It appears that Russia and Iran preferred to establish a special status for the Caspian Sea.

### **2.1. Lake/Sea Question and Current Negotiations**

The existence of new coastal sovereign states raised questions over the legal status and partition of the Caspian Sea that is critical for also the determination of how vast amounts of oil and natural resources it includes are to be divided. Each of the littoral states demands a regime that is the most convenient to its national interests. While some of the bordering states asserted

that the Caspian Sea was subject to the provisions of the 1982 United Nations Convention on the Law of the Sea (UNCLOS), others claimed that this water body was a boundary lake and asserted that the Caspian countries had to define the Caspian regime among them.

If the Caspian is considered as “sea”, UNCLOS establishes the division among the littoral states:

1. *“The sovereignty of a coastal state extends, beyond its land territory and internal waters (...) to an adjacent belt of a sea, described as the territorial sea. 2. This sovereignty extends to the air space over the territorial sea as well as to its bed and subsoil.”* (UNCLOS, Article 2).

According to the terms of UNCLOS, each littoral state would have a territorial sea with twelve miles width, an exclusive economic zone with the breadth of not exceeding 200 miles from the baseline, and a continental shelf (Shafiyev, 2001). In the exclusive economic zone, the bordering states have *“sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from water, currents and winds...”* (UNCLOS, Article 56). When the exclusive economic zones overlap, as for the Caspian Sea, UNCLOS establishes partition upon the median line principle points out that the littoral states would be able to *“extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas each of the two states is measured.”* (UNCLOS, Article 15).

The rules of UNCLOS may seem to be apparent, but it is not adequate to propose a legal regime for the settlement of the Caspian Sea legal issue. Firstly, the coastal states who supported the provisions of the UNCLOS assert that the Caspian Sea is an “enclosed or semi-enclosed sea”, which is identified in Article 122 as a *“sea surrounded by two or more states and connected to other sea or the ocean by a narrow outlet or consisting entirely or primarily of the territorial seas and exclusive economic zones of the two or more coastal states”* (UNCLOS, Article 122). Because the UNCLOS does not propose an adequate definition of the high seas, this fact is alone problematic in terms of the application of the UNCLOS (Szalkai, 2013: 39).

The UNCLOS merely contains water bodies that have outlets to other seas or oceans. Although the Volga-Don Canal connects the Caspian Sea to the Black Sea, thereby the world ocean, it does not seem applicable to the Caspian Sea because it is not a natural waterway and it is not used for international navigation. As the canal situates in the territories of Russia, it is accepted to be among Russia’s internal waters (Colibrilaw Firm, 2015: 8). It may be argued that there is no absolute definition of ‘narrow outlet’ as it has to be necessarily natural waterway in terms of the UNCLOS, but the thing is that the Volga-Don Canal itself is not a part of UNCLOS regime or any other international treaty, and does not function as a narrow outlet (Colibrilaw Firm, 2015: 8). Moreover, because only Russia among the coastal states has ratified the convention totally, it is not binding for the Caspian Sea legal issue. Besides, the Caspian Sea only has an average width 175 nautical miles. Therefore, even if the coastal states reach a consensus for the Caspian as a sea, they would have to make another decision on the method of the implementation of the median line criteria that would draw the scope of their exclusive economic zones (Szalkai, 2013: 39).

According to the second perspective, the Caspian Sea is a “boundary lake” of neighboring countries. As there is no international convention on the delimitation of international lakes,

customary international legal regulations will be applicable to the legal regime of the sea (Pazarci, 2011: 241-242). Therefore, littoral states determine the use of waters of border lakes via international agreements, which also establish navigation rights and the conditions of use for non-navigational aims upon negotiations. According to the legally accepted definition, a lake is a large area of water surrounded by land and has not a natural connection to the seas. If the Caspian Sea is considered as a lake, two views occur on the division of the sea. The first is the common use of the Caspian Sea, and the second is the division into national sectors. "The Gulf of Fonseca" case is an example in terms of common ownership of the lakes. This gulf has long been the subject to debate between Spain, El Salvador, Honduras and Nicaragua. In 1992, the International Court of Justice (Spain) determined that El Salvador, Honduras, and Nicaragua were to share control of the Gulf of Fonseca. The practice of dividing lakes between bordering states indicates that lakes are delimited to offer special right to each of them and the absolute jurisdiction over mineral resources, and water area, and navigation in their national sector (Janusz, 2005: 4). Based on the negotiations, lakes can be divided according to the coastal line or median line approaches (EIA, 2013: 5). If the median line principle of UNCLOS is implemented, the water and the seabed would be divided into national sectors among the littoral states According to this method, a country, which has more coastal area, also gets the larger maritime area. Therefore, Kazakhstan, Azerbaijan and Russia have built consensus on the median line approach, whereas Iran and Turkmenistan have rejected it (Raheleh, 2010: 90). While Azerbaijan would be the most benefited side from such a division as it would gain the regions some of the largest oil and gas deposits, this solution would be disadvantageous in terms of Iran for the given reason. Once such a division accepted, the proportions of the national sectors would be as follows: Kazakhstan: 29.6%; Azerbaijan: 19.5%; Turkmenistan: 18.7%, and Iran: 13.8%.

Within the third perspective, the Caspian Sea is regarded as a unique reservoir, so existing international legal norms and practices cannot regulate many of its characteristics. While deciding the Caspian Sea legal regime, the littoral states should follow non-traditional approaches and will have to constitute their own legal mechanism for negotiations. The followers of this approach suggested that the Caspian states, besides the section under their autonomy, have corresponding parts of the water area and the seabed, upon which condominium or common use principle should apply (Kephano, 1997-1998: 2).

Russian desire to withdraw its gains from the previous treaties signed with Iran and the newly independent states' acting on their own interests have led to the rise of new and unsolved problems. The attitudes of littoral states depend on to what extent their interests will be met from any such regime. However, their positions have changed and the differences of their opinions have narrowed over the years. Eventually, five coastal states agreed on the Convention on the Legal Status of the Caspian Sea in the Kazakh port city of Aktau on 12 August 2018. The Convention has now settled the matter lasted more than 20 years by establishing a special legal regime for the Caspian Sea. The preparations for the Convention began in 1996 with the meeting of deputy foreign ministers of Caspian littoral states. Prior to the Aktau summit, the presidents of Kazakhstan, Azerbaijan, Russia, Iran and Turkmenistan held four meetings in Ashgabat in 2002, Tehran in 2007, Baku in 2010 and finally in 2014 in the city of Astrakhan in Russia. In December 2017, the foreign ministers of five states in Moscow agreed on the determination of the legal status of the Caspian Sea and decided that they would sign an agreement at the Aktau meeting. However, the road to the Convention was not easy. In the first summit meeting held in the capital of Turkmenistan in 2002, the littoral states failed to compromise due to the problems

arising from the sharing of energy deposits between Azerbaijan and Turkmenistan. In a period of ongoing problems, Azerbaijan, Kazakhstan and Russia signed a trilateral agreement on the division of the depth border of the Caspian Sea on May 2003, leading to the actual partition of over 60% of it. In the southern part of the Caspian Sea, however, conflicts continued between Iran, Turkmenistan and Azerbaijan. However, as the continuation of the confrontation would result in a persistent threat of instability in Iran's northern neighborhood, it could be asserted that the Aktau convention was a positive step, at least in terms of the elimination of that threat (Azizi, 2018).



**Figure 2:** Approximate Division of the Caspian Sea as a Sea with National Zones and a Commonly Managed Area.

Source: EIA



**Figure 3:** Approximate Division of the Caspian Sea as a Lake with the Establishment of National Sectors

Source: EIA

At the second summit held in Tehran in 2007, a joint declaration was adopted stating the parties' solidarity on crucial regional security matters. However, the presidents failed to agree on the legal status of trans-Caspian energy pipelines and how to meet the littoral state's competing territorial demands. During the third Summit held in Baku in 2010, "Agreement on cooperation in the field of security in the Caspian" and Joint Declaration were signed between five littoral states. Again, on 29 September 2014, the presidents of the Caspian countries met in the Russian port city of Astrakhan for the Fourth Caspian Summit, and they signed three agreements: on "hydrometeorology co-operation in the Caspian Sea", on "co-operation on disaster warning and relief in the Caspian Sea" and on "preservation and rational use of Caspian Sea marine biological resources". Accordingly, the presidents of the five countries signed a joint document; including 19-points enshrine the main tenets that will determine the final document of the convention on the Caspian Sea legal status. Based on this text, it is agreed that every party would have national autonomy over a 15-nautical mile zone from its shoreline and have the private fishing zone extend for another 10 miles (News Central Asia, 2014).

In the Aktau deal, the five countries agreed that the surface of the water will be considered as a sea and will be commonly used by all of them and the seabed will be legally treated as a lake



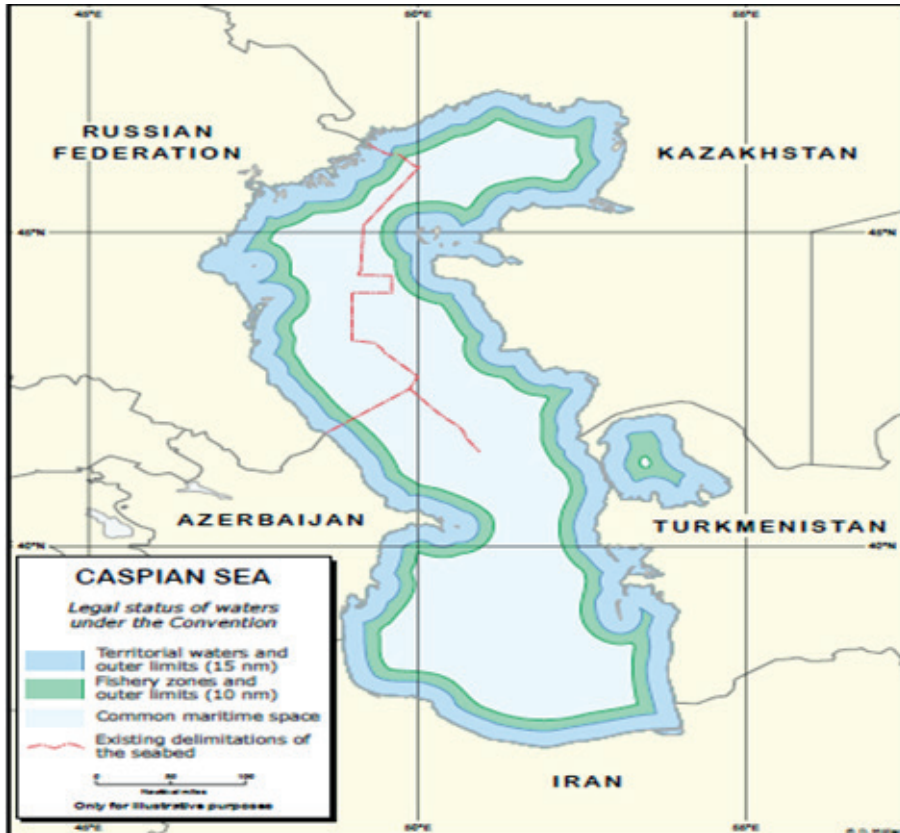
and so accessed within international legal framework. The key features of the Convention<sup>1</sup> are as follows:

- *The Caspian waters are split into three zones: territorial waters under the sovereignty of the coastal State extend from the baseline up to 15 nautical miles; fishery zones extend to a belt of a further 10 nautical miles next to the territorial waters and the “common maritime space” a water area located beyond the Parties’ fishery zones and open for use by the all. Articles 1; 7 (1); 9 (1)*

- *Armed forces of third states are excluded from being in the Caspian Sea. Article 3 (6)*

- *Division of the seabed and subsoil into sectors shall be determined by agreement between states with adjacent and opposite coasts, based on the principles and rules of international law. Article 8 (1)*

To sum up, although the Convention remains incapable of being an all-inclusive legal framework and future negotiations appear necessary, it is a big deal and can be considered as the milestone event in the history of the Caspian Sea legal dispute.



**Figure 4:** Caspian Sea Convention Map

Source: Müller and Betaneli, 2019

<sup>1</sup> For further information, click <http://en.kremlin.ru/supplement/5328>

### 3. Iranian Perspective on the Caspian Legal Issue

The newly independent Caspian coastal states have tried to open up their oil and natural gas resources to foreign capital investments in order to maintain their independence and to make reforms about their country's development. The Caspian legal dispute occurred following the negotiations between the Azerbaijani government and western oil giants, mainly British Petroleum (BP), on the searching and utilization of mineral resources in the zone of Azerbaijan (Vinogradov and Wouters, 1995: 604). On September 20, 1994, the Azerbaijan International Oil Consortium settled an 8 billion dollar deal which is known as the first international agreement "On the joint development of the 'Azeri', 'Chirag' and deep-water 'Guneshli' oil fields in the Azerbaijani sector of the Caspian Sea and production sharing" in Baku for thirty years. During 1994, Azerbaijani President Aliev offered Iran a stake in this international project which is called "the Contract of the Century", but Iran was soon excluded from the deal due to intense US pressure (Afshar, 2004: 770). This agreement resulted in a strong reaction of Iran who regarded the agreement as a unilateral initiative to alter the Caspian legal status and to gain advantages on behalf of other coastal states. In January 1995, Iran made a protest against Washington's influence on Azerbaijani policy-making when the government of the United States stated that it would give support to any oil and gas deal with Azerbaijan if Iranian companies were excluded. In return for this, Iran alleged that the US had been trying to bring Iran into discredit and enhance its own autonomy in the region (Sadri, 2012: 389). The event resulted in virulent hostility toward Azerbaijan although Iran later included in two other Azerbaijani oil development contracts as compensation. Iran asserted that the Caspian lacked fundamental oil reserves, due to the ineffective agreements, and the unsuitable routes chosen for oil pipelines (Nassibli, 2003). The Minister of Foreign Affairs of Iran also complained about economic activities of Azerbaijan in the Caspian offshore area by sending a letter to the UN Secretary-General (Nassibli, 2003). Therefore, Tehran took side with Russia on the common ownership of the sea resources and allied with it in order to decrease the Western companies' initiatives in the Caspian area (Gökay, 1998: 5).

Both Russia and Iran claimed that all coastal countries were bound by the principles of the 1921 and 1940 treaties and that the condominium regime should be applied to the Caspian. However, Russia had reoriented its previous attitude by February 1998 and demanded the national partition of the Caspian Sea, so Iran remained as the only follower of the condominium approach (Haghayeghi, 2003: 34). Iran has continued to its stance and asserted that "the sea should be held in common, with the seabed divided evenly" (Winstone and Young, 2005: 11). Because of Azerbaijan's opposition to joint ownership and Russia's demand to enhance its relations with Azerbaijan and Kazakhstan, Iran has been isolated (Zimnitskaya and Von Geldern, 2011:9).

In 2000, Iran noticed that the newly independent republics of the Caspian Sea sought to follow new approaches to be applied to the sea upon their national interests and that Tehran could not cope with their rejection (Raheleh, 2010: 88). The Islamic Republic proposed to delimit the Caspian Sea upon the principle of equality (20% for each). Once the Iranian offer accepted, Iran would gain 20 percent share of the Caspian, twice that assured by its seaboard (Taheri, 2007: 397). Each of the Caspian states would have extended sovereignty over the seabed and the covering waters. Iran sought a complete delimitation of the entire Caspian Sea, not only the seabed (Diba, 2014). This type of delimitation will clearly defend Iran's interests for several reasons. First, Russian forces will not be able to travel freely will all over the Caspian Sea. Second,

the Russians industrialized fishing fleet will be stopped in the other countries sovereign parts of the sea. Lastly, it will lead to disconnection of the direct link between Russia and Iran. The two countries have no land border with each other at present. The water borders with the Russians will also be removed with the Iranian proposal (Diba, 2011). However, the other littoral states has never accepted this proposal.

Iran has always opposed to utilization of the Caspian resources unilaterally insisting on the necessity of a joint resolution related to the Caspian Sea legal issue (Mohsenin, 2001: 175). According to another Iranian offer, the terms of demilitarization and absence of foreign militaries in the Caspian Sea must be adopted to guarantee security imperatives of all coastal states. Besides, any activity that damages the environment must be prevented, and a particular concern must be given to the environmental issues in the region (Dorraj and Entessar, 2013: 18). Iran has continuingly insisted that the 1921 and the 1940 treaties must be seen as the main documents to determine the Caspian legal status unless a unanimous convention is signed by all of the coastal states (Formentini and Milani, 2012: 5; Ghafouri, 2008, 86). According to the Iranian point of view, the legal and factual reality of these treaties did not change after the Soviet Union's demise, but the three newly independent states opposed to this idea due to their new national interests (Zimnitskaya and Von Geldern, 2011: 7).

However, Iran's attitude has been more flexible recently than stated by official declarations due to the agreements signed between some coastal countries, gas and oil drilling by foreign companies, and construction of the pipelines. Iran abandoned its attitude on an equal partition of the Caspian Sea and enabled the signing of the Aktau agreement. Introducing general aspects for determining the legal issues, the deal is crucial for Iran in terms of the security point of view. The deal, which asks for the *"non-presence in the Caspian Sea of armed forces not belonging to the Parties,"* in Article 3, is a diplomatic success for Iran, along with Russia, as it provides security assurance against potential US and NATO efforts to extend their reach to the Caspian region. In fact, there were some reports recently that Kazakhstan was about to let the United States establish a military base on its Caspian coast. Meanwhile, the United States has been attempting to utilize the Caspian as a route for transporting military equipment from Azerbaijan to Afghanistan via Kazakhstan and Uzbekistan (Azizi, 2018). Article 3 also includes a section on *"Ensuring a stable balance of armaments of the Parties in the Caspian Sea"* that is critical in virtue of the attempts of the Caspian states to increase their military capacities through the region, which, in past years, had always increased the possibility of a *"Caspian arms race"* (Azizi, 2018). Starting in 2012, the two Caspian states, Turkmenistan and Azerbaijan substantially increased their military activities in the region. In consequence, the deal could also reduce Iran's fears to be dragged into a costly arms race with its neighbors.

Another critical issue for Iran in the Aktau convention is the potential for the building of the Trans-Caspian Pipeline (TCP) that would provide Turkmenistan with the ability in the exportation of natural gas to European markets via Azerbaijan, Georgia and Turkey. On one side, the main strategic aim of the TCP has been to reduce Russia's dominance over energy transit routes and on the other, to deprive Iran of the possibility for an alternative Turkmenistan-Iran-Turkey pipeline. So, both Russia and Iran have been acutely withstanding to the TCP (Azizi, 2018).

Some progress was made, and several longstanding problems concerning the Caspian region resolved with the Aktau convention. However, the main undecided matter is the delimitation of the maritime borders of Azerbaijan and Turkmenistan with Iran. In other words, the sharing of oil and natural gas deposits in energy-rich regions will be taken into consideration in subsequent negotiations. This firstly includes the regions located in the borders of Azerbaijan, Turkmenistan and Iran, so the solution does not seem easy. At the Aktau summit, Iranian President Hassan Rouhani emphasized *“The issue of determining the straight baselines on our coasts is important; on the delimitation we should agree on later between the five parties and develop an effective mechanism. Without it, there will be no effective implementation of the convention.”* The comments of Rouhani shows that Azerbaijan and Turkmenistan will quite likely to be in need of including Iran in any projects to exploit hydrocarbon fields located in the as-yet-undefined border with Iran (Ovozi, 2018; Brzozowski, 2018).

Although Iran does not seem to be fully satisfied with the delimitation of resources and coasts in the sea, the military provisions of the Caspian agreement were a warning to US-Israeli policies for the isolation of Iran in the region, given the close political and military co-operation with Russia and its conflicts in the Middle East. In addition, when Iran solves its border problems with Azerbaijan and Turkmenistan in the Caspian Sea, it will be able to establish closer political relations with its two neighbors. For instance, there may be developments such as the resolution of the disagreement with Iran upon the natural gas prices that have also been carried to international arbitration, and such as the beginning of the sale of the Turkmen gas back to Iran.

With the deal, it has been aimed to disrupt the policy of the USA in the Caspian region, firstly for the benefit of Iran and Russia. The two countries made a strategic choice and have led up a new era in the Caspian region by giving up some of the rights and claims they have raised. Moreover, it is predicted that Russia-Iran relations will gain momentum after the agreement. In this respect, it is essential that the agreement has been signed at a time when both countries are subject to attempts to be removed from global markets via sanctions imposed by the current US administration. In addition, Iran will face economic difficulties due to sanctions in the coming period, and it needs to develop its diplomatic and economic relations with neighboring countries. In this context, establishing good relations with other states in the Caspian region can serve as a mitigating function for the problems caused by the re-imposition of US sanctions on the country's economy.

The problem for the government of Iran is that many people in Iran are not satisfied with the deal partly because of the fact that the deal does not satisfy main Iranian demands. Along with the views that Iran will have the largest loss due to terms of the deal, as it remains with the smallest, deepest and saltiest part of the Caspian Sea, Iranian social media users have accused the Iranian government of “selling off” the Caspian Sea and not defending country's national interests (Abedin, 2018).

Overall, Iran has achieved to gain a number of significant security guarantees with the Aktau deal while freezing the longstanding problems on the certain shares of the water body and postponing decisions on such matters to an undetermined time in the future. Meanwhile, Iran's cooperative stance could provide it further enhance relations with its northern neighbors. In fact, the latter is of crucial importance to the current situation, as Iran faces the United States' growing attempts to limit the scope of its international ties.

## **4. Challenges for Iran in the Caspian Sea Region**

The breakup the Soviet Union has not made any change on the size and the status of the Iranian sector that covers 12 percent to 14 percent of its surface area. However, Iran has insistently asked for a condominium that would provide equal division from all energy developed on the seabed and the expansion of its section to at least 20 percent of the surface area and seabed (Cohen, 2002). The mere fact that Iran's potential oil reserves are located in the deepest areas of the sea, hence not easily accessible, and in order to carry out economic activities in this sector, Iran is in need of high technology and further investment (Mehdiyouun, 2000: 182-183). The Azerbaijani side has never accepted this proposal as it has no legal or scientific basis (Karimov, 2014: 133). Today, Iran and Azerbaijan have the most strained relations with each other over the Caspian Sea issue. In essence, they have had an unsteady relationship following the break-up of the USSR (Dorraj and Entessar, 2013: 14). This is due to political reasons rather than economic ones. The inhabitants of the north of Iran are related to the citizens of Azerbaijan. Considering the possibility that the South Azerbaijani Turks locating between the boundaries of Azerbaijan and Iran unite with the inhabitants in the north of Iran intimidates it, Iran has always been cautious about Azerbaijan. Iran wants to have a say in the use of energy resources in the Caspian Sea and at the same time does not want Azerbaijan to develop economically by taking advantage of it (Gökçe, 2008). At the same time, Iran wants to interfere with Azerbaijan's agreements with Western states since the openness of the Caspian Sea to the Western countries will make them and the United States stronger in this region. While there are already embargoes applied to Iran, this rapprochement will cause Iran to take a lower share of the Caspian Sea and may directly jeopardize Iran's national security. Furthermore, Iran demands that Kazakhstan and Turkmenistan oil and natural gas pipeline pass through its territory. However, because of the division of the Caspian Sea into national sectors, this pipeline would be connected with Turkey passing through the bottom of the sea and Azerbaijan. Iran wants to prevent this situation. The idea that the division of the Caspian Sea into national sectors will strengthen cooperation between Turkish Republics affects Iran's position on legal status (Iřcan, 2010).

The disagreement between them arose in 2001 when two British Petroleum oil research ships launched operations upon an Azerbaijani contract in the area- namely the Araz/Alov/Sharg oilfields- that Iran would dominate if it had a share of 20% in the sea. Iran stated rigorously that it would not let foreign firms work with Azerbaijan from exploiting oil in the disputed area. In July 2001, these two BP survey ships were chased by an Iranian naval vessel, and BP immediately stopped all activities in this area began with n the contract with Azerbaijan (Gökçe, 2011: 166; Dunlap, 2004: 123). Azerbaijan alleged that later on Iran twice sent military aircraft into its airspace (Lee, 2005: 37). Bilateral relations nearly ended, and there could be an outbreak of war between them. Both the United States and Russia condemned Iran's action, and the other states have clearly allied with Russia, confirming Iran's growing isolation.

One of the significant reasons that limited the effect of Iran in the Caspian basin has been the ongoing disagreement between the United States and Iran, which has severe upheavals since the mid-2000s. The United States has limited Iran's operations in the region- especially for political reasons- imposing sanctions and by establishing economic and military relations with the former Soviet republics. Because the United States accuses Iran of supporting terrorism, Iran has also had tense relations with most of its neighbors over the past several decades (Zadeh and Hafeznia, 2003: 609). Since September 2001, the Caspian region has been regarded as a significant

significant component of the anti-terrorism policy of the United States that seeks to make cooperation on security with regional states in fields connected to counter-terror and counter-proliferation, such as border control (Shaffer, 2003: 17-22). The United States also has claims and great concern on the possibility that Iran is developing weapons of mass

Since 1979, Iran has adopted “Neither East, nor West, Islamic Republic” motto in its foreign policymaking. However, in recent decades the country has given weight to the East far more than the West. Faced difficulties with the economic results of Western containment, Iran put away its historical competition with Russia and involved the country in its Asian Triangle policy apart from China and India. Considering Trump administration’s new policy towards Iran, Tehran is likely to develop its economic ties with non-Western countries such as Russia. However, scepticism over the Aktau deal and the resistance of Iranian nationalism may restrict the rapprochement of political elites with Moscow. Nonetheless, the possibility that Iran’s parliament, or the Supreme Leader, will not ratify the convention– to avoid being accused of not defending their countries interests (Therme, 2018).

## **Conclusion**

With the breakup of the Soviet Union, the number of Caspian bordering states increased from two to five. Until 1991, the Caspian legal framework and the sharing of its natural resources have been a bilateral issue between the USSR and Iran. However, in the post-Soviet era, it turned into a more complicated problem due to the adverse interests of the newly independent states on the delimitation of energy resource-rich Caspian. Eventually, the legal status of the Caspian waters, seabed, and subsoil has been determined by an agreement signed on August 12, 2018, after 22 years of intense negotiations.

The Caspian Sea region has great importance not only for all Caspian states but also for regional and global powers, especially for security issues and economic interests. It is not surprising that Caspian coastal countries could not achieve to come to an agreement on the legal dispute over Caspian for a long time. The policies of Iran towards the Caspian region since 1991 have been mainly formed by its *raison d’etat*, too. Although it is seen to be possible to determine the borders and sharing of the natural resources via the Caspian deal, Iran clearly has some reservations about the division of the seabed. Hence, Iranian President Hassan Rouhani stated at the Aktau summit that additional agreements would be needed for the sharing of the seabed although previous claims were asserting that Iran and Azerbaijan had solved the border problems. This is as an indication that the agreement could not solve all the problems between Iran and its neighboring countries. Nevertheless, it is possible to say that the agreement met the expectations of the countries to a large extent and provided a consensus platform that would develop regional cooperation. All things considered, it can be claimed that by signing the agreement, Iran gives the highest primacy to its survival and is more interested in the military-security issues in the Caspian Sea, rather than its vast resources in the seabed or even Iran’s portion of the whole area.

## **Ethics Statement**

No human studies are presented in this manuscript.

## Author Contributions

The authorS confirm being the sole contributor of this work and has approved it for publication.

## Conflict of Interest

The authors declare that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.

## Bibliography

- ABDOLHAY, H. (2004), Sturgeon Stocking Programme in the Caspian Sea with Emphasis on Iran, In D. M. BARTLEY and K. M. LEBER, *Marine Renching* (p. 133-170).
- ABEDIN, M. (2018), Iranians are at sea over the new Caspian convention, Retrieved March 5, 2019, from <https://www.middleeastmonitor.com/20180822-iranians-are-at-sea-over-the-new-caspianconvention/>.
- AFSHAR, H. (2004), The Caspian Dispute: Is A Doctrinal Analysis Too Late or Can We Turn Back The Hands Of Time?, *New York Law School Law Review*, 48, 755-775.
- AZIZI, H. (2018). Caspian Sea convention moves Iran closer to northern neighbors, Retrieved March 5, 2019, from <https://www.al-monitor.com/pulse/originals/2018/08/caspian-sea-convention-iran-russia-us-sanctions-pipeline.html#ixzz5hT1LestG>.
- BANTEKAS, I. (2011), Bilateral Delimitation of the Caspian Sea and the Exclusion of Third Parties, *The International Journal of Marine and Coastal Law*, 26, 47-58.
- BONINE, Michael E. (2003), Iran: The Pivotal State of Southwest Asia, *Eurasian Geography and Economics*, 44 (1), 1-39.
- BRZOWSKI, A. (2018), Caspian Five settle row over sea's legal status, demarcation pending, Retrieved March 3, 2019, from <https://www.euractiv.com/section/central-asia/news/caspian-five-settle-row-over-seas-legal-status-demarcation-pending/>.
- CALAMUR, K. (2018). Trump Goes From Threatening Iran to Threatening the World. Retrieved February 25, 2019, from <https://www.theatlantic.com/international/archive/2018/08/trump-iran-tweet/566948/>.
- CHERNIAVSKII, S. (2002), Problems of the Caspian, *Russian Politics and Law*, 40 (2), 85-94.
- COHEN, A. (2002), Iran's Claim over Caspian Sea Resources Threaten Energy Security, Retrieved October 8, 2018, from <http://www.heritage.org/middle-east/report/irans-claim-over-caspian-sea-resources-threaten-energy-security>.
- COLIBRILAW FIRM, Legal Status of the Caspian Sea, Retrieved October 2, 2018, from [http://www.colibrilaw.com/sites/default/files/colibrilaw\\_caspian\\_1.pdf](http://www.colibrilaw.com/sites/default/files/colibrilaw_caspian_1.pdf).
- DIBA, Bahman A. (2011), National Interests of Iran in the Caspian Sea, Retrieved November 11, 2018, from <http://iranian.com/main/blog/diba/national-interests-iran-caspian-sea.html>.
- DORRAJ, M and ENTESSAR, N. (2013), Iran's Northern Exposure: Foreign Policy Challenges in Eurasia, *Centre for International and Regional Studies, Occasional Paper*, (13), 1-27.
- DUNLAP, B. N. (2004), Divide and Conquer? The Russian Plan for Ownership of the Caspian Sea, *Boston College International and Comparative Law Review*, 27 (12), 115-130.
- FORMENTINI, F. and MILANI, T. (2012), The Legal Status of the Caspian Sea-History of the Treaties between the Riparian States. *European Center for Energy Security (ECESA, Working Paper*, 3 (4), 1-12.
- GHAFOURI, M. (2008), The Caspian Sea: Rivalry and Cooperation, *Middle East Policy*, 15 (2), 81-96.
- GÖKAY, B. (1998), Caspian Uncertainties: Regional Rivalries and Pipelines, *Perceptions*, 3 (1).

- GÖKÇE, M. (2008), Sovyet Sonrası Dönemde Hazar Çevresinde Yaşanan Rekabet, *Uluslararası Sosyal Araştırmalar Dergisi*, 1(3), 177-209.
- GÖKÇE, M. (2011), The Caspian Sea Policy of Iran from Pre-Cold War to the Present, *The Pursuit of History*, 6, 153-176.
- GRIFFITH, B. (1998), Back Yard Politics: Russian Foreign Policy toward the Caspian Basin, *Demokratizatsiya: The Journal of Post-Soviet Democratization*, 6 (2), 426-44.
- HAGHAYEGHI, M. (2003), The Coming of Conflict to the Caspian Sea, *Problems of Post Communism*, 50 (3), 32-41.
- İŞCAN, İ.H. (2010), Uluslararası Enerji Güvenliği Açısından Hazar Bölgesi Enerji Ekonomisi ve Hazar Denizi'ni Paylaşım Sorunu, *Sosyo Ekonomi Dergisi, Özel Sayı*, 63-92.
- JANUSZ, B. (2005), The Caspian Sea Legal Status and Regime Problems. Briefing Paper, Retrieved October 20, 2018 from <https://www.chathamhouse.org/sites/files/chathamhouse/public/research/russia%20and%20eurasia/bp0805caspien.pdf>.
- KARIMOV, R. (2014), Iran's Policy in Caspian Sea Basin and Beyond: The Great Game 2.0, In C. FRAPPI and A. GARIBOV, *The Caspian Sea Chessboard*, (p. 129-141).
- KEPHANOV, Yolbars A. (December 1997-February 1998), The New Legal Status of the Caspian Sea Is the Basis of Regional Co-Operation and Stability, *Perceptions*, 2 (4).
- LEE, Y. (2005), Toward A New International Regime for the Caspian Sea, *Problems of Post-Communism*, 52 (3), 37-48.
- MAMEDOV, Rustam F. (2000), International Legal Status of the Caspian Sea in Its Historical Development, *The Turkish Yearbook of International Relations*, 30, 107-137.
- MEHDIYOUN, K. (2000), Ownership of Oil and Gas Resources in the Caspian Sea, *The American Journal of International Law*, 94, 179-189.
- MOHSEININ, Mehrdad M. (2001), The Evolving Security Role of Iran in the Caspian Region, In G. CHUFRIN, *The Security of the Caspian Sea Region* (p.166-177) Oxford.
- MÜLLER, D. and BETANELI, K. (2018), The new Convention on the Legal Status of the Caspian Sea: New Opportunities and New Challenges, Retrieved March 5, 2019, from [http://knowledge.freshfields.com/en/Global/r/3848/the\\_new\\_convention\\_on\\_the\\_legal\\_status\\_of\\_the\\_caspian\\_sea](http://knowledge.freshfields.com/en/Global/r/3848/the_new_convention_on_the_legal_status_of_the_caspian_sea).
- NASSIBLI, N. (2003), Iran's Caspian Policy: Time to Make a Decision? Retrieved March 5, 2019, from <http://www.cacianalyst.org/publications/analytical-article/item/7762-analytical-articles-caci-analyst-2003-2-10-art-7762.html?tmpl=component&print=1>.
- NEWS CENTRAL ASIA (2014), Caspian Summit at Astrakhan – The Outcome, Retrieved March 5, 2019, from <http://www.newscentralasia.net/2014/09/30/caspian-summit-at-astrakhan-the-outcome/>.
- OĞAN, S. (2001). Hazar'da Tehlikeli Oyunlar: Statü Sorunu, Paylaşılmayan Kaynaklar ve Silahlanma Yarışı. *Avrasya Dosyası*, 7 (2), 143-183.
- OVOZI, Q. (2018), Caspian Summit Fails to Resolve Issues between Iran and Nearest Neighbors Retrieved March 3, 2019, from <https://www.rferl.org/a/qishloq-ovozi-caspian-summit-fails-to-resolve-issues-iran-turkmenistan-azerbaijan/29436013.html>.
- PAZARCI, H. (2011), *Uluslararası Hukuk*. 10. Baskı. Ankara: Turhan Kitap Evi.
- RAHELEH, B. (2010), Iran's Foreign Policy in the Caspian Sea Basin, Central Asia and the Caucasus, 11 (3), 86-93.
- SADRI, H. A. (2012), Iran and the Caucasus States in the 21st Century: A Study of Foreign Policy Goals and Means, *Journal of Balkan and Near Eastern Studies*, 14 (3), 383-396.
- SHAFFER, B. (2003), Iran's Role in the South Caucasus and Caspian Region: Diverging Views of the U.S. And Europe, In E. WHITLOCK, *Iran and Its Neighbors: Diverging Views on A Strategic Region*, Berlin.



- SHAFIYEV, F. R. (2001), The Legal Regime of the Caspian Sea: Views of the Littoral States, Retrieved March 5, 2019, from [http://www.jamestown.org/archives/prism/p2001/?tx\\_publicationsttnews\\_pi2%5bissue%5d=6](http://www.jamestown.org/archives/prism/p2001/?tx_publicationsttnews_pi2%5bissue%5d=6).
- SZALKAI, K. (2013), A Sea Or A Lake- What Difference Does It Make? Questions of the Delimitation of the Caspian Sea, *Security Policy Review*, 6 (2), 31-48.
- TAHERI, A. (2007), The Caspian, *American Foreign Policy Interests*, 29, 395-399.
- Therme, C., (2018), Iran seeks Russian support through Caspian Sea concessions, Retrieved March 5, 2019, from <https://www.iiss.org/blogs/analysis/2018/08/iran-russian-support-caspian>.
- U.S. ENERGY INFORMATION ADMINISTRATION (EIA) (2013), Caspian Sea Region, Regional Analysis Brief, Retrieved February 17, 2019, from <http://www.eia.gov/countries/analysisbriefs/caspiansea/caspiansea.pdf>.
- United Nations Convention on the Law of the Sea (UNCLOS), Retrieved February 17, 2019, from [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf).
- VINOGRADOV, S. and WOUTERS, P. (1995), The Caspian Sea: Current Legal Problems, *Heidelberg Journal of International Law (HJIL)*, 55 (2), 604-623.
- WINSTONE, R. and YOUNG, R. (2005), The Caspian Basin, Energy Reserves and Potential Conflicts, House of Commons Library, Research Paper, 5 (24), 1-42.
- YEGIN, A. (2014), The US-Iran Rapprochement Real or Dream? (Translated by Handan Öz), *Analysis*, (8).
- ZADEH, P. M. and HAFEZNIA, M. R. (2003), Perspectives on the Caspian Sea Dilemma: An Iranian Construct, *Eurasian Geography and Economics*, 44 (8), 607-616.
- ZIMNITSKAYA, H. and VON GELDERN, J. (2011), Is The Caspian Sea A Sea; and Why Does It Matter?. *Journal of Eurasian Studies*, 2, 1-14.
- "Caspian Littoral States' Foreign Ministers Meet In Astana" (2016), Retrieved February 15, 2019 from <http://vestnikkavkaza.net/news/caspian-littoral-states-foreign-ministers-meet-in-astana.html>.
- "Next Caspian States Summit to Be Held in Astana in 2017" (2016), Retrieved February 15, 2019, from <https://sputniknews.com/asia/201607131042900262-caspian-sea-status-kazakhstan/>.