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Exploitation of Caspian Sea Oil and Gas Reserves in Light of International Sanctions With a View to Respecting Humanitarian Rights and Public Interests

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Abstract

Background and Theoretical Foundations: The Caspian Sea, as the largest lake in the world, with nearly 40 percent of the total area of the world's lakes, is considered one of the relatively pristine areas in the world in terms of oil and gas reserves. It is the third largest energy source in the world after the Persian Gulf and Siberia. According to the International Energy Agency, the total proven crude oil and natural gas reserves in the Caspian Sea are estimated to be 100 billion barrels of oil and 12 trillion cubic meters of gas. These figures clearly show that the Caspian Sea, in addition to its geopolitical location, is of great importance to the countries bordering this sea in terms of Oil and Gas reserves. Exploiting the Caspian Sea's Oil and Gas reserves in light of international sanctions requires careful legal and strategic review due to numerous obstacles.

Methodology: In this study, using a descriptive-analytical method, the exploitation of the oil and hydrocarbon reserves of the Caspian Sea has been evaluated in light of international sanctions and with a view to observing humanitarian rights and public interests.

Findings and Conclusion: The findings and results of this study indicate that the exploitation of the Oil and Gas reserves of the Caspian Sea is faced with numerous

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obstacles such as international sanctions, great water depth, the closedness of the Caspian Sea, lack of connection with open waters, high costs, operational risks, lack of necessary and sufficient technology and knowledge in exploitation, regional conflicts, and the failure to determine the legal regime of the Caspian Sea in this area are major challenges for extracting the Oil and Gas reserves of this sea. International sanctions, especially technology-based sanctions by the United States of America, have severely affected the exploitation of the oil and hydrocarbon reserves of the Caspian Sea. In addition, the lack of a common legal regime for the Caspian Sea and the technical and operational challenges associated with deep-water Oil and Gas extraction are other obstacles that make it difficult to effectively exploit these resources. The findings indicate that technology-based sanctions imposed by the United States have directly limited the access of Iran and some other Caspian Sea littoral states, especially Russia, to the technologies necessary for deep-water Oil and Gas extraction. On the other hand, economic sanctions should be designed in a way that reduces their side effects on the civilian population. The United Nations Security Council is required to observe the principles of humanitarian law and the public interest in its decision-making. To remove these obstacles, the need for international cooperation, the lifting of technology-based sanctions, and the establishment of a common legal regime for the Caspian Sea are of fundamental importance. Also, if sanctions are imposed, it is imperative that their effects on the civilian population be minimized and that the principles of humanitarian law and the public interest are observed. With this approach, the hydrocarbon resources of the Caspian Sea can be exploited sustainably and effectively.

Keywords: Sanctions, International Sanctions, Oil and Hydrocarbon Reserves, Caspian Sea, Humanitarian Rights, Public Interest

Introduction

The Caspian Sea, as the largest lake in the world and a region with great potential in the field of energy, is of great strategic importance. Exploitation of the Caspian Sea's oil and hydrocarbon reserves in the light of international

sanctions is a complex and challenging issue that requires careful legal and strategic consideration. However, the exploitation of the region's Oil and Gas resources faces numerous obstacles, including international sanctions, great water depth, the closed nature of the Caspian Sea, lack of connection with open waters, high costs, operational risks, and lack of necessary technology and knowledge. Regional conflicts and the lack of determination of the legal regime of the Caspian Sea are other challenges in this area.

International sanctions, particularly those imposed by the United States, have placed legal and practical obstacles to the development and exploitation of the Caspian Sea's hydrocarbon resources. These sanctions, imposed under the authority of the International Emergency Economic Powers Act, have limited Iran's access to advanced technologies and equipment needed to exploit deep waters. They are also designed to destroy Iran's infrastructure and economic foundations rather than change its behavior. In this context, the importance of respecting humanitarian law and the public interest in implementing sanctions becomes even more prominent.

The UN Security Council, while implementing sanctions under Chapter VII of the UN Charter, is bound to observe the principles of general international law, human rights rules, and the public interest. This principle states that sanctions should not be applied in a manner that would impair the fundamental rights of the people of a country, in particular in the economic, social, and cultural spheres. Therefore, any sanctions that result in harm to the life and peace of the civilian population are contrary to the principles of international humanitarian law.

In this context, it is essential to pay attention to the humanitarian effects of sanctions and to adopt measures to reduce them. From the perspective of international law, unilateral sanctions imposed without the approval of the Security Council usually conflict with the principles of national sovereignty and international law. Although these types of sanctions are justified in some cases as a right of a country to sever relations with another country, if their negative effects on third countries or the global economy are not minimized, they can be recognized as a violation of the principles of international law. In addition, sanctions that cause harm to human rights, especially the right of countries to develop, are considered violations of important principles of international law. The history of sanctions dates back to the era of "Captain Challis Boycott" in Ireland in the late 1870s, when the term was first used. In the twentieth century, the term was transferred to the international arena as a legal and political tool and was widely used in international relations. Sanctions were initially implemented privately or nationally, but over time, they were applied more widely by countries or even international organizations such as the United Nations.

In the 1990s, the United Nations Security Council used sanctions against various countries extensively, so that this decade became known as the "Decade of Sanctions." On the other hand, oil sanctions, especially in oil-producing countries such as Iran, have played a pivotal role in the economic and political changes of these countries. The necessity of conducting this research arose from the existence of legal and economic challenges arising from sanctions, especially in the energy sector. Although economic sanctions have been proposed as a tool to achieve political goals, they can have profound side effects on the lives of ordinary people. Therefore, a detailed legal and economic examination of these measures, especially in the field of oil sanctions, is of great

importance. This research not only examines the legal limitations of the Security Council in imposing sanctions, but also analyzes their economic consequences. Exploitation of the Caspian Sea's oil and hydrocarbon reserves requires international cooperation, removal of technical and legal barriers, and observance of international humanitarian law. This process can only be carried out by obtaining the views of all Caspian littoral states and paying attention to common interests. Also, establishing a common legal regime for the Caspian Sea and resolving disputes peacefully can be an important step towards the effective and sustainable exploitation of the region's hydrocarbon resources.

1. Conceptology

1.1. The concept of boycott and its historical background

The term boycott is a systematic refusal to engage in social, economic, political or military relations with a state or a specific group of states in order to punish or create acceptable behavior. However, its use is more common in international economic relations and the goods and services produced by a specific state are boycotted. The boycott may be general, meaning it includes all goods and services, or specific and limited to a specific type or category of goods (Evans, 2002:96).

History of sanctions dates back to the fate of Captain Challis Boycott, an English landowner in Famine-Riddenn Ireland in the late 1870s. In this process, the captain was economically and socially isolated due to the cruel treatment of farmers by the Irish Land Assembly. By the turn of the century, the reform had moved from its common application in labour law to the international arena and had undergone further changes and developments.

Sanctions in international relations were initially private or national in nature and described the unity and integrity of individuals who decided to have no relations with individuals of foreign nationality in order to force a foreign country or its nationals to perform certain behavior. The term was later expanded to include the initiation of such actions by a country. The severance of financial and economic relations with other countries and their nationals may be carried out by one country or several countries acting jointly as a form of economic pressure or hostility, both in time of war and peace. Sanctions may also be used as collective economic punishment in cases of threat or breach of peace by the United Nations against a specific country.

Sanctions are divided into "primary sanctions" and "secondary sanctions." If the sanctions only concern the relations between two countries, such that a country refuses to establish trade or exchange services or other economic and social relations with another country, this sanction is called a "primary sanction" or primary sanction, which has a limited scope. Sometimes a country may expand the scope of the sanction and refuse to establish commercial, financial and other relations with other countries that have relations with the sanctioned country, which is called a "secondary sanction." Sometimes in secondary sanctions, the sanctioning country goes further and, like the D'Amato Act: America vs. Iran, imposes penalties on countries or companies that establish financial relations, etc. with the sanctioned country (Haddadi, 2003:46).

2.1. Oil embargo

One of the cases of economic embargo is to achieve political goals in countries that produce a specific product. For example, the main export of the Persian Gulf countries is crude oil.

The embargo of a single-product economy has more serious effects than multi-product economies. However, the source of the embargo is also important. If the embargoer is only one government or a number of governments, the embargo is only effective for that government or governments, and the sanctioned government can replace the embargoed product from other countries unless the product needed is exclusively monopolized by the sanctioning government. For example, if oil-producing countries or OPEC members embargo the production, extraction and sale of oil to others, the embargoed parties will face great hardships. However, if the sanction is imposed by an international organization and is global and comprehensive, according to the obligations of the members, it can target one or more states that do not comply with the regulations of the international community or endanger the interests of the international community, and this sanction will have fragile effects (Dupont (2012) p.87).

From the perspective of the second opinion, the intention of any country's oil and economic embargo within the jurisdiction of the Security Council is based on reliable legal documents, which, according to Article 24 of the Charter, will be possible with a decision of the Council and a majority vote. Any attempt to impose economic embargo on any country in the world outside the resolutions of the Security Council (regardless of the fact that the resolutions of the Security Council are also in the hands and control of a few specific countries that also have the right to veto and are not free from legal problems) has no enforcement guarantee and does not oblige any country to comply with it, and this action itself is a punishment contrary to international law and custom, and it is as if a person were tried without a court order in the 21st century, and what we mean by any type of sanction without a Security Council resolution is like issuing a

ruling without a court or law. Paragraphs 2 and 3 of Article 10 of the Charter of the United Nations state that strengthening peace through the development of friendly international relations will lead to reducing the causes of war and strengthening world peace, and Article 50 of the Charter also states that the goal was, 34, 36, 34. As stated in Article 33, these goals were achieved through peaceful means. (Ashrafi, 2014:86). An oil embargo on a country is carried out in various ways:

a) Approval and decision not to buy oil from the offending country;

b) Prohibition of selling gasoline to oil-producing countries lacking gasoline extraction facilities;

c) Sanction on oil derivatives such as petrochemicals;

d) Confiscation of the oil-producing country's assets and bank accounts, similar to what the United States did at the beginning of the revolution;

e) Sanction on large oil buyers; with the difference that the bulk of oil purchases are made by a few buying countries, which reduces the oil revenues of the oil-producing country under the embargo;

f) Failure to sell parts and tools necessary for oil extraction;

g) Cancellation of large contracting contracts, especially by multinational oil-extracting companies.

2. Legal limitations of the Security Council in imposing oil sanctions

1.2. The Council's limitations based on principles of international humanitarian law and public interest

It is accepted that the United Nations and its organs operate within the framework of the international legal system and not beyond this system. As a result, they are bound by general legal principles. According to some experts, the Security Council is obliged not to violate general international law unless the Charter specifically authorizes the Council to do so in each specific case. In other words, general legal principles are applied as general rules to the extent that the provisions of the Charter, which are considered special rules, do not make any special provisions on them. In fact, in this case, the rule of precedence of the special over the general applies.

2.2. The principle of humanity of economic sanctions

The principle of proportionality is based on the basic idea of not using force and excessive force in specific cases, because there are limitations that the state must respect. Social, moral and religious considerations have played a fundamental role in the creation of this principle, because the principle of proportionality preserves many human considerations and provides a high degree of protection without which this principle would not exist. The principle of humanity of economic sanctions, which means observing the human aspects in the application of such sanctions, is one of the important principles derived from general international law. The important point is that the principle of humanity is different from the principle of observing the norms of international humanitarian law, in the sense that the principle of humanity has a wider scope and includes many human rights that are not included in the category of human rights. The principle of humanity has many examples such as personal comfort, health, a suitable place to live, suitable and nutritious food, access to sufficient drinking water, clothing, medical care, the right to engage in religious activities, and the opportunity to engage in intellectual, educational and recreational

activities. Therefore, the application of the principle of humanity as a general principle of civilian law of the Security Council is that such measures should not be of such a degree of severity that they expose people to inhuman living conditions and face the risk of disease and death. The principles of humanitarianism of economic sanctions can be divided as follows:

1.2.2. The principle of necessity

The principle of necessity applies in any case where a public authority is granted discretionary powers. Such an authority must ensure that the measures it takes are necessary to achieve the fundamental objectives for which it was established. Since the United Nations is bound by general principles and international law, the Security Council is bound by the principle of necessity.

Necessity is an aspect of proportionality. Proportionality will be achieved if, first, the economic sanction is necessary and, second, it is an appropriate response to the offending behavior of the other party. The criterion of necessity is also related to the issue of the effectiveness of the sanction: to meet the condition of necessity, the sanction program must be designed in such a way that it can reasonably be expected to achieve the intended goal, in other words, to change the behavior of the sanctioned party and cause him to comply with the legal rules (Esfandiary, 2013, p.54).

Accepting that the principle of necessity is applicable as a general legal principle to the actions of the Security Council, it follows that any harm to human rights that is reasonably foreseeable as a result of such actions must be deemed necessary to achieve the legitimate aim of the said actions.

2.2.2. Principle of Proportionality

The principle of proportionality is related to the principle of necessity. It is said that the extent of any restriction must be strictly proportional to the necessity or be proportionate to the higher interest that the restriction is intended to protect. The principle of proportionality can only be invoked in relation to legitimate and necessary measures. Therefore, if an action is illegitimate and in violation of international law, invoking the criterion of proportionality in order to make it appear legitimate cannot be justified. The principle of proportionality requires that sanctions include an appropriate response to the behavior of the sanctioned country. For this purpose, it is necessary that the benefits derived from the sanctions program outweigh the losses caused by it (Azadi and Kurd, 1395:143). When declaring a state of public emergency and suspending rights by the government, the principle of necessity in the sense of "less intrusive methods" should be the criterion for action.

Since basing the principle of proportionality and interpreting the principle of necessity in light of it increases the discretionary power of the state in suspending rights and intensifies the risk of falling into the trap of utilitarianism, applying the principle of necessity can prevent this harm to a large extent (Haji Molla and Mohammadi, 29:1400). According to Article 51 of the draft articles on the responsibility of states (countermeasures shall be proportionate to the harm caused, taking into account the severity of the internationally wrongful act and the rights in question).

3. The Council's limitations under the specific rules of the UN Charter

1.3. Utilitarianism of oil sanctions

Economic sanctions are a type of collective action and, accordingly, must be effective and efficient. Collective action, including economic sanctions, should

not be applied if it is not effective in maintaining international peace and security, and should be discontinued if it has been initiated and found to be ineffective. Coercive measures should only be taken if peaceful means have proven to be insufficient or are expected to be insufficient.

The Iranian oil embargo is an action taken by some countries of the world, led by the United States, to prevent or limit Iran's nuclear program, and the European Union oil embargo is in line with the Security Council sanctions against Iran. The Caspian Sea, with an area of over 370 thousand square kilometers, is the largest lake in the world, located in the territory of Asia and Europe, in the north of Iran and at the confluence of Central Asia. One of the most important issues in the exploitation of the Caspian Sea's Oil and Gas reserves, fishing and shipping is the determination of a legal regime acceptable to all coastal countries. Given the increased attention to the Caspian Sea in recent years, we have witnessed the strengthening of literature related to the Caspian Sea. The Caspian Sea is located between five countries, Russia, Kazakhstan, the Republic of Azerbaijan, Turkmenistan and Iran. There is no system of lake law in international lakes, so international practice prevails in this regard. There are many lakes in the world's five continents, some of which are border lakes due to their location between two or more countries. The Convention on the Legal Regime is a major document and framework that defines the quantitative status of the sea and the rights and obligations of the countries. Each of the five countries bordering the Caspian Sea has developed a solution to regulate the legal system governing the Caspian Sea based on its interests. The position of the Russian Federation, as the successor to the former Soviet Union, was that the new countries bordering the Caspian Sea should adhere to the 1921 and 1940 treaties until a new legal regime is determined.

2.3. Coordination in the application of economic sanctions

In fact, economic sanctions are one of the tools of foreign policy that allows a country or countries to pursue their political objectives towards the target country when a dispute arises. Paragraph 4 of Article 1 of the Charter states that one of the purposes of the United Nations is to be a center for coordinating the actions of nations in achieving common goals.

The principle of coordination in relation to economic sanctions can be proposed from two perspectives:

First, one of the conditions for the success of the Security Council's economic sanctions is the cooperation and coordination of countries in implementing the sanctions programs. In this regard, the principle of coordination is related to the principle of the effectiveness of economic sanctions.

Second, the lack of selective or arbitrary measures by the Security Council, sanctions that are applied against one country for the same violations by countries and not applied against other countries are contrary to the condition of coordination. Also, sanctions that are applied unequally against two countries for the same violations will violate the principle of coordination.

Accordingly, on the one hand, in using economic sanctions, the Security Council must observe the principle of non-discrimination and, if the circumstances and situation in separate cases are similar and require the application of economic sanctions, it should use similar economic sanctions. On the other hand, in implementing sanctions programs, there should be no difference between countries except on the basis of conditions that are necessary to make the sanctions more effective. Sanctions should be regulated solely on the basis of real conditions and in compliance with the principle of

proportionality, and the Council should not act based on political motives and considerations.

Sanctions are fundamentally legitimate as a means of ensuring the implementation of international rules and maintaining and restoring international peace and security, unless their purpose is to exert pressure and domination over other countries or to contradict the contractual obligations of countries.

The imposition of economic sanctions, even in cases where they are legitimate, is subject to compliance with international rules, and subjects of international law must accept some legal restrictions in imposing economic sanctions. This study examines the legal restrictions of the Security Council in imposing economic sanctions within the framework of Chapter VII of the Charter.

But before that, the question arises whether the Security Council is bound by the norms of international law in carrying out its duties under Chapter VII or not?

According to some experts, Article 1, paragraph 1 of the Charter is drafted in such a way that the Security Council has complete discretion in implementing Chapter VII of the Charter and that the powers of this Council are not limited by the norms of international law.

Article 1, paragraph 1 of the Charter: To maintain international peace and security and, to this end, to take effective collective measures for the prevention and removal of threats to the peace, for the suppression of acts of aggression or other breaches of the peace, and for the adjustment or settlement of international disputes or situations which might lead to a breach of the peace, by peaceful means and in accordance with the principles of justice and international law.

This paragraph consists of two parts. The first part relates to the maintenance of peace and security through effective collective action, and the second part relates to the peaceful settlement of disputes. Since the need to comply with the principles of justice and international law is mentioned only in the latter part, the Security Council is not legally bound by the Charter to observe the principles of international law when acting under Chapter VII.

The organs of the United Nations are considered subjects of international law and are required to comply with international law in the performance of their duties. Therefore, the Security Council is required to comply with international law when imposing economic sanctions under Chapter VII of the Charter. The limitations of the Council, which are examined in this study, include the principles of general international law, the specific provisions of the Charter, and the rules of human rights and humanitarian law.

4. The Council's limitations under human rights and public law

1.4. Human rights and humanitarian values

Respect for human rights and humanitarian values are among the fundamental limitations on the right to resort to countermeasures. Individuals residing in a country should not be deprived of their fundamental economic, social and cultural rights because their leaders have violated the rules relating to international peace and security. The United Nations General Assembly also stated in the Basic Principles for the Protection of the Civilian Population in Armed Conflicts: The obligation to respect human rights is a customary rule of international law that, with a broad interpretation and in a primary way, also extends to civilian executive measures.

Considerations related to human rights and humanitarian rights have led the Security Council to adapt them to human rights standards and humanitarian interests when imposing economic sanctions, as much as possible. For example, in the Iraq-Kuwait war, the Security Council paid special attention to the more vulnerable groups of civilians in Iraq and Kuwait, such as children, pregnant mothers, the sick, etc. Such exceptional restrictions, which have been called the conditions of exceptions to humanitarian exemptions, indicate the special attention of the Security Council to human rights standards in applying economic sanctions.

2.4. Public rights and the application of economic sanctions on Iran's northern energy regions

In fact, the Security Council considers it mandatory to observe the rules related to all types of human rights, including fundamental and other types of human rights, in the application of economic sanctions, but the international community has not established rules regarding the scope and duration of these measures in order to observe the parallelism of human rights. This means that those who are harmed by the actions of the Security Council have much less protection than those who are affected by an internal emergency. In order to compensate for this lack of responsibility, it has been proposed that the Security Council and the states that act with its authorization should observe all types of human rights in principle and to the extent possible.

Therefore, the extent of the Security Council's obligation to respect human rights when imposing economic sanctions will be determined and assessed in light of the principles of necessity and proportionality. In other words, temporary violations of human rights in economic sanctions programs are permissible to the extent that they are necessary to fulfill the primary

responsibility to maintain international peace and security, and there is a proportionality between the rights violated and the rights that the Council seeks to ensure in line with its responsibility. As a result, in order to deal with serious violations of human rights that endanger international peace and security, the Security Council can impose economic sanctions that violate some types of human rights of lesser importance. For example, in order to put an end to gross and widespread violations of the right to life, the Council can impose financial and trade sanctions that involve violations of the right to property and freedom of trade, because it is obvious that the importance of the right to life is greater than the right to property and freedom of trade. In any case, the Security Council's authority to disregard human rights in imposing economic sanctions faces two fundamental limitations:

The first limitation is that the Security Council cannot disregard fundamental human rights through the imposition of economic sanctions. The second limitation is that the Security Council should not, in its economic sanctions programs, disregard human rights rules in a way that threatens international peace and security, as this would be inconsistent with the Council's primary responsibility to maintain international peace and security.

Economic sanctions are traditionally seen as an alternative to military intervention and as an important part of the "escalation curve" theory that prepares for war. The imposition of economic sanctions leads to a dual situation between a state of war and a state of normality in relations between the sanctioning and non-sanctioned countries in the context of comprehensive sanctions. This unusual situation has been such that some writers have sometimes assumed international humanitarian law as the main framework of laws applicable in a situation of economic warfare and have defended the study

of humanitarian law rules to legitimize the use of military force during armed conflicts as a framework within which economic sanctions should be studied and examined. The return of secondary US sanctions on May 8, 2018, has created a new legal order regarding investment and trade activities with Iran, especially in the Oil and Gas industry. Sanctions that target non-US individuals and companies and extraterritorially target all actors and activists related to the Iranian market. (Razavi and Zain al-Dini, 2018:37).

Therefore, if the living conditions of the people of a country are such that imposing broad economic sanctions would lead to an escalation of conflicts and an influx of refugees into neighboring countries, the Security Council should refrain from imposing such sanctions and limit itself to limited and targeted sanctions that only include government officials or leaders of rebel or terrorist groups.

The experience of managing the imposition of economic sanctions in Iran between 2010 and 2013 shows legal confusion and a lack of proper understanding of the situation for the country's legal and executive policymakers at that time. The insistence of the supervisory institutions on the application of laws and regulations specific to peacetime and normal conditions, which were ineffective, impractical, and impossible under sanctions. On the other hand, the laxity and inattention of the legislative bodies in legislating and establishing practical and executive procedures for the country's managers to administer the country during economic sanctions caused the executive directors of some state-owned agencies and companies, who were on the front lines of dealing with the restrictions resulting from economic sanctions, to take decisions that contradicted the laws and regulations governing normal peacetime conditions in order to counter the effects of sanctions, continue the

cycle of the country's economy, and ensure the continuity of income generation, the entry of liquidity, and basic goods such as food and medicine into the country.

3.4. Economic feasibility of sanctions for energy transfer to northern Iran

Therefore, many of the lines that have been considered for energy transfer to northern Iran have received positive attention from the US government, despite political insecurity. In this regard, Iran is the cheapest, shortest and most suitable route for energy transfer to the Caspian Sea. The existing network of Iranian Oil and Gas pipelines and related facilities is the cheapest route for Caspian producers to transfer energy. Also, the Persian Gulf ports are the closest location to the growing Southeast Asian market, but the US government during the Clinton presidency prevented Iran from becoming an energy gateway to the Caspian Sea and banned the authorities of Central Asian and Caucasian countries. Also, reputable American and other world companies from dealing with Iran and investing in this country in the field of oil exploration and extraction. It was in this regard that Clinton did not respond positively to Mobil's request for a license to transfer oil from the Caspian Sea to refineries in northern Iran and deliver the same amount of oil to the Persian Gulf for supply to international markets. The United States remains determined to push Iran to the brink of collapse and isolate Iran internationally by cutting off its oil export revenues.

The relationship between energy diplomacy and national interests is that achieving energy security within a single country or region is ambiguous and often questioned; as a result, achieving and facilitating the processes related to it is a matter of complex interdependence. This literature is based on the assumption that in the global political economy system, states and non-state economic entities constitute an integrated circuit that represents the global

economy. Thus, the function of complex interdependence is aimed at improving energy diplomacy by playing a mediating role in resolving long-standing disputes and misunderstandings and, on the positive side, by deepening ties, relations between states and global interactions. In this sense, the recent policy is considered one of the important dimensions in relation to national interests, as it creates a more stable situation in relations in terms of supply security, demand security, and the necessity of investment in financial and technical fields (Pour Ahmadi, 2009:9).

5. Economic consequences of sanctions

With the increasing political differences between Iran and the International Atomic Energy Agency, strict sanctions have been approved and implemented by the Security Council, as well as European and American countries, and one of the goals of these sanctions is to paralyze Iran's oil industry. Economic sanctions are punishments or manipulations in economic relations and cooperation in order to achieve political goals. Political sanctions mean cutting off ties with a state that has either failed to fulfill mutual and reciprocal obligations in its relations with them or long-standing hostilities between two states based on political interests, including non-recognition of each other in international law. The basis of this type of sanctions is not logical and is usually closely related to historical hostility. Economic sanctions mean coercive economic measures against one or more countries in order to create changes in the macro policies of that country. The sanctions policies used by American lawmakers and statesmen have mostly sought to change the behavior of the Islamic Republic of Iran. In the classification of those who sanction the Islamic Republic of Iran, three main authorities can be mentioned: the Security Council, the United States of America, and the European Union (Zolfaghari and Janghorban, 2015:132).

Despite the clarity of Chapter 7 of the Charter, some believe that the denial of the authority of states to resort to economic sanctions is inconsistent with the principle of sovereignty, especially the principle of sovereignty of states over their own resources. There is no doubt that the resolutions of the United Nations General Assembly and other international documents have repeatedly confirmed the principle of "sovereignty of states over their natural resources", and even the 1974 Declaration on Economic Rights and Duties, relying on the principle of "freedom of nations to determine their own destiny", has left each member of the international community free to choose its counterpart in international trade. However, it cannot be denied that the aim of all the documents and resolutions that have been drafted regarding the establishment of the new system is to strengthen the sovereignty of developing countries and prevent their rights from being violated. In other words, the issue in question is to eliminate the existing inequalities between these advanced industrial countries and developing countries in the field of international trade and to create more or less similar opportunities for both parties, and it is on this basis that the member states of the European Common Market have adopted a system known as the Common Market Preferential Tariff System. Thus, the principle of sovereignty over the natural resources of states ultimately aims at consolidating and expanding international cooperation, and not only is there no contradiction between sovereignty and cooperation, but the two are necessary and indispensable to each other, and establishing international cooperation in a fair and equitable manner is one of the manifestations of the sovereignty of states.

Economic sanctions lie between diplomacy and war. When governments are unable to achieve their foreign policy goals in relation to other governments

through diplomacy and negotiation, they are likely to use economic sanctions. While sanctions are considered more effective than diplomacy, they lack the efficiency and impact of war and military action. However, they do not bear the heavy risks and costs of war, especially in the era of destructive weapons. Hence, some governments, especially developed industrial powers that enjoy economic superiority over other governments, especially developing countries, use economic sanctions. The sanctioning government or governments may choose to use economic sanctions symbolically or in reality to defend international norms and laws or on the pretext of its own or its allies' national interests. Through economic sanctions, the sanctioning government seeks to pressure the target economy by creating trade and financial restrictions and limitations in order to force the relevant government to correct behavior or policies that are considered undesirable from the perspective of the sanctioning government. In this regard, sanctions are usually focused on sensitive and essential sectors of the target country's economy to be more effective and faster, which in the case of the Islamic Republic of Iran, is the oil industry. Therefore, the West, and especially the United States, by resorting to some claims in economic sanctions, have focused on the oil embargo so that Iran can change its behavior in some domestic and regional policies, especially in the nuclear program. The likelihood of a significant economic blow to a country that is subject to sanctions depends on several factors:

1. The economic and financial characteristics of the country

2. The economic and financial relations between the country and the sanctioner at the time

3. The global macroeconomic conditions

In addition, the membership of the sanctioned country in regional or international organizations such as the World Trade Organization (WTO) can have a direct impact on the way sanctions are applied and the response of third countries. Also, the relative importance of the sanctioning country and the target country in the world, politically and economically, plays a decisive role in the policies of other countries and international organizations.

Economic Sanctions identifies six factors: gradual and permanent sanctions, the existence of oil revenues, the adoption of an import substitution development strategy, global competition, the lack of full compliance of independent emerging economies with sanctions, and the existence of offshore banking as factors that reduce the impact of economic sanctions. In contrast, it identifies eight factors: the multilateralization of sanctions, the closure of many ways to circumvent sanctions, limited access to the international financial system, targeting oil sales, the coincidence of economic sanctions with the effects arising from the implementation of the economic transformation plan, the strong dependence of domestic production on foreign technology, raw materials, and intermediaries, the dependence of the country's currency system on the dollar and the euro, and the lack of management of public opinion as factors that exacerbate the impact of sanctions on Iran (Darakhshani and Taghani, 2014:142). The sanctions imposed against Iran can be distinguished in terms of the issuing authority, subject area, ultimate cause, severity, level, type of goal, and whether or not they are binding. In terms of the subject area of sanctions, Iran's energy sector has faced the highest level of sanctions from the United States and the European Union (Yari et al., 2019:95).

Even after the ban on imports of Iranian goods to the United States was issued by the then US President in 1987, American companies continued to buy crude

oil from Iran. These companies buy crude oil from Iran, refine it, and ship it to the US or sell it to other countries (either in crude form or as petroleum products). Therefore, there was no negative impact or pressure on Iran in this regard, or if there was, the amount was very small. However, it is believed that Iran did not lose much in terms of oil export revenue due to the US sanctions. Until 1987, when there were no sanctions, the number of buyers of Iranian crude oil worldwide did not decrease at all, although the number of countries to which Iranian oil was directly exported decreased.

Although Iran faced initial difficulties in selling some of its oil in 1995, the effect was also quite temporary and insignificant. The result that emerges here is that in the export of fungible and exchangeable goods, the effect of the sanctions was very small or zero, and the sanctioned country could still export its goods to other countries and earn income from them. This is while the rest of the exporting countries exported their goods to the United States. The economic consequences of sanctions on the Caspian are examined in two parts as follows:

1.5. Banning the transit of Caspian oil reserves

But more importantly, the issue of transit of energy resources, especially oil, from the Caspian littoral countries has been problematic, because these countries do not have access to open waters and have had routes through Turkey, Russia and Iran for transit, but the best routes. And the most economical route is the Iranian route to the Persian Gulf. By preferring the Turkish route, the United States has tried to adopt a negative stance towards the transit of energy resources from Russian soil and has tried to prevent transit from Iran, even through this country, in order to put pressure on the Islamic Republic of Iran. At the same time, by encouraging the Caspian littoral countries to meet the

energy needs of Iranian customers, it has tried to disrupt the country's energy exports, an example of which is the export of the region's gas resources to Pakistan and India. According to the above explanations, the construction of the Peace Pipeline is for Iranian gas exports.

Following the collapse of the Soviet Union, Russia briefly stopped paying serious attention to Central Asia and the Caucasus due to internal problems. This created a geopolitical vacuum in the region, which led to extensive activity by regional actors such as Iran, Turkey, Pakistan, and Israel, as well as global actors such as NATO. However, the definition of Central Asia and the Caucasus by Russian leaders as the “near abroad” and the political, economic, and social ties of the Russian Federation with the newly established republics of these regions caused Russia to become sensitive and pay serious attention to these regions again (Ahmadian and Gholami, 2009:1). Given the geopolitical importance of the Caspian Sea, this region has been of interest to major transregional powers, especially the United States, after the Cold War. This country has considered several goals in the Caspian region. The United States, having declared the goal of combating terrorism and radical Islamism, has focused its attention mainly on energy resources and sanctions on the governments of Russia and the Islamic Republic of Iran. The United States, which witnessed a general trend of increasing energy imports, especially from the Middle East, especially before the period of rising oil prices since the beginning of the last decade and the increase in the exploitation of unconventional oil resources, immediately turned its attention to the Caspian region after the collapse of the former Soviet Union. Initial estimates of the Caspian Sea's Oil and Gas resources even gave good news about the region's competition with the oil reserves of the Middle East, a region that was

considered unstable from the West and the United States' perspective, and the exploitation of Caspian oil. The Caspian Sea region can promise a reduction in dependence on Middle East oil. Therefore, American companies began to sign contracts to exploit Caspian energy resources. At the same time, the Americans, given the tension in their relations with the Islamic Republic of Iran, tried to prevent Iran from entering, an example of which was the exclusion of Iran from the Azerbaijan Oil Consortium. Each of the two countries mentioned is trying to pursue energy control in a specific format. The United States is seeking to maximize its base to control the energy transfer circuit and energy prices. While Russia has a production approach and a role in the global market (Mottaqi and Hemmatkhah, 2008:127).

2.5. The desirable procedure of the Caspian littoral states in exploiting shared oil reserves

The ambiguities in the exploitation of shared oil fields and the legal deficiencies in this area have been an issue that has always been raised from the beginning, and the way to exploit these resources has been a concern of the interested states. The scarcity of oil and the importance of this issue; both in economic and industrial discussions have caused competition and increased disputes between states. The fluidity of oil, in turn, requires the determination of specific laws and regulations. The 1982 Convention on the Law of the Sea, as a general international treaty in this field, requires states to take practical measures in the form of temporary measures in the event of a lack of agreement on delimitation. The efforts of the United Nations, especially the General Assembly, in this field have aimed at encouraging states to cooperate with each other. A look at two different approaches to exploiting shared resources, one based on cooperative exploitation and the other based on unilateral and competitive exploitation,

shows that cooperative exploitation has a high level of credibility and acceptance compared to unilateral exploitation.

In addition, based on the peaceful settlement of international disputes, the governments of the parties are obliged to resolve the aforementioned dispute based on political or legal procedures. In crude oil swap contracts, Iran can play two roles: "exchanger" or "buyer and seller". Also, receiving crude oil from the north of the country and delivering its equivalent value from the south of the country can occur simultaneously or with a time interval. For this purpose, with two assumptions of simultaneity and a time interval of one month and three months between receiving crude oil from the Caspian countries and delivering its equivalent value from the south of the country, the valuation of Iran's crude oil swap in the role of "exchanger" and "buyer and seller" is addressed using financial derivatives (Abreshmi et al., 2018:776). In terms of international practice, the trend is towards cooperative exploitation and avoiding competitive and unilateral exploitation. Since there is no direct rule in this field, international custom can be considered one of the sources of international law and, given its characteristics, a suitable and effective format for participatory exploitation that can address existing shortcomings and shortcomings.

6. Legal Effects of Sanctions

1.6. Suspension of Treaties Legal Solutions

The Treaty of Amity, Economic Relations, and Consular Rights between Iran and the United States of America was signed in Tehran on August 14, 1955. As well as continuing to emphasize the peace and friendship of the two countries. This treaty entered into force on May 16, 1957, after the exchange of instruments of ratification in Tehran. The purpose of concluding such treaties is

to provide legal guarantees for the nationals of the parties. Considering this issue and considering the relations between Iran and the United States after the victory of the Islamic Revolution and various incidents that occurred between the two countries, including the attack on the US embassy in Tehran in 1979 and the hostage-taking of embassy staff in Tehran, as well as the attack by the US Navy ship Vincennes on an Iranian Airbus in 1988, as well as the attack by American forces on Iranian oil platforms in 1987 and 1988, and other hostile actions that the two countries have taken against each other, and considering that the main basis of Iran's complaint against the United States in the oil platforms case is based on a treaty. It was founded on the basis of friendship, and one of the bases of the US lawsuit against Iran regarding diplomatic and consular personnel was based on the Treaty of Friendship, and one of the bases of the jurisdiction of the Iran-US Arbitration Court was this Treaty of Amity.

In international trade, the expansion of international treaties is considered as an economic development strategy. Today, followers of globalization also insist on this view and consider free trade to be a suitable solution for the economic development of countries. International trade theories suggest solutions for the development of trade that are of particular importance for the Iranian economy. On the one hand, with the imposition of severe sanctions against Iran, the possibility of such trade has become very difficult for Iranian companies, and industrial companies have also faced numerous problems in their foreign purchases. Therefore, given that in oil companies, due to the continuous work and activity of this equipment, we are always faced with depreciation and wear and tear of industrial equipment, and on the other hand, many of this equipment cannot be produced domestically for various reasons. It must be purchased from other producing countries and imported into the country. Oil transportation through pipelines is one of the factors ensuring the security of oil demand, and

accordingly, Russia has adopted one of its strategic policies in the field of transportation, Oil and Gas transportation through long-term contracts and pipelines. The increasing role of international companies in Russia is part of this country's strategy to acquire technology or gain access to their gas and oil export network (Razavi and Bayat, 2019:111).

2.6. The feasibility of oil embargo from a legal perspective

The application of economic sanctions is legitimate when it is subject to compliance with international rules, and subjects of international law must accept some legal restrictions in the application of economic sanctions and act within their framework. According to one view, the Security Council has no restrictions in carrying out its duties under Chapter VII of the Charter, and the Council's recognition is not bound by international law. According to this group of experts, Article 1, paragraph 1, of the Charter has been drafted in a way that leaves the Security Council completely free to implement Chapter VII of the Charter and does not limit it to the norms of international law.

The behavior of the supervisory and judicial bodies in dealing with the managers of some of these state-owned institutions and companies during the sanctions, who, due to emergency conditions and in good faith, made important decisions to help the country and prevent social crises due to food and medicine shortages, which on the surface were contrary to the explicit text of the laws, but caused a disruption in the administration of the country's affairs, at a time when those imposing economic sanctions were looking for signs of Iran's weakness to justify the continuation of economic sanctions, indicates a deep vacuum and a fundamental problem in the country's supervisory and judicial systems and laws.

With the start of exploration activities in the Caspian Sea in 2009 and the discovery of the Sardar Jangal oil field in 2012, the specificity of the subject of "deep waters" and "Caspian Sea" became more apparent. In general, the problems of working in the Caspian can be assessed from various aspects: the great depth of the water, the closed nature of the Caspian Sea and its lack of connection with open waters, operational restrictions related to equipment transportation, the variable weather and climatic conditions of the Caspian Sea, very difficult and complex support due to the great distance from the coast, the high cost and risk of exploration operations in deep waters, the lack of necessary fields, including numerous companies that are in the south of the country but are not in the north of the country to carry out periodic repairs and services of the naval fleet, and technological sanctions have been the main challenges of working in the Caspian basin. Studies conducted in this regard show that almost all countries require foreign investors and contractors in their oil contracts to use domestic goods and services of the host country in oil operations. For example, Article 42 of the Iranian Petroleum Law (8/5/35) has stipulated the following requirement in this regard: "The goods and services required for the operations in each contract will be procured and acquired from the country's domestic resources." The impact that such a requirement can have on the acquisition of knowledge and technology cannot be denied because by taking possession of the aforementioned equipment and tools, it provides an opportunity for the host country to familiarize its citizens with the transferred equipment and facilities and to train them in their use" (Ameri, 2007:43).

Therefore, with a proper understanding of the situation that has arisen and considering the level of difficulty, it is necessary to give the necessary legal powers to the managers of executive agencies and state-owned companies that are most exposed to the sanctions situation at any time so that the country's legal

and regulatory system can evolve and transform in line with the economic and social developments that affect the country.

3.6. Legal aspects of sanctions and exploitation of hydrocarbon reserves from the Caspian Sea

The application of economic sanctions by the United States is based on the powers granted to it by the "International Emergency Economic Powers Act" and as a result, laws are required to deal with the laws and regulations that have been established based on the creation of emergency conditions. And the regulations related to emergency conditions are now not talking about economic sanctions to change behavior, but about destroying Iran's infrastructure and economic foundations. To the extent that the US Secretary of State has officially declared economic war on Iran. Economic sanctions are among the measures that the Security Council has repeatedly imposed against other countries since the 1990s. In the aforementioned decade, 17 sanctions were imposed by the Security Council and for this reason, some circles called the 1990s the decade of sanctions. International sanctions have two general forms as follows:

1. Unilateral sanctions by countries against each other

2. UN Security Council sanctions

From the perspective of international law, unilateral sanctions are evaluated with 3 approaches:

a) The application of these types of sanctions is permissible in accordance with the principle of state sovereignty, and each country has the right to sever relations or maintain relations with another country.

b) Economic war by one country against another is permissible, but its negative effects on third countries must be minimized, otherwise it will cause damage to the global economy.

c) Unilateral sanctions are illegitimate under international treaties and law. For example, the UN General Assembly has repeatedly condemned coercive economic measures as a means to achieve political goals and calls on industrialized countries not to use their superior position to exert economic pressure with the aim of changing the behavior of other countries.

The United Nations Conference on Trade and Development (UNCTAD) also stated that all developed countries should refrain from imposing trade restrictions, embargoes, and other economic sanctions against developing countries that are inconsistent with the provisions of the United Nations Charter. According to the Vienna Declaration of June 1993, unilateral sanctions violate the right of countries to develop and can be considered as a violation of this important principle of human rights. In the event of a conflict between the sanctions provisions of the Security Council and fundamental human rights standards, Article 103 of the Charter cannot be invoked to compel member states to comply with the decisions of the Security Council.

In general, economic sanctions are contrary to the provisions of the United Nations Charter (Articles 1, 55, and 65). The aforementioned articles emphasize human rights issues in the application of sanctions in a gradual manner, and the Security Council, without considering the human rights consequences, has deprived some countries of their inalienable rights. So far, the UN Security Council has issued two resolutions (1696 and 1737) against Iran.

Chapter VII of the UN Charter has four articles (Articles 39 to 42). Articles 39 and 40 discuss the identification and determination of threats to international peace and security, and the Security Council can take any action to prevent the deterioration of the situation. Resolution 1696 refers to Articles 39 and 40. Article 41 considers political and economic sanctions, and Article 42 considers the use of force and military force in land, air, and sea dimensions. Resolution 1737 refers to Article 41 of the UN Charter.

The Security Council, assuming that Iran was a threat and this issue had been verified, adopted the first resolution, and since the requirements for eliminating the threat were not met by Iran, it adopted the second resolution and, citing Article 41, the Security Council can include full economic sanctions and the severance of diplomatic relations in the sanctions. It is worth noting that from a legal perspective, the decisions of the Security Council in Chapter VII of the Charter are binding on all members. (Article 25 of the Charter obliges all member states to implement UN resolutions). As the largest lake in the world in terms of proven Oil and Gas reserves, the Caspian Sea is considered one of the relatively pristine regions of the world, but among the neighboring countries of the Caspian Sea, only Iran has not yet produced any hydrocarbon reserves from the Caspian Sea. The Caspian Sea region is one of the most dynamic places in the world due to the proximity of the two permanent powers, Russia and Iran, and the emergence of newly independent republics. Also, the interconnectedness of interests of other actors, including the United States and the European Union, with these coastal countries has added to this complexity and dynamism (Molaei and Dayan, 2016:147).

In the industrial sector, certainly the parent industries and industries that mainly supply their technology and production factors, including raw and intermediate

materials, from other countries, as well as industries that view other countries as destination markets and are export-oriented, will suffer the most from international sanctions. (Bakhshaysh, 2013:48). Of course, the existence of Oil and Gas reserves in the southern regions of the country and the Persian Gulf has caused less attention to the Caspian reserves. The issue of development and production from Caspian Sea resources faces numerous technical and operational challenges and complexities, such that obtaining specific deep-water technologies is one of the essentials for decisive entry into this field. In addition, the development and production of Caspian Sea Oil and Gas resources faces numerous challenges, including technical and operational complexities. Obtaining the necessary technologies for exploiting deep waters is one of the main essentials for decisive entry into this field. Lack of sufficient technology and knowledge, great depth of water, closedness of the Caspian Sea and lack of connection with open waters, high cost and risk, operational restrictions related to transporting equipment, very difficult and complex support. Due to the great distance from the coast, lack of suitable grounds for carrying out repair activities and periodic services of the naval fleet, regional conflicts, failure to determine the legal regime of the Caspian Sea, as well as the imposition of technical and technological sanctions by the United States of America, our main challenge for exploiting the Caspian Oil and Gas resources has been and is. Although the existence of hydrocarbon reserves and potentials for Iran has been confirmed by conducting exploration activities in areas far from the coast of Iran, for the reasons mentioned above, there is still no clear prospect for production from these structures.

Conclusion

Economic sanctions will always have both positive and negative effects on any country. While effects such as self-sufficiency, non-dependence, economy, self-confidence, etc. can be considered positive effects of sanctions, many effects such as higher import prices, reduced export volumes, smuggling and pseudo-smuggling, shortage of foreign currency, and corruption and rent-seeking are among the negative effects that cause the most damage to the country under sanctions. Given the importance and high value of oil, oil sanctions have a long history as one of the important forms of economic sanctions in international law. These types of sanctions mainly include restrictions and prohibitions on the export and import of crude oil and petroleum products, restrictions on foreign investment in the oil sector, restrictions on financial payments resulting from oil transactions, and restrictive measures on the transfer of equipment. And technical knowledge related to the oil industry, which is used to deprive the target country of oil revenues and exert economic and political pressure on it. Sanctions against the Iranian oil industry have been imposed on several occasions and at various stages, both unilaterally and multilaterally, as a means of exerting pressure and changing the country's political policies. However, since 2010 and the issuance of the European Union's sanctions decisions in this regard, they have become more important than ever. The unilateral and multilateral oil embargo against Iran has violated some of the general and specific principles and rules of international law, including the principles of the United Nations Charter, the principles of the European Union, some of the principles of human rights, the principles of international economic law, the principles of the law of the sea, the principle of reciprocity, etc.

This research, after examining the potential for this phenomenon to occur in the Iranian economy in years when foreign exchange earnings from crude oil

exports increase significantly, should identify appropriate solutions for absorbing oil revenues in the Iranian economy using the experiences of the countries affected by this. Phenomenon To achieve this goal, first, using the literature on the subject, 5 general criteria were explained as criteria for the optimal and desirable use of such revenues by countries, and then using these criteria, the experiences of different countries in this field were evaluated. The result of this research indicates that Norway's experience in using these revenues can be a suitable model for our country in this field and the structure of the foreign exchange reserve account in Iran should be revised and completed to become a country. The Non-Renewable Resources Fund (Oil) is established with the aim of complying with the criteria explained and also under the cover of stabilization, savings, and precautionary incentives. Solutions such as forming permanent committees in the Ministry of Industry, Mines and Trade to more closely examine the dimensions of the issue, policies and develop necessary programs based on the actions of the United States and other remaining parties to the JCPOA in the field of production, trade and services they need in line with the time frames of the sanctions, as well as using the theory of breaching the corporate veil to reduce the risk of sanctions on oil companies in Iran in international law. Findings: It is also possible to significantly reduce the risk of identifying and imposing sanctions by making changes in the structure, management style and relationship of active oil companies with the National Iranian Oil Company as the parent company. By considering other solutions, including the realization of the exploration priorities determined in the South Caspian region (based on the strategic policies announced in the hydrocarbon resources exploration section of the country), the feasibility of developing joint cooperation with other neighboring countries in the Caspian Sea will be realized. On the other hand, considering the

existing capacities as well as modeling and implementing joint contractual models in the field of production from deepwater fields in other parts of the world (especially the contractual models used in the Caspian Sea), it can also materialize the areas of exploitation of Caspian Sea oil facilities.

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