

The Future of the Caspian Sea after Tehran Summit^I

SEYYED RASOUL MOUSAVI^{II}

Abstract: The Tehran Summit of littoral Heads of State on October 16, 2007, was a turning point for issues and disputes related to the Caspian Sea legal regime in post-Soviet era. The meeting was held in a sensitive political-international period when some Western states, led by the United States, attempted to give the impression that the Islamic Republic of Iran has been isolated. The Tehran Summit put an end to all their baseless allegations.

In addition of being a diplomatic success for the Islamic Republic of Iran, the Summit touched several pressing issues in the Caspian Sea in which all five littoral states managed to reach consensus over principles outlined in "Tehran Declaration".

By reviewing the historical background of Caspian Sea legal regime and deliberation of different debates on the subject, the present article examines the results of Tehran summit in form of cooperation among littoral states in political, diplomatic, commercial, economic, scientific, technical, cultural and other spheres in the framework of bilateral and multilateral relations.

^I Views expressed in this paper are of the author, without any indication or implication for the current policy positions of the Foreign Ministry of the Islamic Republic of Iran.

^{II} Seyyed Rasoul Mousavi is Director-General of IPIS.

Introduction

Perhaps no other location has been known by so many different names throughout history than the Caspian Sea. It should not come as surprise that 36 names have been mentioned for the sea in historical and geographical documents.¹ The reason is that in ancient times and even during the second half of the 19th century – at a time when traveling by road was very difficult and people residing along its shores had little contact with each other – remote areas and even most frequented places used to be known by names derived from the local population's ethnic background.

These places had diverse names just as two sides of a river or a mountain were named differently. Similarly, the Caspian Sea was not known by one name in all periods. The sea used to be associated with a name for sometime before it underwent a change based on the local language of its coastal residents. At times, the name would be influenced by those of the surrounding areas or towns. (Mofakham Payan, 1996: 38)

The first reference to Caspian Sea can be found in the books of Herodotus (407- 484 BC). In his books, he refers to Caspian Sea as a landlocked body of water with no access to any other sea. The early maps of the Caspian Sea also show that it is a circle in the form of a gulf stretching up to the Arctic Ocean. (Mofakham Payan, 1996: 55-59)

Historical documents dating back to the 6th century BC state that the Caspian Sea has always been an integral part of Iranian waters. However, after the two wars in early 19th century, Iranian warships were denied access to the Caspian Sea, especially after its defeat and signing of the Treaty of Turkmenchay in 1828. During this period, Iran lost a huge part of its territories and had to suffer from the imposition of Capitulation. Subsequently, the sea was controlled by the Russian Navy.

After World War I and the fall of the Tsar, the Bolsheviks took control of Russia by creating a new political-security ambience around Iran. An important development came in the form of the nullification of former colonial treaties. The new revolutionary government in Russia signed a new treaty with Iran on good neighborliness and friendship on

February 26, 1921. The treaty defined a new basis on which Iran and Russia could cooperate in the Caspian Sea. On March 25, 1940, the two neighbors signed another trade and maritime agreement to indirectly define the basis for the Caspian Sea legal regime. (Eqbal Ashtiani & Amoli, 1999: 671-673)

The treaties of 1921 and 1940 formed the basis of legal relations between Tehran and Moscow regarding Caspian Sea until the disintegration of the former Soviet Union in 1991. Due to its military and naval superiority, the Soviet Union had a greater share of the Caspian Sea and despite the spirit of equality envisioned in the 1921 treaty, it achieved a military and security edge in the sea. (Mofakham Payan, 1996:319-341)

Moreover, in a unilateral, unprincipled and unjust manner, the Soviet willfully interpreted the aviation agreement of 1964 and upheld the imaginary line of Astara-Hosseinqoli -which was only considered for the sake of determining the flight information region (FIR) in bilateral agreements between Iran and Russia- as the marine border. This imaginary line was drawn on the basis of a secret directive issued by the Soviet and without informing Iran. Under the directive, the littoral Soviet republics were divided by this line so that their oil exploration activities would not overlap. The southern border of the sea had also been based on this imaginary line.

The collapse of the Soviet Union and formation of new republics bordering the Caspian Sea led to the formation of new political, economic, security and strategic configurations across the region. The huge geopolitical changes created new opportunities and challenges in the Caspian region for Iran. The situation became even more complex when the newly-established republics redefined themselves and adopted different views and stances vis-à-vis the region and the world.

At the beginning and in order to pave the way for establishing of a "Caspian Sea Cooperation Organization" to forge convergence and prevent schism in the region, the Islamic Republic of Iran took the benefit provided by the summit meeting of Economic Cooperation Organization

(ECO) in Tehran (February 17, 1992) and invited a high-ranking representative at the ambassadorial level from Russia to join the session.

However, the unilateral actions by some Caspian littoral states to get a bigger share of the sea resources, especially hydrocarbons, transformed the situation. The interference of trans-regional powers, including the US and Western oil majors, directed the region toward divergence rather than convergence. This also affected the political literature of the region and terms such as challenge, danger, crisis, puzzle, confusion, barriers, complexity, sea of distrust, sea of dispute, Caspian dream, Caspian gamble and plunder of Caspian resources began appearing in political literature related to the region. (Damirchilou, 2006: 160-181)

On the future of Caspian Sea, former President of Turkmenistan Safarmurat Niyazov said at the end of the Caspian Summit on April 22-23 2002 in Ashkhabad: "The Caspian Sea smells of blood." (Mousavi, 2007: 6)

Caspian Sea Legal Regime

The Common and collective interests of the Caspian Sea littoral states compel the five neighbors to appreciate the fact that firstly, in the Caspian Sea, due to its special geographical and landlocked position, no state can unilaterally come up with a demarcation in line with its own national interests, or even try to use force to secure its interests. Secondly, unilateral actions could lead to huge losses for the entire region, the littoral states and the country itself. The littoral states—despite their unilateral interpretations and understanding of issues related to the region—have consensus over the fact that the Caspian legal regime should include every discussion related to the sea. Therefore, they must reach consensus over the legal regime as well.

To this end, they decided to establish the following five cooperation committees to define the principles and fields of regional cooperation:

- 1- Committee of Caspian Sea Legal Regime;
- 2- Committee on Caspian Research and Hydrometeorology ;
- 3- Transportation Committee;
- 4- Fishing Committee or Committee of Biological Resources;
- 5- Environmental Protection Committee; (Damirchilou, 2006: 160-181)

Experts from the littoral states meet regularly in these five specialized committees and organize workshops to find common grounds for improving regional cooperation and upholding national interests. (Dehqan, 2005: 169-170)²

There has been, however, no coherence and coordination in the meetings of the committees as yet. The Environmental Protection Committee has had a successful track record and helped finalize the "Tehran Convention on Protection of Caspian Sea Environment". However, other committees, except for the Committee of Caspian Sea Legal Regime, have made less serious efforts and are waiting for the dissemination, compilation or finalization of a legal regime for the Caspian Sea. (Damirchilou, 2006: 160-181)

In explaining the above-mentioned terms, it is necessary to point out that after the disintegration of the Soviet Union, Iran and Russia maintained that the Caspian Sea had a legal regime based on the treaties of 1921 and 1940. They also insisted that the regime should be finalized. However, Turkmenistan, Kazakhstan and Azerbaijan stated that the treaty was between Tehran and Moscow and did not concern them. Therefore, they rejected both the treaties.

After lengthy discussions, based on the principle of state succession regarding the commitments of states established after the Soviet Union and the Almaty Declaration (1994), the littoral states agreed in general that the previous treaties are valid until the littoral states reach consensus on the legal regime of the Caspian Sea. This is while they adopted different approaches in the degree of the treaties' validity.

There are numerous discourses related to the Caspian legal regime, which have vast dimensions. The most important is the

sovereignty domain of each one of the littoral states in the basin. If the littoral states reach some kind of consensus on this particular issue, they would be able to easily resolve all other outstanding issues concerning the legal regime.

As for the demarcation of the Caspian Sea, the littoral states have their own interpretations and views. Russia defends the idea of undivided joint ownership in the surface area and demarcating the seabed through a modified median line. Kazakhstan and Azerbaijan have different views, calling for the complete division of the surface area as well as the seabed. This is while Turkmenistan has held a swinging and variable stance between sectoral division and the Russian stance. There is now some kind of agreement among the littoral states. They have finally agreed on the joint ownership of the surface (excluding their coastal waters and the fishing regions) as well as the non-sovereign demarcation of the seabed.

The Islamic Republic of Iran has announced that the legal regime of the sea should be determined on the basis of the 1921 and 1940 treaties. Accordingly, Tehran considers the sea to be undivided and if the four other states do not accept this, Iran is willing to accept the sea's division, provided Iran's share of the sea would be approximately 20 percent.

Under the 1921 and 1940 treaties, there is no mention of the Caspian Sea's surface, seabed and resources. Hence, the littoral states define the division or demarcation based on their own national interests. The latest stances adopted by these states regarding the division of the sea are as follows:

Russia believes that surface area should remain undivided among the littoral states and the seabed should be divided on the basis of resources and not land. This means if there are oil reserves in the divided sectors, they will be owned by that country. But the seabed cannot be owned by any of the states and submarines are allowed to pass through these territories.

Kazakhstan has to a large extent approached the stance of Russia. However, Azerbaijan and Turkmenistan defended the idea of dividing the seabed as the area of sovereignty. However, after lengthy discussions, they have finally given up on that and now favor the idea of non-sovereign demarcation. Iran is also not opposed to keeping the surface undivided and demarcating the seabed, though it favors an equal division of the Caspian Sea among the five littoral countries.

Iran's call for a 20-percent share of the sea is neither simplistic nor based on the division of the entire sea surface or its seabed; rather it falls in line with the existing international treaties in demarcating the borders of the seas based on the types of shoreline and the modified median line which, based on different geographical and periodical conditions, include between 19.07 percent and 20.01 percent of the entire sea. (Damirchilou, 2006: 160-181)

Apart from the official position of the Islamic Republic of Iran regarding the Caspian Sea and its insistence on dividing the sea based on the modified median line that includes a 20-percent share for Iran, two other discussions concerning the maximal and minimal sovereignty domain of Iran in this basin must be examined closely as well.

As for the maximal sovereignty of Iran in the Caspian Sea, which encompasses a domestic interpretation of the 1921 and 1940 treaties, the assumption is that under the friendship treaty of February 26, 1921 and the commercial and maritime treaty of March 25, 1940, as well as their annexes, the Caspian Sea is the sea of Iran and Russia. So, it is a shared sea and the two nations have equal rights over it. Therefore based on the principle of state succession and the Almaty Declaration, following the disintegration of the Soviet Union, the newly-established republics of Turkmenistan, Azerbaijan, Kazakhstan and Russia are bound by its commitments. In addition, Iran's share of the sea remains intact just as before and the other half must be divided among the other four littoral states, i.e. Azerbaijan, Turkmenistan, Kazakhstan and Russia.

Those in support of such a vision compare the legal regime of the Caspian Sea for the newly-established republics of the former Soviet Union to a father that has just passed away and his heirs are trying to define the rights of their neighbors in addition to their own inheritance. From this viewpoint, Iran's share of the whole sea from south to north and east to west is 50 percent jointly and its ownership of all resources and rights, including the space above the sea, water surface and seabed (each and every sand or drop of seawater, except the exclusive right of fishing within a 10-mile radius from the shore).

As for the debate on minimal sovereignty of Iran in the Caspian Sea, which is an external interpretation (by its Caspian neighbors) of Iran-Russia border guards' way of conduct, it is assumed that Iran's share is dictated by the illusionary border line of Astara-Hosseinqoli, even though the imposed line was based on coercion and pressure, and lack of any documents. To them, the parallel land-sea border line has also been the common border of Iran and Russia in Caspian Sea. Those who favor such a view have never managed to come up with a firm evidence to prove their claims that there was some kind of agreement over the demarcation of Iran-Russia border after the breakup of the Soviet Union. They assume that they can—instead of being responsible heir to the Soviet Union's rights and commitments—inherit its hegemony which is impossible, given the complete change in the circumstances. In fact, Iran's real interests lie between the maximal and minimal views and none of these views alone can guarantee its national interests.

The maximal view is unrealistic since it is impossible to legally prove the joint ownership of the sea based on the 1921 and 1940 treaties (although it can be politically proven). Even if it can be proven, the joint ownership of the sea does not necessarily mean its division by 50 percent. In addition, given the unbalanced state of affairs between Iran and the Soviet Union (before its breakup) and the geopolitical realities that emerged after the independence of former Soviet republics

bordering the sea, international jurists cannot come up with a realistic picture of the legal regime of Caspian Sea (based on Iran's maximal view of sovereignty) and respect the legal principle of drastic change in circumstances (*rebus sic standibus*), justice and fairness, state rights and commitments after succession as well as territorial sovereignty and national rights. (In the maximal dispute over the extent of ownership Iran's sea border lies somewhere in the middle of the water areas of Turkmenistan and Azerbaijan).

The minimal view is also unrealistic, as it goes against the principles and spirit of the 1921 and 1940 treaties. At that time, Iran was unable to enjoy its rights fully under the treaties for the simple reason that the balance of military power as well as technical and technological capabilities favored the Soviet. However, now these cannot legally justify the non-recognition of Iran's rights over the entire sea.

The pressing question now refers to the median line between the minimal and maximal views when it comes to securing Iran's national interests. Iran's formal position regarding the sea's division has been defined on the basis of joint methods to reflect the special characteristics of the Caspian. It follows the patterns of international norms and seeks a median line for the country's sectoral sovereignty somewhere between the minimal and maximal demarcations. It is based on scientific and expert demarcations and takes into consideration all legal methods. (Mousavi, 2007: 6)

Regardless of debates over the joint ownership of the sea or the division of its waters, another topic for discussion in determining the Caspian legal regime is on the fishing and coastal water borders. There are different views in this respect and the dispute is over 10 to 25 miles. Under the 1940 treaty, a 10-mile radius was designated for fishing in the sea between Iran and the Soviet Union.

Tehran Summit, a Diplomatic Victory for Ninth Administration

The Second Summit of Caspian Sea Heads of State on October 16, 2007, was a huge diplomatic success for the Islamic Republic of Iran during the administration of President Mahmoud Ahmadinejad. This is because the first summit of Ashkhabad in April 2001 failed to achieve anything significant and, on the contrary, it further disturbed the region's political and security situation. For instance, former Turkmen President Safarmurat Niyazov said at the end of the summit that "the Caspian Sea smells of blood". After the summit, former Russian president Vladimir Putin left Ashkhabad for Astrakhan to take part in a military maneuver in which more than 60 Russian gunboats, jet fighters as well as thousands of troops were involved. The military maneuver took place in a region that was not part of the Russian territory in the Caspian Sea, as highlighted invariably during the Ashkhabad summit. Moscow did not give any specific reason for the drill but later in public interviews, statements and analyses announced that it was aimed at ensuring the security of Caspian Sea, Dagestan and Northern Central Asia, waging war on terrorism and drugs in Caspian Sea, defending the North-South Corridor, securing the Caspian energy resources, and conducting search operations in case of emergency.

The Russian military maneuver took place in a landlocked sea. Given the upper-hand of the Russian military, it can be safely concluded that the failure to achieve regional consensus over the Caspian Sea at the summit signified the Niyazov's term as "the Caspian Sea smells of blood" and this made the region insecure for all littoral states.

The Summit of Caspian Sea Heads of State in Ashkhabad ended without any final declaration. But the participants agreed to meet again in Tehran. Consequently, the foreign ministers of littoral states in the Moscow meeting of April 2004 agreed to hold the Second Caspian

Summit in the second half of 2004 in Tehran. The summit was called off after the death of Turkmen President Safarmurat Niyazov as well as Azeri President Heidar Aliyev. Finally, the summit was held in Tehran on October 16, 2007, with all presidents of the littoral states in attendance.

Tehran Declaration

During the Tehran Summit, Tehran Declaration was ratified as the first-ever political document by the presidents of Caspian littoral states with a preamble and 25 articles. Here are some details of the articles of Tehran Declaration:

1. The parties will do their best to make Caspian Sea the region of stability and peace where international law is guaranteed. They are firm about cooperating in political, diplomatic, commercial, economic, scientific, technical, cultural, public and other spheres in the framework of bilateral and multilateral relations.

2. The parties will work on the use of the Caspian resources; extend cooperation and negotiations in economic field, especially in the spheres of energy and transportation by taking into account its development potential.

3. The parties will assist one another by establishing an international transport corridor for the efficient use of transportation in the region.

4. The parties state that only littoral states have the right to Caspian Sea and its resources, and that the legal regime of Caspian Sea will come into force after the related convention is signed.

5. The parties agree to sail, fish and navigate until the new legal regime of the Caspian Sea is determined. It will be possible only when ships sail under the flags of the littoral states.

6. The parties state that the determination of the legal regime of Caspian Sea and conclusion of a related convention are very important.

The convention, as the main document of the legal regime of the Caspian Sea, will determine the authority of littoral states and comply with their laws. It will also contain ecological regulations. It will emphasize the efficient use of natural resources, as well as marine life, navigation and other related issues.

7. The parties declare that the littoral states' last agreement on their marine borders and resources of the sea will be implemented by respecting their laws.

8. The parties state that the Caspian Sea should be used only for peaceful purposes and all related disputes should be solved by the littoral states peacefully. They will ensure the security and stability of the sea in order to build mutual credibility and refrain from using military forces in mutual disputes.

9. The parties confirm that their armed forces will not be used against each other and will not allow other states to use their territories to carry out military operations against the littoral states. Taking into account the importance of security, peace and stability in Caspian Sea, they also underline the importance of continuing negotiations on all issues related to security.

10. The parties consider that international terrorism, violent separatism, illegal trafficking of drugs, arms and other illegal actions pose threats to the entire world. (Saber, 2007: 85-99)

A glance at the above-mentioned articles indicates that the most important achievement of Tehran Declaration was to reach consensus over regional security, peace and stability as well as agreement over future security and stability, regional consensus and cooperation.

Other important articles of Tehran Declaration are as follows:

1. The parties declare that the legal regime of Caspian Sea can only be determined through consensus.

2. The parties agree to ship, sail, fish, and navigate until the new legal regime of the Caspian Sea is determined. It will be possible for ships to sail only under the flags of the littoral states.

3. The parties agree not to allow any ships pass the sea without carrying a national flag.

4. The parties will not allow other states to use their territories to carry out military operations against another littoral state.

5. The parties confirm that their armed forces will not be used against their neighbors.

6. The parties agree to boost cooperation in the fields of energy and transport, and make optimum use of the Eurasia Canal.

7. The parties reaffirm their commitment to the development of broader bilateral and multilateral cooperation within the framework of UN and international law in the fight against terrorism, drug trafficking, arms and other illegal actions.

By defending Iran's peaceful civilian nuclear program despite numerous political pressures which coincided with the summit and heavy propagation over the participation of Vladimir Putin, the Tehran Summit proved to be a successful event for the ninth administration of Islamic Republic of Iran.

In line with the objectives set for Tehran Summit, the Islamic Republic of Iran pushed for an agreement to be signed by the five littoral states under the name of "Confidence Building and Stability in Caspian Sea." In this respect, it submitted a draft document to the littoral states for further review and consideration. Under the proposal, firstly, there should be balance between the proportion of threats and the extent of military warfare and troop presence in the region. Secondly, there should be adequate military/security arrangements for joint supervision and control.

The proposals made by Iran were discussed by the littoral states. During the 15th meeting of the special working group in charge of determining the Caspian legal regime in Astana and upon a proposal by the host nation (Kazakhstan), participants agreed to differentiate – in the convention of the Caspian Sea – between a limited presence of military forces in the region in proportion to the level of possible common threats. To this end, they agreed to discuss the military issues of Caspian

Sea in the next meeting of the heads of state in Baku. Important issues such as cooperation on security, military operations, as well as fight against drugs, human trafficking and organized crime will be high on the agenda of the next meeting.

Another important proposal made at the Tehran Summit by the Islamic Republic of Iran was the establishment of the Caspian Sea Economic Cooperation Organization (similar to the one formed in the Black Sea). The members welcomed the proposal, and as per their agreement, took part in the first economic meeting of the Caspian Sea littoral states in Russia's Astrakhan in the summer of 2008. During the meeting, the participants discussed and agreed on issues related to regional economic cooperation. (Saber, 2007: 85-99)

Conclusion

After the disintegration of the Soviet Union and the establishment of new states along the Caspian Sea shores, the Islamic Republic of Iran faced new opportunities and challenges. The intertwined interests of littoral states, on the one hand, and their unilateral definition of national interests on the other have made the situation evermore complex throughout the Caspian region.

The littoral states have consensus over the fact that they can only realize their national interests within the framework of a regional structure and convergence. However, the present circumstances have imposed certain conditions, which force them to seek their interests unilaterally.

Soon after the Soviet Union's breakup, the Caspian Sea as well as the interests of its littoral states has been defined differently. These nations faced the issue of Caspian legal regime, which did not necessarily abide by the 1921 and 1940 treaties. Later, littoral states began forming groups to study these treaties.

The Tehran Summit of Caspian Sea Heads of State on October 16, 2007, was a turning point for issues and disputes related to the Caspian

Sea for the simple fact that all five littoral states managed to reach consensus over principles outlined in "Tehran Declaration".

Tehran Summit is considered a diplomatic success for the Islamic Republic of Iran in the Caspian Sea not solely because it managed to resolve disputes via the Tehran Declaration, but since the meeting was held in a sensitive political-international period. During this period, Western governments, led by the United States, attempted to give the impression that the Islamic Republic of Iran has been isolated. The Tehran Summit put an end to all their baseless allegations.

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Notes

¹ Some of the names for the Caspian Sea include Absokoun, Agh Deniz (White Sea), Albany (Albanium Mareh), Arghania, Astarabad, Astrakhan, Baku, Babol Abvab, Caspi, Shirvan, Gozgun Deniz, Deylam, Akghoureh Darya, Hobban, Jeylan, Jorjan, Ghalzam, Ghez, Gorgan, Gilan, Hirkani, Caspius Zowa, Kharazm, Khazar, Khezran, Khorasan, Mazandaran, Mokhan Sala Darya, Khalinskoy Mureh, Sarabi, Xi Hai Tabarestan (Chinese), Zarayeh and Roukasha.

² It should be noted that there is no consensus among the five littoral states over the five specialized committees. Some of them have been opposed to the formation of these committees.