

THE GLOBAL ENERGY SUPPLY DILEMMA - THE CASPIAN SEA -
A GEOPOLITICAL ANALYSIS PERSPECTIVE



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Received date: 27/02/2024

Accepted date: 27/03/2024

Publication date :01/07/2024

Abstract:

The Caspian Sea has become a major geopolitical bet on the international level because of the energy capabilities it contains that is attractive to the world, and this is what made the Central Asian region represent geostrategic importance to the point that Brzezinski described it as the key to controlling the Eurasian world, which opened with its transformations in rearranging the priorities of strategic thinking. In the region, whether at the regional or international level, with the emergence of new players that have given unprecedented importance to the region, with this geostrategic importance and the geopolitical situation, a legal dilemma has been imposed in the exploitation and exploration of energy resources in it between the riparian powers and external powers, including Russia and China, which has begun to pose a kind of transformation. Geopolitics in the region and a type of pragmatic alliances appear around it, and therefore the paper is interested in focusing on the basic variables associated with this dilemma.

Keywords: *The Caspian Sea; Eurasian world; strategic thinking; energy resources; Geopolitics.*

المخلص:

بحر قزوين الذي أصبح يشكل رهانا جيوبولتيكيا كبيرا على الصعيد الدولي لما يحتويه من قدرات طاقوية مغرية للعالم، وهذا ما جعل منطقة آسيا الوسطى تمثل أهمية جيوسراتيجية لدرجة أن وصفها "بريجنسكي" أنها مفتاح السيطرة على العالم الأوراسي، مما فتح معها تحولات في إعادة ترتيب اولويات التفكير الاستراتيجي في المنطقة سواء على المستوى الاقليمي أو الدولي ب بروز لاعبين جدد أولت أهمية غير مسبوقة للمنطقة، مع هذه الأهمية الجيوسراتيجية والوضعية الجيوسياسية، فرضت معضلة قانونية في الاستغلال والتنقيب عن الموارد الطاقوية فيما بين القوى المشاطئة والقوى الخارجية بما فيها روسيا والصين، التي باتت تطرح نوعا من التحولات الجيوسياسية في المنطقة وتظهر نوع من التحالفات البراغماتية حولها.

الكلمات المفتاحية: بحر قزوين العالم الأوراسي؛ التفكير الاستراتيجي. مصادر الطاقة؛ الجغرافيا السياسية.

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Introduction:

The demise of the traditional geopolitical system of the Cold War resulted in the emergence of a region that had been absent since it was under the Soviet umbrella, which included calling it the Central Asian republics. The birth of these republics resulted in a complete geopolitical reconfiguration of the geographical space of the region, which in turn occupied a pivotal position in the heart of the Eurasian bloc as the most important oil region in the world, although the exit of these republics from the Soviet umbrella created a political and economic vacuum in the inability of these republics to build a full-fledged state. However, this does not negate the importance of the region despite its geographical limitation, which is its coastline to the Caspian Sea, which has become a major geopolitical bet at the international level because of its attractive energy capabilities for the world. This made the Central Asian region geostrategic importance to the extent that Brzezinski described it as the key to dominating the Eurasian world, which opened with it shifts in the rearranging of strategic calculations of chess stones in the region, whether at the regional or international level, with the emergence of new players that gave unprecedented importance to the region. This situation also imposed a legal dilemma in exploitation and exploration in the region between the coastal powers and external powers, In the face of all these transformations, Russia and China can pose the following problem:

How effective and effective are the legal and institutional arrangements in controlling the dilemma of managing the exploitation of the Caspian Sea's wealth among the riparian countries?

In line with the problem of the study, we have to examine the following hypothesis:

Solving the dilemma of the legal exploitation of the wealth of the Caspian Sea, linked to the reintroduction of a revised reading of the legal rules governing the status of geographically trapped seas.

To answer the problem and examine and test the hypothesis of the study, a systematic scientific plan was engineered and adopted. The first axis, entitled " Geopolitical and Morphological Control of the Importance of the Caspian Sea Region", addressed the attempt to demarcate the geographical borders of the region, especially since the post-Cold War period witnessed shifts at the level of the geographical structure coinciding with the birth of the new Central Asian republics and the Caspian Sea. The second axis dealt with the provisions and rules of international law for the exploitation of seas and oceans throughout the world with a process of projection on the situation in the Caspian Sea. In the last axis, the most important institutional and legal arrangements that sought to find compromising formulas rather than managing the legal situation in the Caspian Sea were examined.

As for the methodological structure, it describes our topic because it includes historical, geographical, political and security aspects, and the multiplicity of levels of analysis from international to regional units to an international system, and the overlap of analysis variables requires us to employ a case study approach for the Caspian Sea region, and a comparative historical approach to compare the most important agreements concluded during the Soviet era and beyond.

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1. Geopolitical and Morphological Context of the Significance of the Caspian Sea Region

1.1. Caspian Sea Geography of Place and Geopolitical Importance:

Today, the region designated as the geopolitically important republics of Central Asia and the Caucasus, which was named after the Islamic conquest of Mesopotamia, consists of five political units, including Kazakhstan, Uzbekistan, Turkmenistan, Kyrgyzstan, and Tajikistan, also called West Turkistan, while East Turkistan fell under the weight of Chinese colonialism and is called the "Sinkiang Province". (Baqi, 2013) These countries are geographically located at the meeting point of several ancient civilizations, as they mediate between East and West one of the trade exchange routes between Asia and Europe, and therefore they are located between the heart of the wide geographical area termed Eurasia, and the Caspian Sea is the heart of the countries of Asia, as it forms the largest closed lake on the surface of the earth, the "landlocked region", with an area of 373,000km² located between two latitudes (37-47°) north, and between two longitudes (47-55°) east, which is adjacent to five countries of Azerbaijan from the southwest, Turkmenistan from the southeast, Kazakhstan from the northeast, Russia from the northwest, and Iran from the south.

Thus, it is the hub of a point of contact with its neighboring countries with a special geopolitical axis. (As for the geopolitical control of the independent Central Asian republics, they are usually limited to the five republics (Kazakhstan, Turkmenistan, Uzbekistan, Kyrgyzstan, and Tajikistan), and by this definition, they are geographically limited, which is adopted by one of the specialists in Central Asian affairs, Jeffrey Howley, and he defines it geographically as that region that extends from the southeast of the Aral Sea and the Caspian Sea to northwestern China and Mongolia, and extends to southern Siberia in the north, to northern Iran and Afghanistan in the south. (This region has the peculiarities of being geographically restricted, as it lacks a sea outlet, and what distinguishes it is its enormous energy capabilities, according to international and global reports.

Map No. 01: It shows the geomorphological location of the Caspian Sea region and the countries adjacent to it.

Source: Caspian Sea, Al-Jazeera Center for Studies, 2015, quoting:
www.aljazeera.net/encyclopedia/issues/

1.2. Researching the Genealogy of the Origin of Naming:

The Caspian Sea has several meanings and nomenclatures, some of which are called the "Caspian Sea", and some of them are called the "Caspian Sea", which are the two most used nomenclature in academic circles, and it has those who call it the Sea of Ma Zandaran, and the Sea of Gorgan. As for the origin and genealogy of the name, it is due to the spread of a tribe called "Gasp" on the southern coasts of this sea, while its name to the Caspian Sea is due to the spread of the Khazar republican tribes, and this is confirmed by many researchers who dealt with the history of the Khazars that they are peoples of Turkish origin and settled in the northern Caspian Sea, so the most common name is the Caspian Sea, and in English "thebian sea" unlike some Persian books that call it the Caspian Sea.

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After we have tried geopolitical and morphological control of the Caspian Sea region, in the following axis, we try to address the provisions and rules of the organization to manage the wealth of maritime navigation throughout the world, while examining some of the citations that tried to monitor some of the dilemmas related to the management of the affairs of the enriched or geographically landlocked seas.

2. Towards a new legal governance to solve the problem of borders and wealth sharing:

2.1. Legal Provisions Regulating the Exploitation of Seas and Oceans Across the World:

Territorial sovereignty is one of the most important principles in international law, and it is also one of the most basic elements that the state exercises its absolute sovereignty within the framework of the provisions of international law and the right of the state to own its wealth and natural resources inherent in its territory, territorial sovereignty and the area of its continental extension, which are in accordance with international practices that may not be violated, for the regulatory frameworks that the "United Nations" is concerned with, and what concerns us in our subject is the maritime divisions that establish the borders between the different sea areas, and determine for each state its role and powers with the rights and duties it carries in these areas according to the degree of these The Authority, which went through a chronological development of international maritime relations, over various times until the 1982 United Nations Convention on the Law of the Sea, which in turn identified all related and outstanding issues regarding the legal exploitation of the seas and oceans throughout the world, and we will try to highlight the most important major agreements that took place regarding the right of the State to exploit the resources of its wealth, which was first presented in the United Nations General Assembly on the subject of "economic development" in 1952, and the resolution was determined on December 21, 1952, stressing the sovereignty of the State and its complete freedom to use and exploit its natural wealth and not It was subject to the control of any other state, and then it was stated in a resolution of 1955 explicitly stipulating the freedom of peoples to dispose of their natural wealth and resources, as this does not conflict with the obligations arising from international economic cooperation, which are based on international law, followed in 1958 by a resolution issued by the General Assembly under No. 1314, studying the subject of the permanent sovereignty of nations and peoples over their natural wealth and resources, which opened the field of sovereignty for the state to exploit its wealth unconditionally.

However, international law scholars have tried to develop a law to exploit these riches, including oil and gas extending underground across international borders on the continental shelf, and some of them, such as "Mr. GiDel and Dr. Mouton "stressed the need for it to be subject to the sovereignty of one country, which is unique in exercising full property rights over its oil reserves and exploiting them in accordance with its economic policy and national interests, for several considerations, the most important of which is that the involvement of more than one country in property rights over common oil and gas reserves lying in one field may lead to legal disputes between countries, and it is difficult to reach a settlement due to the lack of legal rules governing this subject. On the other hand, it may lead to an intensification of the struggle to obtain the largest possible amount of oil, which leads to economic damage. In fact, this trend is applied to neighboring or opposite countries when determining the boundaries between them in the " continental shelf area "to take into account the preservation of the unity of oil fields and installations, and not to be located on the continental shelf of more than one country, and this is referred to in Article VI of the "Convention

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on the Continental Shelf "of 1958, which includes that "In cases where a single continental shelf is located along the territory of two or more States, their shores are facing, the boundary between them shall be drawn in the continental shelf under an agreement concluded between these States, and the boundary shall be the median line that All its points shall be at equal distances from the nearest oil at the baseline from which the breadth of the territorial sea of each of these countries began to be measured. "This agreement has been applied in both the North Sea and the bilateral agreement between Qatar and Abu Dhabi of 1969 to draw the border between them in the area of the continental shelf.

The principle of sovereignty in the continental shelf towards the exploitation and exploration of natural resources is completed per the 1958 Convention, and nothing in the Convention gives the State the right to claim absolute rights for other purposes.

As for the continental extension in contemporary conventions, it has provoked many discussions in the successive sessions of the Third United Nations Conference on the Law of the Sea. In the text of 1974, and the official text issued by the Geneva Session of 1975, it is noted that the content of the conventions took into account the provisions of the Geneva Convention of 1958, and this Convention was keen on the scope of the rights of the coastal State to exploit its continental extension under the text of Article VII "The coastal State has the right to exploit the sub-bottom by digging trenches, whatever the height of the waters above the bottom." For the text of Article 2 of its fourth paragraph, the exploitation of natural wealth, and the sources located on the seabed and below the seabed, that is, other non-living sources located on the seabed, and the subsoil thereof; these are among the most important points addressed by "international law of the sea" regarding the exploitation of natural resources located along the continental shelf and the sovereign rights of each State, ()As for the "exclusive economic zone," which is one of the most important points of concern to the "Third Conference on the Law of the Sea," which came after the territorial sea and adjacent to it and its distance does not extend to more than 200 nautical miles, starting One of the baselines from which the territorial sea is measured, and based on Article 56 of the General Convention on the Law of the Sea, is that "the coastal State in the exclusive economic zone has sovereign rights for the purpose of exploring and exploiting the living and non-living natural resources of the waters above the seabed and the subsoil thereof and preserving the neighborhood", as well as with regard to other activities of economic exploration and exploitation of the area or jurisdiction with regard to the establishment and use of artificial islands, installations and structures, marine scientific research, and the protection and preservation of the marine environment. The international law of the sea does not neglect the geographically affected States and their right to exploit the exclusive economic zone per Article 70 of the United Nations Convention on the Law of the Sea.

These coastal States, including the littoral States of closed or semi-enclosed seas, whose geographical location makes them dependent on obtaining sufficient extensions to exploit the living resources of the exclusive economic zones of other States, mean, as for the delimitation of borders per Article 74, "that the delimitation is carried out by agreement based on international law. If it is not possible to reach an agreement, they resort to the procedures stipulated in Part XV of the Charter for the settlement of maritime disputes." To indicate only that the concept of international maritime disputes are contradictory claims between two or more international persons and require their resolution by the means specified in public international law. They are considered international

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disputes because they are disputes between international legal persons. In the 1982 Convention on the Law of the Sea, States have recourse to the political and judicial means specified in Chapter VI of the Charter. Political disputes are resolved only by recognized means, such as negotiations, mediation, good offices, investigation, and documentation. As for legal disputes, they resort to arbitration and international courts. It is difficult to separate political and legal disputes in disputes relating to the exploitation of the seas and oceans.

What can be deduced from this view from among the axes addressed by the law of the sea concerning the "continental extension" and the "exclusive economic zone", which are in turn the most important axes on which disputes arise between coastal States, but the question remains: How appropriate are these agreements to the legal status of the Caspian Sea? What is the opinion of international law scholars on the issue between a sea and a lake?

2.2. Legal controversy over the classification of the Caspian Sea as a “sea or lake”:

International law scholars have agreed that the Caspian Sea is the largest closed lake in the world, a landlocked area that has no other sea outlet. The international law of the seas defines "closed seas" as: "those that are surrounded by the territory of one or more countries and are not connected to the general seas", that is, their connection by a bog, or a strait whose opening does not exceed twice the territorial sea. legal basis for closed seas, as defined by the international law of the sea, is that if the sea or the entire lake falls in the territory of one state, the sea in this case is considered part of its territory and is subject to the provisions of its land territory. However, if the sea or the lake is located in the territory of more than one state, it has a dispute between jurists. In this case, the sea is part of the high seas and the sovereignty of the coastal state extends only to what is considered within their territorial sovereignty. As for the dominant opinion, the sea is considered to be within the sovereignty of the surrounding state, where sovereignty can be shared and determine what is included in the territory, each of these lakes, and on the other hand, the front of new trends, that the coastal states of the seas closed or semi-enclosed, to cooperate among themselves in the exercise of their rights and duties, and therefore to coordinate the management, conservation, exploration, and exploitation of the living resources of the sea, as well as concerning their rights and duties regarding the conservation of the marine environment and the coordination of their policy of scientific research, and to invite other States and international organizations to cooperate with them.

However, what is noted through the protocols on closed or semi-enclosed seas is that they did not specify the basic features on which the countries bordering the closed seas are based, except for coordination and cooperation in them. This opened a dangerous turning point in the legal dealings about the exploitation and transfer of the Caspian Sea revolutions over successive periods.

In this regard, Andrea Kavazov, a former lawyer at the Legal Department of the Energy Research Institute in Moscow, said: "International law considers the wealth of the lakes to be the common property of all the countries bordering the lake." This is in contrast to the wealth of the seas and oceans, whose territorial waters are recognized by international law. Therefore, the problem threatens not only the future of the region and the exploitation of its wealth but also the stability of the projects that have been completed so far. It should be noted here that the central issue in the United Nations Convention is that it focuses on the freedom of navigation, which is not a fundamental issue

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in the Caspian Sea region. Where the problem relates to the energy resources lying beneath the seabed and the issue of their exploitation, it is traditionally known that inland waters, including closed seas, are not subject to the legal issues associated with the regulation of navigation. Thus, the rights of navigation with the participation of a third party are not discussed here. The degree of international practice on the division of inland water bodies in which more than one state is located, although this division may combine with other aspects such as joint control and management of some activities. In this regard, Oxmen concludes that: "If there is a lesson to be learned from the modern law of the sea, it is the existence of a land Between these two options," division versus joint administration ", determined by the factors of history, geography, and other circumstances", international law does not bind the Caspian Sea to any particular solution, division or joint administration, unlike lakes and land-locked oceans such as Lake Constanz, or the Great Lakes, which have been subject to division, especially about navigation, fishing and the passage of cables, making the Caspian Sea as a lake not subject to the rules of the law of the sea.()Which opened the way for negotiations, whether in the Soviet era or later, and therefore it is possible to ask what is the content of the negotiations and agreements concluded to determine the legal features of the Caspian Sea?

Thus, if we accept that the Caspian Sea is a sea and not a lake, and therefore subject to the rules of the organization of seas and oceans across the world from this axiom, we try to monitor the most important agreements and the course of bilateral and multi-level negotiations that brought together several parties and institutional arrangements to find a solution to legal exploitation without the geopolitical and security calculations hidden behind those agreements.

3. Chronology of the course of development of negotiating processes for the legal exploitation of the Caspian Sea:

3.1. The stage of bilateral agreements during the Cold War between Iran and the Soviet Union.

There were agreements between the former Soviet Union and Iran on maritime navigation in the Caspian Sea to regulate trade and fishing, and these agreements came. After all, it was not subject to the rules of international law because it represented a closed area between the two countries, which possessed the characteristics of the "continental shelf" and the "exclusive economic zone", and among these agreements came the early nineteenth century after the signing of a "peace agreement" between the two parties on the stabilization of the border between the two countries, and the Soviet Union issued a decree on October 26, 1917, which was called the "Peace Decree", () It set out the basic principles regarding Navigation in the Caspian Sea. Since 1921, the Caspian Sea has been considered by the Soviet Union and Iran, the two neighboring countries of the sea, i.e., as a regular sea, with bilateral international treaties. The sea was governed by three agreements, namely, the "Treaty of Cooperation and Friendship" of 1921, followed by the "Treaty of Stability and Trade" of 1935, followed by the "Treaty of Trade and Sail" of 1940. These three treaties regulated issues related to the investment of resources without delimitation of maritime borders. The last agreement of 1940 granted each of the two countries an exclusive right to fish within the limits of territorial waters in a distance of 10 nautical miles. The treaty stipulated that the two countries consider the Caspian Sea as their property and no third party is bound to dispose of it. These agreements determined the freedom of navigation and the equal number of Iranian and Soviet ships. The Soviet Union did not demarcate the

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official maritime borders separating the Central Asian republics. Rather, it was entrusted with the task of managing the oil affairs, the bulk of which was in that land area. As for regulating legal dealings, it was the competence of the two countries bordering its coasts, i.e. Iran and the Soviet Union.

It can be noted that Iran did not overlook the exclusive rights of the natural resources of the Caspian Sea, as it affirmed through its position in signing treaties on the national jurisdiction of the natural resources of the continental shelf in both the Persian Gulf and the Gulf of Oman, and therefore it wanted to apply them on its borders with the Soviet Union under the dictates of Iranian national legislation. Another aspect was affirmed in the 1927 agreement on joint dealing with the Soviets to exploit the biological resources of the Caspian Sea, for a period of 25 years. The Soviet Union demarcated the borders well to guard or establish a military base to guard its borders with the Iranian neighbor, which confirms the lack of confidence between the two parties in the content of those agreements. (With the development of the situation in the early 1970s, the Constitution of the Soviet Union in 1977 proposed that the neighboring countries of the Caspian Sea have the right to withdraw from the Soviet Union by Article 77 of the Constitution, the right of these countries to build their constitution and authority within their territories following Article 76 of the Constitution, and the right to build foreign relations and sign international treaties and diplomatic exchanges. However, these republics remained at the disposal of the Soviet umbrella and did not emerge from their womb in the management of their economic or political affairs to maintain the situation in the Caspian Sea between Iran and the Soviet Union without the involvement of other parties bordering it.

Thus, what can be deduced from the content of the bilateral agreements between the two sides, especially the 1940 agreements that defined the major milestones between the two countries, and did not create complex problems between them, and is due to the failure of the Central Asian republics to obstruct the agreement and demand the common right between the two parties, but with the disintegration of the Soviet Union, the geopolitical outlook of the region changed, and one of the reasons is that these agreements did not specify how to exploit the energy resources available in the region except for formal matters of border demarcation and fishing, thus opening the way for new legal maneuvers in the region.

3.2. Interpretive perspectives for engineering a compromise solution to the dilemma of the legal exploitation of the Caspian Sea:

3.2.1. Consensus solution approach as a strategic choice:

The disintegration of the Soviet Union and the birth of new sovereign states bordering the Caspian Sea led to a rearranging of the geopolitical map of the region, coinciding with the opening of the debate on the legal status of the Caspian Sea, that is, the reconsideration of previous treaties after they were under Iranian and Soviet control, but with the emergence of Azerbaijan, Kazakhstan, and Turkmenistan, the destination changed, especially after the discovery of oil and gas deposits in huge quantities, and thus led to the opening of multilateral negotiations after they were bilateral. Concerning the new legal status of the Caspian Sea, two approaches were put forward to resolve the situation, namely:

- Comprehensive territorial settlement, reached by consensus of the States surrounding the sea;

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- Conclude bilateral agreements between the various parties that are negotiated based on personal interests.

Concerning the first approach, i.e. the regional solution, the grouping of countries surrounding the Caspian Sea was formed in Tehran in 1992, which is the first regional step to develop a comprehensive legal system for the Caspian Sea region. In this grouping, Iran proposed the establishment of the Caspian Cooperation Organization (CASCO), to be a forum for holding periodic meetings to find constructive solutions to issues related to maritime shipping, fishing, and marine resources. The second meeting of foreign ministers of countries adjacent to the Caspian Sea was followed by the meeting of foreign ministers in Almaty, Republic of Kazakhstan, in May 1995, to acknowledge that the legal departments of the foreign ministries of the countries of the region are responsible for finding a solution to the complex legal situation. This was followed by a meeting of legal experts in Tehran in 1995, where they concluded that the legal situation in the Caspian Sea "is unanimously decided", followed by a meeting held by foreign ministers in Ashgabad in November 1995, which was the same proposition that the legal situation is determined by the countries bordering the sea.

The significance behind the establishment of the five Caspian Sea States "Caspian Sea Cooperation Organization" in Tehran in 1992 was to regulate the discovery and investment of living and non-living resources and resources and to regulate the affairs of navigation in it. Iran's position was clear, which is the growth of wealth in the Caspian Sea and thus the adoption of the "principle of 50/50", that is, taking into account what was stated in the agreements of 1921 and 1940, that is, Iran retains 50%, and Russia, Azerbaijan, Turkmenistan, and Kazakhstan share the rest, that is, 50%, as these countries are the heirs to the Soviet Union. It is also clear from the Iranian position that the Caspian Sea is closed, that is, the adoption of the "principle of equality" in quotas for each country that receives 20%, Turkmenistan supported the Iranian position, while Azerbaijan rejected the Iranian position, stressing the importance of sharing the wealth of the Caspian Sea among the coastal countries and not to adopt the "principle of 50/50".

As for "joint sovereignty", Iran supports the Russian position, as they base their position on historical dimensions, considering that the Caspian Sea is a bilateral rather than a multilateral sea, but geographically the part of Azerbaijan that is rich in oil and gas from the Caspian Sea. The rest of the region, where the fields are estimated at about 25 to 30 discovered fields, so Azerbaijan has become the most attractive to oil companies in the world, but the role of opposing the exploitation of these potentials lurking on the seabed remains the points of disagreement between Iran and Azerbaijan over the oil fields within Iranian territorial waters, as it includes three fields, namely "Sharq, Aluf, and Alizar", and the latter field is important for the two countries as it contains about 20 billion barrels, which opened the door to tension in the relationship between the two parties, and in turn led to the failure of the "Caspian Sea Organization" to manage its affairs regarding the legal situation in the Caspian Sea.

Despite the role played and still played by regional organizations, headed by the "Caspian Cooperation Organization", it has not made any tangible progress due to the divergence of positions as we have mentioned between the countries bordering the Caspian Sea, and this is in the words of the Minister of Foreign Affairs of Kazakhstan previously: "We must be frank and say that our positions

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regarding the Caspian Sea have differed and diverged fundamentally," so alternatives such as "the legal issue of the Caspian Sea" have been put forward through bilateral negotiations, so what is the meaning of these bilateral negotiations? What are its implicit dimensions?

3.2.2. Solution Approach within the Multilateral Institutional Working Framework:

Regional organizations have played a role in trying to build a legal system known to the parties involved in the Caspian Sea, but the divergence in positions and interests has opened the door to reconsidering the legal destination of the Caspian Sea for the countries bordering it, especially the quadripartite axis (Turkmenistan, Kazakhstan, Azerbaijan, and Iran), to work or prevent Iran and Russia from acquiring the largest amount of energy and displacing the role of other parties because Kazakhstan, Turkmenistan, and Azerbaijan are economically newly emerging countries compared to their neighbors Iran or Russia. Thus, each of these new countries has concluded many deals with oil companies in the world to break the isolation of each country and develop its economic capabilities in the first place. Examples of this are the agreement concluded by Kazakhstan with Chevron to develop the Tengiz field immediately after the dissolution of the Soviet Union.

As for Azerbaijan, it developed its reserves with a consortium of international companies, and thus it announced the first public dispute in particular, due to the refusal of both Russia and Iran to open the front of foreign investment in the region, which hindered the exploitation of oil fields. As for the Russian role, it began to use soft power. In its positions, this was evident in 1996 when Russia proposed to expand the coastal range from ten miles, to forty-five miles, and entered into bilateral negotiations with Kazakhstan to divide the areas in the north of the Caspian Sea, and then between Russia and Azerbaijan on the basis of negotiating the division of the seabed into national areas while maintaining a unified legal system to protect the environment, but these negotiations left the sea itself as a common property and demanded in turn the five countries bordering the Caspian Sea to solve the problem of fisheries and environmental issues, where the "Russian-Kazakh" agreement had divided the northern Caspian Sea on the basis of the "middle principle", while the Iranian position rejects the principle of dividing the sea into national areas, and this is shown by the positions specified by the Iranian Foreign Ministry in 1998, which is summarized in its opposition to any unilateral exploitation of oil reserves in the Caspian Sea, as one of the reports stated "...Any understanding on principles that ultimately leads to unilateral exploitation of the Caspian Sea will be unacceptable to the littoral states, especially Iran...".

Despite the conclusion of agreements, foremost of which was held on April 23 and 24, 2002 in Ashgabat, the capital of Turkmenistan, and it was decided to hold the second in 2003 in Tehran, but this did not happen, and then on October 16, 2007, where the participants in the summit signed a special declaration that included the general principles and principles for issuing an agreement on the legal status of the Caspian Sea, which stated in the declaration document not to allow the use of the territory of a third country to launch attacks against any country, in addition to the Convention on the Protection of the Environment in Caspian Waters, and despite the decline in the Iranian position, which deliberately requested sharing by 20% for each country, but the other parties did not accept this proposal, while Russia, Kazakhstan and Azerbaijan believe that the share of each country should be determined on the basis of its water sector overlooking the sea, where Russia obtained 19%, Kazakhstan 29%, and Azerbaijan 14% of the northern Caspian Sea. As for the southern Caspian Sea,

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the matter is still somewhat ambiguous, as some Iranians still adopt the position of the "1921 and"1940 agreements, but despite the divergence of positions, the Caspian Sea remains. Some Iranian analysts have also mentioned "the risk of the future."

As for the unilateral positions of the States bordering the Caspian Sea, their positions can be included in the following:

A- The Russian and the Iranian position:

The Russian position was clear, which is the adoption of the principle of the two previous treaties (1921-1940). It is aware that the Caspian Sea is not subject to the laws of the seas, so that the designation itself differed to avoid the application of obligations that can be applied to the Caspian Sea, such as the phrase "a repository of continental waters". However, in the face of the regional changes of the region, as mentioned above, Russia is changing its position by adopting the "principle of division", to exploit the oil fields in its territorial sovereignty for a distance not exceeding 45 nautical miles on its coastline, which opened the way for contradicting the previously concluded agreements and looking at the economic dimension at the expense of the legal aspect according to the new data and challenges in the region.

B- The Iranian position:

The Iranian position in the post-Soviet period was compatible with Russia, as work on the legal situation in the Caspian Sea was as it was. As we have already mentioned, the Iranian position was rejected, especially in front of the bilateral axis of "Azerbaijan and Kazakhstan", that is, the adoption of the "principle of 50/50" in the exploitation of energy for the Caspian Sea, coinciding with the new Russian position during the retreat from the previously concluded agreements.

C- The Azerbaijani position:

Azerbaijan hastened to conclude deals with foreign companies to exploit the energy resources of the Caspian Sea and thus was a direct declaration to challenge Iran in the region and to adopt the principle of dividing the sea into five independent sectors, that is, the principles recognized in the law of the sea, but this is contrary to the closed seas.

D- Kazakh and Turkmen position:

Azerbaijan has not disagreed with its counterpart, that is, the demarcation of the borders of each country, but without engaging in confrontations with Russia and Iran. What you can see from the problem of the failure to reach an agreement on the division of the Caspian Sea is related to several factors, the most important of which are:

- The greed of the parties to acquire as much as possible of the huge wealth from the oil resources in it;
- Until 1991, the agreements signed in 1921-1940 between the Soviet Union and Iran set the legal parameters of the Caspian Sea, but after the Cold War, it led to a change in the

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geopolitical map, and due to the lack of clear maps showing the borders, which led to the emergence of the problem of demarcating the borders on the shores of the Caspian Sea;

- The negotiation process regarding the demarcation of borders between the countries bordering the Caspian Sea is taking place under the increasing influence of external parties, especially the United States and the European Union, which led to the deterioration of bilateral relations between Iran and Azerbaijan, as the latter deliberately opened the door for foreign companies to explore for oil and gas in the region and allowed elements of the US armed forces in joint maneuvers in 2003.
- The Caspian Sea region is no longer immune from the strongholds of complex Russian-Iranian relations that have been criticized by Western countries, and this is evident in the Russian position towards Iran through the sanctions imposed on Iran by Western parties.

The following map illustrates the role of each party in the division of the Caspian Sea in successive periods:

Map No. 02: Illustrates the status of the legal division of the Caspian Sea.
Source: unstable legal status source (dehghan, 2005).

Strategic agreement and seeking to activate the standard rules of governance

Through the title, we analyze which approach is most effective in solving the legal dilemma of the Caspian Sea. Why is the Caspian Sea not a sea subject to the rules of international law?

This question has been the subject of a long debate among the five Caspian States for twenty-six years, but the recent summit tried to adjust and arrange the internal house of the complex issues under discussion. In this regard, "Zulfiya Amangulunu," the chief negotiator in Kazakhstan concerned with Caspian Sea affairs, says that "despite the degree of complexity, problems and serious differences in the national interests of the negotiators, coastal States have gradually reached an understanding of the need to find a comprehensive settlement for all aspects of maritime activities." () This latest agreement, which was concluded on August 12, 2018, between heads of state in The Caspian Sea basin (Russia, Azerbaijan, Kazakhstan, Turkmenistan, and Iran), a historic summit was held in the Kazakh city of Aktau, where the Iranian President Hassan Rouhani explained in this regard, "The countries bordering the Caspian Sea were able to reach solutions to issues related to this sea by 30%, after twenty years of negotiations, and he also stressed that this is a security gain and hit the American and NATO conspiracy by its presence in the mobilization of shipping, military helicopters and military bases in this region, and the agreement was able to attend the establishment of military bases, and the presence of foreign ships in This sea, and therefore any ship that wants to sail in it must place the flag of one of the five countries bordering it."

The Russian President, "Vladimir Putin," described the "strategic agreement, and that it will include coordination in the field of combating terrorism, calling for strengthening military cooperation between the countries bordering the Caspian Sea, and that the signatory countries to this agreement, will have a key role and obligations on the use of its maritime heritage, and strategic wealth, and will enjoy full sovereignty to use the resources of this region." While some experts believe that this

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agreement is a historic loss for Iran, because its borders are large with the sea, as it will lose about 30% of the area unlike other countries, and this agreement is the fifth of its kind since 2002, and more than fifty meetings have been held at lower levels since the dissolution of the Soviet Union, as Dr. Tariq Fahmy, professor of political science at the American University, stressed, "This step is in the interest of the five countries, as customs and economic cooperation will be held between these countries, which will help them to improve their economic situation." It will also create a new economic bloc that will have an impact on the world, and cooperation between these countries is likely to be in local currencies, the goal of creating a new economic bloc that will face economic sanctions and have an impact on these countries.

Through our analysis of the legal situation in the Caspian Sea and the chronology of negotiations before and after the collapse of the Soviet system, you have not been able to establish clear legal frameworks sea or lake?

For legal and navigational exploitation, which is recognized in international customs and laws, due to the strength of security concerns and political motives at the expense of dismantling economic and commercial isolation, the operational level remains more complex. The first angle of analysis is that this agreement can impose hegemony of another kind, that is, "Russian-Iranian" hegemony, after the displacement of the geopolitical player, which is America and NATO, and thus determine the gaps and control prices at the expense of other landlocked countries. From a second angle, this agreement can impose new security arrangements by building a counter-NATO security system that would reduce the American presence and its military bases in the region, and then get the landlocked countries out of geographical decline to geographical fracture.

Conclusions:

To complement this research attempt in seeking to provide regular scientific material, starting from posing a problem to verify the effectiveness and effectiveness of institutional and legal arrangements, within the framework of activating the role of multilateral work, and imposing a complex network of inter- and supranational interconnections and interactions to solve the dilemma of the legal exploitation of the wealth of the Caspian Sea, and therefore the axes of the study proved the assumption that was examined and tested geometrically, since the plan has a systematic and theoretical design of the importance of the Caspian Sea region, and an attempt to demarcate the borders geopolitically and morphologically, and at the same time a feasible and evaluative re-analysis of the subject of the study, and thus the following conclusions can be drawn:

- The Caspian Sea region is the largest lake that is geographically confined, making it difficult to subject it to the rules of the international law of the sea that is universally applicable.
- The emergence of the Central Asian republics after the disintegration of the Soviet system led to a re-examination of the rules of the regional game in the region, especially that the arrangements were bringing together Iran and the Soviet Union at the bilateral level in exploiting wealth without involving other parties that have historical and geographical rights.

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- The transition from the bilateral to the multi-level level in the management of negotiations on the exploitation of above and below the seabed has complicated the situation and led to a negotiated outcome that satisfies the negotiating parties and the principle of 50/50.
- The absence of serious dialogue between the countries bordering the Caspian Sea, with the interference of external parties in geopolitical accounts in the region, led to contradictions in decisions and provisions related to the rational exploitation of sea wealth.
- The effectiveness of the success of the recent agreement and the removal of the Central Asian republics from confinement to geographical fracture, improving the economic situation and establishing anti-NATO security arrangements that pose the greatest threat to Russian and Iranian interests in the region remains linked to overlooking historical differences, building an institutional arrangement parallel to the new arrangements in the region, and then making the Caspian Sea the new energy gateway, and competing with other energy powers, especially the North Sea.

Finally, it can be said that our analysis of the legal dilemma in the management of the legal exploitation file in the Caspian Sea region according to the principle of parity as a final solution with the imposition of fees and the development of joint laws between the countries bordering it to make it an economic gateway for the countries of the region despite its geographical limitation, especially since the region is witnessing geopolitical transformations with the Russian war on Ukraine.

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