

The Role of P & I Clubs in Indemnifying Oil Pollution Damages

Seyed Nasrollah Ebrahimi^{1*}, Ghazal Keshavarzi², Narges Keshavarz Bahadori², Shahriyar Sharifi³

1. Assistant Professor of Law and Political Science Faculty, University of Tehran

2. MSc in International Trade and Economic Law at University of Tehran

3. MSc in International Trade Law at Shahid Beheshti University

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Abstract

Marine areas play a crucial role in the global economy and the life of humans. Today, the sea pollution, especially oil pollution, has raised widespread concerns in national and international levels, due to the fact that the aforementioned phenomenon is threatening one of the most essential human rights, i.e. the right to enjoy a healthy environment. Hence, many efforts in order to legalize this area and determine the liability have been carried out. In international customary law, the most essential element, which brings about liability, is the concept of fault and negligence. However, the international Convention of Civil Liability for Oil Pollution Damage of 1969 (CLC) amended in 1992, and International Convention on Civil Liability for Bunkers Oil Pollution Damage (BUNKER) 2001, in order to prevent the oil pollution and accordingly, with the aim of implementing fast and effective compensation have been considered “absolute liability” for the ship owner and a compulsory insurance system. In this paper the rule of Protection and Indemnity Clubs (P&I clubs) in the oil pollution damages has been examined.

Keywords: oil pollution, liability, compensation, compulsory insurance, P&I clubs.

* Corresponding author, Email: snebrahimi@ut.ac.ir

Responsibility in Conservation of Wetlands by Studying of Hoor-al Azim/Hoor-al-Howzeh

Elham Aminzadeh^{1*}, Zahra Sadat Shareq², Hossein Rezazadeh²

1. Professor, Faculty of Law and Political Sciences, University of Tehran,
Tehran, Iran

2. Phd student, Faculty of Law and Political Sciences, University of Tehran,
Tehran, Iran

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Abstract

Conservation of environment as common heritage for the current and the next generation is the responsibility of States. Sovereignty of states on natural resource would be confined by another states' interest. On the one hand, the existence of common border resource between Iran and other countries and on the other hand, shortage of water resources has led to conflicts. The life of common resource like Hoor-al-Azim/ Hoor-al-Howzeh depends on Karkheh and Tigris River. Building dams on rivers resulted in damages to ecosystem and wetland, which in turn means the responsibility of the Riparian States. Riparian States according to international environmental law are responsible to conserve the ecosystem and prevent Trans-boundary damage and cooperation in this area. In other words, common resource need cooperation between states.

Keywords: wetlad hoor al azim/ hoor al howzeh, international environmental law, common resource, responsibility of state

* Corresponding author, Email: Eaminzadeh@ut.ac.ir

The Evaluation of Energy Regulators' Structure in Iran Applying Benchmarking

Vali Rostami¹, Leili Moghimi^{2*}

1. Associate Professor (Public Law Department) University of Tehran

2. M.Sc. Student of Oil and Gas Law of University of Tehran

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Abstract

Regulation is of special significance for countries due to strategic importance of energy sector. So, to address this issue, energy regulators have been established in many countries. This article responds to the question of what entity/entities can carry out energy regulatory functions, what are their legal statuses, and what are their corresponding responsibilities, and whether energy regulation is carried out by an individual regulator or multi-sector regulator. To respond the questions, energy regulators of some countries are studied, and, according to the results, and taking the presumption that the existence of the required legal infrastructure for establishment of energy regulator/s in Iran, some scenarios for appropriate legal status of energy regulators are proposed.

Keywords: "Energy Sector", "Electricity", "Regulation", "Legal Status", "Gas", "Oil", "Regulatory Authority"

* Corresponding author, Email: seymoghimi@gmail.com

The Impact of the Individual-Social Motivation of the Private Property System On the Development of US Oil Fields

Mohammad Sardouei Nasab^{1*}, Sakineh Rezaei Ahmad Abadi²

1. Associate Professor of Oil & Gas Law, International Trade Law, University of
Tehran

2. MA Oil and Gas Law, University of Tehran

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Abstract

The private property regime is a field that reflects the developed approach of human thoughts. Private ownership of oil resources that has received less attention in other countries, is known as the head of other property regimes in the United States. This relatively comprehensive domination has had effects. The focus of this paper is to examine the relationship between the acceptance of private property and the development of the U.S. oil industry with a structural vision. Understanding this relationship has a significant role in knowing the nature and value of the system. After describing the notion of private property in this paper, we shall discuss the factors influencing the development of US oil fields or elements that are hidden under private ownership notion. Finally, we analyze the effects of this regime on oil fields that originate the other effects. In this study, we have seen the relationship between private property and the development of US oil fields from the perspective of the legal system as a sub-system and we found that contribution of private ownership to the development of US oil fields, it was nothing but the spirit of the private property regime, which is indeed the freedom of thought and action.

Keywords: Private property, oil and gas law, factors of the development of US oil fields, United States of America, freedom

* Corresponding author, Email: sardoeinasab@ut.ac.ir

An Analytical Study of Iran's Trans-boundary Water Agreements

Jalal Attari^{1*}, Fariba Avarideh²

1. Associate professor, Department of Civil, Water and Environmental Engineering,
Shahid Beheshti University

2. Ph.D. Candidate, Department of Civil, Water and Environmental Engineering,
Shahid Beheshti University

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Abstract

International water agreements such as treaties, protocols, and bilateral or multilateral agreements lead to reduction of the probability and severity of conflicts among the countries concerned. Iran has signed several bilateral agreements concerning trans-boundary rivers with most of its neighbors such as the 1920 Treaty on the Aras, Atrak and other shared rivers with the former Soviet Union, the 1953 Protocol on Sarisu and Qarasu Rivers with Turkey, the 1973 Treaty on Hirmand River with Afghanistan and the 1975 Agreement on the use of trans-boundary rivers with Iraq. In this paper, Iran's water agreements with neighboring countries are analyzed in terms of time history, subject dispersion, water sharing regime, exchange of data and information, joint institutional framework and dispute settlement. Results show that most of these agreements have the appropriate level of provisions for the exchange of data and information, joint institutional framework and dispute settlement.

Keywords: Trans-boundary watercourses, Iran's trans-boundary water agreements, water sharing regimes, water agreements subjects, exchange of data and information, joint institutional framework, dispute settlement.

* Corresponding author, Email: j_attari@sbu.ac.ir

The Approach of World Trade Organization (WTO) Towards Renewable Energies

Ali Fateh^{1*}, Iradj Hosseini Sadrabadi²

1. PhD Candidate in Int'l Economic Law, University of Lausanne

2. Assistant Professor, Shahid Chamran University of Ahvaz

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Abstract

Despite the importance of energy in the international trade relations, the World Trade Organization (WTO) has not explicitly dealt with this issue yet. This issue has resulted in quite a lot of difficulties on trade in services and trade in goods-related provisions. Besides, the increasing tendency of countries in using renewable energies due to the concerns arising out of global warming and environmental pollutions has led to profound challenges in regulating international trade rules concerning this type of energy. Hence, striking a balance between the existing free trade rules and authorizing the measures of the WTO Member States concerning the protection of extensive use of renewable energies, specifically within the framework of decisions taken by the WTO Dispute Settlement Body indicates the significant task of the WTO for solving this legal loophole in the future.

Keywords: World Trade Organization (WTO), Renewable Energy, GATT, Free Trade, Natural Resources, Dispute Settlement Body, Energy

* Corresponding author, Email: ali.fateh@unil.ch

Iran's Rights in Exploitation of Hirmand River from International Law Perspective

Siamak Karamzadeh^{1*}, Bahram Moradian²

1. Assistant Professor of Public International Law in University of Shahed

2. Ph.D candidate for Public International Law in University of Tehran

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Abstract

Due to its dry geographical condition, Iran is among those countries which always face shortages of water. Also, it has shared water resources with some neighboring countries. Hirmand River originates from the mountains of Afghanistan and has much economic importance for Iran. By building dams on the path of the river and forming illegal channels and diverting the river from its main path, Afghanistan has dried the international lake of Hamoun. In 1973, two countries signed an agreement about the division and use of Hirmand River. But Afghanistan use drought and not being provided some terms of the agreement as the excuse to evade implementation of the treaty. As the result of the United Nation' attempts, some rules have been established, so that if there was no agreement among parties, they can ensure the interests of countries. These rules are established on the basis of fair exploitation and cooperation of parties. Even if there was not any binding agreements between Iran and Afghanistan, according to international principles and rules, Iran possesses the fair rights in use of Hirmand River and Afghanistan cannot deprive Iran of its own rights by invoking its sovereign rights.

Keywords: Hirmand River, Hamoun Lake, International law, Afghanistan, Shared water resources, Fair Exploitation, Cooperation

* Corresponding author, Email: skkaramzadeh@gmail.com

An Investigation into Foreign Investment after Termination of Sanctions in Energy Sector by Membership in Energy Charter Treaty Focusing Iran Observer Membership

Nader Mardani¹, Hamideh Bahmani^{2*}

1. Associate Professor of Public and International Law, Shiraz University

2. Master of International Law, Shiraz University

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Abstract

The recent nuclear agreement between Iran and world powers, which resulted in the termination of sanctions, has facilitated the creation of a premise for attracting foreign investment and technical expertise through the formation of economic stability. By becoming a permanent member of the Energy Charter Treaty as a comprehensive treaty of states' relations producing and consuming energy, Iran can reach its desirable goals. Moreover, it can accomplish the need of financial and technical needs for foreign investment and the mutual need of the investor to guarantee its investment rights besides provision of its sovereignty benefits resulting in gas and oil resources. On the other hand, contracts related to Iran have been supported in this treaty, denoting an avoidance of imposing sanction against Iran and blocking entry of foreign investment to the country. The present study has made attempts to clarify how Iran can take advantage of membership in this international legal compact by making slight revision into laws without interrupting sovereignty of resources.

Keywords: Energy Charter Treaty, Guarantee Foreign Investment.

* Corresponding author, Email: Hamideh.Bahmani@yahoo.com

An Analysis of Current Views on the Evolution of Determination of Indirect Expropriation: A Case Study of the Energy Sector Investments

Mehdi Meyhamy¹, Mahmoud Bagheri^{2*}

1. Ph.D of private Law, Department of private Law, College of Law and Political Science, Science and Research Branch, Islamic Azad University, Tehran.

2. Associate Professor, Department of private Law, College of Law and Political Science, tehran university

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Abstract

Standard of investor protection has been placed at the center of debate for many years. Although a case-by-case method for establishing indirect expropriation is a practical method and is almost, despite of the divergent views, the prevailing methods in arbitral practice. However, it has been debated whether an attempt to set out a clear, consistent and suitable method must be adopted by arbitral tribunals. This article explores the complexities and ambiguities of the current standards to establish indirect expropriation, and justify the necessity for general basis or transparent and unit criteria which is the preliminary requirements for indirect expropriation, is explained, Finally, inductions from scholars' views confirm that for establishing the occurrence of indirect expropriation, firstly, State's actions substantially deprive a foreign investor of the investment profitability and at least one of the fundamental components of the property rights must be destroyed. Secondly, the State's actions which lead to loss of profitability investment was not reasonably predictable to the investor.

Keywords: Indirect Expropriation, investor, Proportionality, legitimate expectations, host state, legislation.

* Corresponding author, Email: mahbagheri@ut.ac.ir