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## CASPIAN SEA, LEGAL ASPECTS AND ECONOMIC PERSPECTIVES

### Abstract

After the collapse of the Soviet Union and the creation of new independent states, the relevance of different regions of the world has changed. Despite the fact that the Caspian Sea region, with its strategic importance and large energy resources, was a place where the interests of various powers intersected for a long time, after the collapse of the Soviet Union, it acquired special importance. New countries were established in the region, and a new balance of power emerged. New players have surfaced, both regional and global. Often, the interests of the involved powers are not aligned with each other. The search for new routes for transporting energy resources has become urgent. It should be noted that the region represents an alternative source of energy resources for the European Union; therefore, it has a strategic significance for Europe. The importance of the region has increased amidst the ongoing conflict in Ukraine. In order to transport the region's energy resources, it is crucial to seek and create new export routes. This issue is especially important for Central Asian countries, particularly Turkmenistan and Kazakhstan. The construction of trans-Caspian pipelines is one of the most optimal options for the transportation of energy resources to the European markets for the mentioned countries. With the Trans-Caspian pipeline, Central Asian countries will be able to have direct access to European markets, which in turn will reduce the influence of China and Russia on the region. The question of the construction of trans-Caspian pipelines is directly related to the determination of the legal status of the Caspian Sea, which has not been resolved for decades. The paper aims to study the impact of the legal status of the Caspian Sea on the region's geopolitical situation and balance of power.

**Keywords:** Caspian Sea region, energy resources, export routes, Trans-Caspian pipeline, Central Asia.

### Introduction

The Caspian Sea basin is located on ancient trade routes connecting the East and the West. The sea borders Kazakhstan to the northeast, Turkmenistan to the southeast, Iran to the south, Azerbaijan to the southwest, and Russia to the northwest (Latsabidze 2023, 26). The Caspian Sea has traditionally been the center of conflicting geopolitical interests of both regional and non-regional powers (Vaziri 2004, 163-165).

The regions of the Caspian Sea and the South Caucasus have historically been sites of conflict among various empires. From the second half of the 16<sup>th</sup> century, Russia began to try to establish its influence on the Caspian Sea, which became the reason for the confrontation between Persia and Russia (Dunaeva 2018, 44). At the end of the 17<sup>th</sup> century and the beginning of the 18<sup>th</sup> century, the Russian Empire carried out active military and diplomatic actions to establish itself on the western coast of the Caspian Sea. Russia's policy was opposed not only by Persia but also by the Ottoman Empire, which also tried to establish itself on the Caspian Sea (Dunaeva 2018, 45).

As a result of Russia's successfully waged wars, the signed treaties gained Russia the exclusive right to possess a military fleet on the Caspian Sea. Persia was only allowed to use merchant ships.

This arrangement led to the complete subordination of the Caspian Sea to Russia's jurisdiction, effectively transforming it into an internal reservoir of Russia. This situation continued throughout the 19<sup>th</sup> century. The circumstances changed after the end of the First World War. Following the Russian October Revolution of 1917 and the establishment of the Soviet Union, the Caspian Sea came under the

influence of both the Soviet Union and Persia/Iran. The dominance, however, leaned toward the Soviet Union. As a result of the collapse of the Soviet Union, a significant shift occurred. Since then, the Caspian Sea basin has gained significant attention from regional and global players. New countries emerged, leading to pertinent discussions on the division of the sea. Achieving consensus on this matter requires the determination of the Sea's legal status, which is inherently one of the most challenging issues to address (Latsabidze 2023, 28).

Resolving the legal status of the Caspian Sea is crucial for countries in the region, as it will allow them to build trans-Caspian pipelines through the Caspian Sea without delay. If Central Asian countries (Kazakhstan, Turkmenistan) are able to transport their energy resources to Europe through Trans-Caspian pipelines, their dependence on countries such as China and Russia will decrease. A particular concern is Russia's approach to the former Soviet countries, which it perceives as falling under its sphere of influence, utilizing energy resources to exert pressure on both the Western world and the international community (Latsabidze 2023, 4).

After the Cold War, for the first time in history, global politics became multipolar and multicivilizational (Huntington 1996, 21). The collapse of the Soviet Union caused the balance of power in the world to change. The previously bipolar world gave way to the current multipolar framework where the United States has maintained its position of leadership. This paradigm shift prompted the need to develop a critical approach to the traditional realist interpretation of the "balance of power" principle. Consequently, new conceptual models were created that explained the behavior of world political actors (Battistella 2012, 1-2).

Within regional politics, countries like Turkey, Russia, and Iran are actively involved due to their deep-rooted historical presence in the region and the historical establishment of their influence. It's crucial to recognize that these countries' regional interests are not in agreement. Furthermore, on a global scale, influential players like the US, EU, and China are also asserting their presence and impact (Latsabidze 2023, 30).

To understand the regional order, the theory of balance of power must be taken into account. This theory was developed within the paradigm of realism, which considers international relations as an anarchic system where sovereign states act in accordance with their interests, which in turn contradict the interests of other states. This leads to conflicts and the formation of military-political connections and alliances. According to Hans Morgenthau, the theory of the balance of power represents approximately an equal distribution of power between several states (Sheehan 2004, 3). Although the balance of power theory was mainly developed for international relations at the global level, it can be applied at the regional level as well. The models and schemes proposed are universal for any number of states within a geographic framework. According to the theory, the primary objective of every state is self-preservation. Concurrently, each state strives to enhance its power and influence within the realm of international relations, as this serves as the very assurance of its continued existence. The aim of strengthening is inherent and anticipated for any sovereign entity, naturally causing rivalry among states. Weaker states, unable to guarantee their individual security, tend to form alliances to shield themselves from potential dominance by a hegemonic power or from fading into obscurity (Paul, Wirtz, and Fortmann 2004, 4-5).

### **Legal Aspects**

Energy-rich regions continue to be of interest to the carbon-powered world. There are many challenges, including the legal status, property rights, energy routes, transit corridors, state and corporate interests, and environmental security. Therefore, the Caspian Sea region is not an exception (Bajrektarevic and Posega 2015, 123).

Before the collapse of the Soviet Union, the legal status of the Caspian Sea was mainly based on treaties between the Russian Empire and Persia and then the Soviet Union and Iran. The existing treaties did not provide a legal basis for the division of the Caspian Sea resources. Often, the principle of exclusivity of the sea was emphasized, as the Soviet Union considered the Caspian Sea to be a closed sea. Meaning only Iran and the Soviet Union were allowed to conduct trade and military activities. Treaties focused on fishing rights within a defined 10-mile zone, although provisions for precise demarcation of coastlines were never developed (Haghayeghi 2003, 32-41). It is worth noting that during the Soviet period, the northern part of the Caspian Sea was de facto divided between the four coastal Soviet republics (Atai 2008, 130).

Since 1992, various approaches have been under deliberation to establish the legal regime of the Caspian Sea, mainly focusing on the condominium and partition regimes. The condominium regime

implies that all resources in the Caspian Sea are shared, and all five littoral countries must use them equally (Latsabidze 2020, 3).

The dispute between the five Caspian littoral countries arose over the status of the Caspian Sea: whether the Caspian Sea should be considered a lake or a sea. In the practice of international law, there were two possible ways to solve the problem. If the Caspian Sea is considered an enclosed or semi-enclosed sea under the 1982 United Nations Convention on the Law of the Sea, each coastal state is entitled to a 12-mile zone of territorial waters and an exclusive economic zone within 200 nautical miles. In the case of overlapping 200-mile zones, the delimitation is along the median line, equidistant from the coastline of the Caspian littoral countries. If the Caspian Sea is considered an international lake, it is divided into sectors along the lines connecting the central part of the lake, where the borders of the littoral countries pass along the coastline, and the resources in its water are distributed equally (Zavyalova 2017, 42).

When it comes to establishing the legal standing of the Caspian Sea, the countries bordering the Sea have held significantly different viewpoints. The process was complicated due to the lack of a mechanism for dividing the sea and border disputes between the countries (Behzadi 2010, 102). Azerbaijan, Turkmenistan, and Kazakhstan supported the principle of dividing in the middle line, while Iran believed each country should receive an equal share (Mehdiyoun 2000, 184). It was especially important for Russia to maintain the principle of common water and not allow ships to sail under the flag of non-Caspian countries (Zavyalova 2017, 42). Attempts by Iran and Russia to decide the legal status of the Caspian Sea on the basis of a condominium did not find the support of other states. Therefore, Russia changed its position and favored the division of the seabed between the Caspian countries along the so-called “middle line” that passes through the existing land borders (Leukhova and Pyanov 2013, 235).

In 1992-1993, the first five-party meetings were held, which revealed the positions of the parties and showed that they were still far from reaching a consensus on the division of the Caspian Sea. In this regard, the new states of the Caspian Sea began unilateral efforts to solve the problem. In 1994, Azerbaijan took action by entering into what’s known as the “Contract of the Century” with major international corporations. This contract aimed to exploit resources on the Caspian Sea’s continental shelf and fixed its sovereignty over the corresponding sector in its constitution. Both Kazakhstan and Turkmenistan took practical steps to exploit the hydrocarbon resources within their sectors (Zavyalova 2017, 43). Consequently, Russia began to sign bilateral and mutual agreements with the North Caspian countries, while Iran favored dividing the Caspian Sea into five equal parts (Latsabidze 2023, 65). These agreements successfully addressed conflicts concerning the seabed in the northern Caspian Sea. However, the primary challenge remains in the southern region of the Caspian Sea. The limited scope of the bilateral agreements, which only regulate legal relations in part of the region while the general status remains undetermined, has led to apprehension among Caspian countries not included in these agreements. In particular, there were border disputes between Iran and Azerbaijan, Iran and Turkmenistan, and between Turkmenistan and Azerbaijan (Garibov 2019, 1-6).

In the ongoing effort to clarify the legal status of the Caspian Sea was achieved a significant milestone. On August 12, 2018, a convention was signed during the Fifth Caspian Sea Summit in Aktau. This convention marked a pivotal development as the Caspian countries reached an agreement on the regulations governing the use of the sea. The convention significantly changes the current geopolitical situation of the Caspian Sea region and makes future possibilities to transport energy resources from Central Asian countries to Europe. The importance of the issue goes beyond the regional scale and represents a global one because the energy resources in the Caspian Sea and the region are the source of alternative energy for Europe. After the agreement enters into force, the construction of the Trans-Caspian pipeline will likely become possible, which will allow Central Asian countries to export their resources to the European and world markets, which in turn will reduce their dependence on Russia and China. The agreement restricts the Caspian countries from deploying armed forces of non-Caspian countries in the Caspian Sea. This is acceptable to Russia and the Islamic Republic of Iran, which consider the West and the North Atlantic Treaty Organization as a threat to their national interests. Undoubtedly, this limitation enhances the influence of Russia and Iran within the region. Nevertheless, it does create opportunities for the implementation of major pipeline projects along the Caspian Seabed (Latsabidze 2023, 136-137). Even with the achieved agreement, it’s important to acknowledge that the challenges have not been entirely resolved. The convention needs to be ratified by the legislatures of all five countries. It should be noted that only four of the five signatory countries (Azerbaijan, Turkmenistan, Kazakhstan, and Russia) have ratified, while the Mejlis of the Islamic Republic of Iran abstained from

ratifying the mentioned document. The official stance of the Islamic Republic of Iran reveals an alternative approach to various matters, as evidenced by the lack of consensus regarding border delineation to some extent (Latsabidze 2020, 7). Thus, in the southern part of the Caspian Sea, the issue of the delimitation of the seabed has not yet been resolved (Vatanka 2019, 1-3).

### **Economic Perspectives**

After the collapse of the Soviet Union, the formation of new routes for the transportation of energy resources began. Newly created states were given the opportunity to define their foreign policy and start transporting energy resources independently (Alam 2002, 5).

The Caspian Sea region is one of the oldest oil-producing areas in the world. The region has a growing global energy production capacity. The area has significant oil and natural gas reserves, both in the Caspian Sea and onshore. The traditionally oil-producing Caspian Sea region is rapidly becoming a natural gas-producing region (U.S. Energy Information Administration 2013, 1). The U.S. Energy Information Administration (EIA) estimates that the Caspian Basin has proven and probable reserves of 48 billion barrels of oil and 292 trillion cubic feet of natural gas. Nearly 75% of oil and 67% of natural gas reserves are located within 100 miles of the coast (U.S. Energy Information Administration 2013, 8).

The Caspian Sea region serves as a pivotal connection and communication corridor between Europe and Asia. This vital passage facilitates the transportation of energy resources to European markets, underscoring the global importance of the region (Brzezinski 2016, 29). Central Asia and the South Caucasus, which have an important transit function, are included in the mentioned corridor along with the Caspian Sea region (Amirahmadian 1388, 66-97). Consequently, the Caucasus and Central Asia are considered an interconnected geo-economic space (Kazharov 2011). The region is important not only for energy resources, trade, and economic opportunities but also for geopolitical security and ancient cultural and civilizational significance (Denoon 2015, 262).

The region holds geostrategic significance and functions as a crucial bridge in the distribution of energy resources between the Eastern and Western regions. Thus, finding an optimal transit route for oil and natural gas is one of the main concerns facing the states of the Caspian region (Heinrich and Pleines 2015, 110).

The newly established independent states that emerged after the collapse of the Soviet Union faced a pressing need to develop alternative channels for exporting their resources. This involved the creation of new pipelines to replace the pre-existing pipeline infrastructure of the former Soviet Union. The pipelines established during the Soviet Union were directed in the north-south direction and were used for the transportation of energy resources within the framework of the unified state. Changing the direction of transportation of energy resources has become one of the main tasks of foreign and domestic policy for the new states of the Caspian region and Central Asia (Zhiltsov 2015, 96-97).

Resources, reserves, and production potential make the Caspian region attractive to potential buyers such as China, India, Russia, the European Union, and the US (Mez 2010, 27). There are several challenges associated with oil and natural gas extraction, transportation, and obtaining sufficient investment for large projects (U.S. Energy Information Administration 2013, 8). To fully exploit the resources of the Caspian Sea region, an accurate estimate of the amount of hydrocarbons is needed (Bahgat 2002, 310).

The most optimal option for transporting natural gas and oil from the Caspian Sea region is through pipelines. The countries that will participate in the exploration and exploitation of deposits, as well as the countries through which the pipeline will pass, will receive significant economic and political dividends. Throughout the Soviet Union era, the Caspian Sea region held limited export potential for energy resource transportation via pipelines. This was due to the fact that the resources extracted from the Caspian Sea were primarily allocated for domestic consumption rather than export. After 1991, Azerbaijan, Kazakhstan, and Turkmenistan were given the opportunity to diversify the key areas of their energy resources. As a result, new pipelines were created and put into operation, which serves as an alternative to the Russian pipelines (Alferov 2017, 58). Russia seeks to maintain its advantage by having natural gas pipelines pass mainly through its territory, while countries in the Caspian region are trying to reduce their dependence on Russia.

Transportation of energy resources through pipelines plays an important role not only in the economic and political relations between the Caspian states but also beyond the borders of the region. Today, the Caspian region has a fairly developed system of pipelines, which makes it possible to supply energy resources to the countries of the European Union as well as to the People's Republic of China

(Alferov 2017, 59). The strategy of the Caspian region and Central Asian countries was primarily aimed at creating a new architecture of pipelines that would be part of the East-West energy corridor and bypass Russia (Zhiltsov 2015, 99).

In the early 1990s, five potential routes were under consideration for transporting energy resources from the Caspian Sea region: North, South, West, East, and South-East. Some routes were planned to be extensions/modernizations of existing pipelines, while others were entirely new routes (Amirahmadi 1999, 36). Each direction had its advantages and disadvantages (Latsabidze 2023, 102).

**The Northern Direction** extended along the Black Sea coastline of Russia, to the Novorossiysk port terminal. The transportation routes included the Baku-Novorossiysk route as well as the Western Kazakhstan (Tengiz oil field) to Novorossiysk route. Dependence on Russia's transit pathways grants Russia the ability to unilaterally raise transit fees, impose export limitations, or leverage them for economic and political pressure (Kalicki 2001, 123).

**The Southern Direction** meant the transportation of energy resources through the territory of Iran to the Persian Gulf. It was supported by Iran and some oil companies. The southern direction was the shortest and fastest way. Despite the existing advantages, the development of these routes was not accepted for political reasons by the USA and Western countries (Hill 2004, 21).

**The Western Direction** encompassed projects such as Baku-Supsa, Baku-Tbilisi-Ceyhan, and Baku-Tbilisi-Erzrum. The Western routes were preferred by the USA, Azerbaijan, Georgia, and Turkey (Amirahmadi 1999, 38). The pipelines situated on the western side of the Caspian Sea align with the strategic objectives of Washington, Ankara, and the European Union. The development of Trans-Caspian export routes for Central Asian oil and gas transportation without reliance on Russia constitutes a significant element (Bryza 2020, 2).

**The Eastern Direction** meant the development of appropriate infrastructure for the transportation of energy materials from the Caspian Sea region, namely from Central Asia to China. China's growing demand for energy resources has prompted it to start working on diversifying its energy supply sources. Central Asian countries, like Kazakhstan and Turkmenistan, are an attractive source for China due to their location. China has a common border with Kazakhstan, Kyrgyzstan and Tajikistan. In recent decades, China has been actively engaged in the economic advancement initiatives of Central Asian nations. By making substantial financial investments in the region, China not only secures access to hydrocarbon resources but also pursues its geopolitical aspirations.

Consequently, Chinese oil and gas assets acquired in Central Asian countries over the last decade have become a powerful tool of political leverage for Beijing in the region (Zhiltsov 2015, 111).

**The Southeast Direction** meant the transportation of energy resources from Central Asia through Afghanistan to Pakistan and India. This direction was supported by Afghanistan, Pakistan, and India.

However, the unstable situations in Afghanistan and the broader region posed a significant obstacle. If a secure means of transporting oil and natural gas through Afghanistan could be established, it would render the northern route through Russia comparatively less appealing. Consequently, Russia's influence on the export of oil and natural gas from the Caspian region would be significantly reduced (Latsabidze 2023, 103).

## Conclusion

One of the most important geopolitical events after the Cold War is the struggle over the resources of the Caspian Sea region. In the current global landscape, energy resources are a paramount factor that plays a crucial role in global security. However, simultaneously, they also serve as a catalyst for regional and international conflicts (Zibakalam and Ameri 2014, 180). The increased demand for energy resources in the world leads to the active involvement of external forces in the ongoing processes in the region, often between geopolitically opposed parties (Croissant and Aras 1999, 16).

According to H. Morgenthau, the main component of power is natural resources, which are divided into food and raw materials. H. Morgenthau believed that after the First World War, oil became an industrial and military source of energy. According to him, the need for oil reserves has altered the significance of power among major global players. Great powers tried to control oil reserves and deprive rivals of access to them, resulting in a shift in the distribution of power in their favor (Morgenthau 1948, 82-84). Energy and pipelines are key components of hegemony and the mechanism that allows governments to participate in the global trading system. In this context, energy resources and pipelines lay

the groundwork for attracting foreign investments, fostering regional collaboration, reinforcing economic infrastructure, expanding influence, and enhancing the political standing of nations. Furthermore, these resources can function as diplomatic tools for attaining a country's economic, political, and cultural objectives (Sovacool 2009, 2356). In the global energy structure, there are three different types of countries: energy producers, transporters, and consumers. In general, rational behavior is defined for consumers and transmission countries as behavior that ensures sufficient access to energy resources at acceptable prices (Winzer 2012, 36).

In the contemporary international landscape, the energy carriers of the Caspian Sea region and the development of their transportation will significantly contribute to global energy security. Accordingly, the South Caucasus region has assumed an even more important role in the global system of energy security. A particularly important function is assigned to the countries through which energy resources can be transported to the European markets, bypassing Russia (Latsabidze 2022, 399).

The Trans-Caspian pipeline project, which will start in Turkmenistan and end in Azerbaijan, has geopolitical and strategic importance for Europe. It will supply large quantities of natural gas from Central Asia to Europe (Cutler 2020, 1). The Trans-Caspian pipeline is a crucial link for potential changes that may affect the structure of the international system in the coming decades. This could lead to economic growth, promote regional stability, and limit the influence of both China and Russia in Central Asia (Bryza, Cutler, and Vashakmadze 2020, 1-2). The relationship between Central Asian countries and Russia is especially sensitive since Russia is actively trying to bring these countries under its political and economic influence. If the Central Asian countries are given the opportunity to export energy resources to Europe through the Trans-Caspian pipelines, bypassing Russia, the economic and political influence of Russia on this region will likely decrease. A good example of this is the construction of the Baku-Tbilisi-Supsa, Baku-Tbilisi-Ceyhan, and Baku-Tbilisi-Ezerum pipelines and their impact on the geopolitical situation in the South Caucasus. These export pipelines have not only strengthened but also enhanced the independence of the participating nations, Azerbaijan and Georgia. Furthermore, these pipelines have demonstrated significant commercial profitability. Similarly, the Trans-Caspian pipeline presents a unique opportunity to ensure Europe's economic benefits and political influence in the region. Like the pipelines mentioned above, it would open up the wider region to greater international investment (Cutler 2020, 7).

Therefore, it can be deduced that the resolution of the legal status of the Caspian Sea allows for heightened regional independence and provides a wider choice for the countries in the region in terms of exporting their resources. Thus, in turn, the region acts as an Energy alternative to Russia, naturally reducing their dependence on China and Russia while increasing the influence of the European Union in the region. Therefore, the status of the Caspian Sea is of decisive importance and has a great influence on the geopolitical situation of the region.

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