



HAZAR DENİZİNİN STATÜSÜ HAKKINDA GÖRÜŞMELER VE BU SÜRECİN YEREL VE BÖLGESEL ENERJİ GÜVENLİĞİNE ETKİSİ*

*Pervane İSLAMOVA***

ÖZET

Enerji kaynakları için dünyanın büyüyen talebi Hazar Havzası ülkelerini denizin hukuki statüsünü çözmek için müzakere sürecini hızlandırmaya mecbur etdi. Hazar Denizi Dünya'da en büyük kapalı iç havzasıdır. Hiçbir çıkışı yoktur ve bes devletle, kuzeybatıda Rusya, güneyde İran, güneydoğuda Turkmenistan, kuzeydoğuda Kazakistan ve batıda Azerbaycanla çevrilidir. Bu ülkeler arasında Azerbaycan elverişli coğrafi konuma sahiptir; Bu Doğu ve Batı, Güney ve Kuzey yarıkürelerine bağlayan tarihi İpek Yolu boyunca oturuyor.

Hazar Denizi'nin hukuki statüsü sorunu bugüne kadar çözümlenmemiş kalır. Bunun bazı nedenleri vardır. İlk olarak sahil devletleri farklı pozisyonlara sahip ve her biri bu durumdan avantaj kazanmaya çalışıyor. İkincisi, süper güç ABD ve Rusya, Çin ve benzeri bölgesel güçlerin Hazar havzasında belli çıkarları var.

Türkmenistan ve İranın pozisyonları, kapsamlı kıyı devletler arasında işbirliği ve bölgesel enerji güvenliği üzerindeki etkisinin imkansızlığı kısaca ve açıkça makalede analiz edilmiştir.

Soyet birliğinin çöküşünden sonra başlanan müzakere süreci günümüze kadar devam ediyor. Bu doğrultuda ana ilerleme kıyı ülkelerin devlet başkanlarının katılımıyla düzenlenen zirve gurusleri vardı. Aşkabat, Tahran, Bakü zirvesi ve bunların önemi inkar edilemez.

Hazar'ın hukuki statüsü meselesi günümüzde güncel problemdir. Bu meselenin hell edilmemesi birçok diğer meselelere etkisiz ötürür. Bunun için de Hazar ülkeleriyle beraber bölgede ilgisi olan diğer taraflar o cümleden bölgesel ve uluslararası güçler kendi kuvvetlerinden istifade ederek meselenin çözümüne ulaşmak zorundadırlar.

Anahtar Kelimeler: antlaşmalar, Hazar Denizi'nin hukuki statüsü, devletlerin pozisyonları, enerji güvenliği

*Bu makale Crosscheck sistemi tarafından taranmış ve bu sistem sonuçlarına göre orijinal bir makale olduğu tespit edilmiştir.

** Arş. Gör. Azerbaycan Milli Elmler Akademiyası Uluslararası İlişkiler Doktor Öğrencisi, El-mek: pm060688@gmail.com



**NEGOTIATIONS ABOUT THE LEGAL STATUS OF THE
CASPIAN SEA AND IMPACT OF THIS PROCESS ON LOCAL
AND REGIONAL ENERGY SECURITY**

STRUCTURED ABSTRACT

The world's growing demand for energy resources made the Caspian littoral states to accelerate the negotiation process and solve the legal status of the sea. Caspian Sea is the largest enclosed inland body of water on Earth. It has no outflows and is bounded by five states, Russia in the northwest, Iran in the south, Turkmenistan in the southeast and Kazakhstan in the northeast and Azerbaijan in the west. Among these countries Azerbaijan has favorable geographic location; it situates along the historical Silk Road connecting East and West, South and North hemispheres.

The legal status of the Caspian Sea became problematic issue after the collapse of the USSR. Till 1991, agreements signed between Iran and USSR regulated the legal status of the Sea. But in 1991 big changes happened in Caspian region. With the dissolution of the Soviet Union five sovereign states came out and demanded new rules for the regulation of the sea issues.

Each party has its point of view regarding Caspian sea legal status, but all of them based on the international law. For instance, Iran considered Caspian Sea a lake and demanded 20% share to each one, while other four states say that Caspian is a sea that should be divided with meridian line. However, the three littoral states - Azerbaijan, Russia and Kazakhstan agreed among themselves and signed agreements regarding some issues in the Caspian sea. We can say that these three countries do not have a legal problem. Energy factor hinder the solution of the sea status. In fact, the problem of the Caspian Sea have not been resolved more than 20 years because of some geopolitical factors. It is known that Caspian Sea has rich hydrocarbon resources and important transit opportunities. Major countries being busy with energy production represent western countries and energy resources go directly to western states, which does not serve the interests of Russia and Iran. Russia worried about that Western states become stronger in the region and solve most energy issues. Caspian region is an alternative energy supply region with great potential. In addition, it is no secret that the West tries to buy Kazakhstan and Turkmenistan's gas and oil not through Russia but through the Caspian transit ways. West helped some Caspian Sea littoral states in order to increase the ability of protection and this Western aid attracted the attention of hegemonic states of the region. As a result, in recent years, Russia and Iran intensified their military existence on the Caspian Sea. In this regard, Caspian region is a place where the positions of Iran, Russia as well as Western states intersect.

In such situation, it is hard to believe that legal status of the Caspian Sea will be solved soon and Russia and Iran will allow coastal states to export their energy resources freely. Expert on Caspian issues Rustam Mammadov said: "We must not think that there has

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been real progress. Russia and Iran do not want that Caspian oil and gas is being exploited without them. Therefore, they do not hurry to define the legal status of the Caspian Sea.” However, Russia is interested to bring the positions of coastal states together. Russian government feels great pressure from West and tries to prevent Western states from region by improving relations with coastal states.

The issue of the legal status of the Caspian Sea remains unresolved until today. There are some reasons for this. First coastal states have different positions and each of them is trying to gain advantage in this situation. Secondly, super power US and regional powers like Russia, China and etc. have certain interests in the Caspian basin. Turkmenistan and Iran’s positions, impossibility of comprehensive cooperation among coastal states and their impact on regional energy security have been analyzed in the article briefly and clearly.

I tried to find answer to some questions in the article including why the legal status of the Caspian Sea cannot be solved and how it affects energy security of coastal and regional states.

Negotiation process which began after the collapse of the Soviet union continues till today. The main progress in this direction were summits held with the participation of the state leaders of the coastal countries. Ashgabat, Tehran and Baku summit and their importance are undeniable.

The legal status of the Caspian Sea is a very topical problem today. This unresolved issue has a great impact on other issues. That is why along with Caspian countries other interested parties in the region including regional and international forces should use their opportunities and solve the issue.

Key Words: treaties, legal status of the Caspian Sea, positions of states, energy security

Historical Background

After the collapse of the Soviet Union, the rise of the Caspian coastal states from two to five made it necessary to revise the legal status of the Sea. For many years the legal status of the Caspian Sea was regulated with bilateral contracts signed between Russia and Iran. The first principles of the legal status of the Caspian Sea were reflected in the treaties of Petersburg (1723) , Rasht (1731) , Gulistan (1813) and Turkmenchay(1828). However, there was not anything about legal status in these documents. Russia gained great privileges with these agreements in the Caspian Sea. Russian-Iranian contract signed on February 26, 1921 was the first treaty which focused on the legal status of the Caspian Sea. Article 3 of the agreement states: After bilateral negotiations in 1881 boundary commission defined boundary line and both sides agreed to accept it as a water border between Russia and Iran. This border should be protected and inviolable. By setting the principle of equality between the two countries, this treaty gave Iran the right to keep a navy, to navigate and to fish freely in the Caspian Sea. The parties also agreed that they should equally share the responsibility for the sea’s security and that under no pretence should any foreign presence be allowed in the Caspian. (Sohbet Karbuz 2010) Russia and Iran signed some treaties including “Treaty of Establishment,

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Commerce and Navigation” in 1935, “The Treaty on Commerce and Navigation” in 1940 which once again emphasized common use of the sea by these states.

The entire Iran-USSR land boundary of the Caspian Sea was delineated by agreements concluded in the mid 1950s. This 1954 agreement defined an administrative border which is called Astara-Hasankuli line, on the western and eastern sides of the Caspian but did not demarcate the Sea. The aviation agreement concluded between USSR and Iran in 1964 upheld this imaginary line for determining flight paths across the region. (Sohbet Karbuz 2010)

It is expected that the dependence on natural gas importation of the EU will be 95% in 2030. Therefore, this situation requires conducting comprehensive plans, projects, investments and international agreements. On the other hand, there has been a big geo-economic struggle among the worldwide and regional powers, thus, strategic importance of resource rich places such as Caspian Basin, Middle East and North Africa and other countries, which are on the energy route.(Erdal AKPINAR, Adem BAŞIBÜYÜK 2011)

Main obstacles impeding the negotiation process over the legal status of the Caspian Sea

While analyzing this issue we must take many factors into account. First of all I have to say that the Caspian Sea and the Caucasus region became point of intersection with its rich hydrocarbon resources among regional and international actors throughout history. In this issue each country has its interests and tries to strengthen its position in the region. This issue manifests itself in the problem of the status of the Caspian Sea. For example, Iran offers to divide Caspian Sea into 5 sections, 20 percent to each country, while Iran’s share accounts 13 percent.

There are a number of problems without what it is impossible to solve the problem and to define the legal status of the sea. First of all previously signed treaties between coastal states should be reviewed. None of the previously mentioned contracts has the provision saying Caspian Sea is a joint property of Russia and Iran. So it is impossible to solve legal status with condominium principle which based on equal division of the seabed among states. Another reason is that USSR began to develop oil fields in 1941 without participation of Iran. Then Iran did not imply any form of protest. Secondly, in 1970 the USSR Ministry of Oil Industry divided the Caspian Sea into national sectors. According to the division of the Caspian Sea Azerbaijan got about 70.000 km², Turkmenistan got 80.000km², Russia got 60.000km², Kazakhstan got 105.000km² and Iran got 55.00km². Tehran got acquainted with this division and showed no objections. In addition, it should be noted that the entire Soviet - Iranian treaties regulated fishing, shipping and such other matters. There is a legal vacuum about the development of Caspian energy resources in these treaties. Therefore while determining legal status of the Caspian Sea international legal practice should be taken into account.

The legal status of the Caspian Sea is an international issue. While analyzing the issue we see that positions of USA, Russia, European and Asian countries as well as regional states coincide in this problem. Each of these countries is well aware that having powerful position in the Caspian region they can win superior opportunity in the Caucasus, Central Asia and Middle East region. At the same time the importance of the Caspian region is determined by the development of energy resources of the region. With its vast hydrocarbon resources the Caspian Sea has become important geo-strategic and geo-economic factor which influence world politics and economy at present time. At the beginning of the twenty-first century geopolitical position of this or that country is determined by the degree of control over its energy resources, their means of transportation and ability to provide reliable protection of pipelines from international terrorism forces.(Əhmədov 1997:40-44)

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Since 1992, littoral states began to discuss the legal status of the Caspian Sea in the bilateral and multilateral meetings. Thus, with the emergence of different positions the resolution of the legal status of the Caspian Sea became impossible and continues to the present day. Littoral states could not get a consensus in order to determine the status of the basin, whether it a sea or a lake. Further discussion of the issue of the legal status of the Caspian Sea showed that states have different approaches to the problem, they do not comply with the interests of the international law. (Həsənov 2005:64)

We can practically divide the negotiation process into three stages which aimed to define the international legal status of the Caspian sea. The first stage covers the period of 1991-1994 and can be called search phase in problem-solving. The second phase covers the period of 1995-1999. During these years new approach developed towards the problem. Littoral states organized some multilateral meetings and conferences. Different positions of the states were being discussed in these meetings and conferences.

Finally, the third phase started in January 2000, when the new head of the Russian state, Putin came to political arena. His coming to power is characterized with the emergence of the new concept about Caspian region. (Nəsibli 2000:32-36) Russian president V.Putin began to develop realistic and pragmatic tendencies in many areas including constructive cooperation in the Caspian region. (Nəsibli 2000: 61-63)

“There was a dramatic change in Russian policy at the turn of the century. On 21 April, 2000, Vladimir Putin, then still acting president, authorized and chaired a special meeting of the Security Council, with the object of reassessing Russia’s policy in the Caspian region. This was a pivotal event, attended by all the government ministers and some business representatives. The main task that confronted the new leader was to reconcile national economic and security interests in the Caspian zone”. (Shirin Akiner 2004:247). In the early and mid 1990-s Russian policy in the Caspian region had been motivated by political and security considerations, after April 2000 economic interests became paramount. (Makarenko 2001)

On January 8-9, 2001 Vladimir Putin made an official state visit to Azerbaijan. During bilateral negotiations between Aliyev and Putin many important issues, including legal status of the Caspian sea was discussed. As a result of these negotiations they signed “Joint Statement” in Baku and agreed some principles. This reaffirmed the principle of the division of the sea shelf and the common use of water resources. “Later in April, 2002, Russia and Azerbaijan signed a protocol which determined the point of demarcation land of the Caspian sea shelf along the Russian-Azerbaijani border. This followed the principle of sectoral division of seabed-common water use as agreed in declaration of January 2001. The two president signed a final agreement on the demarcation of the Caspian sea shelf and its resources along their joint border in September 2002, using the method of a modified median line”. (Makarenko 2001:250) So, Russia, Azerbaijan and Kazakhstan came to common consent.

Russia abandoned the condominium principle and had to make another choice, either the principle of an equal share, or a division based on the principle of the modified median line. Though Iran strongly opposed median line principle and wanted 20% share of the sea, Russia choose to support median line principle. According to this principle Russia would have only 18.5% of the Caspian Sea, while Kazakhstan would have 29%, Azerbaijan and Turkmenistan over 19%, and Iran only 14%. Under this scheme Iran got the smallest part and because of that opposed this proposal. Despite the fact that this principle was endorsed by Azerbaijan and Kazakhstan, Iran continued to propose one of the two division forms, either condominium or 20% equal share for all parties.

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In 2001, in order to reach a compromise with Iran and Turkmenistan Russia proposed a new principle of resource sharing which provided for a 50:50 principle for dividing the exploration of disputed fields among the two parties. (Lloyds list 2001:6) With this principle two parties could be able to develop parts of the fields which were the subject of disputes with Azerbaijan. Russia tried to achieve the 50:50 resource-sharing principle in order to prompt Iran and Turkmenistan to sign final agreement on the Caspian Sea status as drafted by Russia and Kazakhstan. But efforts of Russian government brought unintended consequences. Instead of coming to the consent, both Iran and Turkmenistan took some measures to secure their interests. The most dangerous incident occurred in July 2001, when Iran used military force to stop BP-operated ships from conducting exploratory work on a disputed field in the Caspian. (Shirin Akiner 2004:252)

Principles for the division and legal status of the sea were further being discussed in many meetings and conferences. Special Working Group on the legal status of the Caspian Sea held important meetings in 2003 February in Baku, in Almaty in May, in Moscow in July. Though these conferences did not produce immediate results, Russian and Iranian representatives indicated that some common understandings had been reached. Negotiations were continued in 2004.

One of the important steps towards the solution of the legal status of the Caspian sea were summits with the participation of the state leaders. Ashgabat summit which was held in 2003 in Turkmenistan's capital was a big progress towards the solution. "At the Ashgabat summit, Turkmenistan impressively and convincingly sounded its position on a strategy of partnership based on a shared responsibility for the Caspian Sea and universally recognized norms of international law. The Ashgabat summit, which can without exaggeration be called historic, allowed the participants to discuss the priority aspects of the interaction and identify areas of cooperation in the search for mutually agreed solutions to the Caspian problem. Speaking at the summit, Berdimuhammedov said Turkmenistan will continue to participate actively in all matters relating to the legal status of the Caspian Sea to ensure peace and security in the region, strengthen good-neighborly relations, mutual understanding and trust between the peoples of the Caspian countries, which are united by a centuries-old historical and cultural ties, and expand the fruitful cooperation." (Trend)

The second summit of Caspian littoral states held in Tehran in October 2007. It was more productive summit with comparison of first summit. Heads of governments signed Joint declaration on principles regulating the division of the Caspian shelf and water resources in Tehran summit.

The negotiation process launched in Tehran continued in Baku summit which took place in November, 2010. According to speech of Azerbaijan's deputy foreign minister, Khalaf Khalafov the summit took very important decisions. "I would like to highlight the agreement on cooperation on Caspian Sea security. This allowed cooperation to be established between border and customs services and internal affairs bodies combating smuggling, the illegal arms trade and other kinds of trans-national crime. A good spirit of mutual understanding and cooperation has been established among the Caspian countries which enables us to carry out serious projects. This applies above all to energy projects, which allow us to improve the investment climate in the countries of the region, to improve infrastructure and create new corridors, thereby allowing the Caspian states to export their energy resources to world markets," Khalafov said. (News.az)

Impact of unresolved legal status on energy security

Unresolved legal status of the Caspian Sea has an impact on regional energy security. First of all, it should be noted that the energy resources of the Caspian Sea plays an important role in Europe's energy supply and majority of resources is transmitted via the BTC pipeline. Currently Iran and Turkmenistan offer some ways which are unacceptable for a solution. Turkmenistan wants to own the Azeri-Chirag and Kapaz oil fields which Azerbaijan exploits. We also know that 85 percent

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of the oil produced from the Azeri Chirag transmitted to Europe via the BTC pipeline. The main requirement of Turkmenistan Azeri Chirag oil fields play an important role in Europe's energy security. While defining legal status of the Caspian Sea if Azeri Chirag would be giving to Turkmenistan, Europe's energy security can be threatened. As a post soviet state Turkmenistan gives priority to cooperation with Russia. And Russia as an energy giant tries to make Europe depend on him. If wish of Turkmenistan government will be taken into account, interests and energy security of Europe might be fall under question. So it is a very important point which requires enough attention from West.

Failure to resolve the question of the legal status of the Caspian Sea affects regional projects. Those who want better protect national interests in the region increase military arsenal in the sea. Such as Iran and Russia... it is also true, these countries note that they increase army in the sea to ensure better security of the sea.

Failure to resolve the issue of legal status have an impact on energy security in the region. Comprehensive cooperation is not possible among coastal states without solving the legal status of the Caspian Sea. For instance: let's take Azerbaijan and Iran. These two states have the same history, culture, religion and so on. They can have more close relations in different fields including political, economic, cultural areas than they have now. However, the states conduct different policy and have various political approaches towards Legal status of the Caspian Sea. These factors impact the level of cooperation between them and energy security in the region.

I would like to complete my article with the ideas of the book "The Choice: Global Domination or Global Leadership" written by Zbigniew Brzezinski. He writes in his book that the West's geopolitical, geo-economic and military-strategic interests are represented in the core region of Eurasia, the Caspian-Black Sea and South Caucasus region. In his opinion the interests of West crosses with the interests of local and regional leaders in the region, primarily with Russia, Iran and Turkey. (Əli Həsənov) This fact prevents coastal states to solve the legal status of the Caspian Sea among them without intervention of global and regional powers.

REFERENCES AND NOTES

- HƏSƏNOV, Əli. Transmilli dünya gücləri və bölgə dövlətlərinin Xəzər hövzəsindəki geoiqtisadi siyasəti, maraları və fəaliyyətinin xarakteristikası. <http://gencdiplommat.az/analitika/136-transmdlld-dgnya-ggclzhrd-vzh-bglgzh-dgvlzhtlzhrdndn-xzhzzhr-hgvzzhsdndzhkd-geodqtdsadd-sdyaszhtd-maraqlar-vzh-fzhaldyyzhtdndn-xarakterdstdkas.html>
- ƏHMƏDOV M. Azərbaycan: yeni neft erası və beynəlxalq siyasət. Bakı, 1997, səh 40-44
- HƏSƏNOV Ə.M. Neft strategiyası və Azərbaycanın xarici siyasət fəaliyyətinin qurulması. Əsrin müqaviləsi-10. Bakı, 2005, səh 64
- AKPINAR, Erdal, BAŞIBÜYÜK, Adem. JEOEKONOMİK ÖNEMİ GİDEREK ARTAN BİR ENERJİ KAYNAĞI: DOĞALGAZ. Turkish Studies - International Periodical For The Languages, Literature and History of Turkish or Turkic. Volume 6/3 Summer 2011, p. 119-136, TURKEY. Doi Number : 10.7827/TurkishStudies.2640
- Lloyd's list, International News 20 November, 2001.p6. Also interview with Viktor Kalyuzhny in Nezavisimaya Gazeta published in Diplomatic Courier on 28 September 2000 (Foreign Ministry, Daily News Bulletin. www.in.mid.ru)
- NƏSİBLİ N. Azərbaycanın geopolitikası və neft. Bakı, 2000, səh 32-36

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- News.az. Caspian coastal states still thrashing out legal status.<http://news.az/articles/politics/35123>
- SOHBET Karbuz. The Caspian's Unsettled Legal Framework: Energy Security Implications. Journal of Energy Security. 18May, 2010.
- SHİRİN Akiner. Oksana Antonenko Caspian: Politics, Energy and Security. Russias policy in the Caspian region. New York 2004. P 247.
- MAKARENKO, T.. New Directions in Caspian politics. Janes Intelligence Review, 1May 2001.
- TREND, Ashgabat: Baku summit designed to give new impetus to negotiations on Caspian Sea. <http://en.trend.az/azerbaijan/politics/1783289.html>

Citation Information/Kaynakça Bilgisi

İSLAMOVA, P., Hazar Denizinin Statüsü Hakkında Görüşmeler ve Bu Sürecin Yerel ve Bölgesel Enerji Güvenliğine Etkisi, *Turkish Studies - International Periodical for the Languages, Literature and History of Turkish or Turkic* Volume 10/2 Winter 2015, p. 483-490, ISSN: 1308-2140, www.turkishstudies.net, DOI Number: <http://dx.doi.org/10.7827/TurkishStudies.7673>, ANKARA-TURKEY