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Provisions of Lawsuits for Compensation for Oil Pollution by Ships Based on Iran and United States Laws: A Comparative Study

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Abstract

Considering that Iran has both oil and seawater, which is the route of transportation of oil tankers, the legal system of Iran has been discussed in this paper. Also, regulations related to prevention and dealing with pollution caused by oil tankers, regulations on how to compensate for damages caused by oil pollution, filing lawsuits, and how to receive compensation due to damages are examined with comparison to American laws. Regarding Iran's laws, it can be said that this country has not passed advanced regulations domestically and independently. However, due to the international aspect of these incidents, conventions have been formulated by international organizations, and by joining them, Iran has aligned itself with the international community in this field. However, since most of its states are surrounded by the sea and a lot of oil is transported through its ports, the United States enacted legislation in this field before the international community, and the history of its legislation dates back to 1924. With its strong domestic laws, the United States has not acceded to international conventions and still considers its national laws to govern these matters. Hence, the laws of this country and its performance be set as a model for other countries that are struggling with these issues.

Keywords: Energy, Oil, Ship, Oil tanker, transportation, oil pollution, lawsuit, civil liability, damage, compensation, American rights, Iranian rights.

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Introduction

In the past, it was believed that the sea recycles all the materials that are thrown into it. There was no belief in the protection of the marine environment and all the ship's waste was thrown into the sea. These wastes were naturally recycled. With the construction of bigger ships and the development of shipping, throwing non-recyclable materials, chemicals, and fossil fuels into the sea, and marine accidents that caused extensive pollution, the protection of the sea against pollution caused by ships was raised. Among the polluting sources, oil became particularly important. Several accidents that happened to oil tankers in different parts of the world caused a lot of environmental damage and these marine accidents made it inevitable to establish regulations regarding sea pollution. Oil pollution directly and indirectly threatens and destroys the sea environment and human life. Therefore, comprehensive regulations were adopted to prevent oil pollution caused by ships, such as the first category of the MARPOL Convention and its 6 annexes, the purpose of which is to prevent the pollution of the sea by oil substances caused by ships.

The second category is the oil pollution control provisions of the OPRC Convention. According to these regulations, if oil pollution occurs, the port government and the coastal government must take national measures, and the regional countries must take the necessary measures to deal with and contain the oil pollution. The third category of regulations is related to international regulations regarding civil liability and determining the amount of responsibility regarding oil pollution caused by ships, the most important of which are the CLC and FUND conventions. The government of Iran has joined all these conventions and must comply with its international requirements. In line with the implementation of these requirements and in cases where there was a need to enact a national law, the law on the protection of navigable seas and river waters against oil pollution was approved in 2010. By comparing international conventions with the provisions of this law, we notice some discrepancies, although there are similarities between national regulations and international conventions regarding civil liability. For example, in the CLC convention, the limit of liability for oil pollution that occurred unintentionally and at fault has been determined. Also, in the FUND convention, this limit of liability has been increased up to a certain amount, and ship owners are required to prepare a valid insurance policy or financial guarantee to cover these losses up to the same

limit. In Iran's law, the amount of responsibility is not limited and there is no ceiling for it. On the other hand, ship owners are required to prepare an insurance policy to compensate for possible losses or they must prepare a valid financial commitment letter, while the ceiling for the amount of the insurance policy or commitment letter is not clear.

According to the provisions of FUND and CLC conventions, the ship owner is responsible for compensation and legal claims must be filed against them. Whereas, according to Iranian law, the owner, the perpetrator, and the person responsible for the oil pollution, that is, the person who is in charge of the oil pollution, are jointly responsible for compensation. Another important issue in the lawsuit for damages is related to determining the amount of damages. If damage has been done to the property, it is possible to determine the amount of damage by evaluating the damaged property. However, the challenges related to the damage to the environment and aquatic life continue. Procedures for filing a lawsuit is another important topic that is not covered by the CLC and FUND Convention, and the law of the court will govern it. However, the conditions for filing a lawsuit are determined in Iranian law, which is in the form of a request or petition, depending on the case. After the occurrence of oil pollution, if the polluting ship is impounded and if a valid insurance or financial guarantee is given, the court will act to remove the impoundment from the ship. But the law of Iran stipulates that the polluting source will remain in custody.

This paper attempts to study the civil liability regarding sea pollution in the Iranian and American legal systems and to answer the important question of what provisions exist in these two legal systems for the responsibility of sea polluters. Then the paper finds the commonalities and differences of the regulations and came to the conclusion that according to the American regulations, the lawsuit should be brought against the ship owner or the insurer, and according to the Iranian law, the lawsuit is brought against the owner, the operator and the polluter jointly. Also, in international regulations and American regulations, if the limitation of liability is invoked, the liability will be limited, but in Iranian law, the liability is not limited. In case compensation is requested by the prosecutor or the government (Ports and Maritime Organization, Fisheries Organization and Environmental Protection Organization) by request and in case of damages by other persons, it should be according to the petition and by paying the legal fees. In the United States of America; Congress has allowed the president or the authorized representative of

the government or indigenous tribes to file a lawsuit on behalf of the nation for damages caused by oil pollution.

In the end, the authors come to the conclusion that the damages caused to people's property can be assessed, but determining the damages caused to the environment and aquatic life is still one of the most challenging cases. One of the innovations of American law is determining the damage caused to the environment and aquatic life. May it be addressed in the present research.

1. The Concept of Oil Pollution

Marine oil pollution is sometimes caused by oil leaks from marine structures during exploration and exploitation, cargo oil or ship fuel leaks in the sea, abandonment of marine structures, and invasive species caused by oil deposits in the seas. (Pourhashmi & Ekrami, 2014: 71) In fact, from clauses (5), (8), and (9) of Article 1 of the International Convention on Civil Liability for Compensation for Damages Caused by Ship Fuel Oil Pollution, it can be inferred[1] that fuel oil pollution means pollution caused by spilling any hydrocarbon oil of a ship in the territorial sea of a country, which is used for steering or propulsion of the ship, as well as caused by any event causing pollution damage with a serious and imminent threat. Naturally, oil pollution is not caused only by spilling fuel oil from a ship in the territorial sea of a country. A major part of it can happen outside the territorial sea and it is not caused by the fuel oil of the ships, but due to exploration and exploitation, oil leakage from the oil cargo of the ships, etc (Agha Seyed Jaafar Kashfi & Zavyi Sham Esbi, 2021: 109-110). The International Convention on Preparedness, Response, and Cooperation against Oil Pollution in 1990 provided a more comprehensive definition of oil and considers it to include crude oil, fuel oil, diesel oil, and lubricating oil. (Najafi Esfad & Darabinia, 2019: 95). The second paragraph of Article (2) of the current convention interprets "oil pollution incidents" as incidents that have the same origin and lead or may lead to oil spills and the marine environment or coastlines with the interests of one or more countries, threaten or may threaten and requires emergency action or other immediate response. The amendment protocol of this

1. Agha Seyed Jaafar Kashfi, Mona, Zavyi Sham Esbi, Mahnaz, Analyzing the efficiency of the response preparedness protocol and regional cooperation in combating oil pollution accidents (Octao Protocol) in protecting the environment of the Caspian Sea from oil pollution, Journal of Legal Research, No. 43, Fall 2019: pp. 109-110.

convention was also approved and provided a more complete definition of oil and it means any stable mineral hydrocarbon oil such as crude oil, black oil, heavy diesel oil, and oil, whether it is carried as a commodity in a ship or is available in the fuel tanks of the ship. The interpretation of the Marine Oil Pollution Control and Prevention Law approved by England in 2005 is more accurate. This law defines oil as any liquid hydrocarbon or alternative liquid hydrocarbons, including soluble or non-solvent hydrocarbons or alternative hydrocarbons that are not normally found in the liquid phase at standard temperature and pressure, whether from plants or animals or mineral deposits or obtained from their combination. Taking into account the cases listed in the above protocol, this law includes any oil spill in the sea, including fuel oil, cargo oil, oil resulting from exploration and exploitation activities, etc. Therefore, what is considered oil pollution in the sea is any kind of oil and oil material that has leaked into the sea and caused the pollution for any reason. It seems that the Law on the Protection of Navigable Seas and Rivers against Oil Pollution in Article (1) provides the most comprehensive and complete definition of oil pollution and sources of oil pollution and defines it as an oil leak or spill of oil materials from ships, oil tankers or platforms and oil facilities.

2. The Concept of Compensation for Damage Caused by Oil Pollution

In the glossary of international law, compensation is defined as: "Mechanisms for compensation and restoration of a damage including all actions that are carried out for the benefit of a government or an international organization to compensate for the damage it has suffered". According to the definition provided in the encyclopedia of international law, "Compensation is the obligation to act to compensate and repair the damage of a violation of an obligation." Paragraph 1 of Article 235 of the Convention on the Law of the Sea approved in 1982 states that governments are obliged to fulfill their obligations regarding the protection and care of the marine environment and are responsible for compensation for damages caused based on international law. The civil liability convention in paragraph 6 of article 1 defines and stipulates oil pollution damage as: "damage or loss caused outside the ship as a result of pollution caused by the exit or discharge of oil, regardless of the location of this exit or evacuation, provided that the payment of compensation for the damage caused to the environment, except for the loss of profit resulting from said damage, is limited to

reasonable measures that have been taken or will be taken to correct the situation, as well as the cost of preventive measures, loss and the damage caused by these actions". If all the conditions and elements of civil liability are met, the injured party has the right to ask for compensation for all the damage that has happened to them. The cause of the damage (polluters) is also required to compensate for the damage they caused. The goal of every legal system is to first prevent damage to the society of its territory, and then, in case of damage, to protect the victims on the one hand and to deal with the perpetrators of the damage on the other hand. International environmental law is no exception. In the practice of governments as well as the process of the doctrine of international law, the obligation to compensate damages is considered one of the fundamental principles of international relations. It has been emphasized in this principle that if a government violates a legal rule or an international obligation, it must compensate for the abnormal effects and losses caused by it, and the mechanism of international responsibility is the guarantor of this principle.

3- Iranian and American regulations regarding Oil Pollution

3-1. Iranian regulations

One of the domestic and national laws passed in 2010 to prevent and deal with oil pollution is the "Law on the Protection of Navigable Seas and Rivers against Oil Pollution". This law, consisting of twenty-five articles and ten notes, was approved by the Islamic Council. According to the aforementioned law, polluting the waters under the rule and supervision of the Islamic Republic of Iran with oil or petroleum substances caused by leakage or discharge from ships, tankers, all fixed and floating facilities, including platforms, artificial islands, oil tanks, and underwater pipes is prohibited on the beaches or in the water. According to paragraph A of Article 1, pollution or polluting is the discharge or leakage of oil or oil substances or the balance of water of ships or tankers in the waters subject to this law. The subject waters of this law are those of the Law on Marine Zones approved in 1993 and the waters under the government's control in the Caspian Sea and navigable rivers. Polluting sources that are subject to this law include ships and oil tankers, whether they are intact, damaged, sunken, or in the process of being sunk, or being built, repaired, scrapped, and broken up in construction or repair centers on the coasts or in the waters subject to this law. Also, all fixed and floating facilities, including platforms, artificial islands, oil tanks,

and underwater pipes on the coasts or in the waters subject to this law, are considered among polluting sources in paragraph B of Article 1. In this law, oil means any oil liquid or mixture that contains oil, such as oil fuel, oil sludge, waste materials, and oil waste, all types of oil products and their derivatives. A ship is any type of sea-going vehicle, whether it is powered or towed in some way. Also, an oil tanker is any ship that is designed and built from the beginning for transporting or storing oil, and the oil is transported in it without packaging, or after some time its structure is changed and adapted for the above purpose. Petroleum facilities are fixed or floating equipment used in the exploration, extraction, production, loading, and transportation of petroleum materials such as platforms, oil tanks, pipelines, and artificial islands. The provisions of this law regarding how to prevent pollution are valid until multilateral agreements are signed with the countries of the region. If an agreement is signed with the countries of the region and approved by the Council, these regulations will not be effective.

According to this law, the Fisheries Organization (concerning aquatic life), the Environmental Protection Organization (concerning the damages caused to the marine environment), the Ports and Maritime Organization (concerning the pollution to the port facilities and the costs of dealing with the pollution and cleaning up the pollution), and private individuals can file civil liability lawsuits. The lawsuit for compensation stated in this law has certain characteristics. The applicant of this lawsuit can be the prosecutor or one of the institutions of the Ports and Maritime Organization, and the Environmental Protection and Fisheries Organization. In a compensation lawsuit, the court issues an order to satisfy the demand without receiving possible damages and only by examining the evidence. Ports and Maritime Organization, Fisheries, and Environmental Protection are the representatives of the government in international lawsuits regarding the crimes related to this law and the claim for damages resulting from the damages. Also, the collected amounts will be deposited into the treasury account and 100% of it will be allocated to the relevant institutions in the next year's budget. Among these organizations, the only organization whose damages can be determined and calculated is the Ports and Maritime Organization. In the case of the other two bodies, as well as in the case of damages to private individuals, there is no precise regulation. In case of oil pollution, the ship, oil tanker, or any vessel that has caused pollution will be seized by the military or law enforcement forces as a polluting agent

according to paragraph 2 of article 13 of this law until the judicial authority decides on the continuation of the seizure or its removal. Also, all the people who were involved in the process of oil pollution will be jointly and severally responsible.

A. Differences between Iran's domestic law (Sea and River Protection Law, etc.) and international conventions

The purpose of international conventions is to support international trade and international transportation of goods. The provisions of these conventions include ships of a specific capacity, while the domestic law covers all ships or vessels of any capacity. In international regulations, if the damage caused by oil pollution does not include intentional or willful cases, there is a limitation of liability, while in domestic regulations there is no limit of liability. The scope of implementation of international conventions is different from domestic regulations. According to Iran's maritime zones law, domestic law is applicable in waters under jurisdiction and competency, while international conventions are related to Exclusive Economic Zone (EEZ).

B. Similarities between Iran's domestic law (law on the protection of seas and rivers, etc.) and international conventions

In domestic laws and international regulations, there is an obligation for the ship owner to compensate for the damage caused by the pollution. (Asadzadeh, 2015: 25) The owner of ship must have a valid financial commitment letter or financial guarantee. The ship owner must have a valid financial guarantee and the flag state and port state are obliged to issue a certificate that the ship has a valid financial guarantee. When the ship has this valid financial guarantee, it means that the government is also responsible for its statements. Without having these valid financial guarantees, in any case, it is not possible to move the ship and the PC should not be issued. Therefore, without a valid financial guarantee, the ship can't travel at all. Some of these guarantees are mandatory, that is, they are mentioned in international or national regulations, while some are optional. The benefit of these guarantees is, firstly, to compensate for the damage suffered, and secondly, if the ship is seized, the owner of the ship can hope for its release by depositing a fund. Regarding international regulations, these guarantees are 1) Marine insurance policies, and 2) P&I Club coverages.

3-2. American regulations

According to the reviews of American law, unlike other countries, it is one of the progressive countries in passing domestic laws to combat marine pollution. This country has enacted various laws at the state and federal levels to control the reduction and prevention of sea pollution, especially pollution caused by ships, for the waters of its region. (Wood, 1975)

A. Oil Pollution Act of 19241

This act was the first federal law specifically intended to regulate the discharge of oil from ships into coastal waters of the United States. At that time, the law governing oil pollution in general was not much different from other countries. (De La Rue & Anderson, 1998: 8) In this law, the discharge of oil, whether as fuel or cargo, was prohibited and considered a type of offense, and those who violated this prohibition were punished with a fine of $500 to $2500 or imprisonment from 30 days to 1 year. On the other hand, in this law, there were no regulations regarding water protection in other ways.

B. Federal Water Pollution Control Act of 1948 (Federal Water Pollution Control Act)

In 1948, the United States Congress passed the Federal Water Pollution Control Act.[2] The purpose of this law was to increase the quality of water resources and create a national policy to prevent, control, and reduce water pollution. (33 U.S.C.§1005 (1964) at 466 (b).) It can be said that this law was one of the first regulations to enter the discussion of prevention, control, and reduction of water pollution and protection in the domestic regulations of the United States. (33 U.S.C.§466(a) and (b). De la Rue, C. and Anderson, C., 1998, p9.) The main focus of this law was to increase water pollution prevention plans by the government and local official bodies. This law was extensively amended in 1972 due to its shortcomings in the field of pollution control.

1. Act of 7 June 1924, Pub. L. No. 68-238, 43 Stat.604, codified at 33 U.S.C. §431-437, repealed by the Water Quality Improvement Act in 1970.
2. Act of 30 June 1948, Pub. L. No. 80-845, 62 Stat.1155, originally codified at 33 U.S.C.§466(a)-466(g), but substantially amended and renumbered by Federal Water Pollution Control Act Amendments of 1972 and Clean Water Act Amendments of 1977.

C. Clean Water Act 1966[1]

This law, which was passed in 1966, was an amendment to the Oil Pollution Act of 1924. For the first time, this law established provisions for civil liability arising from oil pollution at the level of the United States federal law. (De la Rue, & Anderson, 1998: 9) In terms of geographic scope of application, the Oil Pollution Act of 1924 extended the prohibition of oil discharges on adjacent coastlines as well as the sea over navigable waters of the United States. (33 U.S.C.§433(a) (Supp. IV, 1969)) According to this law, anyone who discharges or permits the discharge of oil from a vessel into or on the navigable waters of the United States must immediately remove the pollution caused by such action in the above-mentioned geographical areas. In case of no action, the government itself would collect and clean the contaminated areas. Then, to compensate for the expenses they had incurred in this regard, they would fine cash the perpetrator as much as is reasonable, (33 U.S.C.§433(b)) and in addition to that, a fine was also considered for the guilty person.[2] This fine is up to $2,500 in fines and imprisonment for one year for the person who violates the law, and up to $10,000 for the ship. This law limited the cases of liability only to leakage caused by willful or gross negligence.[3] It did not work, because most of the causes of oil pollution involved ordinary negligence. Also, although this law had stipulated the provision of compensation for the costs of cleaning up the pollution as a result of the oil spill, it did not provide any provisions for obtaining damages as a result of the oil pollution for the private victims.[4]

D. Water Quality Improvement Act (1970)

The American government, aware of the dangers caused by oil, which was fueled by the Torrey Canyon incident, developed domestic laws without seeking the membership or approval of international conventions in this field. The result of these efforts

1. Pub. L. No. 89-753, 3 November 1966, 80 Stat. 1252
2. In Oil Pollution Act of 1924, 33 U.S.C.§434, it was originally provided that violators were subject to a fine of $500 to $2500. In its 1966 amendment, 33 U.S.C.§434(b) the penalty was maximum $10,000
3. In 33 U.S.C.§432 (3), "discharge" was defined as any "grossly negligent or willful spilling, leaking, pumping, pouring, emitting or empting of oil". For a critical analysis of the Clean Water Restoration Act 1966, see Kiern, L., Liability, Compensation and Financial Responsibility under the Oil Pollution Act of 1990: A Review of the First Decade, Tulane Maritime Law Journal, Vol.24, 2000, p502
4. For criticism in this respect, see, inter alia, De la Rue, C.and Anderson, C., 1998, p 9.

was the addoption of the Water Quality Improvement Act (WQIA) in 1970.[1] The WQIA imposed strict liability on the operator owner and charterer of a vessel from which oil was discharged. In fact, according to section 11 of this law, the government covers the costs of pollution cleanup. The restoration of natural vulnerabilities was also covered, which is considered one of the innovations of this law.[2] However, no provision has been made regarding the compensation of damages to private individuals. The amount of fine that was determined for each ton of polluting substances was equal to 100 dollars. However, with this limitation, the total amount of damages paid should not exceed $14 million. The same provision in the 1969 CLC convention is 125 dollars per ton of polluting substances with the condition that it does not exceed $14 million in total. Of course, with this stipulation, this amount of limitation was not respected only in pollution caused by intentional fault, and all costs related to oil pollution must be paid by the perpetrator.[3] While the WQIA law was criticized for not establishing comprehensive regulations to deal with water pollution, this law created a framework for responsibility that served as a model for subsequent laws in the field of oil pollution.

E. Amendments to the 1972 Federal Water Pollution Control Act

This law is an amendment of the 1948 law, which mainly refers to the introduction of water quality standards, although some articles of this law also discuss the responsibility system. The amendments made to the 1948 Act include: establishing a framework for regulating the discharge of pollutants into the waters of the United States, allowing the EPA to implement pollution control plans such as setting effluent standards for industry, maintaining existing requirements for defining quality standards water for all surface water pollutants, obtaining a permit to discharge any pollutant from a point source into navigable waters where it would be illegal to do so without obtaining a permit, and devising a plan to address critical problems caused by from non-local source pollution.

1. Pub.L.No.91-224, codified at 33 U.S.C. §1161 et seq. It has amended the FWPCA and repealed the Oil Pollution Act of 1924.
2. For the comments on WQIA 1970, see Jones, W., Oil Spill Compensation and Liability Legislation: When Good Things Don't Happen to Good Bills, Environmental Law Reporter, Vol. 19, 1989; Straube, M., Is Full Compensation Possible for the Damages resulting from the Exxon Valdez Oil Spill? Environmental Law Reporter, Vol. 19, p10338-10350
3. FEDERAL WATER POLLUTION CONTROL ACT [As Amended Through P.L. 107–303, November 27, 2002], § 11 (f) (1).

3-2-1. The United State's Innovative Method in Developing Regulations to Prevent and Deal with Oil Pollution

The United States regulations have a significant impact on maritime safety standards around the world by applying technologies and operational standards. Their provisions are an innovative and effective way to prevent marine pollution and restore damaged natural resources. Also, the relatively rigid financial requirements imposed on maritime transport ensure that such losses do not go uncompensated. While debt and financial responsibility laws are not new in other countries, the United States has a longer history of enforcement and applies its laws more broadly.

In the definition of natural resource damage, Natural Resource Damage (NRD)[1] is defined as physical damage to land, fish, wildlife, habitat, air, water, groundwater, or other resources. Physical damage can take many forms but usually relates to an adverse change in the health of an environment or population of species and the underlying ecological processes on which they rely. Legally, the definition of NRD is limited to resources owned, controlled, or managed by federal, state, or other governmental entities, including foreign governments, and damage to private interests is not considered natural resource damage under US law. However, the definition of natural resources is not limited to government resources, and accordingly, damages to natural resources or private property can lead to NRD claims.

Oil pollution compensation in US environmental regulations relies heavily on polluter liability as the causative agent of the loss and also to fund environmental compensation. Imposing liability after it has occurred is a hallmark of the American approach to regulation. Other countries use tort liability to compensate for damages, but no country repeatedly imposes liability on the private sector. Liability for environmental damages under US common laws and environmental statutes is very heavy and places the full burden of environmental costs on the polluter. This burdensome liability serves the distributive goals of reparation by providing compensation to victims and serves society by creating financial incentives that lead to desirable levels of deterrence (Landes & Posner, 1987). The primary law governing US oil spills is the Oil Pollution Act of 1990 (OPA). The Act contains a set of

1. Global Compensation for Oil Pollution Damages: The Innovations of the American Oil Pollution Act- James Boyd-September 2004. Discussion Paper 04-36-Resources for the Future.

requirements designed to improve the safety of oil transportation vessels and facilities, including technology and reporting requirements. This law also requires operators to compensate three broad categories of costs:

1- response and clean-up costs,
2- damage to private property, and
3- damage to public natural resources.

The first is to create liability for damage to public natural resources. Liability for Natural Resource Damage (NRD) is the most distinct and complex aspect of compensation. Other types of compensation-cleanup and response costs and private property damage-are more common and easier to calculate in other legal systems. Cleanup and response costs are the costs of minimizing oil spills and removing pollution from waters and shorelines. Property damage is damage to property, other property, or income.[1] These types of damages are fairly conventional and easy to calculate, as they can easily be calculated in dollars. Natural resource damages are a new aspect of compensation law. In particular, NRDs require the government to calculate the social losses caused by damages to indirect resources or traded in markets. Without private property and trade, there is no clear way to obtain the social value of damages (for example by inferring them from prices). For this reason, the liability of NRD is controversial and raises many legal and technical issues.

A second distinctive aspect of OPA is its approach to cleanup and restoration funding. As a precondition for operation, OPA needs to ensure the desired financing. These requirements are similar to compulsory insurance or minimum capital and are designed to ensure that. The OPA also includes an oil spill trust fund designed to pay for costs that cannot be immediately recovered from the private sector. Ships can be liable for damages including NRDs in several states. In addition to OPA specifically, the Clean Water Act (CWA) and the National Marine Sanctuaries Act (NMSA) provide statutory authority to collect NRDs related to vessels. The imposition of NRDs is an important innovation that addresses a global need: to restore damaged environmental services and to acknowledge that natural resources have significant economic value that must be included in damage calculations. Another important component of deterrence that deserves emulation is mandatory

1. The government can recover lost government revenue (for example, lost fishing license revenue due to damage to a fishery).

financial requirements. NRDs and financial responsibility requirements are the most distinctive in US marine spill law and are also of most value to other countries. Considering that there are many animal species in Iran, the approval of this law in the framework of national laws can significantly help to preserve and maintain these ecosystems.

3-3. Provisions of Civil Liability Caused by Oil Pollution in Iranian and American Laws

3-3-1. Convention on Limitation of Liability for Maritime Claims

The main purpose of civil liability is to fully compensate for the damage or restore the previous situation. But in maritime law, this goal is not respected, in the sense that it is possible to create limits for liability. According to this rule, the ship owner or their agent is allowed to limit their liability in the event of loss or damage to persons or things. (Izanlou & Dargahi, 2015: 522) The most important international convention in this field is the Convention on the Limitation of Liability for Maritime Claims LLMC,[1] which was approved by the Iranian government on May 25 in the Islamic Council (Iran's parliament).[2] Determining liability is the basis of maritime law and many related legal mechanisms. The reason is that the responsibility of the ship owner is based on pure responsibility and therefore the scope of their responsibility should be determined. For this purpose, the ship owner can rely on the limitation of liability, and this means the maximum amount of liability is determined according to the tonnage of the ship because for the ship owner to be able to cover their liability under appropriate insurance coverage, there must be accepted a limit of liability. Article 5 of the Civil Liability Convention of 1969 stipulates that: The shipowner has the right to limit their liability under this Convention to any incident, provided that the value of all of them does not exceed 59.7 SDR. Of course, there are also cases in which limitation of liability cannot be invoked. That is, the limit of liability towards the ship owner is not considered, and that is if the claimant can claim that the incident was based on the actual fault of the ship owner or their crew. The Civil Liability Convention has created a separate system for itself from the Limitation of Liability Convention and contains more restrictions than the 1957 and 1976 Limitation of Liability

1. Convention on Limitation of Liability for Maritime Claims 1976 (LLMC).
2. https://rc.majlis.ir/fa/law/show/895070.

Conventions[1] because according to Article 3 of the International Convention on the Limitation of Liability regarding maritime claims, claims arising from oil pollution are explicitly excluded from it and are not covered by the Convention.[2]

3-3-2. Convention on Pollution Caused by Ship Fuel Tank Oil (2001)

Civil liability conventions and other conventions are limited to oil spills from tankers that carry it as cargo, and non-cargo cases are outside the scope of these conventions. The fact that the ship carries a lot of oil as fuel does not include other types of oil, including unstable oil. These cases fall within the scope of another convention called the International Convention on Civil Liability for Damages Caused by Oil Pollution of a Ship's Fuel Tank (BUNKER). The BUNKER Convention is similar to the 1992 Civil Liability Convention, but they have a few differences in some rules. Among other things, the BUNKER Convention defines the ship owner as the person who is in charge of the ship's tank, while in the 1992 Civil Liability Convention, the ship owner is its owner.[3] In this convention, like the 1992 civil liability convention, the responsibility of the ship owner is based on the absolute liability system. In addition, in this convention, the ship owner is responsible for costs related to preventive measures and damages caused by such measures and other damages caused by oil pollution of the ship's fuel tank in addition to the costs of the oil pollution. Also, unlike the 1992 Civil Liability Convention, the liability limit of the ship owner has not been specified. Instead, the BUNKER Convention states that this shall not prejudice the right of the shipowner or their insurer to limit their liability according to national or international legal rules.[4] This is considered one of the weaknesses of this convention due to the creation of different

1. International Convention Relating to the Limitation of Liability of Owners of Sea-Going Ships, 1957.
2. Claims excepted from limitation The rules of this Convention shall not apply to: (b) claims for oil pollution damage within the meaning of the International Convention on Civil Liability for Oil Pollution Damage, dated 29 November 1969 or of any amendment or Protocol thereto which is in force.
3. "Shipowner means the owner, including the registered owner, bareboat charterer, manager and operator of the ship." International Convention on Civil Liability for Bunker Oil Pollution Damage (BUNKER) Article 1. Part .3.
4. Nothing in this Convention shall affect the right of the shipowner and the person or persons providing insurance or other financial security to limit liability under any applicable national or international regime, such as the Convention on Limitation of Liability for Maritime Claims, 1976 , as amended.

procedures for determining responsibility. This convention was approved by the Islamic Council of Iran on May 18, 2010.

The scope of this convention includes the payment of damages caused by the leakage of petroleum substances by the oil of the fuel tank of the ship, except for oil tankers, which occurs on the ship or outside the ship and eventually spreads to the sea and causes pollution of the territory of a member country. According to this convention, territory means territorial sea and exclusive economic zone of a member state.[1] When a country becomes a member of this convention, it can declare that the provisions of this Convention do not apply to ships that operate exclusively in the territorial waters that include the waters of the territorial sea.

According to the 2001 Convention on pollution caused by oil substances in the tank of a ship, the owners of a ship engaged in transportation at sea are responsible for pollution damages caused by Bunker oil. If the pollution occurs as a result of a series of incidents caused by such a polluting source, the liability lies with the person who was the owner of the ship at the time of the first incident. If more than one ship is responsible, the rule of joint and several liability will be implemented. According to the civil liability convention for pollution damage caused by petroleum substances, oil, and fuel tanks of ships, all registered owners of ships with a gross capacity of more than 1,000 tons are required to provide insurance or other financial guarantee such as a bank guarantee to cover the liability caused by pollution or prepare a similar document issued by a reputable financial institution. Its amount is equal to the liability limit of their ship, which follows the national or international liability limit system, and they must have it with them. In addition, the amount of this guarantee doesn't need to be more than the amount stipulated in the amended agreement related to the limitation of liability for maritime claims of 1976.

As stated, the principle is based on the absolute responsibility of the ship owner to compensate for the damage caused by Bunker oil pollution. But there are exceptions that according to paragraph 3 of Article 3 of the Convention[2], they are exempted from the liability caused by pollution only if they can prove: pollution damage caused by war, hostile operations, domestic disturbances, accidents, and natural disasters which are exceptional, unavoidable and irresistible, or damage that is entirely caused by an intentional act or omission

1. Ibid. Article 2.
2. Ibid. Article 3.

by a third party, or damage that is entirely a result of carelessness or wrong actions of government officials who are responsible for maintaining of lights and other navigational services and facilities, or the pollution damage in whole or in part caused by the actual act or omission that was done to cause damage by the affected person or caused by their carelessness. In such a case, the owner of the ship, in whole or in part, will be exempted from liability against such a person.

3-3-3. Compensation for Damages Caused by Pollution of Oil Tankers

The international system for paying damages caused by oil spills from oil tankers is based on a set of treaties that the International Maritime Organization has established and approved with the efforts and supervision of oil tanker owners, oil importers and receivers, and other relevant international organizations. The main framework of this system is based on the 1969 civil liability agreements for oil pollution damage and the 1971 International Oil Pollution Compensation Agreement. The fund convention, which complements the civil liability conventions, has established the additional compensation for the civil liability system.[1] The purpose of establishing the international fund is to pay damages caused by oil pollution to the victims of oil pollution accidents who have a valid claim, but they cannot receive full compensation for the damages they receive due to the low ceiling of limitation of the liability of the owners of oil tankers of the 1992 civil liability agreement. In May 2003, under the Additional Protocol, the maximum amount payable for an incident was 750 million SDR, which is equivalent to 792.4 million pounds or $1,105,000,000 at March 2008 exchange rates. In 1984, a conference was held to amend the 1969 Convention and adapt it to the needs of the day, especially making amendments regarding the limits of responsibility and the scope of the implementation of the Convention. But the approved protocol was never implemented, because the condition for its implementation was the accession of the American government, which was never fulfilled. Some have considered the reason for the US government's non-adherence to be the low limits of liability and the concern of the coastal states of that country about state laws being ignored (Nicholas, 2009: 7). On February 13, 2002,

1. https://www.imo.org/en/About/Conventions/Pages/International-Convention-on-the-Establishment-of-an-International-Fund-for-Compensation-for-Oil-Pollution-Damage-(FUND).aspx

Iran ratified the 1992 Protocol of the Convention on the Establishment of an International Oil Pollution Compensation Fund, the provisions of which entered into force on November 5, 2009.[1]

The owner of an oil tanker ship can usually limit their liability to the gross capacity of the oil tanker according to Article 5 of the 1992 Civil Liability Convention (CLC). Also, if the following cases are proven, the ship owner is not responsible for compensation: pollution damage caused by war, hostile operations, domestic disturbances, accidents, and natural disasters which are exceptional, unavoidable, and irresistible, damage that is in whole or in part caused by a deliberate act or omission by a third party, damage that is a result of carelessness or wrong actions of government officials who are responsible for maintaining of lights and other navigational services and facilities. The fund conventions (1971 International Oil Pollution Fund and 1992 International Oil Pollution Fund) which are complementary to civil liability conventions have established additional compensation for the civil liability system.[2]

The 1992 Civil Liability Convention CLC, the 1992 FUND Convention, and the supplementary protocol of the fund are all applicable regarding oil spills from oil tankers that cause pollution in the territory of the territorial sea or the exclusive economic zone or areas that are like the areas of two member countries. The civil liability conventions and the fund apply only to ships that carry oil in bulk (oil tankers) but do not include pollution caused by: 1) Pollution caused by oil spills of oil tankers that have no cargo and use ballast during sea voyages to maintain balance, which is discussed in the appendix of the MARPOL Convention, and 2) pollution caused by oil leakage from Bunker oil tanks from non-tanker ships.

According to the 1992 Conventions and the Additional Protocol of the Fund, pollution damage is defined as loss or damage caused by pollution. This means that the common damages related to environmental cleanup the costs related to the measures necessary to restore the contaminated areas and the cost of preventive

1. https://rc.majlis.ir/fa/law/show/97933
2. "Under the Fund Convention, victims of oil pollution damage may be compensated beyond the level of the shipowner's liability. However, the Fund's obligations are limited. Where, however, there is no shipowner liable or the shipowner liable is unable to meet their liability, the Fund will be required to pay the whole amount of compensation due.Under certain circumstances, the Fund's maximum liability may increase" https://www.imo.org/en/About/Conventions/Pages/International-Convention-on-the-Establishment-of-an International-Fund-for-Compensation-for-Oil-Pollution-Damage-(FUND).aspx

measures as well as the costs caused by the loss and damages of such measures are also covered.[1] Although pollution damages are defined by the 1969 Civil Liability Convention and the 1971 International Fund as loss or damage caused by pollution, contrary to the provisions of the 1992 Fund, it did not include the costs of restoring contaminated areas. The provisions of the 1992 Conventions and the Additional Protocol of the Fund include all possible costs for preventive measures if there is an imminent threat of major oil pollution. Even if such an oil spill did not happen, such costs can be collected. The 1992 Conventions and the Fund's Supplementary Protocol apply to spills of Bunker oil from empty tankers, provided that such bunkers contain stable oil residues.

The process of ratifying international conventions in the United States is complicated, as they first require the approval of the administration and then the approval of the Senate. After that, the law must be approved by the US Congress and finally approved by the President.[2] Even though many believed it was important to the United States, the Senate voted against the CLC in 1969. Therefore, it seems that the US Senate had a strong political power in advancing the policy of giving priority to domestic laws, and that is why the CLC 1969 and the Fund were never ratified by the United States.

3-3-4. Financial Resources to Compensate Damages Caused by Oil Pollution

According to the review and proportionality between the risk caused by maritime transport and its profit for transport operators in the conventions and commercial procedures for concluding transport contracts at the world level to compensate for the damage caused by maritime transport, some mechanisms and institutions have been devised that can be a useful tool for distributing losses and supporting the prosperity of shipping and complying with the

1. "This Protocol shall apply exclusively: (a) to pollution damage caused: (i) in the territory, including the territorial sea, of a Contracting State, and (ii) in the exclusive economic zone of a Contracting State, established in accordance with international law, or, if a Contracting State has not established such a zone, in an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured; (b) to preventive measures, wherever taken, to prevent or minimize such damage ."Ibid. Article 3.
2. For details on the legislation process in the US, see Johnson, C., How Our Laws Are Made, House of Representatives Document 108-93, 108th Congress, 1st Session, 20 June 2003.

principle of full compensation for losses. Insurance plays a fundamental role as a financial tool and a source of compensation. In general, marine insurance includes ship insurance (hull insurance), cargo insurance, and freight. Also, this branch of insurance rights covers the liabilities arising from the operation of the ship towards third parties. Grounding, fire, and sinking of ships are incidents that occur today as in the past and cause great damage to ship owners and their cargoes (Sadeghi Neshat, 2013: 8). The marine insurance industry covers the risks that threaten the cargo, the ship, and its service during the sea voyage by H&M hull and machinery insurance P&I protection, and indemnity insurance. P&I clubs were formed due to the wide range of risks and the high cost of risks (Razavi Sayad & Shahrezaei, 2013: 4).

Liability insurance is one type of marine insurance that states that the responsibility of the ship owner is not only limited to the ship's cargo but also any damage caused to other ships, and their cargoes, due to his negligence or the fault of the people in his employment. The lives of people and port facilities will be affected and even polluting the environment will cause the responsibility of the ship owner. In addition to this, ship insurance includes the liability caused by the collision of ships (Abu Ata, 2013: 269).

In the Civil Liability Convention of 1969 and the BUNKER Convention, we often face the liability of the person responsible for the accident in providing financial compensation for the damage caused by oil pollution due to heavy costs. In this regard, these two conventions have benefited from the compulsory insurance system to guarantee the damage in such a way that the ship owners are obliged to obtain an insurance policy or other financial guarantee up to the prescribed limit that covers all the risks and actions of the ship owners, their stewards, and agents (Seifi Qaraytaq et al., 2014: 269). In the CLC convention, it is accepted to file a lawsuit directly against the insurer, and the defendant may be the insurer, but there are doubts about our rights. This is also mentioned in the law of protection of the seas in Iran approved in 2010 in such a way that all ships, oil tankers, and vessels are obliged, when entering the waters subject to this law, to be insured against possible damages caused by the pollution of the waters by oil substances. Otherwise, it is necessary to bring a financial commitment letter to compensate for possible losses (Asadzadeh, 2015: 260).

They are non-profit associations formed for the mutual support of ship owners and are known as P&I clubs. Unlike insurance companies, these clubs do not perform insurance operations in the

real sense. The members of these associations are the owners of the ships and are required to compensate the damages caused to each of the members with conditions (Abu Ata, 2013: 257). They are both insurers and insured to each other, that is, the owners receive the certificate of the ship's entry into these clubs, which is considered a type of insurance policy, against the amount they pay to the association according to the capacity of the ship or ships (Abu Ata, 2013: 259). One of the clauses covered by these clubs is damages caused by oil and non-oil pollution of the seas, as well as the costs of preventing or reducing the heavy effects of pollution (Razavi Sayad & Shahrezaei, 2013: 11).

4. Filing a Lawsuit in the Civil Liability Regime

4-1. Dispute Parties According to the Domestic Regulations of Iran and the United States

Examining the conventions that have been approved in the field of civil liability shows that there is no reference to the injured persons and their ability to file a lawsuit. However, according to paragraph 8, article 7 of the 1969 Civil Liability Convention and the 1992 protocol, as well as paragraph 10 of article 8 of the 2010 BUNKER Convention, compensation for damage caused by oil tanker pollution can be made directly against the insurer or another person who is provided financial guarantee due to the responsibility of the registered owner regarding the damage caused by oil pollution. This convention has assigned the right to file a lawsuit locally to the law of the seat of the court. Clause E of Article 2 of the 2001 plan of the International Law Commission regarding the prevention of transboundary damage caused by acts that are not prohibited in international law, the victim is any real or legal person who has suffered a loss as a result of the incident. According to this definition, the scope of inclusion is very general. With the occurrence of oil incidents in the seas, including the open sea, many people claim damages. This has caused them to be categorized so that they can file a lawsuit collectively. For example, in the Exxon Valdez case, more than 30,000 people, from fishermen to indigenous people, landowners, and owners of restaurants, and entertainment venues, filed a lawsuit.[1] In another incident called

1. All the people who filed a lawsuit following the Exxon Valdez incident are: 1- the US government; 2- the state of Alaska; 3- the trade union (10,000 fishermen); 4- Alaska natives (4 companies with 3,455 natives); 5- the present Fishery industry (35 companies); 6- Fishery industry workers (5000 people); 7- Regional businessmen (200 people); 8- Landowners (10 people including Sarhpostan

Amoco Cadiz, outside the coast of Brittany, the executive departments of France in Cote du Nord and Finistere and some parts of municipalities, and several French citizens filed a lawsuit against Amoco and its American parent company. It should be noted that the persons who are considered trustees for the protection of natural resources according to the domestic laws of any country may have the right to file a lawsuit. In many legal systems, the public trustee refers to various persons who have legal personality, and in this way, the way to receive compensation from the cost of environmental measures is opened for this category of persons (Wetterstein, 1997: 30-50). For example, per Part 1 of Section B, Section 1006 of the US Oil Pollution Plan, OPA90, in the event of oil pollution and damage to natural resources, the president of an Indian tribe or a foreign government can file a lawsuit on behalf of the public as a guardian to receive compensation. In other legal systems, public officials can be considered to have similar rights. In Iran, due to the approval of new laws, regulations in this field have been approved, including Article 66 of the Criminal Procedure Law approved in 2013, which generally stipulates "Non-governmental organizations whose statutes are in the field of child protection, adolescents, women, persons who are sick or have physical or mental disabilities, environment, natural resources, cultural heritage, public health, and protection of citizen's rights, can file a lawsuit against the crimes committed in the above fields and participate in all stages of the proceedings." Therefore, according to the formation of non-governmental organizations in the field of environment and natural resources, whose philosophy of formation is the protection of the environment, the right to file a criminal lawsuit, like other countries, has been recognized in the laws of Iran. Therefore, according to these provisions, it can be said that the government or any natural or legal person who suffers financial or economic loss or loss caused by the costs of compensatory measures has the right to file a lawsuit against the cause of the loss. Since these claims are filed in domestic courts, the direct beneficiary will be determined by domestic law criteria.

4-2. Jurisdiction

Another issue that exists in filing civil liability lawsuits due to oil

company) 9- Environmental organizations as public guardians (National Wildlife Federation, Alaska Wildlife Federation and National Resources Defense Council); 10- Seattle Seven group (consisting of several private companies related to the fishing industry); and some other group lawsuits.

pollution is the lack of consensus between governments in choosing a competent court to file a lawsuit, which can be a big obstacle to proper and effective immediate judicial proceedings and providing solutions to the victims of accidents caused by oil pollution. (Cuperus & Boyle, 2000:264) This is particularly evident in the case of victims who do not have the necessary knowledge and do not use expert consultants in this field. For this purpose, governments can help resolve these issues by harmonizing laws and agreeing to access courts. In many conventions, including the conventions of civil liability caused by oil pollution damage, regulations have been established regarding the jurisdiction, which has solved the problem of the competent court to a large extent. For example, Article 9 of the 1969 Civil Liability Convention and Article 9 of the 2001 BUNKER Convention stipulate that in the event of an accident in the territorial sea of the member states or the exclusive economic zone, the victims can file a lawsuit against the owner of the polluting ship in any of the courts of the member states. As a result, choosing a competent court to handle the lawsuit has been resolved to a large extent. In the case of a country that is not a member of the convention, according to the principle accepted in private international law, the victims can file a lawsuit in one of the courts where the harmful act took place. It is also necessary to mention that according to Article 8 of the Civil Liability Convention, the rights related to the compensation of damages according to this Convention will be forfeited if a lawsuit is not filed within 3 years from the date of the damage. However, in no case can a lawsuit be filed after 6 years from the date of the incident that caused the damage. In case this incident consists of a series of incidents, the period of 6 years will start from the date of the first incident. However, the nature of environmental pollution incidents is such that the emergence of some of its effects, especially the effect of oil pollution on marine organisms such as corals, may take years so due to the time provided in the liability convention, it is no longer possible to file a lawsuit to compensate them. (Krishna Kiran, 2010) The important point in this context is that if the rules of civil liability are not applicable for any reason, especially when an accident caused by oil pollution occurs in the open sea, the issue is ambiguous and should be clarified according to the judicial practice of this issue. The fundamental principle of compensating the victims requires that they file a lawsuit in a country where they can receive compensation. Of course, the injured parties can file a lawsuit wherever they want, but it is the court that evaluates its jurisdiction

and deems itself competent or rejects its jurisdiction. In this case, the principle that comes to the defendant's aid is referred to as the "improper court". Based on this principle, to choose the most appropriate court for the petitioner and other possible cases of abuse in the court selection process, the petitioner cannot impose additional difficulties and costs on the respondent by choosing an inappropriate court, either in terms of location, cost, etc (Eskenazi, 1998: 381). But in practice, it is not easy to apply the principle of improper court, as oil tankers are usually owned or leased by large oil companies, which themselves have many subsidiaries. The head office of the ship owner or broker is the first option for determining the competent court. It is based on an accepted principle in private international law that a defendant in a state must be summoned to court where they reside.[1] This principle is accepted in various conventions and maritime laws of most countries (Van Bar, 1997: 336). In Iran, according to domestic regulations, including the civil procedure law, the competent court for filing a lawsuit is the court of the defendant's residence. The 1968 Brussels Convention on Jurisdiction and Enforcement of Judgments on Civil and Commercial Matters has placed the determination of residence on the conflict resolution law of the government of the court in which the petitioner filed a lawsuit (Van Bar, 1997: 336). According to this convention, judicial remedies are only within the jurisdiction of the court of the state where": 1) the harmful act or omission has taken place, 2) the damage has been inflicted, and 3) the residence of the agent or the normal residence of the agent is located, or the principal place of business of the broker is located there".

In the case of the existing legal procedure regarding damage caused by oil pollution, the jurisdiction of the court of the state of the owner or the main center of the ship owner's company is considered the competent court. This issue was raised in the case of Amoco Cadiz, as the said ship was under the ownership of Amoco Cadiz and this company was one of the subsidiaries of the American company Amoco.[2] The latter company was also one of the subsidiaries of Indiana Company.[3] In addition, at the time of the accident, this company was under lease from Shell Oil Company, which it had at that time to transport its cargo. However, in terms of capital and financial control, it was under the control of the Indiana Oil Company. Since the main center of the latter company (Indiana)

1. actor sequitur forum rei
2. Amoco Company of Chicago
3. Standard Oil of Indiana

was considered to be the United States, the victims filed a lawsuit in the American courts, and the court also accepted its jurisdiction to file a lawsuit.

4-3. The Applicable Laws

Regarding the choice of law, there is no uniform procedure among the governments. Various courts consider either the law cited by the petitioner or the local law with which the incident and the parties have the most important relationship. But what is certain is that it will be appropriate to establish jurisdiction by the judge's court at the beginning. The judicial procedure in this field shows that if there is a relationship between the injured party and one government, the law of that country will govern the matter. For example, when an incident happens in the open sea and pollution reaches the coast of a country, it is reasonable to consider the law of the coastal country that is polluted. In fact, by complying with this, the law of the place of occurrence of the loss will govern the matter. In the Amoco Cadiz case, since the plaintiffs of Amoco and Standard Oil were both Americans and the United States, on the other hand, had not joined the Civil Liability Convention of 1969, the judge refused to implement it and considered the American law to be competent. However, the judge stated at the same time that the arrangements related to the compensation of damages in the present lawsuits are the same according to the law of France and the United States, and any of these laws can be applied (Eskenazi, 1998: 382). Now the question is, in the absence of the above-mentioned connection, which law will govern the dispute? It seems that in this case, the ruling of the law of the place of occurrence of the damage or harmful act will lose its effectiveness and we will have to apply the law of the seat of the court as the local law. The existing jurisprudence in Torre Canyon, Amoco Cadiz, and Exxon Valdez all considered the law of the seat of the court to be the governing law of the matter. Where damage has been caused in the open sea, such as pollution of fishing nets by oil, most judges and countries of the world decided to give priority to their national law. In the Amoco Cadiz lawsuit filed in Illinois and New York, the French plaintiffs asserted that US law prevailed. This choice of valid law was argued with the criterion of "the most significant relationship" with the accident. According to them, since the punishable behavior of Standard Oil and the American Oil Company is exclusively and completely concentrated in the United States especially in Chicago, as a result, the law of that country should be applied. For this reason, the place of the incident is only a

completely random place, and the application of the rule of the place of occurrence of damage to choose the law governing the subject plays no role in this respect (Wu, 1996: 43). Against this argument, the lawyers of Amoco confirmed that in many cases the American law prevails and argued that since the coast of France is polluted and France is a member of the 1969 civil liability convention and that convention also governs the matter, this convention and the law of France determine whether French claimants can file a lawsuit against said company or not. But in the end, the judge of the court argued and relied on the fact that it was the responsibility of the court to determine the law governing the matter. He also said that since the United States was not a party to the 1969 Convention, the Convention is not applicable. He also considered it appropriate to apply the law of the United States due to the similarity of French law to the United States in the field of negligence and compensation (Bartlett, 1985: 7). It seems that the application of the United States law does not need such an argument.

Conclusion

Compensation for damages caused by oil pollution requires filing lawsuits so that the responsible parties can compensate for the losses based on that. The damage caused to the victims of pollution in catastrophic cases is not fully compensated and the responsible parties feel that the financial burdens on them are very heavy. On the other hand, although the legal regime is widely accepted, the United States has turned away from it and has not joined it. Therefore, in the lawsuits caused by oil pollution, it is observed that the judgment for full compensation is not made, and the demands and expectations of the lawsuit from the parties remain sterile. The author believes that the improvement of the legal regime should be compatible with its trends. In general, the oil pollution liability and compensation regime has moved towards better protection of the marine environment and for the benefit of oil pollution victims, behind which is a gradual increase in environmental awareness and protection. Every drop of oil that enters the sea is the main loss of the public and national interests. As in domestic law, damage to the environment is considered to be damage to national interests, governments allow public governmental and non-governmental organizations to file lawsuits. According to the law of Iran, the Ports and Maritime Organization, the Environmental Protection Organization, and the Iranian Fisheries Organization are considered to be Iran's representatives in the lawsuit for damages caused by the

oil pollution of ships for claiming damages. Also, in the United States of America, Congress has allowed the president or authorized representative of the government or indigenous tribes to file a lawsuit on behalf of the nation for compensation for oil pollution. These cases show that there is a process in domestic law according to which it is possible to claim and compensate damages in these cases through the public guardian. There is no doubt that governments have refused to bear the burden of responsibility in the beginning, and this led to the creation of conventions of civil liability caused by oil pollution damages, according to which private individuals bear the burden of responsibility. But over many years and the occurrence of large-scale accidents caused by oil pollution such as Amoco Cadiz, Exxon Valdez, and Erica, these shortcomings have been revealed. The acceptance of the governments in these years (14 member states of the 1969 civil liability convention compared to 101 states until 2010) indicates the satisfaction of the governments and the effectiveness of the civil liability regime. As a result, it is important to create a system based on which the responsible person and the extent of their responsibility can be determined and ensure that the damages are fully compensated. We are seeing more complete laws in the United States that deserve to be emulated. There is a prospect that these efforts will one day make the damages to the environment compensable (through NRD), and both at the global and domestic levels, laws will be established to file lawsuits and claim such damages.

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