

The study of Legal Regime Governing Unsolicited Salvage Operations of Various Cargoes in the Persian Gulf Islands and Their Surrounding Waters (Case Study (Bumusa, the Greater and Lesser Tunbs))

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Abstract

Background and Theoretical Foundations: Search and rescue operations at sea are one of the most important humanitarian actions that governments and the International Maritime Organization, on behalf of the United Nations, attempted to organize from a normative, structural, and behavioral perspective in the 20th century, and have dealt with shipwrecks and groundings, oil pollution, ship fires, and engine failure. This research aims to investigate the legal regime governing the unintended salvage operations of various maritime cargoes in the Persian Gulf islands and their surrounding waters, with a case study of Abu Musa, Greater and Lesser Tunb Islands.

Methodology: In this research, with a descriptive-analytical approach, the unwanted rescue operations of various maritime cargoes in the Persian Gulf islands and their surrounding waters have been studied, focusing on the islands of Abu Musa, Greater and Lesser Tunb, and international treaties, Iranian domestic laws, and related legal provisions have been legally analyzed to ensure the rule of law.

Findings: assistance to seagoing vessels in danger and their rescue, as well as the rescue of objects contained in them, the carriage of cargo and passengers, and similar services that seagoing vessels and ships special for navigation in inland waters and other

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maritime areas such as the surveillance zone and the exclusive economic zone, provide to each other, regardless of the type of service, location, and occurrence, are recognized in the Iranian legal system.

Conclusion: Iran's legal system has taken into account the Maritime Law approved in 1964 in Chapter Eleven - Assistance and Rescue at Sea in 10 articles from Article 173 to Article 183. This law, in Article 173, has recognized assistance to seagoing vessels in danger and their rescue, as well as the rescue of objects contained in them, the carriage of cargo and passengers, and similar services that seagoing vessels and ships special for navigation in inland waters provide to each other, regardless of the type of service, location, and occurrence. Also, Article 174 explains the remuneration for assistance and rescue, and any type of assistance and rescue that has a beneficial result is entitled to fair remuneration. In addition, this article states that if the assistance or rescue does not have a beneficial result, no remuneration will be due for it, and in no case will the amount paid exceed the value of the rescued objects. Iran has also ratified two important conventions on rescue and salvage, such as the 1989 Convention on the Survival of Life at Sea and the 1989 International Convention on Maritime Salvage (SALVAGE), in its legal system. Therefore, these islands are part of Iranian territory based on domestic and international laws and are subject to Iranian laws and regulations, and all rescue and relief operations must be institutionalized based on Iranian laws and regulations and international conventions.

Keywords: Unsolicited Salvage, Persian Gulf Islands, Applicable Law, Salvor's Liability, Salvage Convention 1989

1. Introduction

Maritime transportation has played a pivotal role in global trade and economy for centuries. However, maritime incidents and accidents occasionally arise, necessitating prompt rescue and assistance operations. Such incidents occurring in maritime border areas or around islands can pose complex legal challenges regarding jurisdictional competence and applicable laws. One such challenging area is the waters surrounding the Persian Gulf Islands of the Greater and Lesser Tunbs, and Abu Musa. Geographically situated in the waters near Iran's southern coast, these islands are considered part of the Islamic Republic of Iran's territory and sovereignty based on historical documents, domestic laws, and international treaties. Nevertheless, the unique location of these islands within the volatile Persian Gulf region has sometimes led to claims from third-party countries



regarding their rights and jurisdictions in these areas (Mousavi Dalini, 2020). Maritime incidents, such as shipwrecks or collisions, occurring in the waters surrounding the Persian Gulf Islands of Greater and Lesser Tunbs, and Abu Musa, pose complex legal challenges regarding jurisdictional competence and applicable laws when salvage operations and cargo rescue are required (Kiani Moghadam, Nahavandi Rahbar, 2021).

Therefore, it is necessary to examine the legal challenges in this field with a systematic and precise legal approach. In this research, an attempt has been made to examine the legal regime governing non-contractual salvage operations of various types of maritime cargo in the three islands (Abu Musa, the Greater and Lesser Tunbs) and the surrounding waters by studying relevant documents, treaties, laws and judicial decisions.

2. Research Objectives:

1.2. Main objective:

To examine the legal regime governing non-contractual salvage operations of various types of maritime cargo in the three islands (Abu Musi, the Greater Tunb and Lesser Tunbs) and their surrounding waters

2.2. Sub-objectives:

- 1) Which countries have jurisdiction over maritime accidents in the three islands (Abu Musi, the Greater Tunb and Lesser Tunbs) and their surrounding waters?
- 2) In the event of a conflict between jurisdictions and laws, what are the criteria for resolving the conflict in the three islands (Abu Musi, the Greater Tunb and Lesser Tunbs) and their surrounding waters?
- 3) What are the domestic and international laws of reference and applicable to salvage operations of maritime cargo in the three islands (Abu Musi, the Greater and Lesser Tunbs) and their surrounding waters?

3. Research Questions

1.3. Main Question

What legal regime governs non-contractual salvage operations of various types of marine cargo in the three islands, (Abu Musi, the Greater and Lesser Tunbs) and its surrounding waters?

2.3. Sub-questions

- 1) Which countries have jurisdiction over maritime accidents in the three islands, (Abu Musi, the Greater and Lesser Tunbs) and its surrounding waters?
- 2) In the event of a conflict between jurisdictions and laws in the three islands, (Abu Musi, the Greater and Lesser Tunbs) and its surrounding waters, what is the criterion for resolving the conflict?
- 3) What domestic and international laws of reference apply in salvage operations of marine cargo in the three islands, (Abu Musi, the Greater and Lesser Tunbs) and its surrounding waters?

4. Research hypotheses

1.4. Main hypothesis

It seemed that considering the belonging of the three islands (Abu Musi, Big Tunb and Little Tunb) to Iranian territory, this country has exclusive jurisdiction over maritime accidents in these surrounding waters.

2.4. Sub-hypothesis

1. It seemed that considering the belonging of these islands to Iranian territory, the Islamic Republic has exclusive jurisdiction over maritime accidents in these surrounding marine areas.
2. It seems that the national laws of the country, including maritime law and marine environmental protection, should govern rescue operations.



3. It seems that international conventions to which Iran has joined should also be taken into account.

5. Research Methodology

This research employs a descriptive-analytical approach, utilizing books, articles, legal documents, and judicial rulings. A review of prior research reveals scattered studies in the form of university theses and legal articles. However, there is a lack of comprehensive research specifically addressing the jurisdictional challenges and governing laws of maritime salvage operations in the vicinity of these islands.

Unsolicited maritime cargo salvage in emergency situations is a complex and legally challenging topic. This issue gains even greater significance in the sensitive and strategic region of the three islands (Abu Musa, Greater and Lesser Tunbs). This paper delves into the principles and laws governing the rights of salvors in unsolicited salvage of maritime cargoes in this region (Amini, 2012).

6. Research Background:

The research background in this field shows that scattered studies have been conducted in the form of academic theses and legal articles, but less research has specifically addressed the challenges of jurisdiction and the laws governing maritime salvage operations around the aforementioned islands with a comprehensive approach. Among the most important effects of salvaging maritime cargo in emergency situations where there is no prior contract, it is a complex issue full of legal challenges. In the sensitive and strategic area of the three islands (Abu Musi, the Greater and Lesser Tunbs), this issue becomes more important. The following background can be institutionalized to examine the principles and laws governing the rights of salvors in non-contractual salvage of maritime cargo in the three islands (Abu Musi, the Greater and Lesser Tunbs):

1.6. Domestic and International Legal Sources:

1.1.6. Domestic Sources:

Territorial Jurisdiction: According to the principle of territorial jurisdiction, the

governing law for unsolicited salvage is the law of the country where the salvage operation takes place. Therefore, Iranian law applies within the limits of the three islands (Almasi, 2012).

Iranian Maritime Law: Article 168 of the Iranian Maritime Law of 1964 states that "the provisions of this Law shall apply to Iranian and foreign ships and persons and property on board them in Iranian coastal waters and ports." Therefore, Iranian law also governs maritime salvage in these islands.

Article 189 of the Iranian Maritime Law of 1964 states: "The salvage remuneration shall be determined by agreement between the parties or, in the absence of an agreement, by the court." Therefore, in non-contractual salvage cases, the determination of the amount of remuneration is the responsibility of the competent court.

The subparagraph of Article 189 of the Maritime Law enumerates the factors affecting the determination of salvage remuneration as follows: the salvor's effort, skill, the danger of saving the ship, passengers and goods, the danger to the salvor and the salvage vessel, the time spent and the expenses and losses of the salvor, the danger of liability and other risks of the salvor, and the value of the equipment used in the salvage. The court, in determining the amount of remuneration, must take into account all the circumstances and conditions and determine a fair and equitable remuneration that encourages the salvage industry (Kaviyar, 2017).

Mohammad Habibi Majendeh in his article "Principles Governing the Determination of Remuneration in Maritime Salvage Contracts" states: "The court should determine the remuneration in such a way as to encourage investment, equip the fleet and develop salvage operations, and ensure legal protection for salvors (Habibi Majendeh, 2017).

1. Article 3 of the Law of the Maritime Zones of the Islamic Republic of Iran ratified 1993: This article affirms Iran's sovereignty and jurisdiction over its internal waters and territorial sea, including the islands of Abu Musa, the Greater and Lesser Tunbs.
2. Each coastal country has the right to carry out the necessary legislation on maritime rescue in the waters under its jurisdiction within the framework of international conventions.



3. It emphasizes the application of Iran's sovereignty and laws on these islands (Skini, 2010).
4. The drafting and ratification of the Convention on Rescue and Salvage at Sea established a legal framework to protect rescuers and protect their rights. In fact, this convention stipulates transparency in the fulfillment of the obligations of each party, including the rescuer and the ship-owner, in this convention. In the London Convention, in terms of paying special attention to combating pollution and protecting the marine environment, the previous provisions of the 1910 Brussels Convention have been revised, and a section entitled "special compensation" has been provided, and rescuers will be entitled to wages and bonuses to the extent of preventing marine pollution, which in turn has encouraged rescuers to carry out rescue operations in such cases. In the 1910 Brussels Convention, there was a principle governing salvage operations, namely, that "the salvor is entitled to remuneration and reward only if the operation is successful." Therefore, this principle caused salvagers to refrain from carrying out salvage operations in accidents that resulted in pollution and damage to the environment. However, this defect was corrected in the 1989 Convention, and according to the provisions of this Convention (International Convention On Salvage, 1989), every master is obliged to assist anyone in danger of being lost at sea, as far as he can, without causing danger to his vessel and the persons on board, including the crew and other persons, and is allowed to conclude contracts for salvage operations on behalf of the owner of the vessel, and the owner of the vessel or the master is also allowed to conclude such contracts on behalf of the owner of the property on the vessel(Ebrahimzadeh, P., & Molkizadeh, A.,2024).

2.1.6. International Sources:

International Convention on Salvage 1989: Article 2 of the International Convention on Salvage 1989, to which Iran is a party, declares that this Convention shall apply to any salvage operation carried out in the internal waters of a Contracting State in cases where the parties have not agreed otherwise (IMO, 1996).

As an exception, according to Article 5 of the same Convention, if the ship has state immunity, the law of the flag State shall govern the salvage, even if the salvage takes place in the waters of another country (Kaviyar, 2011). Therefore, in general, Iranian law will govern unsolicited salvage operations of ships and their cargoes within the limits of the three islands, except for special ships under state immunity, which are subject to the law of the flag State.

1. Iran is a party to the International Convention on Salvage 1989, and according to Article 13 of this Convention, in the absence of agreement between the parties, the amount of salvage remuneration shall be determined by the court taking into account such criteria as the value of the ship and property saved, the skill and efforts of the salvor, the nature and degree of danger, the time spent and the expenses and losses incurred, the danger of liability and the risk to the salvor.
2. "The Law of the Sea" by Yoshifumi Tanaka (2015): This book states that under customary international law and Article 2 of the United Nations Convention on the Law of the Sea (UNCLOS) 1982, the sovereignty of a coastal state extends beyond its land territory and internal waters to include its territorial sea (Tanaka, 2021)
3. The law of the country where the salvage takes place (Lex loci) typically governs maritime salvage operations (Perrella, 1996).
4. The location of the salvage operation is generally the determining factor for the competent court and the governing law of unsolicited salvage, with limited exceptions (Mitroussi, 2011).

7. Challenges of Salvaging Various Types of Cargo:

Maritime salvage operations are one of the most important topics in international maritime law. According to Article 98 of the United Nations Convention on the Law of the Sea (UNCLOS) 1982, the coastal state is obliged to assist ships in distress to prevent their sinking and to rescue persons on board (Sharifian, 2013, p. 168). Article 25 of the Convention also states that every ship has the right of innocent passage through the territorial waters of states, as long as it complies with the relevant laws and regulations (Churchill and Lowe, 2011, p. 152). This includes ships carrying cargo. However, the complex location of some maritime



areas, including the waters around islands, can create numerous challenges in terms of jurisdiction and the laws governing cargo salvage operations. In this regard, Article 2 of the UNCLOS states that the sovereignty of the coastal state over its internal waters, territorial sea, airspace above it, seabed, and subsoil is complete and exclusive (Zayani Bigdeli, 2003, p. 37). This means that the coastal state has exclusive jurisdiction in these waters, including in the field of rescue operations (Poorbafrani, and Omid Gholizadeh, 2017). On the other hand, according to Article 92 of the Convention, ships are generally only subject to the internal jurisdiction of the flag state, except in cases where international law provides for exceptions (Bradford, 2002, p. 84). The scope and interpretation of these "exceptions" in different waters, including areas around islands, themselves pose a serious challenge. In addition, in cases where a ship's cargo consists of hazardous materials such as toxic, radioactive, or environmentally polluting substances, the issue of conflict of laws and regulations also arises. The Civil Liability Convention for Oil Pollution Damage (CLC) 1969 and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (1971) are among the legal sources in this area (Qahramani, 2010, p. 128).

On the other hand, if the cargo carried by a ship includes smuggled goods and objects such as drugs, weapons, etc., the laws and regulations related to combating smuggling must also be observed. The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988) is among the international instruments governing this area (Brown, 2001, p. 112). The coastal state, based on its maritime sovereignty, has the authority to prevent, intercept, and legally prosecute such smuggled goods. Of course, in some cases, the priority of saving human life and humanitarian considerations outweigh other objectives. For example, the International Convention on Salvage 1989 obliges member states to promptly initiate rescue operations in the event of a maritime accident, regardless of the nature of the cargo or other circumstances (Patel, 2014, p. 97). Accordingly, the priority of saving lives and rescuing people at sea must be observed over cargo transportation security issues, even if they are illegal. All of the above highlights the various legal challenges in salvaging various types of cargo at sea, whether ordinary, hazardous, or smuggled, in the waters around

islands. These issues are of particular importance in the case of the Greater and Lesser Tunbs, and Abu Musa islands in the Persian Gulf, which are under Iran's maritime sovereignty.

1.7. Challenges of Jurisdiction and Applicable Laws in Maritime Cargo Salvage Operations around the Greater and Lesser Tunbs, and Abu Musa Islands:

According to the United Nations Convention on the Law of the Sea (UNCLOS) 1982, to which Iran acceded in 1975, The Greater and Lesser Tunbs, and Abu Musa Islands have internal waters, territorial sea, and an exclusive economic zone (EEZ) under Iran's full sovereignty. Article 2 of the Convention states that the sovereignty of the coastal state over its territorial sea, airspace, seabed, and mineral resources is complete and exclusive. Additionally, under Article 56, Iran has sovereign rights and special jurisdictional powers in the EEZ in matters such as the protection and management of living and non-living natural resources (Churchill and Lowe, 2011). However, Article 92 of UNCLOS specifies that ships are only subject to the internal jurisdiction of their flag state, except in cases where international law provides for exceptions. This can create a jurisdictional challenge regarding maritime incidents in the waters around these islands. Legal scholars have addressed this jurisdictional challenge. Zayani Bigdeli (2003) in his book "The Legal Status of the Persian Gulf Islands" writes that "third countries may claim jurisdiction for various reasons, including the nationality of their citizens or the legal nationality of the vessel, which could conflict with the coastal state's sovereignty over its territorial waters and EEZ." He suggests the solution is to recognize Iran's exclusive sovereignty over these areas and prevent third-country intervention.

Javaheri (2009) in his book "The Iranian Islands of the Greater and Lesser Tunbs, and Abu Musa in International Law" states that "in the event of multiple crimes in a maritime incident, such as drug trafficking, human trafficking, and marine pollution, more than one state may assert jurisdiction," which also leads to a legal challenge.



2.7. Challenges, Applicable Laws and Regulations for Salvage Operations in these Areas:

- **Iran's Sovereignty and Domestic Laws:** Iran, based on its maritime sovereignty, applies its domestic laws enacted in the maritime and environmental fields. These include the Maritime Law of 1964, the Law for the Protection and Exploitation of Aquatic Resources of 2003, the Waste Management Law of 2004, and their respective regulations.
- **Flag State Laws and International Conventions:** On the other hand, ships belonging to other countries may demand the application of their flag state laws or the rules of international maritime conventions, such as the International Convention on Salvage 1989. These may not be consistent with Iran's domestic laws, creating a legal challenge in determining the applicable laws.
- **Regional Legal Regime:** These legal challenges have prompted some jurists, such as Mojtahedzadeh (2009) in his book "The Legal Issue of the Iranian Three Islands", to propose the development of a regional legal regime by the Persian Gulf littoral states to address these challenges.

3.7. Proposed Solutions to the Challenges:

According to thousands of foreign and domestic documents, most of which are available in the United Nations and the United Kingdom, these islands are considered an inseparable part of the territory and territory of Iran, therefore Iranian laws govern in terms of rescue and assistance in the territorial waters of these islands. The Iranian Maritime Law of 1964 also, in its sixth chapter, deals with the issue of rescue and assistance in relation to the challenge of the jurisdiction of countries over maritime incidents around the islands of the Greater and Lesser Tunbs and Abu Musa, as well as these islands themselves. The following legal solutions and arguments can be presented to resolve this challenge:

1. Invoking Iran's Sovereignty over these Islands and their Surrounding Waters based on UNCLOS and Domestic Laws:

According to Article 2 of the 1982 Convention, the sovereignty of the coastal state (Iran) over its territorial sea (the waters around these islands) is complete and exclusive.

Article 56 also confirms Iran's sovereign rights and special jurisdiction in the exclusive economic zone.

Additionally, Article 13 of the Constitution and the Maritime Law of 1964 recognize these islands as part of Iran's territory and soil.

2. Interpreting the Exceptions of Article 92 of the 1982 Convention on State Jurisdiction over Ships:

This article establishes the flag state's jurisdiction over ships as the general rule, except in cases where international law provides for exceptions.

It can be argued that maritime incidents in territorial waters and the exclusive economic zone constitute an exception to this rule, allowing the coastal state to exercise jurisdiction.

3. Invoking the Right to Protect Security, Economic Interests, and the Marine Environment:

Under Articles 25 and 73 of the 1982 Convention, Iran can enforce and implement laws related to the protection of maritime security, economic interests, and the environment in its territorial waters and exclusive economic zone. This justifies Iran's jurisdiction over maritime incidents in these areas.

4. Establishing Jurisdictional Rules in Domestic Laws or Bilateral and Multilateral Treaties:

The legislature can explicitly establish Iran's jurisdiction over maritime incidents in these areas in domestic laws or in bilateral or multilateral international treaties to which Iran is a party.

5. Seeking an Advisory Opinion from the International Court of Justice:

If disputes and ambiguities persist, an advisory opinion can be requested from the International Court of Justice regarding the legal status of these areas and state jurisdiction to establish clearer legal practice in this field.

Adopting these approaches and arguments can help address the jurisdictional



challenge of states over maritime incidents in the waters around and within the three islands.

8. Salvage Rights:

Non-contractual salvage of marine cargo refers to an operation that is carried out in emergency situations and without prior agreement. This operation is usually carried out by persons or ships that are accidentally present at the scene of the incident. The rights and obligations of the salvors and the owners of the ship and cargo in these situations are determined under national laws and international conventions. The rights of the salvor are also examined below in Iranian laws and the International Convention on Rescue and Salvage:

1.8. Islamic Republic of Iran Maritime Law:

The Iranian legal system has taken into account assistance and rescue at sea in ten articles from Article 173 to Article 183 in the Maritime Law approved in 1343. Which is explained as follows:

1.8. Salvage Remuneration:

Article 141 of the Islamic Republic of Iran Maritime Law provides that the salvor has the right to claim remuneration from the owner of the ship and cargo for performing salvage operations. This remuneration may include the direct and reasonable expenses of the salvage operation.

1.1.8. Salvage Award: Article 145 of the Iranian Maritime Law specifies that the amount of the salvage award is determined based on the success of the operation, the risks, and the expenses incurred by the salvor. This article in a way refers to the principle of "performance-based award," under which the salvor is remunerated based on the extent of success in salvaging the cargo and ship.

1.1.8. Compensation: If the salvor suffers damage to himself or his equipment during the salvage operation, he may claim compensation under Article 141 of the Maritime Law. This compensation is usually calculated separately from the salvage award and should cover all costs of repair and replacement of damaged

equipment.

2.8. International Convention on Salvage 1989:

The 1989 International Convention on Salvage is the most important international document in the field of maritime salvage, to which the Islamic Republic of Iran has also acceded. The components of rescue and salvage at sea in this Convention are summarized as follows:

1.2.8. Salvor's Rights:

Article 12 of the Convention states that salvors have the right to fair remuneration in the event of a successful salvage operation. This remuneration should be determined on the basis of the value of the salvage and the risks and hardships of the operation.

2.2.8. Criteria for Determining Remuneration:

Article 13 of the Convention sets out criteria for determining the amount of salvor's remuneration. These criteria include: The value of the salvaged cargo and ship, the skill and effort of the salvors, the risks faced by the salvors, and the time and expenses incurred

3.2.8. Special Compensation:

Article 14 provides that in special circumstances, if the salvor succeeds in preventing environmental damage, he may receive special compensation, which includes the additional costs of the operation and an additional reward based on the extent of the environmental hazards prevented. United Nations Convention on the Law of the Sea 1982 (UNCLOS): UNCLOS also sets out some general principles for maritime salvage.

4.2.8. Rights and Obligations of Coastal States and Other States:

In Sections 5 and 6 address the rights and obligations of coastal states in facilitating maritime salvage operations. Coastal states are obliged to provide the necessary cooperation to facilitate salvage operations and to assist salvors if



necessary.

1. Applicability of Special Compensation under Article 14 of the International Convention on Salvage 1989 in the Three Islands:

Iran acceded to the 1989 Salvage Convention on March 1, 1994, and under Article 9 of the Constitution, this Convention is considered domestic law (Nezameddin, 2020). According to Article 14 of this Convention, if the salvor has carried out a salvage operation in relation to a ship or its cargo that posed a threat of damage to the environment, he may recover from the owner of the ship special compensation equivalent to his expenses. This compensation may be increased up to 30% of the salvor's expenses and up to 100% thereof as determined by the court.

Considering Iran's sovereignty over these islands and the implementation of the 1989 Convention in the country's legal system, it seems that if the conditions of Article 14 are met in salvage operations within the area of these islands, the salvor may claim special compensation. It should be noted that according to paragraph 2 of Article 14, the payment of special compensation is conditional upon the payment of compensation under Article 13 (usual salvage remuneration) being less than the special compensation provided for in this Article. In fact, special compensation is only paid if it exceeds the usual salvage remuneration. The Supreme Court in its unified ruling No. 693 dated 22/9/1387 stated that "the International Convention on Salvage adopted in London in 1989, which has been approved by the Islamic Consultative Assembly, is enforceable." Therefore, Iranian courts are obliged to observe the provisions of the said Convention, including Article 14 thereof, in any claims brought before them.

"The special compensation of Article 14, which relates to salvage operations with environmental risk, is currently one of the advantages of the Convention and it is necessary for the Iranian legislator to consider it in its domestic laws (Mazloom torshizy and Fayzi Chakab, 2021). Therefore, based on the above documents and evidence, it seems that the International Convention on Salvage 1989 and, consequently, Article 14 of this Convention regarding special compensation in polluted and high-risk salvage operations, are also enforceable in the maritime territory of Iran's three islands and can be invoked by Iranian courts.

2. Calculation of Salvage Remuneration in Non-Contractual Maritime Salvage within the Jurisdiction of Iranian Courts:

9. Calculation Procedure:

According to the jurisdiction of Iranian courts in non-contractual salvage cases, the salvage remuneration will be determined by the competent court in accordance with the legal criteria set forth in the Maritime Law and the 1989 Convention. This remuneration includes the salvor's reward but is referred to as "remuneration" in general and is calculated and determined fairly, taking into account all factors and circumstances, in a way that is motivational and supportive for salvors. Factors Affecting Salvage Remuneration:

1.9. Iranian Maritime Law, approved in 1964:

According to Article 189 of the Iranian Maritime Law of 1964 September 20, Sunday, in the absence of agreement between the parties, the amount of salvage remuneration shall be determined by the court, taking into account all aspects of the matter. Therefore, in the case of non-contractual salvage, the determination of the amount of remuneration is the responsibility of the competent Iranian court.

2. The subparagraph of Article 189 of the Iranian Maritime Law lists the factors affecting the determination of remuneration as follows:

- 1.2. The degree of success achieved by the salvor
- 2.2. The salvor's effort and competence in preventing or mitigating damage to the environment
- 3.2 The extent of the danger to the assisted vessel
- 4.2. The nature and extent of the danger to the salvor and the salvage vessel and its equipment
- 5.2. The skill and effort of the salvor in saving the ship, lives and property
- 6.2. The time spent, expenses and losses incurred by the salvors
- 7.2. The danger of liability to which the salvor or his equipment was exposed
- 8.2. Speed of action



9.2. The availability and extent of use of vessels or other equipment specifically designed for salvage operations

10.2. The level of preparedness, efficiency and value of the salvor's equipment

2.9. Comparison with the International Convention on Salvage 1989:

While the criteria set forth in the Iranian Maritime Law are similar to those of Article 13 of the International Convention on Salvage 1989, there is one major difference: in Iranian law, the value of the salvaged property is not mentioned as a factor affecting the determination of remuneration. This is in contrast to Article 13(a) of the Convention, which provides that the value of the ship and other property saved is a factor in determining the salvage award. However, legal doctrine suggests that this can be accepted under the phrase "taking into account all aspects of the matter" in Article 189 of the Iranian Maritime Law (Daghighi, 2018).

3. Article 3 of the Executive Regulation of Articles 190 to 193 of the Maritime Law regarding maritime salvage in Iranian waters, enacted in 2004, designates the court of the location where the salvage occurs (in this case, the three islands) as competent to adjudicate related claims and determine the salvage reward.

4. In Iranian law, the salvage reward differs from salvage compensation. Salvage compensation pertains to the reimbursement of losses incurred by the salvor during the salvage operation, whereas the salvage reward is a payment awarded to the salvor as a fee for successfully completing the salvage. However, in practice, the court may consider both together.

Considering the above, in the event of a dispute over non-contractual salvage rewards in the three islands, the competent Iranian court (at the location of the salvage) will determine the amount of the reward based on the criteria set forth in Article 189 of the Iranian Maritime Law and, to some extent, the provisions of the 1989 International Convention on Salvage (due to Iran's accession to it). This reward is not necessarily equivalent to the compensation for the salvor's losses, and the court must consider all aspects in its decision. According to a detailed study of Iran's domestic regulations and the provisions of the 1989 International

Convention on Salvage, Iranian courts can, upon meeting the conditions, both determine the salvage reward and order the payment of the special compensation under Article 14 of the Convention. The reasons for this are as follows: Given that Iran has acceded to the 1989 Salvage Convention, under Article 9 of the Constitution, the provisions of this Convention have the force of domestic law and must be observed by Iranian courts. Article 14 of the Convention, which pertains to special compensation in specific cases (such as the salvage of ships or cargoes that are polluting and hazardous to the environment), operates independently of Article 13 (salvage remuneration). Therefore, the payment of special compensation does not preclude the receipt of the standard salvage reward.

Paragraph 2 of Article 14 of the Convention specifies that if the salvor is entitled to special compensation under this Article, this compensation must replace the remuneration payable under Article 13, not be in addition to it. However, if the special compensation under Article 14 is less than the remuneration under Article 13, the salvor is entitled to receive the remuneration. "Under the 1989 Convention, a salvor may, in addition to the salvage remuneration specified in Article 13, claim the special compensation stipulated in Article 14 of the Convention, provided they have succeeded in preventing or reducing environmental damage (Hassanzadeh, 2019). In the case of the National Iranian Tanker Company v. Steamship Mutual, for the salvage remuneration of the Sanchi ship in 2018, the Chinese court, in addition to determining the amount of remuneration, also examined the conditions for the payment of special compensation under Article 14. This judicial precedent indicates the possibility of simultaneously hearing both claims ('The Sanchi Collision and Salvage Efforts', n.d.)

In the Sanchi environmental damage case**, the Iranian Ports and Maritime Organization, based on the 1989 Convention and the LOF salvage contract, estimated the special compensation for salvage operations at \$115 million. This claim was based on Article 14 and was independent of the salvage remuneration. (Mehr News Agency, 2019)

Therefore, it appears that in the event of a salvage incident in the three islands under Iranian maritime jurisdiction, if the conditions for the special compensation



under Article 14 of the 1989 Convention are met, the claimant (salvor) can submit a request for both the salvage remuneration and special compensation to the competent Iranian court. The court is obliged to consider this request in accordance with the Convention's regulations. However, the payment of special compensation is subject to specific conditions, and the mere request by the claimant does not warrant an automatic award.

10. Analysis:

The sovereignty of states over their maritime territory, including territorial waters and exclusive economic zones (EEZs), is recognized under the UNCLOS 1982. Article 2 of this Convention establishes that the sovereignty of a coastal state over its internal waters, territorial sea, and airspace above it, seabed, and subsoil is complete and exclusive (Churchill and Lowe, 2011). Additionally, Article 56 grants the coastal state sovereign rights and special jurisdictional powers over the natural resources of its EEZ. However, Article 92 of UNCLOS specifies that ships are only subject to the internal jurisdiction of the flag State, except in cases where international law provides for exceptions. Legal scholars offer varying interpretations of these exceptions (Salehi, 2022).

Another important principle in this context is the right of innocent passage of ships through the territorial waters of states, as outlined in Article 17 of the Convention. The International Court of Justice has interpreted this right to include passage without stopping in these areas (Brown, 2015). These sources and references collectively support the conclusion that, in principle, Iranian law will govern maritime salvage operations within the limits of the three islands under Iran's sovereignty, except in exceptional cases as previously mentioned.

10. Rules Governing Salvage of Smuggled and Hazardous Cargo:

1.10. Iranian Domestic Laws:

1.1.10. Article 20 of the Anti-Smuggling and Foreign Currency Law (1993): This article states that "any person who keeps or transports smuggled goods shall, in addition to the confiscation of the goods, be

subject to the penalties provided for in this Law." Therefore, the salvor must have acted with knowledge of the smuggled nature of the goods in order to be considered a criminal.

2.1.10. Article 13 of the Executive Regulations of the Law on the Protection of Coasts and the Maritime Zone (2010): This regulation, issued by the Ministry of Defense and Logistics Support of the Armed Forces, states that the responsibility for combating smuggling in maritime areas lies with the Police and the Islamic Revolutionary Guard Corps.

3.1.10. Article 687 of the Islamic Penal Code: This article criminalizes the possession of fireworks, explosives, poisons, and weapons without a license. Therefore, the salvage of such cargoes without a license may also be subject to this provision.

2.10. Analysis of Iranian Domestic Laws:

1.2.10. The Iranian Maritime Law of 1964: While this law addresses maritime salvage in Articles 180 to 193, it makes no explicit reference to the status of smuggled or hazardous cargoes. However, Article 190 states that "if the salvor commits theft or any other criminal act, he shall be deprived of his salvage reward." Therefore, if the salvor knowingly and willfully salvages smuggled goods, he will not be entitled to salvage remuneration. (Official Gazette No. 10706 dated 16/12/1964)

2.2.10. Executive Regulations of Articles 190 to 193 of the Iranian Maritime Law on Maritime Salvage in Iranian Waters (2004): These regulations, approved by the Cabinet of Ministers, outline the rules for payment of salvage remuneration and compensation, without making any distinction between legal and smuggled cargoes. Therefore, it can be argued that if the salvor acts in good faith and without knowledge of the nature of the cargo, he can still claim remuneration. (Official Gazette No. 1824 dated 28/12/2004)

3.2.10. Article 215 of the Islamic Penal Code: By analogy, this article states that "anyone who steals another person's property and destroys or consumes it in kind, must pay its equivalent or value." If the salvor salvages



goods with knowledge of their smuggled or hazardous nature, but consumes or destroys them, he is liable to pay damages.

4.2.10. Exceptional Situations: If the salvor proves that due to emergency conditions and imminent danger, he was forced to salvage the cargo, even if it is later discovered to be smuggled or hazardous, he can still claim remuneration (Ebrahimi, 1999).

5.2.10. Iranian domestic laws generally support the principle that the salvor of smuggled or hazardous cargoes in Iranian waters is entitled to salvage remuneration, unless they acted with knowledge of the illegal or dangerous nature of the goods or committed criminal acts in the process of salvage. However, the salvor may still be liable for damages if they consume or destroy the salvaged goods, even if they were unaware of their illegal or dangerous nature.

3.10. International Instruments:

1.3.10. Articles 18 and 19 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988): Iran is a party to this Convention, which criminalizes trafficking offenses and mandates cooperation among states to suppress and combat maritime drug trafficking.

2.3.10. Article 17 of the International Convention on Salvage 1989: This Convention allows states to prohibit or condition the entry or salvage of a ship carrying hazardous or environmentally polluting cargo.

3.3.10. International Maritime Dangerous Goods Code (IMDG Code): This Code sets out specific rules for the carriage of hazardous materials by sea, which must also be considered in maritime salvage operations involving such materials (Chapter 1, Part 1-1).

4.10. Legal Doctrine:

Legal scholars emphasize that the presence of smuggled or hazardous goods

should not preclude the salvor's entitlement to salvage remuneration. Salvage operations, despite potential risks, have economic and environmental value. (Maritime Law Journal, Vol. 12, No. 2, p. 232, 2017)

However, the salvor's lack of knowledge of the hazardous nature of the cargo does not absolve them of liability, and the coastal state has the right to prevent further salvage and prohibit the entry of the cargo. (Mudrić, 2014).

In the case of smuggled or hazardous cargoes on a ship undergoing salvage operations in the three islands, stricter Iranian laws will apply, taking into account the salvor's knowledge of the cargo's nature. Criminal liability and loss of salvage benefits are not unexpected. However, the mere presence of such cargoes will not prevent the salvage itself.

Under Iranian laws and regulations on maritime salvage of smuggled and hazardous cargoes, and considering Iran's sovereignty and jurisdiction over the three islands, the entitlement to salvage remuneration and compensation for smuggled and hazardous cargoes in the three islands is generally subject to the salvor's good faith and lack of knowledge of the nature of the goods. This does not, however, preclude the punishment of the perpetrator if bad faith is proven. Additionally, in the event of knowledge of the nature of the goods, the salvor will be liable for damages caused by their loss or consumption during salvage. The existence of legal ambiguities in this area and the interpretability of certain provisions highlight the need to amend and clarify laws related to maritime salvage in Iran.

11. Findings

Based on the review of documents and records, the findings of this research can be summarized as follows:

1.11. According to Article 13 of the Iranian Constitution, the Maritime Law of 1964, and the Act of Iran's accession to UNCLOS 1982, The Greater and Lesser Tunbs, and Abu Musa Islands are considered part of Iran's territory and maritime domain. Thus, Iran has exclusive sovereignty and jurisdiction over these areas.

2.11. Domestic laws such as the Marine Environment Protection Law, the Waste



Management Law, and related regulations are applicable to salvage operations in these areas.

3.11. In addition to domestic laws, Iran has acceded to international conventions such as UNCLOS 1982, the 1989 Salvage Convention, and the 1992 Civil Liability Convention for Oil Pollution Damage, which must be observed in these cases.

4.11. In cases where ships from third countries are involved in maritime incidents, claims of jurisdiction by the flag state or other countries may arise, posing challenges.

5.11. To address these challenges, coordination between countries' jurisdictional claims and a logical interpretation of the exceptions in Article 92 of the 1982 Convention are necessary.

Conclusion

The International Convention on Search and Rescue, adopted at the Hamburg Conference on 27 April 1979 and entered into force on 22 June 1985, was established with the aim of establishing a global system for search and rescue, to ensure the necessary coordination by rescue organizations and the necessary cooperation between neighboring rescue organizations (if necessary) in the rescue of persons in distress at sea, regardless of the location of the accident.

Although maritime culture and international treaties (such as the International Convention for the Safety of Life at Sea (SOLAS), 1974) emphasize the need for ships to rush to the assistance of vessels in distress, before the adoption of the Search and Rescue Convention, no international system covered search and rescue operations. In some areas, there were coherent organizations to provide immediate and effective assistance, and in others, there were no such organizations.

Therefore, assistance to seagoing vessels in danger and their rescue, as well as the rescue of objects contained in them, the carriage of cargo and passengers, and similar services that seagoing vessels and ships special for navigation in inland waters and other maritime areas such as the surveillance zone and the exclusive

economic zone, provide to each other, regardless of the type of service, location, and occurrence, are recognized in the Iranian legal system.

This legal system has taken into account in the Maritime Law approved in 1343 in Chapter Eleven - Assistance and Rescue at Sea in 10 articles from Article 173 to Article 183. This law, in Article 173, has recognized assistance to seagoing vessels in danger and their rescue, as well as the rescue of objects contained in them, the carriage of cargo and passengers, and similar services that seagoing vessels and ships special for navigation in inland waters provide to each other, regardless of the type of service, location, and occurrence. Also, Article 174 explains the remuneration for assistance and rescue, and any type of assistance and rescue that has a beneficial result is entitled to a fair remuneration. In addition, this article states that if the assistance or rescue does not have a beneficial result, no remuneration will be due for it, and in no case will the amount paid exceed the value of the rescued objects.

Iran has also ratified two important conventions on rescue and salvage, such as the 1989 Convention on the Survival of Life at Sea and the 1989 International Convention on Maritime Salvage (SALVAGE), in its legal system. The Greater and Lesser Tunb and Abu Musa Islands are considered as integral and sovereign territories of Iran. According to international law, these islands have their own internal waters and territorial sea, given their distance from the Iranian mainland. In addition, the 1982 United Nations Convention on the Law of the Sea (UNCLOS), which Iran has signed but has not yet acceded to, and which, based on the principles of international law, does not require Iran to take any action against this convention, has recognized Iran's sovereignty and exclusive jurisdiction over the internal waters, territorial sea, and the rights governing the contiguous zone and exclusive economic zone surrounding these islands in terms of customary law and the principles of international law. Therefore, these islands are part of Iranian territory based on domestic and international laws and are subject to Iranian laws and regulations, and all rescue and relief operations must be institutionalized based on Iranian laws and regulations and international conventions.

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