

The Artificial Islands in the Persian Gulf: A Political and Legal Analysis

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Abstract

Artificial islands refer to offshore structures which are constructed by human beings in the territorial sea of nation-states, exclusive economic zones or even the high seas. The right to construct artificial islands has been recognized by international bodies and organizations. In this relation, several legal provisions including the 1982 UN Convention on the Law of the Sea, Articles 11, 58, 60 and 82 have clearly provided states with practical guidelines on the construction of such islands. During the past decades, numerous states have expressed interest in construction of such islands and have started building them. In the Persian Gulf region, the United Arab Emirates (UAE) has been constructing artificial islands since 2001, the first phase of which included three artificial islands in the shape of a palm. The second phase includes the 'World' project, which consists of 300 islands in the shape of the Earth's landmass. Exploring the legal implications of the construction of artificial islands, this research seeks to illuminate the loopholes and possible misuse by states of the existing rules of international law. Then it will analyze the political and legal consequences of the UAE's construction of artificial islands for the Islamic Republic of Iran.

Keywords: Artificial Islands, Convention on the Law of the Sea, Territorial Sea, United Arab Emirates, Political and Legal Consequences

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Introduction

Possessing more than 60% of the world's rich fossil energy resources along with its geographical location, consumer market as well as cultural and ideological characteristics, the Persian Gulf region enjoys a privileged status in strategic, geostrategic and geo-economic equations and plans of the regional and transregional powers such as the United States, China, Russia and the European Union. After the Islamic Revolution in Iran in 1979, power equations in international politics of the region have become more complicated given Iran's anti-colonial and Islamist foreign policy along with the subsequent developments in the region including Iraq's invasion of Iran, Iraq's invasion of Kuwait, the first Persian Gulf War, and U.S. invasions of Iraq and Afghanistan. The presence of numerous players and their conflicting interests have led to the formation of occasionally opposing fronts in the region; on the one side the Islamic Republic of Iran, with its revolutionary ideals which offer a particular model of governance to the regional countries, and on the other side, Arab nations with their growing concerns about Iran's regional influence. These countries make attempts to counter Iran's model by seeking help from the Europeans and the Americans.

In the meantime, the West strives to keep diplomatic relations between Iran and the regional states, mostly Arab countries, as low-level as possible to the extent that the question of the islands of Greater Tunb, Lesser Tunb and Abu Musa has gained a special place in relations between Iran and these countries. The Arab League, in addition, has reiterated its support for the UAE's claims to these



islands during its numerous meetings and summits. Given Iran's dominant power status in the region, it has been just a declared support, but since 2001, backed by the Arab League and Western powers and their economic capacities, the UAE has sought to construct artificial islands.

Artificial islands refer to islands that are constructed by human beings rather than formed by natural means. Given the geopolitical significance of the Persian Gulf, the abundance of energy resources and the military importance of this enclosed body of water, it has attracted special attention. Possession of any island in the Persian Gulf constitutes a great capacity for the state owning it. In an action whose consequences were introduced as economic by UAE officials, the United Arab Emirates has started constructing artificial islands. In the first phase of the project, by allocating \$20 billion, UAE started the large World project and the construction of 325 artificial islands. The idea of construction of artificial islands with a touristic, residential and administrative application in the Persian Gulf is as old as two decades. The beginning of the operational construction of tens of small and large artificial islands off the southern Persian Gulf shores has raised questions within the Iranian diplomatic circles. The companies constructing these islands continue to work on them without any regard for political, social and environmental concerns expressed by Iran.

From the perspective of political science and international relations, the UAE's action cannot be viewed simply in economic terms, but it has had specific political repercussions that can be summarized as follows: 1- Enlargement of UAE's coastal lands from 650 kilometers to 1000 kilometers; 2- Further exploitation of access to rich fossil resources; 3- Gradual renaming of the Persian Gulf using Arab symbols and signs in the islands; 4- Providing political grounds for challenging Iran's vital interests in the future; 5- Construction of other artificial islands by the other regional countries; 6- Increased presence of foreign military and non-military forces in



the region; and 8- Destruction of the regional environment and ecosystem.

The main question of the research includes what the political and legal consequences of the construction of artificial islands are from the perspective of international law. The secondary question is what impact the artificial islands constructed by the United Arab Emirates can have upon Iranian national interests and security. The assumption of the research states that under international law, all coastal states are entitled to construct artificial islands in spite of certain limitations and loopholes in those rules. Furthermore, the UAE's construction of artificial islands can impact Iranian national interests in terms of both legal and political aspects.

This research seeks to answer the aforementioned questions with an analytical approach in two sections. In the first section, artificial islands are defined and the legal consequences of their construction will be examined. In the second section, the consequences and costs of the construction of artificial islands for the national interests of the Islamic Republic of Iran will be explained.

I- Legal Status of Artificial Islands

With the development of science and technology and efforts made by states to capture further space from the oceans and contiguous seas, the question of construction of artificial islands attracts increasing attention among international law experts and in political terms for politicians. What are artificial islands? How do they differ from natural islands? What is their legal status? Can artificial platforms and piers be regarded as artificial islands? How do the rules related to artificial islands in the international law conventions, and particularly the 1982 UN Convention on the Law of the Sea, define these islands? What is the international responsibility of states constructing these islands towards other states? What is the impact of the construction of islands on the rights enjoyed by other states? Finally, what characteristics may the status of these islands have in the future in the



legal relations among states? Questions like these indicate the ambiguities and increasing importance of these islands from the perspective of international law and politics. In this section, the aforementioned questions concerning the artificial islands will be addressed.

The legal status of artificial islands is affected by the vast variety of such islands that cause its legal regime, like the definitions of artificial islands, not to be clear. One of the most adequate classifications of artificial islands has been offered by Papadakis in which he counts six types (Papadakis, 1977: 11-49) as follows: 1- Sea-City; 2- Artificial islands for economic development, such as those for the exploration and exploitation of natural resources, industrial artificial islands, fishing artificial islands, installations to develop non-natural resources such as salvage or archaeology, power stations; 3- Artificial installations for communications and transport, such as floating docks, warehouses, floating airports; 4- Installations for scientific research and weather broadcasting; 5- Entertainment installations; and 6- Military installations.

By looking at all of these types, it can be easily understood that the legal status differs for each of them. This is one of the reasons why there is no clear definition of artificial islands in the 1982 Convention, and the Convention simply avoids the complexities arising from the problem of these definitions. Hence, this has further complicated the issue concerning the legal status of artificial islands.

Even though the 1982 Convention does not provide a definition of artificial islands, it contains several provisions which are applicable to them and are used by the states constructing them.

1- The 1982 Convention (UNCLOS) grants states, and especially coastal states, the right to build artificial islands and jurisdiction over these islands. It is obvious that coastal states have the right to build artificial islands and installations within their territorial seas. In the exclusive economic zone (EEZ), the coastal state has “the exclusive right to construct and to authorize and



regulate the construction, operation and use of: (a) artificial islands; (b) installations and structures for the purposes provided for in articles 56 and 87 (UNCLOS, Article 87); (c) The coastal state enjoys exclusive jurisdiction over such artificial islands, installations and structures, including jurisdiction with regard to customs, fiscal, health, safety and immigration laws and regulations. Furthermore, the coastal state has the right to establish a safety zone around the artificial islands including navigation and determine the breadth of such a zone, taking into account applicable international standards” (Keyuan, 2011). In addition, nation states enjoy the right to construct artificial islands on the high seas as one of the high seas freedoms. Article 60, indeed, has viewed this concession as one of the six freedom rights for states in the high seas which are influenced by the conventional law situation.

Although it has been recognized as a general right for all state parties to the UNCLOS, specific limitations and regulations have been provided for these structures, the most important of which include: 1- The coastal state shall not hamper the innocent passage of foreign ships through the territorial sea as a result of the construction of artificial islands (Article 24). 2- Artificial islands may not interfere with the use of recognized sea lanes essential to international navigation (Article 60). 3- Due to lack of sovereignty for states in the high seas, a distinction should be made between islands constructed for exploitation of natural resources in those areas and other kinds of such islands. In case of the former kind, the installations and relevant regulations should be consistent with the 1982 Convention, Part XI. Construction of other islands has to be consistent with peaceful means, and free access for other countries in accordance with national and regional regulations (Wendel, 2007: 84-87).

Furthermore, it should be noted that if the coastal state wishes to use artificial islands extensively for people’s residence or economic activities, it will be necessary to determine the powers and discretion of sovereignty since the social and economic network and



administrative relationships take shape on a daily basis. Hence, exertion of authority in the islands is one of the indispensable issues in the construction of artificial islands (Tsaltas, 2011: 9). The 1982 Convention on the Law of the Sea does not view artificial islands as enjoying the rights entrusted to natural islands; thus, states are not allowed to delimit territorial sea for these islands. One of the significant issues concerning artificial islands is the question of security, for which the 1988 Protocol for the Suppression of Unlawful Acts against Fixed Platforms Located on the Continental Shelf has been adopted. These rules include protection of artificial islands against the threats arising from acquisition, acts of violence, destruction, and injury or murder of individuals (SUA Protocol, 1988). It should be also noted that since states shall not establish territorial sea around these islands, the coastal states may, where necessary, establish reasonable safety zones around such artificial islands, however, such zones shall not exceed a distance of 500 meters around them, measured from each point of their outer edge, except as authorized by generally accepted international standards or as recommended by the competent international organization (UNCLOS, Article 60, 1982).

2- The construction of artificial islands has some implications for delimitation of maritime boundaries. Unlike the delimitation of the territorial sea, “the outermost permanent harbour works which form an integral part of the harbour system are regarded as forming part of the coast,” off-shore installations and artificial islands should not be considered as “permanent harbour works” (UNCLOS, Article 11, 1982). This provision is designed to restrict the effect of artificial islands in the delimitation of territorial seas. However, on the other hand, concerning the use of straight baselines, the 1982 Convention provides that “straight baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them or except in instances where the drawing of baselines to and from such elevations



has received general international recognition.” Therefore, artificial islands, in principle, do not play any role in the delimitation of maritime boundaries.

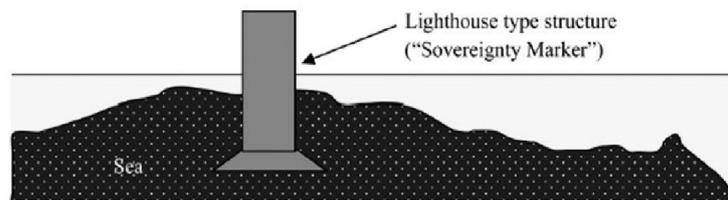
It is worth noting that the coastal State shall have due regard to the rights and duties of other States and shall act in a manner compatible with the provisions of this Convention. For instance, the coastal state that constructs artificial islands must inform the adjacent states of its plan for constructing the islands or take actions in order to safeguard the security of navigation. Attention to the issue of the environment along with the security of navigation is among the most salient points in the construction of artificial islands. The state that constructs artificial islands has to take necessary action for the protection and preservation of the marine environment and create regional mechanisms if necessary. In these cases, states are obliged to pay compensations if they cause damage to other states or persons.

Therefore, under the 1982 Convention of the Law of the Sea, states’ sovereignty over the territorial sea is absolute except for the innocent passage of ships, and as such, states are entitled to construct such islands or other artificial installations in this body of water without their rights being impaired. Furthermore, states also enjoy the right to construct artificial installations in the exclusive economic zone for research purposes or exploitation of seabed mineral and non-living resources (Qeshmonline, 2011). The 1982 Convention, Articles 56, 60 and 87, hence, provide for the right to construct artificial islands to states.

Political and legal experts maintain that the climate changes arising from the greenhouse effects of industrialization, increasing melting of huge ice masses and environmental impacts of such a phenomenon lead to further loss of land by the coastal states. This, in turn, will accelerate the construction of artificial islands among states, and particularly those surrounded by water from several directions. According to a report released by the Intergovernmental Panel on Climate Change, it is estimated that approximately 0.18 to 0.58 meters



will be added to the height of water in seas and oceans. This is considered by experts as one of the most important factors contributing to the construction of artificial islands, and particularly in countries made of several islands (Bindoff, 2007). In this relation, picture 1 clearly reveals the sovereignty marker of states whose territory partly or entirely has submerged in water. Given the environmental changes in the world and the rise of the level of high waters, artificial islands seem to turn into a means for countering the rising level of water in seas.



Along with attention to this geographical phenomenon, concerns about maritime security, further exploitation of sea resources, use of these islands as permanent military and espionage bases directed at the region and neighboring countries are among the points that attest to the increasing importance and development of artificial islands. In the 1988 SPU, actions were taken in order to codify an instrument concerning the unlawful state actions for the protection of artificial islands and their installations, which attested to the security concerns about the construction of the islands for the neighboring states. Furthermore, there are legal shortcomings regarding the construction of such islands that have to be dealt with by international law circles, the most important of which will be mentioned and analyzed. With a glance at the legal and customary dimensions of the construction of artificial islands and problems related to their development as a means to protect states' sovereignty vis-à-vis rising level of the sea, these



problems can be classified under three legal categories (Tsaltas, 2011: 6-15).

The first case relates to the misuse of existing laws in the construction of artificial islands, since there are a number of applicable laws which are misused by some states. These actions can be undertaken without incurring any cost or damage to other states, including action to enlarge land and transforming the conditions of a rock to an island or preventing its erosion. For instance, around 30 years ago, due to its actions, Singapore's natural baseline changed considerably. This act by Singapore was viewed as misuse of the law by Indonesian authorities, though the Singaporean authorities argued that their actions had not led to a change in the delimitation of maritime boundaries with Indonesia.

Furthermore, consolidating the rocks in order to prevent their erosion is pursued from a different outlook. While the prevention of erosion of island is recognized by international law and is not considered as an action to enlarge a coastal state's land and maritime sovereignty, consolidation of islands has been condemned as an act to misuse the law intended to expand land mass. In most cases, it is very difficult to consider a state act as prevention of destruction or consolidating the island in which the Okinotorishima case is a clear example of such legal-political controversies (Schofield and Beckman, 2009).

One of the major shortcomings in the existing rules concerning artificial islands is the residence of permanent populations in the exclusive economic zones. The idea of permanent residence, which has not been provided for in the Convention on the Law of the Sea, has caused concerns about the misuse by certain states in this body of water. Although currently, permanent residence and pursuit of economic interests has been provided for in the territorial sea where artificial islands are constructed, considering the expansion of the construction of such islands, if they are used in the exclusive economic zone or the high seas for permanent residence, apart from



the fact that the existing international law has not provided for this particular case and is incapable of removing this problem if cases arise, the question is whether the 500-meter safety zone would be sufficient for protecting the security of the resident population.

The third legal problem relating to artificial islands refers to the question that within the past years, individuals or companies have sought to establish a new state on the land which used to consist of artificial islands. Certain efforts have been made so far, but no state has been established yet. The existing international law has codified clear regulations in cases when a state intends to expand its territory, but it is silent on this particular case regarding whether individuals are entitled to possess a territory and establish a new state.

The 1933 Montevideo Convention has enumerated four prerequisites for the establishment of a state including: 1- permanent population, 2- specific territory, 3- government, and 4- establishment of relations with other states. Papadakis argues that the existing rules of international law do not consider the individuals and companies as enjoying the right to establish a sovereign state. Now, the question is if some individuals try to establish a state and it is generally recognized by other states, will this state enjoy international legitimacy in order to survive? (Papadakis, 1977). Although it is now pretty clear that it is impossible to establish a state through artificial islands, we have to note that this is not an illegal action and this might materialize considering the complex conditions around this issue and future developments. For instance, in a situation where a true or legal person is engaged in activities for the exploration and exploitation of natural resources in the high seas along with the employers and their families, can they pursue a claim to independence and gain recognition by other states?

Another issue that has been recently put forth in theory refers to a situation where a state embarks on establishing a new territory in order to retain independence and prevent its disappearance due to floods or rising water levels (Esteban and Paskal, 2010). It is the case



of whether the willingness of states to host a vast number of environmental immigrants has diminished and the flood-ridden country is faced with a basic legal problem, i.e. The disappearance of the state, for which there is no rule in public international law. Although a country in the event of the loss of all or part of its territory still possesses two of its essential elements, namely government and population, the fundamental issue is that this state and population lack a territory.

A number of states such as the Netherlands and Singapore have made utmost efforts at reclaiming lands from the sea which are quite significant because of the legitimacy these states have over the reclaimed space. Given the increase in the world's population, it is indispensable to pay attention to the legal and political consequences of the construction of artificial islands in a large scale which will be developed by the coastal states in the future. As the proposal to construct a sea-city was suggested by the British government for the residence of 30,000 people in the early 1970s, the construction of Dubai's artificial islands can be regarded as the realization in a way of this ambitious idea in the 21st century (Keyuan, 2011). While nowadays a number of airports in the East Asian countries are built on sea coasts, plans have been put forth by some companies constructing artificial islands for the construction of airports in the sea and ocean. The construction of these structures will likely have legal consequences at the international level for the operation of states constructing these structures on the one hand and the neighboring states on the other.

It should be noted that under the 1958 Convention on the Law of the Sea, Article 5, the special installations for the exploration and extraction of natural resources in the continental shelf do not enjoy the status of natural islands, thus failing to create any concession for the state owning the artificial island. Therefore, under the Convention, artificial islands cannot constitute a basis for the determination of the baseline. Although international rules do not



view artificial islands as a basis for the delimitation of boundaries, it is absolutely not the case with regard to the progression of the coast. With the progression of the coast belonging to one of the neighboring states, the ability of the state owning the artificial islands for bargaining in delimiting the boundaries will increase. In the second section of the paper, the legal and political consequences of the UAE's construction of artificial islands in the Persian Gulf in recent years will be explored.

II- UAE's Artificial Islands and Consequences for Iran's National Interests

The Persian Gulf is a waterway stretching from the Sea of Oman, located between Iran and the Arabian Peninsula. With a size of 233,000 square kilometers, the Persian Gulf is the third largest gulf in the world after the Gulf of Mexico and the Hudson Bay. To the east, it is connected to the Indian Ocean and Arabian Sea through the Sea of Oman and Strait of Hormuz, and to the Arvand Roud delta to the west; a river which is the result of the confluence of the Euphrates and Tigris as well as the Karun River. The main characteristics of this enclosed sea include vast energy resources, emergence of great monotheistic religions and presence of large consumer societies along with border disputes and the presence of foreign forces in the region for gaining further national interests. Apart from these developments, there are numerous islands in the Persian Gulf which are indeed extensions of the mountain chains found in the region (Nourbakhsh, 1983: 12-14). The islands in the north under Iranian sovereignty are generally residential and prosperous, but the islands in the south tend to be uninhabited. From among the Iranian islands in the Persian Gulf, a few in the mouth of the Strait of Hormuz enjoy particular strategic significance including Hormuz, Hengam, Qeshm, Larak, Greater Tunb and Abu Musa.

The eight Persian Gulf littoral states include Iran, Saudi Arabia, Iraq, UAE, Kuwait, Qatar, Bahrain and Oman, which enjoy the right



to a 12-mile territorial sea and exploitation of the exclusive economic zone under international law. The coastal states delimit their borderlines and the exclusive economic zones according to the continental shelf while the other states do not enjoy any right to exploration and exploitation of energy resources as well as construction in the sea except for the right to navigate in the exclusive economic zones and innocent passage in the territorial seas.

Any state that has access to the high seas naturally has a maritime boundary. From a legal point of view, rules governing coastal waters differ from the rules governing a country's land mass. A maritime boundary in the high seas and oceans usually refers to an imaginary line, which has a distance of 12 nautical miles from any state's coastal baseline at maximum. In the case of presence of islets or islands near the coast, the question of delimitation of a maritime boundary between two states becomes more difficult, with the right to ownership over islands an issue that has to be established. Undoubtedly, new and artificial lands will influence the delimitation of maritime boundaries and consequently territorial waters. When the maritime boundaries go further, enlarging the territorial waters, access to resources, and especially in a region like the Persian Gulf adjacent to the Strait of Hormuz, will increase (Anvari, 2010).

The United Arab Emirates has around 650 kilometers of coastal land in the Persian Gulf, which according to the director of "The World" project Sultan bin Salem will increase to 1000 kilometers after the artificial islands are constructed. This is the case while the construction of the artificial islands, apart from numerous adverse effects on the regional environment, will bring about many consequences for regional geopolitics.

The Arab countries of the Persian Gulf were under British colonial rule by the 19th century, following the British government in all domestic and foreign affairs. After the end of the First and Second World Wars, however, most of the current countries gained independence from the colonialist power. The United Arab Emirates



was the last one to gain independence in 1971 when six tribes of Abu Dhabi, Ajman, Fujairah, Sharjah, Dubai and Umm al-Quwain became integrated, establishing the United Arab Emirates. In 1972, the emirate of Ras al-Khaimah also joined the union, with the state currently consisting of seven emirates (Yearbook, 2006: 24). The capital city is Abu Dhabi and the government form is federal. Possessing rich energy resources and adopting an outward-looking strategy in order to attract foreign investment and to create free economic zones, the UAE has enjoyed steadily high economic growth within the past two decades. The country's per capita income reached \$49,600 in 2010 (The World Fact Book, 2011). From among the seven UAE principalities, Dubai has gained more success and progress considering natural characteristics and the creation of economic infrastructure for domestic and foreign investment as well as re-exports within the past two decades. With a population of one million, this principality has managed to strike a special record in modern urban development by relying on its oil wealth and adopting an approach of attracting foreign investment. The construction projects under way in the city were estimated to exceed \$90 billion in 2010. Modern Dubai, which has been copied from the American city of Las Vegas in the Nevada desert (Dubai, 2010), has proceeded to construct one of the most ambitious structures in the country, namely the construction of artificial islands off its Persian Gulf shores. As mentioned earlier, these islands can have multiple applications, but what the Emirati authorities have announced so far about the construction of the islands indicates gaining economic benefits and attracting more tourists.

The Palm Islands project is the first artificial island built by Dubai. After the project ended, extensive efforts have been made by the Nakheel Properties Company, which is one of the main actors in the artificial islands project, in order to construct "The World" project. The company, one of the biggest real estate companies in the world, is the pioneer in the construction of artificial islands in the



world with a capital of \$60 billion (Glockman, 2011). These islands, which will have luxury residences and hotels, are ambitious projects which have been designed in the following plans and are expected to be completed by 2015.⁴⁹

Palm and World Islands: A trilateral Emirati, American and British consortium has begun constructing the Palm and World artificial islands, which take the shape of a Palm and 300 islands in the form of the world map. The company intends to enlarge Emirati coastal land significantly exceeding 1000 kilometers as estimated by the Emirati authorities (Private Islands Online, 2011), whereas currently the UAE possesses only 650 kilometers of in the Persian Gulf and the Islamic Republic of Iran has the longest coastal line in the sea reaching 1250 kilometers.⁵⁰ Besides, the World Project is predicted to have a \$14-billion cost, which includes 300 individual islands imitating the world map. The total size of the project will exceed 20 million square miles which is under construction 2.5 miles off Dubai's shores.

Al-Qasr: This island is being constructed by the Emirate of Ras al-Khaimah, and the project is led by the Saudi al-Wassam company.

Al-Nojoom: It includes ten islands which are being constructed by the Emirate of Sharjah. This project involves the construction of more than four thousand villas and commercial units (Wikipedia (b), 2011).

Along with its efforts within the past two decades to turn into an economic hub in the Middle East, artificial islands may prove a symbol of the UAE's ambition to attract further foreign investment. This is the case while business space in UAE, even according to the statistics released by reliable international economic centers both governmental and nongovernmental, is better than Iran's, resulting in the attraction of billions of dollars of foreign investment from various parts of the world including Iran. If such competitive business space and needed infrastructure become available in the northern coasts of the Persian Gulf, there will be hope for offsetting such disparity in the



level of development and economic welfare between the northern and southern coasts. Hence, such vast financial disparity has made the UAE Iran's largest trade partner in exports and imports through re-exportation (Fars News Agency, 2010). While the UAE is a small country with a 4.5-million population 1.5 million of which are UAE nationals and three millions are immigrants who work in the country, UAE politicians envision the construction of ambitious projects and turning the country into an economic hub in the Middle East. Along this vein, the construction of artificial islands is pursued with precise planning.

Although there are certain ambiguities concerning the legal responsibilities of the states in constructing artificial islands in the 1982 Convention, the neighboring states are not entitled to refer to the competent international authorities as a result of the construction of such islands. Hence what concerns Iran regarding the construction of artificial islands can be studied from two main aspects including the legal consequences and political implications arising from the UAE's actions.

From a legal perspective, what can be studied concerns the violation of existing rules of international law as a result of illegal acts and misuse of the existing convention on the law of the sea on part of the UAE, which was addressed in the first section. In the event of commitment of any illegal act, Iran can explicitly claim its legal rights by referring the cases of violations to the international authorities. In this respect, environmental questions related to the construction of these islands and resultant pollution for the Persian Gulf matter significantly.

Second, political repercussions arising from the construction of these islands deserve special attention. Considering the UAE's unsubstantiated claims to three Iranian islands, Arab states' support of these claims, presence of foreign forces in the Persian Gulf and their continued efforts to threaten the Islamic Republic of Iran, identifying and analyzing these political repercussions are of utmost importance.



With the advent of the Islamic Revolution in Iran in February 1979 and Iran's pursuit of an independent foreign policy, the pursuit of Iranian national interests by the country's officials with reference to Islamic precepts and the Revolution's ideals were operationalized. Hostility towards the Revolution and its ideals by the Western governments notably the United States was pretty evident from the first years in such a way that foreign warships and forces in the Persian Gulf acted consistently to threaten the country's national interests.

Given the UAE's illegal claims to sovereignty over the three islands of Lesser Tunb, Greater Tunb and Abu Musa, support granted by the Arab states, and Iran's military predominance - which has established a strong deterrence to any expansionism in this respect - the construction of artificial islands along with economic justifications can meet the UAE's aspiration to possess strategic islands in one of the world's geopolitically most sensitive regions, i.e. the Strait of Hormuz. Indeed, with the construction of these islands, the distance between the UAE and the Abu Musa island will decrease to just 10 kilometers, a matter which can be used to harm Iranian interests in the future in the event of a force majeure in the region like the waging of a war on the Islamic Republic of Iran. Consequently, the construction of the artificial islands along with the UAE's unsubstantiated claims to the three islands can be viewed as an effort at gaining equal footing via the possession of important islands in the Persian Gulf.

Extensive foreign investment by various countries, and particularly Western states, in the UAE can be used as a springboard for backing the country's expansionist ambition in the case of misuse of legal loopholes found in the Convention on the Law of the Sea. In other words, by trying to become integrated in the process of economic globalization, the UAE has linked its national security to the Western powers, which can be utilized in the case of the UAE's unsubstantiated claims to the three Iranian islands and particularly the



legal regime for artificial islands.

Under the 1958 Convention, Article 5, the special installations for the exploration and extraction of the natural resources in the continental shelf do not enjoy the legal status of natural islands, failing to grant any concessions for the state possessing the artificial islands. Hence, under the Convention, artificial islands cannot constitute a basis for the delimitation of the baseline. Although in international law artificial islands cannot be a basis for delimitation of the boundary, it will certainly not be the case with regard to the progression of the coast, since with the progression of the coast of one of the two countries; the UAE's bargaining ability for delimitation of the borders will increase. It is noteworthy that by enlarging its coasts, UAE seeks to internationalize its disputes with Iran over the three islands on the international scale. If the Arab countries add to their lands by constructing artificial islands, the UAE is likely to claim more than it is entitled to in the coming years. Although under international law, the construction of artificial islands does not change the baseline, it is a question that might arise in the future, impairing the rights of neighboring states and particularly Iran concerning the expectations that might be put forth by the UAE such as the baseline and exclusive economic zone. The UAE's action in constructing artificial islands, furthermore, can become a pattern for other regional countries as Qatar and Bahrain have followed suit and constructed artificial islands in the Persian Gulf. This can also be followed by other regional states and even in the Caspian Sea.⁶⁹ Consequently, the development of such structures by other countries, given the presence of border problems between the regional states, huge energy resources and foreign forces, will add to the security dilemma in the region.

It has to be acknowledged that one of the serious legal shortcomings concerning artificial islands is inattention to the question of pollution arising from the construction of such islands as most of the existing regulations refer to the exploration and extraction of natural resources. Moreover, the bulk of the law on the



protection of marine environment also deals with the pollution arising from the construction of various structures related to the extraction of oil and gas which are highly likely to create environmental pollution. In this relation, the most salient rules include 1- operational pollution and demolition, 1- accidental pollution: the 1976 Convention on Limitation of Liability for Maritime Claims, and 3- the 1974 Nordic Environmental Protection Convention.

Today, the Persian Gulf is host to a variety of marine organisms and is the natural habitat of coral reefs and pearl oysters, as more than 500 species of fish and sea turtles live there. Experts of international organizations have frequently warned, since the construction of artificial islands started, about the destruction of the single coral reef in Dubai and the nests of the coastal turtles as well as changes in the quality of Persian Gulf water in the first phase of the project. Iranian authorities have also taken certain actions in this regard; for example, Director-General of the Environmental Protection Organization Seyed Mohammad Baqer Nabavi indicated the Organization's contact with the authorities of the Regional Convention for the Protection, Management and Development of the Marine and Coastal Environment for addressing the question of whether the construction of artificial islands in the Persian Gulf is consistent with international environmental standards. Hence, these islands have caused many concerns in the environmental sphere of the neighboring countries.

The construction of these islands, which takes place through the spraying of sand by special ships, has caused the usually clear water in the Persian Gulf to look dark because of the dredging of seabed, causing damage to marine habitat, destruction of coral reefs and marine plants. Marine plants are the nutrition source for most of the fish in the Persian Gulf, but they have been seriously damaged. The marine oyster boards have been covered with two inches of sediments which are eroding due to the natural flow of water off Dubai's coasts. Even some of the artificial islands projects are being constructed in the protected marine areas such as Jebel Ali as exemplified by "The World" project. This is the



case whereas this area is considered as the second ecological system of the Persian Gulf, causing concerns among environmental experts regarding the destruction of marine environmental standards for the native and non-native species in the Persian Gulf. It is worth noting that within the past 50 years, protection of the Persian Gulf environment has been ignored with respect to the coral reefs by the UAE government. The most painful point is the annihilation of 35% of natural habitat in the sea, which has exacerbated the destruction of the Persian Gulf environment along with the rising temperature, salinization of the sea water, extraction of oil and gas resources, and dredging for the construction of these islands.

Given how the construction of artificial islands has become commonplace and most of the regional countries intend to construct artificial islands in their territorial seas, requirement of commitment of regional states to international obligations and treaties as well as law of the sea and environment can be undertaken as a positive step by the Persian Gulf states. In this regard, the regional states need to create a specific legal regime for the construction of artificial islands in the Persian Gulf along with the 1982 Convention (Aghai Diba, 2005). In this relation, the following points shall be taken into account: 1- Non-coastal states are not entitled to construct artificial islands; 2- The coastal states constructing artificial islands must brief the other regional states regarding the construction and specific use of artificial islands; 3- The coastal states must devise appropriate planning for the protection of the rights enjoyed by other coastal states regarding the artificial islands, particularly the use of innocent passage through the territorial sea that might include planning of the schedule of navigation by ships. And 4- Given the semi-enclosed nature of the Persian Gulf and its specific environmental characteristics which have been considered as one of the environmentally sensitive areas in the international instruments, specific meetings of the relevant organizations of the eight coastal states for the protection of the environment have to be convened.



Conclusion

Construction of artificial islands along with the rapid discovery of new technologies has made human access to actions which were improbable in the past century possible. Today, the construction of such structures is so commonplace that most of the coastal states have expressed their interest in the construction of these islands; some have even proceeded to build them. Construction of artificial islands is legally recognized by various international conventions on the law of the sea. However, what attracts attention given the interests of certain states in constructing these types of islands involves shortcomings, loopholes and misuse by certain states in the construction of artificial islands. Considering the numerous legal and political complexities which occasionally arise from a mix of the two aforementioned variables, the competent international authorities, and notably the United Nations, need to consider necessary preparation for the codification of a more comprehensive maritime convention for the construction of these islands. Moreover, from the perspective of international relations, the states constructing these islands must proceed to have better communication with respect to their goals and intentions for the construction of these islands for bringing regional order and solidarity and avoiding political disputes with their neighbors.

Regarding the UAE, it has to be acknowledged that the construction of artificial islands beginning in 2001 can be reviewed from two perspectives: 1- From the perspective of international law, this state is entitled to construct artificial islands and so far has complied with the legal provisions of the conventions on the law of the sea for the construction of such islands except for the cases leading to the pollution of environment in the Persian Gulf. 2- From a political viewpoint, however, this has several aspects. Under the environmental protection treaty for the Persian Gulf coastal states, which was signed by the UAE in 1978, it has been emphasized that



“Persian Gulf waters are international waters and all states must respect its contours; hence any development that imperils its contours will be forbidden for the neighboring states,” in which case the UAE has not complied with this regional treaty. In this relation, given the extensive environmental damage arising from these islands, this can be followed up by relevant organizations including the Environmental Protection Organization and the Ministry of Foreign Affairs in the competent international authorities.

In terms of political considerations, Abu Dhabi's unsubstantiated claims to the islands of Lesser Tunb, Greater Tunb and Abu Musa, which are supported by Arab and Western states, the aim is to deprive Iran from its vital interests in the Persian Gulf and precluding Iran's continued predominance in the Middle East. Thus, the UAE's construction of artificial islands can bring about numerous political implications, which considering the identification of six types of these islands, change in their application and possible conversion to military and intelligence bases, change in the territorial baseline in case of the rise of Persian Gulf water levels, extraction of oil and gas resources, and in general efforts made to reinforcing the UAE's geopolitical and geostrategic status in the Persian Gulf, raise concerns. These concerns need to be urgently dealt with by the diplomatic apparatus and studied by research institutions in the disciplines of international relations, international law and political geography.

Notes

1. Most of these projects were expected to be completed by 2010, but following the world economic crisis beginning in 2008, exploitation of most of these projects has been postponed.
2. It is worth noting that Iran's coastal land increases to 1450 kilometers when its islands in the Persian Gulf are also included.
3. For instance, Turkmen officials have expressed their interest in the construction of artificial islands in the Caspian Sea.

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