

## The Development of Iran's Oil and Gas Laws

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### Highlights

- The main purpose of creating a legal framework is to provide the background, explain the rules governing oil operations, and define the administrative, economic, and financial guiding principles for investment activities in the oil sector.
- The study of Iran's oil and gas legal regime shows two different periods in the development of this legal regime.
- The role of the law in the first period and the role of the contract in the second period in the development of Iran's oil and gas rights are prominent and privileged.
- The optimal point of the role of law and contract in the legal management of oil and gas is to formulate a brief but comprehensive oil law that specifies the basic conditions and minimum standards.

*Received:* December 19, 2023; *revised:* September 28, 2024; *accepted:* November 16, 2024

### Abstract

The legal regime of Iran's oil and gas, started with concession contracts, has evolved from partnership contracts to service agreements during its transformation. In all types of these contracts, there has been efforts to preserve national interests through the insertion of various contractual provisions and elements. Approving the first oil law in Iran (Oil Act of 1957), some of these elements entered into the law and became binding. Gradually, with reforming of oil laws in different periods, these elements have also been changed in the law. This paper discusses how to apply and evolve these elements in Iran's oil contracts and laws and how to determine the role of these elements in the development of Iran's oil and gas legal system. The results show two different periods. By adopting of oil Acts of 1957 and 1974 in the first period, legislative developments moved toward the completion and creation of a coherent and targeted legal regime. In the second period, after the Islamic Revolution of Iran, there was no unified approach to formulating a comprehensive oil law in the oil Acts of 1987 and 2011, and the oil Acts in this period are very brief and concise. Thus, most issues related to the oil in the oil industry remained silent in these acts and were dealt with in acts other than the oil acts. In this period, oil contracts played a more prominent role in the development of oil rights than the law, and the issues remaining silent in the oil law were mentioned in oil contracts of this period. Therefore, the role of law in the first period and the role of contract in the second period have been more prominent in the development of Iran's oil and gas law.

**Keywords:** Law-contract, Oil contracts, Oil law, Efficiency, Oil rights

#### How to cite this article

Kashani, J. and Zekavatmand, A., *The Development of Iran's Oil and Gas Laws*, *Petroleum Business Review*, Vol. 8, No. 4, p. 1–16, 2024. DOI: 10.22050/pbr.2024.431242.1322

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## 1. Introduction

In general, the legal regime of oil can be divided into two parts of law and contract: both complementing each other, and each has contributed to the development of oil rights. Decades before the oil and gas law could establish its principles as an independent legal discipline, the rights and obligations of the parties were determined in oil contracts or concessions. With the development of international oil and gas law, this process gradually moved toward more compliance with national and international rules. However, the effect of law and contract and the contribution of each one to the development of oil and gas rights, as well as the metamorphosis of the management of this phenomenon, have not been studied in a historical context so far.

The importance of this research is that the contract is basically a relative legal act and only affects its surroundings, while law, as a source of rights, uses public description and is mandatory for all members of society. The law-contract, which has been followed by many of Iran's oil contracts in a period, has the effects of the law. If the contract is the only source of the legal relationship between the oil and gas actors, this relationship has a relative character and is only effective between contractors; thus, in case of any dispute, it is only the text of the contract that will be the criterion for the judge or arbitrator. However, in the law-contract, the text of the contract has no relative aspect and has the capacity to influence the previous contrary laws, among other things, so as to abrogate them implicitly. Further, all members of the society must respect and observe it as a law; at the same time, the life of the contract-law ends with the end of the contract period, and the provisions of the contract are no longer required to comply with in subsequent oil contracts.

The law, which is specifically and directly or indirectly effective in regulating oil contracts, is also effective in regulating oil contracts and must be obeyed. The law has a public aspect and has no time; if the law is not respected in dispute resolution authorities, the legal relationship will face legal guarantees of enforcement. Thus, everyone must comply with the minimum requirements of the rules in the drafting of contracts. As a result, the efficiency of each of law or contract is important for the development of and agility in activities, protection, and supervision in oil and gas rights.

The legal regime of oil and gas in Iran, started with concession contracts and by passing through partnership agreements, has been upgraded to service contracts. In all types of these contracts, there has been efforts to preserve national interests through the insertion of various contractual provisions and elements. Some of these elements entered into the law and became binding by approving the first oil law in Iran (Oil Act of 1957). Gradually with the amendment of oil laws in different periods, these conditions have also been changed in the law. This paper selects eight elements of the main elements of contracts: the financial system, international oil industry practices, internal contribution of the contract, relinquishment, commercialization, the dispute resolution method, force majeure, and contract transfer. These elements are then studied in Iran's upstream oil contracts. This work tries to investigate how these elements are applied and evolved in Iran's oil contracts, explain how these elements are incorporated into the oil laws, and determine how these elements have played a role in the development of Iran's oil and gas rights regime.

Understanding the evolution of contracts in Iran's oil and gas sector offers valuable insights into the broader geopolitical and economic strategies of resources-rich countries. The article aims to delve into the intricate mechanisms by which various contractual and legal elements have been applied, evolved, and incorporated into Iran's oil and gas legal framework. The authors are also interested in examining how these elements have influenced the development of Iran's oil and gas rights regime. By investigating these elements, the authors aim to shed light on the nuanced ways in which legal and contractual frameworks have shaped Iran's oil and gas rights regime over time. This analysis could

provide valuable insights for policymakers, legal experts, and industry stakeholders, within Iran and globally.

## **2. Evolution of Iran's oil and gas law and contracts**

The history of Iran's oil law goes back to the common rules of the Islamic jurisprudential and customary laws regarding mines. At a time in the Contemporary History of Iran, oil issues were only regulated in terms of concessions and contracts, and there were no independent laws and regulations that regulated these contractual relationships (Shiravi, 2018:108). With the nationalization of the oil industry and the adoption of the "act on the exploration and exploration and extraction of oil throughout the country and the continental shelf" on July 11, 1957, known as the "Oil Act of 1336", oil law entered a new era. Subsequently, with the passage of the Oil Act of 1974 and prescribing service contracts for upstream development of oil, another development in the country's oil rights was made. Finally, with the victory of the Islamic Revolution and the adoption of several laws regarding the country's oil, especially the Oil Act of 1336 and the law on the amendment of the "Oil Act of 1390", new developments and experiences in the country's oil law were created. With the above explanations, the legal developments of Iran's oil contracts can be divided into five periods as follows:

- First Period: Concession Contracts
- Second Period: Oil Act of 1957
- Third period: Oil Act of 1974
- Fourth Period: Oil Act of 1987
- Fifth period: Oil Act of 2011

The following reviews Iran's upstream oil contracts with the eight elements introduced before in the context of the oil laws of each period.

### **2.1. First period: concession contracts**

Two or three decades after the beginning of the oil industrial age, Iran was also attracted to the attention of black gold seekers. This attention led to the conclusion of several concession contracts, of which only Darcy's Concession, the contract with the Iranian and British Oil Company, and the consortium contract were implemented.

#### **2.1.1. Darcy's concession**

Darcy's Concession was the only successful concession of his time. This concession was signed between Mozaffar al-Din Shah and an Englishman named William Knox Darcy in 1901, considered one of the first oil concessions in the world. In this concession of eight contractual elements, there are only regulations on the financial system, the internal contribution of the contract, and the dispute resolution method, and there is no trace of other elements in this concession.

The financial system of this concession was very brief, with the minimal benefits for Iran. Iran's economic interests in this concession were limited to 20,000 British liras, 20,000 lira share, and 16% of the company's annual net profits (Shokohi, 2013:153–154). The obligation to form a company in Iran and use Iranian nationals for labor were the only references in this concession about internal contribution (Ebrahimi and Ghasemi, 2019:246–247). In Article 17 of this concession to resolve the dispute, referral to arbitration is anticipated (National Iranian Oil Company, 1965:3), which is very basic and lacks the efficiency of a complex oil contract.

### **2.1.2. Anglo–Iranian oil company (1933)**

After the cancellation of the Darcy concession by Iran, a contract was signed between Reza Khan's government and British oil companies on May 27, 1933. Under this agreement, which was called the Darcy Amendment, Britain was allowed to exploit Iranian oil for 60 years (Movahed, 2008:264–265). The financial system of the 1933 agreement was more appropriate in some respects than Darcy's concession and provided greater benefits for Iran. However, the contract was not yet similar to a fair contract (Shiravi, 2018:120) and except in Article 12 of the 1933 Agreement (National Iranian Oil Company, 1965:9), there is virtually no indication of practices in the contract.

The internal contribution to the contract evolved relative to the Darcy's Concession. Article 16 of this contract dealt with the recruitment of human resources. According to this article, priority in technical affairs is by employing Iranian experts, and in the case of non-technical staff, it is also required to exclusively use Iranian nationals. At the same time, it was determined that during the implementation of the contract, Iranian nationals would gradually replace foreign nationals, and the company would spend 10,000 sterling lire annually to train Iranian nationals abroad (Ebrahimi and Ghasemi, 2019:248). To resolve the dispute, referral to arbitration was anticipated, and the principles of dispute investigation were in accordance with the principles common in the International Arbitration Court. The contract did not include other contractual elements, namely relinquishment, commercialization, force majeure, and transfer of contract.

### **2.1.3. Consortium agreement of 1954**

After the nationalization of the oil industry, Iran could not resist the pressure of the great powers, and finally in 1954 A.D. agreed to conclude and ratify a contract for the sale of oil and gas known as the Consortium contract (Shokohi and Naderan, 2013:86).

The charter included eight contractual elements, regulations on the financial system, internal contribution of the contract, oil industry practices, contract transfer, and the dispute resolution method, but there was no trace of other elements. The financial system of this contract was based on royalty plus income tax, which is a feature of concession agreements (Shiravi, 2018:30). In the consortium contract, direct reference to practices was mentioned in Article 4 for the first time (National Iranian Oil Company, 1965:21). Based on this article, operating companies were committed to adapting their operations to good industry practices and to following the correct engineering principles in the conservation of reserves. In this agreement, the authority of the National Iranian Oil Company was limited to non-industrial affairs such as providing food, maintenance and administration of the places, and similar services (Ebrahimi and Ghasemi, 2019:249).

The important point of this contract was the new regulation on the priority of domestic construction as set forth in Article 34. This regulation could be considered one of the progressive provisions of this contract, in which domestic products should be preferred to foreign goods in accordance with the four elements of quantity, quality, price, and delivery time in competitive conditions. In this deal, although the consortium was Iran's agent, the methods of resolving the dispute were referred abroad.

In accordance with Articles 42 and 43 of this agreement, in the event of violation of any party of the contract, the matter shall be referred to the Conciliation Board. Furthermore, if one of the parties does not want to refer it to the Conciliation Board, the subject shall be referred to arbitration in accordance with the provisions of Article 44. Finally, in Article 39 of this contract, the subject of the transfer of the contract is subject to the written consent of Iran (National Iranian Oil Company, 1965:36–37).

In the three concession agreements discussed earlier, the Iranian government was given only the royalty and corporate income tax, which were very small in exchange for the huge oil wealth transferred.

Darcy's concession did not include any oil industry practices. The first reference given had almost the same meaning of practices mentioned in the contract of Iran–British Oil Company (1933).

## **2.2. Second period: oil act of 1957**

The first comprehensive and independent law in the field of oil is the so-called “Oil Exploration and Extraction Act across the Country and the Continental Shelf”, approved on July 29, 1957.

For the first time, the Oil Act of 1957 described the issues related to the oil industry in sufficient details. In this act, each contract was reviewed and approved in the parliament and took the status of the law. As a result, any further changes or amendments would also require the approval of the parliament (Shiravi, 2018:233). The oil Act of 1957 marked a significant milestone in the legislative landscape of Iran's oil sector. This act represents the first comprehensive and independent oil law in Iran, reflecting the country's evolving approach to regulating and managing its valuable oil resources. This act not only defined the legal relationship between the Iranian government and foreign oil companies but also established a framework for various contract types that would govern oil industry operations for decades. Understanding these contracts is crucial for comprehending the evolution of Iran's oil legal regime and the ongoing dynamics of its oil and gas sector. The following reviews the eight elements of this act and examines the contracts made under this act.

The financial system of oil contracts under the Oil Act of 1957 is more complete than the previous period and has brought more benefits to the country. This system is designed based on equity, which is interpreted in this act as “land right”, and the income tax (Shiravi, 2018:42).

The oil act of 1957 specifies a share in the interests of each party and stipulates that the share of the interests of the National Iranian Oil Company should never be less than 50%. Considering paying the government 50% of the tax on foreign company interests, Iran's share of the profits equaled 75% (Zoghi, 1999:308).

In the oil act of 1957, which became the basis for the subsequent assignment of contracts, more cases were referred to practices than in the previous period. In Article 7, the contracting parties are required to continue drilling operations after a continuous start at a reasonable pace and in accordance with the common principles of the oil industry. In Article 8, the agent is obliged to continue drilling operations after the beginning of a continuous start and in accordance with the common principles of the oil industry. In Article 9, the agent is committed to adapting its operations to the usual method of the oil industry and to following the correct technical and engineering principles, in particular regarding the protection of hydrocarbon reserves.

In this act, regarding the internal contribution of the contract, in addition to the principle of the nationalization of oil, domestic and foreign investments are encouraged, and the practical participation of National Iranian Oil Company (NIOC) in operations is anticipated (Research Group of Higher School of Law, 2015:233). The minimum share of NIOC from operating companies is also provided in this act.

### **2.2.1. Contracts based on oil act of 1957**

#### **2.2.1.1. Iran and AGIP Mineraria contract**

The first partnership agreement in line with the provisions of the oil act of 1957 was signed between the National Iranian Oil Company and the General Italiana Petrole (AGIP) Mineraria Company on 08.24.1957.

This contract can be considered a turning point in the conclusion of new contracts. The financial system of the deal was based on a 25%–75% share, under which Iran was entitled to 75% of the profits. The

initial cost of exploration was estimated at \$22 million, and if the company had opted out of operations for some reason, it would have to pay half the total amount spent (\$22 million) in a block to the National Iranian Oil Company. In this contract, unlike previous contracts, the condition of exemption from paying customs duties was conditional on the non-availability of equipment and other essential items in Iran.

Regulations on the priority of purchasing Iranian goods, recruitment of human resources, gradual reduction of foreign manpower, and training of Iranian human resources were the same as the consortium contract. The only new point of this contract was the existence of a regulation in Article 12 on the provision of the domestic market. Article 26 of this contract dealt with the issue of gradual liberalization. It was determined that at the expiration of the 5<sup>th</sup> year from the date of the start of the exploration, 25% of the total area of the district mentioned in Article 3 shall be deducted, and at the end of the 9<sup>th</sup> year the other 25% of the original area would be deducted. However, at the end of the 12<sup>th</sup> year, only the land in which fields were defined as commercially exploitable would remain at the disposal of the company (National Iranian Oil Company, 1965:78).

The contract was incomplete on the issue of commercialization. The terms and definitions of the terms and conditions under Article 8 of the contract were entrusted to internationally accepted technical principles. The dispute resolution procedure in this contract was submitted to arbitration in accordance with the oil act of 1957. The place of arbitration was Geneva, and the arbitration procedure was determined by the parties; in the absence of agreement, it was subject to the provisions of the law of the place of the arbitration.

Contrary to the oil act of 1957, which entrusted the cases of force majeure to international custom, the cases of force majeure (such as war, riots, and strikes) were mentioned in Article 37 of this agreement. According to this article, if these cases were out of hand of the individuals and prevented the fulfillment of the obligations, the non-performance of the obligations shall not be considered a violation of the contract. If it continued for more than one year, the contract shall be legally extended for the same period (National Iranian Oil Company, 1965:80).

In this contract, the items relating to the transfer of contracts and international procedures of the oil industry were similar to the provisions mentioned in the oil act of 1957.

#### **2.2.1.2. Iran and Pan American treaty**

In the implementation of the oil act of 1957, the second contract was signed with Pan American Petroleum Corporation in April 1958 and approved by parliament on May 27, 1958. Contrary to the contract of AGIP, in the contract of the National Iranian Oil Company with Pan American Oil Company, the second type of partnership was established: a mixed entity that did not have an independent legal personality. The American company chose the second strategy because it could directly own its share of the oil produced and could take advantage of the U.S. tax concessions (Shokohi, 2013:180).

This contract was also among the contracts known as 25%–75% contracts. The financial system of this contract was similar to the contract of Iran–Italy Oil Company. However, the scope of Pan American operations was more limited, while the amount of \$25 million was received from the American company as a signature bonus. Pan American Company was also committed to invest \$82 million for exploration operations over a period of 12 years. In general, this contract provided more benefits for Iran compared to the previous contract. This contract also dealt with the employment of Iranian employees and workers, and for the first time, a ceiling was set for the employment of foreign employees (Ebrahimi and Ghasemi, 2018:253). The regulations related to the import of goods and equipment, the preference of Iranian goods over foreign goods, the re-export of imported goods, the

sale of imported goods in Iran, and the tax exemption of imported goods related to the consumption of managers and employees, mentioned in Article 33 of the contract, were similar to the AGIP Mineraria contract.

The relinquishment, mentioned in second clause of Article 3, was the same as the previous contract, except that, Clause 3 specified that the deducted areas would consist of parts, with the area of at least 200 square kilometers. The average length of each piece was not more than six times its average width. Further, contrary to the oil act of 1957, this contract mentioned the commercial conditions of the field completely with more details (National Iranian Oil Company, 1965:93). The conciliation board, and if it fails, the arbitration was foreseen to resolve the dispute. The provisions related to arbitration and force majeure and the conditions for its fulfilment in this contract were the same as the AGIP Mineraria contract.

The transfer of the contract was more complete than the previous contract. According to Article 36, the second party could transfer all or part of its interests to the company or companies that control the second party or to the companies under the control of the second party. In addition, any transfer by the second party, except for the mentioned cases, would require the prior written consent of the first party, and the first party had to obtain the approval of the Board of Ministers and the approval of the parliament before expressing the consent.

#### **2.2.1.3. Six partnership contracts**

Following the process of partnership contracts based on the oil act of 1957, six more partnership contracts were signed in 1964 and 1965. The legal bill of five partnership contracts known as Dashtestan Offshore Petroleum Company (DOPCO), Iranian Offshore Petroleum Company (IROPCO), Iranian Marine International Oil Company (IMINOCO), Lavan Petroleum Company (LAPCO), and Farsi Petroleum Company (FPC) contracts was finally approved by the Parliament on 1965.02.13, and the Persian Gulf Petroleum Co. (PEGOPCO) partnership contract was also approved on 1965.07.12.

The financial system of these contracts was also of 25%–75% type. In these contracts, the amount of cash and conditional acceptance was predicted. The minimum cost of exploration in each contract was determined in addition to the land right fee for each square kilometer (National Iranian Oil Company, 1965:131–130). Moreover, it was stipulated that the first and second parties and each commercial company were subject to tax payment according to the provisions of the Iranian Income Tax Law regarding the special profit obtained from their operations (National Iranian Oil Company, 1965:131).

The regulations related to the internal contribution of the contract, international oil industry practices, commercialization, the dispute resolution method, force majeure, relinquishment, and the transfer of the contract were similar to the Iran and Pan American contract.

#### **2.2.1.4. Triple partnership contracts**

After the six partnership contracts, in July 1970, an auction was held for a part of the consortium area that was returned to the National Iranian Oil Company, which resulted in the conclusion of three partnership contracts (Shokohi, 2013:189). These contracts were signed in 1971 and in the implementation of the act of permission to exchange and the implementation of three clauses of the oil contract according to the principles stipulated in the oil act of 1957. These three contracts were signed with two American companies and a Japanese group in order to carry out exploration, exploitation, sale and export of oil. These three contracts are known as Bushehr Oil Company (BUSHCO), Hormoz Oil Company (HOPECO) and Iran–Japan Oil Company (INPCO) contracts. Since all the provisions of these three contracts were almost similar to each other, the contractual elements were examined only for the BUSHCO contract.

The financial system of these three partnership contracts was based on the 50%–50% formula, and in addition, cash receivables, conditional receivables, and taxes were foreseen in these contracts. Further, in addition to the commitment of the minimum exploration cost, the land right fee for each square kilometer was foreseen. The reference to the international practices of the oil industry was the same as the previous contracts, and the only new point was a provision regarding the preparation and implementation of plans related to health, retirement, savings, and other similar plans, in which the party to the contract was obliged to comply with the related laws and regulations and pay attention to the methods used in Iran's oil industry (Ameri, Kazemi Najafabadi and Mirfatah, 2018:162).

This contract considered a stronger role for the National Oil Company regarding the exploration phase. The method of conciliation and referral to arbitration was similar to the Iran and Pan American contract, except that in this contract, in case of a dispute in the implementation of the contract, the right to appoint a third arbitrator was delegated to the CEO of Central Bank of Iran. The terms and conditions of invoking force majeure in this contract were the same as those of the AGIP Mineraria Contract. Moreover, the transfer of the contract subject to Article 31 and the relinquishment subject to Article 3 of the contract were similar to the six partnership contracts.

### **2.3. Third period: oil act of 1974**

The oil act of 1974 consisting of 30 articles was approved by the National Assembly after the approval of the National Consultative Assembly in the extraordinary session on Monday 1974.07.22. Established with the aim of realizing national sovereignty as much as possible and exerting more control over the development of oil resources, this act was a relatively detailed law, had a logical structure and clear terms, and respected the country's right to sovereignty over oil resources clearly (Shiravi, 2018:144). This act laid the groundwork for a structured and regulated approach to oil contracts in Iran. By establishing clear terms and conditions for exploration, production, and cooperation between domestic and foreign entities, the law aimed to balance national control with the need for foreign expertise and investment. The legacy of these contracts and the principles established in the act of 1974 continue to influence Iran's oil and gas sector today. In the following, this act is examined based on the eight elements. After that, we will review the contracts concluded based on this act.

According to Article 11 of this act, the responsibility of providing all necessary funds for the exploration operations was on the contractor, and the contractor's entitlement to refund the mentioned funds would be when the exploration operations led to the discovery of the commercial field. As soon as the oil production reached a commercial level, the duty of the contractor ended, and the National Iranian Oil Company was responsible for production, transfer, refining, or export (Mousavi, 2005:164). After the commercialization of the discovered field was realized according to the rules specified in the contract, the sales contract was concluded between the National Iranian Oil Company and the contracting party.

In the oil act of 1957, the obligation of contractors to fulfil some of their obligations in oil contracts according to the practices of the oil industry took a legal form, but with the amendment of the oil act of 1974, this clarity in the law was lost and was limited to contractual obligations (DamanPak, 2021:130). Regarding the internal contribution of the contract, the establishment of an Iranian company as the general contractor for conducting exploration and development operations was one of the obligations of the second party in the oil act of 1974. The provisions related to the preference of Iranian goods over foreign ones, the employment of foreign employees, and the training of human resources were the same as before. In addition, because of Article 25 of the act stipulating that all land, water, and easement rights required for operations were acquired by the National Iranian Oil Company, and all land and fixed facilities were owned by the National Iranian Oil Company, the relinquishment was not an issue any more.

The provisions related to commercial announcement in this act were more complete than the oil act of 1957, in which no definition of commercialization was provided.

In this act, the dispute resolution mechanism was arbitration, and the procedure was determined according to the laws of Iran (Article 23 of the oil act of 1974); the place of arbitration was Tehran. Further, validity, interpretation, and implementation of contracts were subject to Iranian laws. Although in this act, in Clause 3 of Article 15, the suspension of operations caused by force majeure was excluded from the scope of the provisions of this article, the definition of force majeure and its conditions were not found in any of the articles: Article 15- continuation of operations:

- 1- Exploration operations in the contract area will be started within six months from the contract execution date and will be continued without interruption;
- 2- When the necessity of carrying out special investigations and studies requires the suspension of exploration operations for a temporary period, the suspension of operations will be possible only with the approval of National Iranian Oil Company;
- 3- If the party to the contract suspends the operations without obtaining the prior consent of the National Iranian Oil Company for a period of more than three months, the National Iranian Oil Company will have the right to terminate the contract. The stoppage of operations caused by coercive force is outside the scope of the provisions of this article.

Finally, according to Article 21 of this act, the transfer of the rights and obligations of the contracting party to others was subject to the prior approval of the National Iranian Oil Company and the approval of the Cabinet (Article 23 of the Oil Act of 1974).

### **2.3.1. Contracts based on oil act of 1974**

The service contracts concluded by the National Iranian Oil Company are divided into two categories. The first category of service contracts concluded with foreign parties before the approval of the oil act of 1974 and the second category of contracting contracts, after the approval of the oil act of 1974. It should be noted that the oil act of 1954 allowed the National Iranian Oil Company to conclude any type of contract. Although most of the contracts concluded in this period were partnership contracts, three contracts were concluded in this period, and these contracts could be considered the basis for the approval of the oil act of 1957. In this section, these three contracts will first be introduced, and the six service contracts concluded after the approval of the oil act of 1974 will then be examined.

#### **2.3.1.1. Triple service contracts**

Considering that Article 2 of the oil act of 1957 allowed the National Iranian Oil Company to conclude any contract, a contract was first signed with the French *Entreprise de Recherche et d'Activite Petroliere* (ERAP) Group in 1968. Next, a contract was signed with a consortium of European companies in 1966 and another with the American Continental company later. These contracts were the first contracting or service contracts of the oil industry, which was one of Iran's innovations in the field of contractual developments in the oil industry. Since almost all the provisions of these three contracts are similar to each other, the eight elements of the contract are examined only for the ERAP contract.

According to Article 2 of the contract, ERAP Company or its affiliated companies received fees for technical, financial, and commercial services. ERAP provided the necessary resources for exploration operations and, in case of commercial discovery, the necessary amounts for evaluation and development operations at the disposal of National Iranian Oil Company. Funds related to exploration operations were considered interest-free loans, and in case of commercial discovery and oil production, they would be repaid at the commercial rate (Clause B, Article 3 of the contract). ERAP, as an intermediary, could

sell certain quantities of crude oil on behalf of the National Iranian Oil Company in the world markets, and the government of Iran and the National Iranian Oil Company could use part of the proceeds to purchase French goods and services (Clause J, Article 3 of the contract).

According to this contract, the National Oil Company was the owner of all the produced oil as well as all facilities, lands, and movable property used in oil operations (Ebrahimi and Ghasemi, 2018:256) and Iranian contractors should have been preferred in the tender under equal conditions (Clause D of Part 3 of Article 11 of the contract: “The contractor shall be selected based on the tender and in case of equality of conditions, Iranian contractors shall be given priority.”).

The provisions related to the employment of foreign employees, customs exemption, and preference for domestically produced goods were the same as the previous contracts. Article 31 of this contract mentioned the terms of the transfer of the contract: “it is necessary to obtain the prior written consent of the National Oil Company, and the approval of the Board of Ministers and the parliament before that, for any transfer by any of the members of the second party. In this contract, the provisions related to the international practices of the oil industry, relinquishment, commercialization, dispute resolution, and force majeure were the same as the previous ones.

### **2.3.1.2. Six partnership contracts**

Two weeks after the approval of the oil act in August 1974, several contracts, which later became known as the six partnership contracts, were signed between the National Iranian Oil Company and foreign companies. The provisions of these contracts were similar to each other, and there was only a slight difference in their financial system. These contracts will be examined based on eight elements below. These six contracts were not produced and used after the victory of the Islamic Revolution (Farshad Gohar, 2013:252–253).

In these contracts, “Signature Bonus” was foreseen, and according to Article 6 of these contracts, the costs of exploration and development were entirely the responsibility of the contractor. If the commercial field was not discovered, the exploration costs were irreparable. These expenses were not subject to interest (Shiravi, 2018:427). Development costs were recoverable under the condition of reaching commercial production, and these costs were subject to bank interest from the time of commercial production until they were reimbursed. In these contracts, recoverable costs and contractor’s fees were compensated through discounts on oil sales for 15 years.

The only reference to the practices of the oil industry in these six contracts was in Article 8, according to which the contractor was committed to the “Full effort to conduct exploration in the specified area according to the usual correct method of the oil industry to the best of its ability.” The internal share of the contract in these contracts was similar to the triple service contracts.

By examining the oil laws and contracts in these three periods, we can reach the conclusion that the oil and gas rights in our country, which started with contracts and concessions, grew significantly with the formulation of oil laws and the introduction of contractual elements into the oil laws. Oil laws were affected by the contracts from this point of view. On the other hand, the oil laws affected the contracts, and due to the binding nature of these laws, the contracts were concluded under the legal order of the laws. Therefore, it should be stated that both the law and the contract have been effective in the development of oil rights in the country. The developments of contracts in these three periods have been toward maximizing the role of the government. At first, the oil companies had all the oil resources and the sovereignty over them, and practically the governments did not play much role. Then, these powers were shared between the government and the oil companies through partnership agreements. Further,

due to the service contracts, the companies, as the contractors, benefited from the oil revenues for the services they provided and the costs incurred.

#### **2.4. Fourth period: oil act of 1987**

One of the most important developments after the Islamic Revolution in the field of oil and gas is the approval of the oil act of 1987. This act was approved with the focus on realizing public governance and cutting off any foreign participation or investment. This act represents a significant evolution in Iran's oil and gas legal framework, particularly after the upheaval of the 1979 Iranian Revolution and the subsequent shift in domestic and international oil policies. This legislation was instrumental in redefining Iran's relationship with foreign oil companies amidst ongoing economic challenges and a desire to attract foreign investment. The Oil Act of 1987 was a crucial response to the challenges Iran faced in the oil sector following the revolution. It sought to create a more conducive environment for foreign investment while maintaining state control over oil resources. This act established a framework that would shape Iran's oil policies for years to come, reflecting the country's strategic priorities in an evolving international landscape. Since this act was very concise and did not cover all the issues needed by the oil industry, the focus on a single act for all matters related to the oil and gas industry was lost, and many rules and regulations related to the oil industry were mentioned in numerous other acts. This issue caused the acts governing the oil industry to become scattered and bulky. There was no mention of the eight elements that we examined in the oil acts of 1957 and 1974 in this law. In this sense, this law has regressed compared to the previous acts. However, since this law did not specify the repeal of the oil act of 1974, the eight elements of the oil act of 1974 can be yet considered valid to the extent that they were not repealed by the oil act of 1987.

The contracts concluded based on this act are buy-back contracts, and we will examine the eight elements in the legal grounds for mutual sale contracts provided in Clause H Note 29 of the Act of the First Plan of Economic, Social, and Cultural Development of the Islamic Republic of Iran approved on February 11, 1989 (Derakhshan, 2013:79). However, it was in the Budget Act of 1993 that the relevant licenses were used for the first time, and the National Oil Company was allowed to conclude cross-sale contracts in the budget act of 2013.

The buy-back contract model was considered to be an adapted form of the same partnership contracts (service purchase) of the past, which were allowed to be used in the oil act approved in 1974. In these contracts, the possibility of selling oil, gas, or gas condensate was foreseen to repay the contractor's due amounts; thus, a long-term contract for the sale of oil, gas, or gas condensate was agreed upon by the parties as one of the appendices of the contract (Amani, 2010:116). In the buy-back contracts, the contractor is obliged to comply with the international practices of the oil industry in various parts although a specific definition of that data is not provided (Damanpak, 2021:34).

Regarding the domestic share of the contract, despite the fact that there is no point in the oil act of 1987, all buy-back contracts, according to the act of Maximum Use of the Country's Domestic Capacity, have paid special attention to using domestic capacities as much as possible in the implementation of these contracts (Ebrahimi, 2009:9).

Considering that in the buy-back contracts, the National Iranian Oil Company is the executor and the contractor performs operations on behalf of this company, the issue of relinquishment is irrelevant. These contracts are divided into three groups based on the arbitration clause. The first group includes the contracts in which the arbitration clause is unconditionally stipulated, and the need to obtain the necessary legal permits from the government or parliament is not mentioned in the contract. The second group considers the contracts that require obtaining the necessary legal permits for the party that wants

arbitration. The third group includes the contracts in which referral to arbitration, both as a claimant and as a defendant, requires obtaining legal permits. In buy-back contracts, force majeure refers to circumstances or events that occur outside the normal control of the National Oil Company or the contractor and make the execution of the contract impossible. In these contracts, force majeure includes strikes, labor unrest, supernatural events, unavoidable events, and war (declared and not) (Shiravi, 2018:503). The transfer of the contract in cross-sale contracts is allowed under two conditions: first, the employer's consent to the transfer is obtained, and second, the transferor and the transferee are jointly and severally liable to the employer.

### **2.5. Fifth period: oil act of 2019**

The need for new acts and regulations in the field of oil and gas (such as the need to separate governance and management affairs) as well as the dissatisfaction and lack of transparency in the relations between the National Iranian Oil Company and the government led to the approval of "Amendment Act of Oil Law", including nine articles and two notes, by the parliament on 01.04.2013.

In the Amendment Act of Oil Act, a new institution called the "Supreme Oil Resources Monitoring Board" is foreseen to monitor the exercise of sovereign rights and public ownership over oil resources. Moreover, the innovation of the new act is in the field of assigning the tasks of policy, planning, guidance, and leadership to the Ministry of Oil. This act marked a pivotal moment in Iran's oil industry, emphasizing modernization, investment attraction, and regulatory efficiency. By introducing new contractual models and strengthening governance, the act sought to navigate the complexities of an evolving global energy landscape while ensuring that Iran's oil resources were managed effectively and sustainably.

### **3. Iranian oil contracts (IPC)**

The new model of Iran's oil contracts was presented not in the Oil Act of 2011 but in the Act of Duties and Powers of the Ministry of Oil in 2012. Article 9 of the mentioned act postponed the determination of the general conditions of oil contracts to the proposal of the Minister of Oil and the approval of the Board of Ministers (Adib, 2016:301). These contracts represent a modern contractual framework designed to enhance collaboration between the National Iranian Oil Company (NIOC) and foreign investors. IPCs aim to attract foreign investment and advanced technology while allowing for greater operational flexibility. These contracts represent a significant shift in Iran's oil and gas contracting strategy, aiming to create a balanced, transparent, and investment-friendly environment. By facilitating foreign participation, ensuring profit-sharing, and emphasizing technology transfer, IPCs are designed to enhance the viability and sustainability of Iran's oil sector in a complex global landscape.

In the new model of oil contracts approved by the Board of Ministers, based on Article 1, costs are divided into four categories as follows:

- a) Direct Capital Cost:** all the necessary costs for the development, improvement, or increase of the recovery factor of the reservoirs; the cost incurred in the exploration phase if the field is commercial; and the necessary restoration, reconstruction, and renovations;
- b) Indirect Cost:** All the costs paid to the government, ministries, and public institutions, such as all kinds of taxes, customs, duties, and social security, which are reimbursed to the contractor in accordance with the note of Paragraph S of Article 1 of the approval letter;
- c) Cost of Money:** according to the amount and conditions determined in the contract;

**d) Operating Cost:** all the amounts the contractor spends to perform the operations based on the contract (Ebrahimi and Janfada, 2019:210).

IPC contracts, while giving a comprehensive definition of “The Best Practices of the International Oil Industry” in various sectors, have committed the contractor to fulfilling his obligations according to those practices. According to Article 4 of the approval letter, in order to transfer and promote national technology in upstream oil operations, firstly, Iranian exploration and production companies are present as partners of reputable foreign oil companies to acquire technical knowledge, management skills, and reservoir engineering. Secondly, the second party of the contract is required to make the maximum use of technical, engineering, production, industrial, and executive capacity of the country based on the Act of Maximum Use of Production Capacity. Thirdly, the second party of the contract undertakes to make maximum use of the internal human resources and provide a comprehensive training program to improve the quality of these forces. Fourthly, in the exploitation company, management positions are rotating, and executive management positions are gradually assigned to Iranian nationals so that transferring technical knowledge and management skills to the Iranian side is easily possible.

In general, it should be stated that the oil act of 2013 could not fill the void for a comprehensive oil act. The problem of the dispersion of acts and the presence of oil issues in other acts remain because this act is not an independent act, but an amendment to the oil act of 1987 and does not cover all the issues related to the oil industry. Unfortunately, the legislation after the victory of the revolution in the field of oil and gas was without a plan and goal, lacked a long-term vision, and was conducted only to solve temporary and short-term problems. This is a problem that can be seen in other legal fields as well, and it has caused swelling, fragmentation, and dispersion of acts, thereby leading to many problems.

#### **4. Conclusions**

The oil industry is an international industry whose important players are oil-rich countries on one side and foreign companies on the other. The evolution of the legal regime of oil and gas in our country reflects a significant transition from early concessionary frameworks to more structured and comprehensive contractual models. In our country, the legal regime of oil and gas started with concessions, but little by little contractual models were developed. Then, with the approval of oil laws and the introduction of some contractual terms into the oil law, the law played an effective role in regulating the relations between oil industry players in addition to the contract. The history of Iran's oil contracts provides a compelling narrative of economic ambitions, political struggles, and legal developments. Each contract phase has left a lasting legacy on the country's oil and gas rights regime. Understanding these elements is crucial for comprehending the broader context of Iran's current and future approaches to managing its valuable oil resources.

In terms of determining the role of oil acts and contracts, the study of Iran's oil and gas legal regime shows two different periods in the development of this legal regime. The first period, before the Islamic revolution and the second period after the Islamic revolution. In the first period, legislative developments were moving toward completion and creating a coherent and purposeful legal regime. The legal regime of Iranian oil began with the granting of the Darcy's Concession. Few rights and benefits were considered for Iran due to various reasons: the lack of previous experience in the country and the world in concluding an oil contract, the lack of knowledge and awareness of the representative of the Iranian government, and most importantly, the coercion of the concession holder. Other concessions were the same. There was no mention of contractual conditions in these contracts, and if some contractual elements were mentioned in these contracts, they were incomplete and symbolic and were not implemented in practice.

With the approval of the first oil act in 1957, for the first time the body responsible for exercising sovereignty over the country's oil and gas resources was determined. In this act, the principle of national sovereignty over oil and gas resources, the division of lands and their liberation, the preservation of a part of these lands as a national reserve, the way of handing over the liberated parts, the framework of the authorized contracts, and the basic conditions of the upstream oil and gas development contracts (such as determining the conditions of operation, the minimum share of the National Iranian Oil Company from the operating companies, the minimum cost and the required work that the contracting company is obliged to perform in a certain time, the duration of the contract, the land right fee, the point of the transfer of ownership of the produced oil, the commitment maximum effort and conservation production, the stability clause, customs exemptions, the assignment of the contract to third parties, force majeure, and the method of dispute resolution) were explained and legislated.

In the continuation of the oil act of 1974, the shortcomings of the previous oil law were corrected; the service contracts were also allowed in accordance with the international and domestic developments, and their conditions were mentioned in detail; further, all the issues that should be addressed in a legal set were considered under the title of oil law. The role of the oil law in the development of oil and gas rights in the country was prominent and privileged in this period.

In the second period, after the Islamic Revolution, no single procedure was adopted in relation to the formulation of a comprehensive oil law, and the oil laws were very brief and concise; thus, the problem of the format of oil contracts, which is one of the most important issues in oil laws, has remained silent and has been dealt with in other laws except the oil law.

The eight elements of oil and gas contracts examined in this article are mentioned completely in detail in the buy-back contracts and IPC although they should have been addressed in the oil acts of 1987 and 2011. Therefore, we can conclude that the role of the law in the first period and the role of the contract in the second period are more prominent in the development of Iran's oil and gas rights.

It is necessary to pay attention to the fact that the main purpose of creating a legal framework is to provide the background, explain the rules governing oil operations, and define the administrative, economic, and financial guiding principles for investment activities in the oil sector. Therefore, the existence of a comprehensive oil law mentioning the basic issues of the oil industry provides both the possibility of considering the specific goals of general policies and strengthening the regulatory aspects in the legal framework, as well as determining the minimum standards and basic conditions for granting exploration or extraction rights of oil resources. In addition, leaving these issues completely to the discretion of the executive body puts the executive body under the pressure of the companies and provides the possibility of abuse.

On the other hand, including too many details in the law can lead to inflexibility, reducing agility, reducing bargaining power, and setting overly strict standards; as a result, companies are reluctant to enter contracts. Therefore, it seems that the optimal point of the role of law and contract in the legal management of oil and gas is to formulate an oil law that

- is brief but comprehensive and general;
- has determined the basic conditions and minimum standards of applicants for the exploration or extraction of oil resources;
- has specified important and specific conditions that must be agreed upon through negotiation.

At the same time, by creating flexibility in the law, the executors should be allowed to bargain and negotiate to some extent. For example, the provision of some powers in the law for the government

regarding granting special exemptions in special circumstances will be an effective lever for the government to obtain points from companies for the benefit of the country.

This procedure is better than the method of explaining the legal framework in a scattered manner in numerous and different laws such as oil law, foreign investment law, tax law, land use law, and environmental law. The coherence of the legal framework governing oil operations will be a great factor and motivation to attract foreign investment in this economic sector because international oil companies usually like to work in a country with a transparent and coherent legal system for oil operations.

## Nomenclature

BUSHCO	Bushehr Oil Company
DOPCO	Dashtestan Offshore Petroleum Company
ERAP	Entreprise de Recherche et d'Activite Petroliere
FPC	Farsi Petroleum Company
HOPECO	Hormoz Oil Company
IMINOCO	Iranian Marine International Oil Company
INPCO	Iran-Japan Oil Company
IPC	Iran Petroleum Contract
IROPCO	Iranian offshore Petroleum Company
LAPCO	Lavan Petroleum Company
NIOC	National Iranian Oil Company
PEGOPCO	Persian Gulf Petroleum Company

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