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Sabre-Rattling in the Persian Gulf: Legal and military aspects of the ideological confrontation between Iran and the United States

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Sabre-Rattling in the Persian Gulf

Legal and Military Aspects of the Ideological Confrontation between Iran and the United States

Walter Posch and Sascha Albrecht

When Iranian generals threatened in January 2012 to avenge any attack on the Islamic Republic by blocking the Strait of Hormuz, Barack Obama responded promptly and robustly. In a message addressed personally to Iran's Supreme Leader, the US President cautioned that "closing the Strait of Hormuz is our red line". To underline its seriousness, the warning was communicated to Supreme Leader Seyyed Ali Khamenei via several channels simultaneously. The Iranian reaction was reserved: they would study the message but generally speaking Obama had said nothing new about the American-Iranian relationship. To the extent that relations have been characterised by reciprocal mistrust since 1979, that is certainly true. With a lack of functioning communication channels between the two countries, the resulting acute tensions are bound to come to a head at regular intervals.

The Strait of Hormuz is of enormous significance for the world economy. More than fourteen tankers pass through every day carrying 17 million barrels of crude (2,700,000 cubic metres). This represents about 35 percent of the crude transported by sea and 20 percent of total global oil transport. The Strait is one of the world's busiest shipping lanes altogether, and its importance for Liquefied Natural Gas (LNG) is set to grow still larger, because Iran possesses the world's second-largest natural gas reserves. However, as yet it has no LNG handling facilities.

Shipping has no alternative to the Strait of Hormuz. Although pipeline projects to move oil from production fields along the southern Gulf coast to the Arabian Sea or right through Saudi Arabia to the Red Sea have been widely discussed, only the United Arab Emirates have to date succeeded in realising such a measure. They are currently building the Abu Dhabi-Fujairah pipeline to connect the Habshan oil field with a terminal and refinery at Fujairah on the Arabian Sea.

Any blocking of the Strait of Hormuz would trigger an international crisis and cause oil prices to skyrocket, rising to more than $200/barrel according to some estimates. Even the mere threat to blockade the shipping lane or to turn away vessels flying

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particular flags would cause prices to rise, by increasing the cost of transport and insurance.

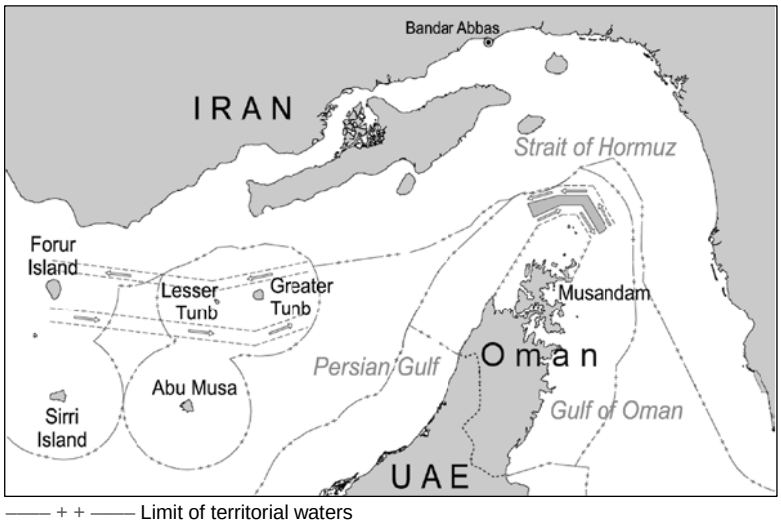
Aspects of International Law

The territorial waters of Iran and Oman meet directly in the Strait of Hormuz, so there is no high sea beyond national jurisdiction. But the Strait connects the exclusive economic zones of the states bordering Persian Gulf with the high seas in the Gulf of Oman. International maritime traffic here follows defined sea lanes.

Sea Lanes and the Tunb Islands

For purposes of safety and traffic management, coastal states are permitted to prescribe so-called "traffic separation schemes" (TSS) whose rules must be obeyed by all passing vessels. The "Strait of Hormuz" TSS lies in the territorial waters of Oman, north of the Musandam peninsula. As they continue westwards, most vessels on the main route use the TSSs passing north and south of the Forur and Greater and Lesser Tunb Islands in Iranian territorial waters.

Iran's ownership of the Greater and Lesser Tunbs and the island of Abu Musa is contested. Iran seized both Tunbs and part of Abu Musa after the British withdrew in 1971. (The Tunbs belonged to the Emirate of Ras al-Khaimah, Abu Musa to the Emirate of Sharjah, both of which are now members of the United Arab Emirates). Iran took control of the whole of Abu Musa in 1992, causing a further deterioration in relations with the Emirates. The United States is concerned about Iran's control over the islands but has not taken a position on the question of legal possession.



—— + + —— Limit of territorial waters

Transit Passage

Under the criteria of the United Nations Convention on the Law of the Sea of 1982 the Strait of Hormuz is a "strait used for international navigation". This status implies that the right of "transit passage" for ships and aircraft must not be impeded. Warships and military aircraft are explicitly included. The definition of "transit passage" permits vessels to travel in their usual mode: submarines submerged, warships in formation and with the right to operate their aircrafts and helicopters. Applied to the Persian Gulf and the Strait of Hormuz, this international regulation means that submarines coming inbound from the Arabian Sea are allowed to pass the straits submerged and then operate in the international waters of the Gulf, outside the territorial waters of littoral states.

In its declaration on the Convention on the Law of the Sea, Iran states that it accepts the right of "transit passage" only for states parties to the Convention, which excludes the United States, and only if warships first seek and receive authorisation from the Iranian authorities; submarines must surface and show their flag. This position is not recognised under international law. Diverging legal interpretations on questions of transit are one of the causes of the frequent Iranian-American confrontations in the Persian Gulf.

Although coastal states like Iran are permitted to set up sea lanes or TSSs and monitor their observance, a blockade or closure of the Hormuz sea lane, which is crucial for international shipping, would violate international law and be regarded as a hostile act against Oman, within whose territorial waters the route lies. There can

be no doubt that any attempt to close the Strait of Hormuz would lead to US-led countermeasures by the international community.

US Presence in the Gulf Region

The huge energy reserves and strategic importance of the Gulf region explain the interest of the United States, which has been engaged in the region since the Second World War. It maintains close political and military relations with all the Arab states in the Gulf region and has signed bilateral agreements with most of them. The military relationship with Kuwait and Bahrain is especially close, with both enjoying "major non-NATO ally" status. Bahrain is home to the headquarters of the Fifth Fleet, while Kuwait is in discussion as a base for US rapid-response forces. But the heart of the US military presence in the Gulf is Qatar, which is home to the regional US Central Command (USCC) and the United States Air Forces Central Command (USAFCC).

The United States also maintains close military and security relations with the states of the Gulf Cooperation Council, whose thrust is directed primarily against Iran. Cooperation centres on joint missile defence, which is ultimately based on bilateral rather than multilateral agreements.

The Carter Doctrine

The US reinforced its presence in the Persian Gulf after the Iranian Revolution of 1979. Under the "Carter doctrine", the United States has two paramount political objectives: to secure the flow of oil through the Strait of Hormuz and to prevent the establishment of any hostile power in the region. The United States regards any attack on this lifeline of the global economy as an attack on its vital interests.

How seriously the Americans take the question of free and safe passage through the Strait of Hormuz was already demonstrated during the Iran-Iraq War of 1980–1988. When the Iranians threatened to turn away tankers from nations that backed Iraq, the US conducted Operation Earnest Will and Operation Praying Mantis. In the subsequent naval battle numerous Iranian speedboats were destroyed, one frigate sunk and another disabled. It was in connection with these clashes in 1988 that the USS *Vincennes* mistakenly shot down an Iranian passenger aircraft. So Tehran already knows what it means to cross an American "red line". While there has been no relevant Iranian-American military incident in the Strait of Hormuz since then, tensions between the two states remain nonetheless.

US-Iranian Hostility

American-Iranian antagonism is above all ideologically rooted, and only in the second place strategic in nature. Both states are in principle pursuing the same strategic goal: the unhindered supply of oil and gas from producers to consumers via Musandam/Hormuz. To that extent a blockade of the Strait would harm Iranian interests too, as Iran also depends on oil exports. Under ordinary circumstances, such shared interests should promote political pragmatism and responsible cooperation. But that is prevented by ideological closure, above all – but not only – in Tehran.

Two mutually amplifying forces shape the policies towards the Gulf region adopted by the leaders of the Islamic Republic of Iran: Iranian nationalism and political Islam. Iranian nationalism is directed first and foremost against Arab neighbours. Iran sees itself as the dominant force in the "Persian" Gulf and consequently a regional power. This stance is upheld above all by the pragmatists in Tehran, for whom engagement in Lebanon is of lesser importance. Political Islam, which in Iran is an anti-imperialist current, is directed above all against the United States, and to a lesser extent the Arab Gulf states. Tehran's declared goal is to drive the Americans, and especially their Fifth Fleet, out of the region, to be superseded by a security archi-

tecture that includes Tehran and is ideally – but not automatically – dominated by Iran. Of course Tehran is aware that an American withdrawal cannot be expected in the foreseeable future and that it is in no position to drive the United States out of the region. Conversely, the American logic that the mere presence of US aircraft carriers should suffice to influence the politics of an adversary does not work in the case of Iran. On the contrary, Tehran acts as if it were absolutely unaffected by the military threat represented by the Fifth Fleet, and remains true to its anti-imperialist and nationalist foreign policy. The two opposing world views collide at close quarters in the Strait of Hormuz. Where the Iranians insist on their national sovereignty, the United States sees an "A2-AD" problem, a space where its influence is denied (*anti-access* and *area-denial*).

True to its self-image as a regional power, Iran emphasises its own ability to serve as the "doorkeeper" of the Strait of Hormuz and ensure security there in cooperation with Oman on the basis of international law.

Iran's Military Capabilities

The Iranian navy's equipment and its mission doctrine would not suggest any special capacity to project naval power. In this regard it clearly falls short of the capabilities and capacities of European navies like those of the United Kingdom, France or Italy.

The Islamic Republic divides its naval forces into the Iranian Navy and the Navy of the Revolutionary Guards, the Pasdaran *(Sepah-e Pasdaran-e Enghelab-e Eslami)*. The Iranian Navy's principal area of operations lies beyond the Strait of Hormuz in the Arabian Sea, while the Revolutionary Guards operate in the waters of the Strait of Hormuz and along the entire Gulf coast as far as the Iraqi border. Here the Revolutionary Guard Navy serves typical "coast-guard functions" in the narrow sense and maritime policing. In line with their tradition of asymmetrical warfare, the Revolutionary Guards rely on speedboats, missile boats and submersibles of diverse provenance, while the Navy operates with classical surface vessels like frigates, corvettes, landing craft, minelayers and minesweepers.

The Iranian Navy also possesses a small but capable fleet of submarines comprising three vessels of the Russian Kilo class and twenty midget submarines (largely of the Ghadr class), which can carry out torpedo attacks as well as mine-laying operations or transporting combat divers. Each of the three Kilo class submarines can carry up to twenty-four mines, the Ghadr class probably eight each. On land, the Revolutionary Guards command mobile anti-ship and medium-range missile batteries. As well as being capable of attacking any ship passing the Strait of Hormuz, the range of these missiles also extends to the cities and US bases of the southern Gulf coast.

Mining

Iran would certainly be in a position to block the Strait of Hormuz, for example by mining. If Tehran were to decide to do this – which is rather unlikely – it would have advantages of the Law of the Sea, geography and hydrography on its side. Iranian submarines and surface vessels operating out of Bandar Abbas north of the Strait of Hormuz can move freely within their own territorial waters in close proximity to the Strait of Hormuz and along the entire coast, while foreign warships enjoy only the right of peaceful passage and are barred by international law from movements that would allow tailing or observation.

If Iran were to suddenly mine the Strait of Hormuz it would have to secure the mined waters and prevent any attempt by the US navy to clear them. Tehran could deploy small fighting vessels, some of them missile-armed, to force minesweepers to turn back. Such an operation would have to be secured and supported by land-based

missile batteries, specifically anti-ship and medium-range missiles.

Alternatively, or to support a blockade of the Strait of Hormuz, Iran could temporarily suspend the right of passage in its coastal waters elsewhere than the Strait, for example in the Tunb-Forur sea lanes. But this action would be permitted only "if such suspension is essential for the protection of its security", and neither legal nor actual discrimination of foreign vessels is permitted. Because the Tunb-Forur corridor, according to Tehran's interpretation, lies in Iranian territorial waters, the Iranian Navy can move more freely here than at Hormuz. But under international law a country may mine its own waters only if this poses no danger to uninvolved third parties, and safe passage is still ensured or alternative routes are kept open. Shipping would have to be warned in good time. Moreover, international law places the strictest of conditions on the use of mines. Their position must be recorded precisely in order to allow them to be cleared safely after the end of the conflict.

In the course of an escalation Iran could certainly mine its own waters in order to place considerable obstacles in the way of hostile military operations and create a protective barrier behind which it can operate more freely. Such a minelaying operation would definitely have a psychological impact on international shipping.

Iranian Defence Strategy

Tehran is certainly well aware that a blockade of the Strait of Hormuz would represent a major provocation. While that would trigger a conflict with the United States that Iran could not win militarily, this should not be taken to mean that Tehran would avoid a military confrontation at all costs. If the inviolability of their territorial waters, their borders or the regime's survival are in play, the Iranians will defend themselves. Indeed, the entire Iranian strategy in the Gulf is designed for defence, with the naval tactics formulated by Admiral Ashkbus Danehkar in the 1980s setting out to beat superior American force by unconventional warfare.

This approach applies maritime "guerrilla tactics" based on full exploitation of the geographical (coastline, islands) and hydrographical (shallow waters) conditions and ideological positioning of the struggle in the national/Iranian and international/Islamist contexts.

If the Americans were to decide to enter Iranian territorial waters, they would have to be prepared for the conditions there. The highly indented coastline with numerous bays is ideal for Iranian speedboat operations, while the shallows of the Strait restrict the manoeuvrability of the large warships and aircraft carriers of the Fifth Fleet. In other words, the Iranians would not expect to be confronted with the full force of the Fifth Fleet, but only with individual vessels. Their response would consist in swarm attacks by missile armed speedboats, under whose protection submersibles would get close enough to fire torpedoes or to blow themselves up. The Iranian Navy would support the attack with its submarines and the Pasdaran with its land-based missile batteries. In the course of the fighting Iran would attempt to close the Strait of Hormuz to cut the Americans off from the high seas.

Estimates of Iranian military readiness and capability differ. International military experts point to their relatively outdated weapon systems and difficulties coordinating different naval units. The Iranian Navy's land-based command and communication centres are likely to be eliminated by the United States at the outbreak of any hostilities. Moreover, it must be assumed that the Americans know the whereabouts of the most important mine depots, and that US reconnaissance would quickly spot and stop minelaying operations.

Other experts respond that the Iranians are able to deploy their weapon systems effectively, know the potential area of operations very well from exercises conducted there, and have granted their commanders

and commanding officers greater battlefield autonomy. Indeed, in one US war game the "Iranian" side is reported to have repelled an attack.

All the same, no expert would really give much credibility to the idea of Iranian victory over the US Fifth Fleet. Nor is that the objective of Iranian defence doctrine, which focuses instead on raising the political and moral cost of aggression to such a point as to persuade the United States to refrain. That is the Iranian strategy for preventing a repetition of a limited intervention like Operation Praying Mantis, which caused few casualties on the American side.

Accordingly, Tehran has no intention of attacking the US fleet in the Gulf. That excludes from the outset the "Pearl Harbor" scenario of peace-time attack on the American fleet in Bahrain. Instead Iran places its faith in a defensive operation making a respectable enough showing to underline its claim to leadership in the Islamic world and its regional power ambitions in the Persian Gulf. Sinking or even just disabling a single US warship would represent a great embarrassment for the United States, boost anti-American sentiment in the region and create nervousness among the United States' Arab allies and Israel.

The Iranians would even be able to turn a defeat to ideological ends. Revolutionary guards killed by highly armed Americans while defending their homeland in speedboats and small fighting vessels would supply exactly the images needed to reinterpret military defeat as ideological and political success. Tehran would be able to score points both at home and across the region, and not only among the Shiites. In the best case the Iranian regime would succeed in restoring the prestige it has lost in recent years among ordinary Sunnis.

The precondition for that course is that Tehran has international law on its side and the United States is clearly the aggressor. This is the background to regularly repeated warnings in the Iranian press about the possibility of a US-provoked incident being used as a pretext to attack.

The logical conclusion would be to stay calm and, at least at the professional military level, maintain normal military relations with the United States. But that is not how revolutionary Iran ticks. The United States must be regularly reminded of the existence of the Islamic Republic and its anti-imperialist identity, especially at such a symbolic place as Hormuz, and best of all by means of calculated provocation.

Calculated Provocation – Incalculable Escalation

After three decades of American presence in the Persian Gulf a certain level of routine has become established between the Iranian Navy and the US Fifth Fleet. Whenever a change-over occurs and the United States replaces vessels in the Fifth Fleet, the Iranians demand that the warships identify themselves as they pass through. The United States routinely rejects this request with reference to the customary right of "transit passage" provided by the Convention on the Law of the Sea (which neither the United States nor Iran have ratified). In response the Iranians send out speedboats to identify the US warships. The crew of one of the boats makes radio contact with the Americans, while the others manoeuvre close to the US vessels and note their hull numbers and names. Although the Iranian boats and crews are normally unarmed, these operations are anything but harmless, as the Iranians deliberately ignore the usual safety distance and try the patience of the American crews.

This approach is a textbook case of seeking maximum political impact with meagre military means. By forcing the Americans to respond and reminding the Fifth Fleet of Iranian sovereignty, the Revolutionary Guards fulfil their purpose at fabulously low cost. In 2008 five Iranian speedboats faced off against three heavily armed modern American warships.

There are two reasons why the United States cannot ignore the Iranian speedboats. Firstly, because the presence of the

Fifth Fleet is largely a political matter, now that the establishment of a string of American air bases in the region has eroded its military importance. Secondly, because of the bitter experience of the year 2000, when seventeen sailors were killed and thirty-nine seriously injured after suicide attackers linked to al-Qaeda used speedboats to attack the USS *Cole* in the port of Aden. Therefore it is only logical if American commanding officers treat the Iranian manoeuvres as "exercise" for possible suicide attacks.

For the Iranians military reconnaissance is foremost. Given that they are likely to have precise information about the number, type, identity and movements of US vessels (also from other sources such as lookouts on oil rigs, informants in ports, etc.), an American surprise attack appears unlikely.

It is due in the first place to the professionalism of the American crews that there has not been any serious incident to date. Any misinterpretation of the risky Iranian moves could have unpredictable consequences and lead to armed clashes.

It is therefore understandable if the Americans respond with anger to the regular Iranian provocations, as most recently in January 2012. The United States regularly reminds Tehran that it is willing and able to secure free passage by force if need be. The Iranians generally respond to American protests by pointing out that the whole Gulf region lies within range of its missiles. At the same time they know that conflict would cause oil prices to rise and regard this as insurance that the United States will take no stronger action.

However, the leaders of the Pasdaran Navy forget that the political circumstances can change rapidly, as happened in 2008 and in January 2012. Both times Iranian behaviour that under calmer political conditions would have drawn little attention was taken up by the international media and contributed decisively to a heightening of political tensions. Iran was perceived as irresponsible both within and outside the region.

The difficulties are worsened by the lack of reliable communication channels between the American and Iranian navies. In any crisis situation, when confusion arises, or simply an accident occurs at sea, contact has to be improvised. Although American vessels have bridge-to-bridge contact with the regular Iranian Navy, which as mentioned operates outside the Strait of Hormuz, there is no contact at all to the Revolutionary Guard Navy.

The Americans have repeatedly proposed setting up a hotline like the Cold War "hotline" between the United States and the Soviet Union. Back then, despite all ideological differences, the two sides even managed to conclude an "Agreement on the Prevention of Incidents On and Over the High Seas". By rescuing Iranian hostages from the hands of Somali pirates in January 2012 the US Navy has even offered a humanitarian and political gesture. At least in the fight against piracy in the Gulf of Aden there is a convergence of interests between the Islamic Republic of Iran and the West.

As was to be expected, the Iranian side did not respond to the American proposal. The reason for this is ideological in nature, for by establishing a direct telephone connection Iran would be consenting ipso facto to the presence of the Fifth Fleet in the Persian Gulf. Otherwise too, the Revolutionary Guards show scant enthusiasm for contact with American authorities that keep them on the international terror list. Without the reassurances that can only be guaranteed by a direct link, ideally in the scope of an agreement, the risk remains the next change-over in the Persian Gulf could see the hitherto calculable provocations turning into uncontrollable escalation.

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