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TECHNOPOLITICS OF A CONCESSIONARY CONTRACT: HOW INTERNATIONAL LAW WAS TRANSFORMED BY ITS ENCOUNTER WITH ANGLO-IRANIAN OIL

Abstract
The Iranian government's decision to nationalize its British-controlled oil industry in 1951 was a landmark case in international law. The Anglo-Iranian Oil Company and the Iranian government clashed over whether international authorities had the right to arbitrate for them in disputes over the terms of the oil concession. Scholarship in Middle East studies has overlooked the role of concession terms in shaping political disputes in the 20th century. Rather than seeing legal studies of the oil industry on one side and power struggles and resources on the other, this article examines international court proceedings at The Hague to argue that Anglo-Iranian oil transformed international law. Novel mechanisms of economic and legal governance, set up to deal with an expanded community of nation-states, worked as techniques of political power that equipped the oil corporation with the power to associate Iran's oil with foreign control while generating new forms of law and contract that undermined resource nationalism.

Keywords: infrastructure; international law; Iran; national sovereignty; oil

> Any differences between the parties of any nature whatever. . .. by the terms of this Agreement . . . shall be settled by arbitration. If one of the parties does not appoint its arbitrator or does not advise the other party of its appointment . . . the other party shall have the right to request the President of the Permanent Court of International Justice . . . to nominate a sole arbitrator . . . the difference shall be settled by this sole arbitrator.
>
> Before the date of the 31st December 1993 [date of expiry] this Concession can only come to an end in the case the Company should surrender the Concession (Article 25) or in the case that the Arbitration Court should declare the Concession annulled as a consequence of default of the Company in the performance of the present Agreement.
>
> –Articles 22 (A) and (D) and 26 of the 1933 Anglo–Iranian Oil Concession

The post–World War II petroleum order witnessed a series of governments including Venezuela, Saudi Arabia, and Iraq, taking steps to nationalize their foreign-controlled oil industries. In the Middle East, the first instance of this clash between a multinational

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oil corporation and a national government occurred in March 1951 when Iran's parliamentary oil committee approved a resolution recommending nationalization of the oil industry and requested that the majlis allow the committee two months to study how to put nationalization into effect. The parliament's legislative decision to formally nationalize the British-controlled oil industry later that month coincided with the most controversial confrontation between oil workers and the Mosaddegh government, lasting from March to April 1951. The act of nationalization did not mark the cause of the dispute, but was merely the outcome of controversies concerning the authority and terms of the Anglo-Iranian oil concession over profits, production, and labor, proliferating over the course of five decades.[1]

The transportation of Iran's oil nationalization dispute to the international legal arena occurred from many sites between 1948 and 1952 when the validity of the 1933 oil concession, the calculation and control of profits, and the replacement of British managerial and technical staff with Iranian labor were scrutinized. These disputes reopened as controversies susceptible to alternative kinds of arrangement with political ramifications larger than ever before.

This article examines the ways in which Anglo-Iranian oil transformed international law, helping to constitute a peculiar distinction between civilized and uncivilized, and between developed and developing. International law and the new Bretton Woods institutions of the mid-20th century sought to redefine the powers of former colonies as new states in the process of decolonization. The Middle East was a central site for such intervention and political redefinition. Historical scholarship has not addressed the infrastructure of this socio-legal relationship as a political project.[2] Political histories of Iran in the Mosaddegh period discuss the legal aspects of the oil nationalization crisis in terms of their impact on the 1953 coup d'état and domestic political events in Tehran.[3] Histories of nation-states and sovereignty ignore the procedural work of laws and contracts concerning natural resources in constructing the newly emergent postcolonial states.[4] Many studies exist on how petroleum laws and contracts impacted Iran's oil industry, for example, but not on the transformative work of oil in law.[5] International legal studies refer to the Anglo-Iranian oil dispute in discussing the need for an expanded scope of laws to deal with economic development contracts.[6] After World War II, international law was unfit to deal with the emergence of newly sovereign postcolonial states. These new states were the sole recipients of this type of economic development contract, known as a "concession" in the colonial period. The eventual legitimization of "raw material sovereignty" in the 1960s marked a remarkable transfer of legal power that challenged the international political and economic order.[7] The origins of international relations between the so-called Global North and South, or the Third World, were constructed, in part, out of the need to maintain these contractual agreements between multinational corporations and new states with natural resources such as oil.[8]

This discussion takes seriously the pivotal role of concession terms in shaping political disputes. I argue that the law was not simply a way of extending existing power relations and maintaining the Iranian government in a position of weakness. Rather, Anglo-Iranian oil transformed international law. I trace the construction of the law as a site of political contestation and an apparatus for defining who can act and on what terms with political consequences of sovereignty and revolutionary movements. Anglo-Iranian oil's encounter with the law created new spaces of immense political and economic significance on an

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international scale and in the public arena. By focusing on court proceedings at the International Court of Justice (ICJ) at The Hague, I investigate the ways in which the British government and the Anglo-Iranian Oil Company (AIOC) attempted to resolve the dispute in legal terms in order to exclude political questions of national control. Rather than seeing legal studies of the oil industry on one side and power struggles and resources on the other, I argue that this distinction was the outcome of a political process of assembling new legal doctrines, court proceedings, government officials, lawyers, and oil operations in ways that allowed the oil company to step outside of local constraints and make claims in terms of Western civilization and justice. Only in this way would relations between politics and markets in oil remain predictable and stable.

Alongside the emergence of the transnational oil corporation as a new political actor, the mid-20th century witnessed the rise of international regimes of legal and economic governance such as the United Nations, the International Court of Justice (ICJ, formerly known as the Permanent Court of International Justice), and the International Bank for Reconstruction and Development (World Bank). Ostensibly set up as neutral organizations to aid in postwar reconstruction and so-called Third World development, each organization played a role in managing the oil nationalization dispute by proposing economic and legal arrangements for a resolution in 1952.[9] The effect was to further delay Iran's reformist nationalist government from implementing nationalization while allowing for time to put in place a set of mechanisms for keeping less democratic forms of politics inside oil operations and others, such as striking oil workers demanding nationalization of their country's oil, out.

As the crisis unfolded between 1951 and 1954, international lawyers debated whether a contract had been signed between a private entity and a government, two governments, or both.[10] Tracing the transportation of the dispute from southwest Iran to The Hague, I reveal the ways in which both sides battled over the framing of issues. The central problem concerned the right to nationalize a foreign-controlled oil industry, only for the British side to witness the failure of the association of oil with the authority of the AIOC's concession and the successful upholding of the sovereign rights of the Iranian nation. As in the past, the British side hoped to enlist international law to mark the difference between civilization and disorder, legal expertise and ignorance, and to create delays until an advantageous solution—the preservation of concessionary authority—was achieved. When this particular truth-making strategy failed, violence and a CIA-engineered coup d'état in 1953 transformed the proposed format of the international consortium arrangement from possibility to reality. These tools and techniques formed the last set of connections available to finalize the Iranian consortium deal within an appropriate, reformist-nationalist framing and the restoration of foreign control over oil among the seven largest Anglo-American oil companies.

The concessionary contract embodied a colonial relationship that needed to be transformed in a postcolonial environment. Iran was not formally colonized, but it occupied a unique position because its oilfields served as the site of the first North–South confrontation over the reconfiguration of this colonial project, generating a novel international law of imperialism based on contract. The result was to determine the sovereignty of the non-European nation-state within a new world order of separate nation-states consolidated first by the League of Nations followed by the UN, the World Bank, and the International Monetary Fund.[11] The sovereignty doctrine was coeval with the acceptance

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of these international standards, as occurred in the Middle East. Standardizing an international framework of contracts was a crucial attempt to establish that international law was neutral, that arbitrators were doing no more than enforcing the agreements freely entered into by sovereign states on the one hand and multinational companies on the other.[12] The Anglo-Iranian oil nationalization crisis makes visible the set of mechanisms available for generating a new body of international law known as "transnational law" and a novel legal doctrine, permanent sovereignty over natural resources. The powers of "new states" in the process of decolonization took shape in this socio-legal infrastructure during an ongoing battle over the terms by which (Western) foreign firms would continue to undermine the sovereign claims of non-Western nations to their natural resources.

INTERNATIONALIZATION OF THE ANGLO-IRANIAN OIL DISPUTE

In Iran, an alliance of oil workers, religious political groups, the reformist-nationalist National Front, and the now clandestine, communist Tudeh Party came together in support of nationalization. This collective of conflicting political groups framed the oil issue as one of national sovereignty and, therefore, Iran's inherent claim to a natural resource. In a speech to the majlis, Mosaddegh explained why the AIOC had not fulfilled the terms of the concession. He referred to Article 16 of the 1933 concession calling on the progressive replacement of non-Iranian employees by Iranian nationals in "the shortest possible time"; Article 14 with regard to the duty of the company to place at the disposal of the Iranian government "the whole of its records relative to scientific and technical data"; and Article 10, the gold clause, which was intended to protect the Iranian government against losses that might result from fluctuations in the value of the British pound sterling.[13] Majlis deputies submitted a total of sixty-seven proposals ranging from a reversion to the D'Arcy concession of 1901 to a fifty-fifty arrangement with Iranian control. But, as Mostafa Elm explains, it was the proposal drafted by Mosaddegh and his National Front allies on 11 January 1951, calling for nationalization of Iran's oil industry, "that set the future course of the Majlis and the government."[14] The AIOC then attempted to reopen negotiations on a fifty-fifty arrangement, but these attempts were blocked on 19 February 1951, when Mosaddegh presented the Special Oil Committee of the majlis with a formal resolution for nationalization.[15]

On 15 March 1951, the majlis passed the "Single Article" bill, nationalizing the Iranian oil industry. In April, a more detailed bill of nine articles was passed by the majlis and the senate, and then approved by the shah in May 1951.[16] Through such legislation, the Iranians transformed the question of oil nationalization into a legal-national issue to increase their bargaining power. The Nationalization Law had three effects in legal terms: it cancelled the 1933 oil concession; it expropriated all the property of the AIOC in Iran relating to the oil industry; and it vested the expropriated oil industry in the new political actor, the National Iranian Oil Company.[17]

Following the passage of Iran's Nationalization Laws, the AIOC responded in legal terms by requesting arbitration according to the provisions of Articles 22 and 26 of the 1933 concession, quoted earlier.[18] Amid an imminent crisis in Tehran and in the southwest oil fields where workers were preparing to go on strike, the British Foreign Office decided that it was concerned with the AIOC's policies in Iran and proceeded to take an active part to prevent the oil industry's nationalization.[19] Before the Iranian

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government had a chance to reply to the company's request for arbitration, Francis Shepherd, the British ambassador, presented the Iranian government with an aide-memoire, which set forth "in strong language" the British government's view on the legal position of the company.[20] If Iran rejected the company's request for arbitration, it specifically reserved the right to transform the dispute into an international issue, just as it had done in 1932–33, by taking the case to the ICJ at The Hague.[21] The aide-memoire also reiterated the offer that the dispute might be solved by negotiation.

For the second time in its history, the British-controlled oil company was threatening to transform a concession dispute into international legal terms as a means of protecting its concession rights and rendering Iran's oil nationalization illegitimate. On 15 May, the British government took a drastic step by announcing that paratroopers were being held in readiness in the United Kingdom to protect its nationals and prevent the "illegal seizure of the property of AIOC."[22] In response, Iran's minister of finance, M. Ali Varasteh, wrote to the AIOC representative in Tehran, that his government rejected the AIOC's request for arbitration. The nationalization of the Iranian oil industry was not referable to arbitration and "no international authority was competent to deal with the matter" because it was entirely within the domain of the Iranian government.[23]

In a speech to the foreign press, Mosaddegh spelled out Iran's reasons for refusing to arbitrate by framing the dispute in terms of national sovereignty. First, the sovereign right of the Iranian nation entitled it to nationalize its oil industry.[24] Second, Mosaddegh argued that the 1933 concession was signed under duress, rendering it invalid. Third, the majlis had not acted in a way that gave the AIOC reason to refer the matter for arbitration. He agreed that if the question had been raised in terms of the validity of the agreement, the need for arbitration would arise, but "neither the Majlis nor the Iranian government has raised any point regarding the agreement."[25] Therefore, the oil company could not invoke the arbitration clause.

The AIOC responded that as a consequence of the Iranian government's refusal to rely on arbitration, the company was applying to the president of the ICJ to appoint a sole arbitrator in accordance with Article 22, paragraph D of the 1933 concession. The following day, the British embassy in Tehran notified the Iranian government that the British government, as a separate party from the AIOC, had brought the oil dispute before the ICJ. The Iranian government had declared the concession null and void yet the AIOC continued to draw on its articles for leverage. The Iranian government and the AIOC battled to frame the dispute in legal terms, one group on the basis of its sovereign rights and the other on the basis of its oil concession. Now the British government stepped in, on behalf of a private corporate interest in which it had a 51 percent controlling stake by taking the case to the ICJ. An entire legal order was being invoked for the second time in the concession's history.

Eric Beckett, legal adviser to the British Foreign Office, submitted the "Application" instituting proceedings at the ICJ. The "Application" requested the court to declare the execution of the Iranian nationalization law a violation of international law in so far as it claimed the unilateral annulment of the terms of the 1933 concession. By rejecting the company's request for arbitration, the Iranian government denied the company the exclusive legal remedy provided in the agreement.[26] The British government made claims to the ICJ to justify the authority of the concession and ensure its stability.[27] If the Iranian government persisted in rejecting this legal remedy, it would be responsible for "a denial

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of justice against a British national." In its conduct, the Iranian government had "treated a British national in a manner not in accordance with . . . international law and have in consequence, committed an international wrong against the Government of the United Kingdom."[28]

The British government made its case on behalf of a private company, framed as a British national that had not been treated in accordance with international law. As Alan Ford explains, there were two basic questions that would determine the legal validity of the Iranian nationalization laws from the perspective of the British government: the actions taken in the course of their execution, and the international responsibility for such actions.[29] The first question concerned the propriety of Britain's exercise of diplomatic protection. The second question concerned the international law governing the right of a state to expropriate the private property of aliens, such as a foreign firm, located within its borders.

Contrary to Mosaddegh's view, the British government argued that the ICJ held the jurisdiction to determine the outcome of the dispute because it fell under the terms submitted with the League of Nations in September of 1932, when the Iranian government "accepted jurisdiction of the Permanent Court of International Justice in conformity with Article 36 (2) of the Statute of that Court."[30] Thus, according to the British side, Iran was bound to accept "on the basis of reciprocity vis à vis any other government" the jurisdiction of the ICJ. The legal question of whether a state had committed a breach of international obligation could not be decided exclusively within the domestic jurisdiction of the state. The "Application" referred to various treaties and other agreements accepted by Iran, which indirectly obliged it to accord to "British nationals the same treatment as that accorded to nationals of the most favoured nation." The British government concluded that Iran had breached both "the rules of customary international law" and "the treaty obligations accepted by that Government" in accordance with the terms it signed at the League of Nations. International tribunals such as the League of Nations and the ICJ operated as an economic mechanism to replace conflicts over material resources and the flow of international finance.[31] The ICJ in particular was one of the international organs becoming increasingly involved in transforming bodies of law, private law, and rules into "norms of public international law."[32]

The British government's decision making in the AIOC controversy was informed by the view that the potential "acceptance of unilateral termination of a contract" would jeopardize foreign investments everywhere.[33] By asking the ICJ to acknowledge its Application, the British government was requesting that it oblige the Iranian government to submit its dispute with the AIOC to arbitration, or alternatively, to declare that the Iranian Oil Nationalization Act of May 1951 was contrary to international law. The British government also reserved the right to request that the court indicate provisional measures which might be taken to protect the British government and "its national," the AIOC, and to enjoy the rights to which it was entitled under the concession. Thus, the Anglo-Iranian oil case was an example of the use of public law to protect private actors, namely, the multinational oil corporation. Arbitration constituted one specific technique of power for the resolution of such disputes.[34] The first generalized use of the arbitral concept in state contracts occurred in oil concession agreements in the Middle East, having originated in the earliest oil concession granted to William Knox D'Arcy by the Iranian government in 1901, and the practice was followed in most

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agreements concluded through the 1960s.[35] New doctrines concerning permanent sovereignty over natural resources and foreign investment contracts (e.g., concessions) would be generated by the precedents and arbitral decisions set in the Middle East in the 1950s in Iran, Abu Dhabi, Qatar, and Egypt.[36]

Whether the British government had the right to use diplomatic protection by framing a private corporation based within its territories as a "British national" was controversial. According to Ford, "it is an elementary principle of international law that a state has the right to protect its nationals when they have been injured by the internationally illegal conduct of another state."[37] Further, if the state, as with the British in this instance, "takes up the case of its injured national," through diplomatic channels or by pursuing international judicial proceedings, "the fact that the dispute originated in an injury to a private person or interest is irrelevant, since the state is asserting its own right." The injury to the national was an injury to the state, and internationally, the state is the sole claimant. Furthermore, "a state can interpose on behalf of a corporation incorporated under its own laws, the nationality of the corporation being derived from the place of incorporation." Thus, in the present case, "it's clear that AIOC is a British national on whose behalf the British government would be entitled to interpose," if the court establishes that the AIOC "suffered injury as a result of the illegal conduct of another state." The intervention of the British government on behalf of the AIOC was not done in vain because it generated new controversies in international law about the juridical character of the concession agreement and whether the parties to the agreement, one a sovereign state and the other a private entity, were equal subjects under international law.[38]

The Iranian minister of foreign affairs informed the ICJ that his government did not recognize the jurisdiction of the court to deal with the matters in the dispute.[39] The Iranian government announced that while it would agree to discuss its oil requirements (not the AIOC's) with the British government, it refused to consider the British government a party to the oil dispute, which was a domestic matter between itself and a private company. The Iranian government and the AIOC still needed each other. Iran needed the company's expertise and facilities to keep oil and profits flowing and the company needed Iran to stabilize its concessionary rule.[40] The AIOC representative, Richard Seddon, argued that while the British government could not accept the Iranian government's right to repudiate contracts, the company was prepared to consider a settlement "which would involve some form of nationalization, provided . . . it were satisfactory in other respects."[41] In a meeting with the finance minister, Ali Varasteh, the Iranian government expressed its desire to draw on the company's experience to implement the nationalization laws and invited the AIOC to submit proposals on this.

The Iranian delegation subsequently rejected the AIOC's proposals on the grounds that they were inconsistent with the laws of oil nationalization.[42] The AIOC's proposals offered a £10 million advance against any sum that would be due to the Iranian government as a result of an eventual agreement and based on the understanding that Iran would not interfere with the company's operations. The company also proposed that the Iranian assets of the company be vested in a "National Oil Company," while the use of such assets be granted to another company established by the AIOC, which would have a number of Iranian directors on its board. Such concessions, Ford suggests, were very small "with no real changes."[43] Negotiations ended the following day, and the British government returned to the ICJ to submit its "Request for Interim Measures of Protection."[44]

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Proposals and counter-proposals proliferated as the AIOC, the British government, and the Iranian government battled to frame the dispute in advantageous ways. The boundaries between the AIOC and the British government were blurred, making it difficult to distinguish one as a state and the other as a private corporation.

With the AIOC offer rejected, the British government submitted its request for interim measures on the grounds that if the ICJ were to decide in favor of the claims made by the British government, the decision could not be executed because the "gravest damage" would already be done to the AIOC operations in Iran.[45] According to the British government, the ICJ must indicate interim measures of protection to "prevent any step that might be taken to aggravate . . . the dispute."[46] The Iranian government was using "the inflammation of national feeling" through propaganda to unjustly vilify the company, illustrated in the death of three British personnel during the strike at Abadan in April 1951.

The interim measures of protection, argued the British government, must oblige the Iranian government to permit the AIOC to continue with oil operations as before.[47] Such provisional measures were another kind of technical procedure the British government used to impede the flow of oil (Iran wanted to increase production) and frame the issues in favor of the British bargaining position, which would delay the Iranian government from executing nationalization by pursuing legal proceedings at the ICJ. This process of temporization did not work alone. Rather, it was connected to impeding the flow of oil income accrued by the Iranian government by allowing time for other kinds of technical and financial blockages, such as economic sanctions and an oil boycott, to take effect.

In subsequent proceedings, Frank Soskice argued on behalf of the British government that the ICJ should accept the request for interim measures prior to the determination of its jurisdiction in the case.[48] The British government was extending the dispute's scope globally, rather than keeping it a matter to be resolved by the Iranian government with a private company. Effectively erasing the political question of nationalizing an oil industry, Soskice concluded that the Iranian government should permit the company to execute the terms of the concession before any further damage occurred.[49]

Baqer Kazemi, the Iranian foreign minister, replied to the British government's request for interim measures with a message consisting of a series of grievances challenging ICJ jurisdiction and the validity of the 1933 concession. The message stated that the Iranian government hoped the ICJ would declare the case as "not within its jurisdiction because of the legal incompetence of the complaint and because of the fact that the exercise of sovereignty is not subject to complaint."[50] The claim to national sovereignty over oil was a political tool that the Iranian government relied on to generate a disruption in international law, which needed to account for the emergence of the transnational corporation as a new kind of "nonstate" actor. International lawyers writing in the 1950s referred to the AIOC case and other arbitrations arising out of disputes between Middle Eastern states and international oil corporations. They devised a novel legal doctrine known as "transnational law," which combined domestic, private, international, and public law for the regulation of this new politico-legal reality.[51]

The ICJ finally ruled in July that pending its final decision, a series of provisional measures would apply "on the basis of reciprocal observance."[52] The ICJ indicated measures proposed in the British government's "Request." Two Judges, Bogden Winiarski and Abdel Hamid Badawi, submitted dissenting opinions to the ICJ's order. They argued

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that the question of interim measures and the question of jurisdiction were necessarily linked: the ICJ had the power to indicate interim measures "only if it holds . . . that it is competent to hear the case on its merits."[53] While in municipal law, "there is always some tribunal which has jurisdiction," international law required the "consent of the parties, which confers jurisdiction on the Court." Without this, there was no jurisdiction for indicating measures of protection. Such measures, they argued, were "exceptional in character in international law and to an even greater extent in municipal law." The measures might be "easily considered a scarcely tolerable interference in the affairs of a sovereign State." The dissenting opinions, which ruled in favor of Iran's national sovereignty, did not hold, however, and the British foreign secretary accepted the ICJ's decision.

The Iranian government took immediate steps to return the dispute to a domestic-legal venue by sending a telegram to another international body, the United Nations Security Council. Addressed to the secretary general of the United Nations, the Iranian government gave notice that it would be abrogating its declaration of 19 September 1932, recognizing the compulsory jurisdiction of the ICJ, and one of the bases on which the British government maintained that the Iranian government must respect the court's authority.[54] The Iranian government regarded the ICJ's order as unenforceable because the ICJ had acted without jurisdiction, contrary to the provisions of the Statute of the Court and in violation of the United Nations Charter.

Transporting the dispute to tribunals in the international arena worked by extending the network of legal regulation attached to the oil, and keeping certain associations tied together on behalf of the British government and the AIOC.[55] Made possible by a proliferation of legal procedures, "internationalization" was a mechanism by which the British stabilized their control of Anglo-Iranian oil while undermining the sovereignty of the Iranian state by ensuring that concession contracts were not governed by municipal law. The mechanism transported the oil from local to international settings and back, and won allies in trials of strength seeking to eliminate controversy. The procedural work of law entailed the translation of actors' goals to the advantage of the British side's bargaining positions. But it also enabled the Iranian side to push for a reformulation of the law in terms of national sovereignty over oil, something never argued before in international legal terms. The collective work of this legal disputation and machinery oscillated between the authority of international law and that of national sovereignty. The outcome was to help render Iran's oil nationalization intractable just as other technologies of intractability, in the form of economic sanctions and an oil boycott, got underway.

NATURAL RESOURCES, PERMANENT SOVEREIGNTY, AND THE DOUBLE CHARACTER OF THE CONCESSION

Iran refused to abide by the ICJ's interim measures until a final ruling was made on the court's jurisdiction in the oil nationalization case. As the crisis escalated in Iran and abroad, the British government responded by translating an international legal issue into an international security issue. The failure of US and British-led diplomatic missions to resolve the dispute had first triggered the AIOC's evacuation of all British staff from oil operations by August 1951. The Iranian government also served notice to all British

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employees to sign individual employment contracts with the National Iranian Oil Company or leave the country.[56] Iranian troops seized the Abadan refinery in late September, refusing admittance to all but ten British technicians. This prompted the British government to request the UN Security Council to intervene on its behalf.[57]

The British government's request to the UN Security Council argued that the Iranian expulsion order of British staff was a violation of the ICJ's order calling on both parties to comply with interim provisional measures.[58] Iran's position was that the Security Council, like the ICJ, was incompetent to consider the British complaint because Article 2, paragraph 7 of the UN Charter forbade the UN to intervene in matters "essentially within the domestic jurisdiction of any member nation."[59] Gladwyn Jebb, the British government's legal representative, argued that the ICJ's call for interim measures showed clearly that the dispute was at least "prima facie justiciable and not a matter solely within the domestic jurisdiction of Iran."[60] The Iranian government was creating an "inflammatory situation," which was a potential threat to "peace and security." Jebb argued that the Security Council should adopt the British government's resolution calling on Iran to revoke its expulsion order and comply with the provisional measures. This would ensure that "the role of law in international affairs is upheld, to say nothing of the prevalence of reason." Jebb continued that "on behalf of intelligent against unintelligent. . .. the resolution will create a landmark in the vast process of peaceful adjustment between ancient East and the industrialized West," which constituted the "major problem of our generation." Doctrines of international law could be put to work to manage relations between those countries anchored in the past (the ancient East), constituting a threat to peace and security, and those in the present (the industrialized West).

International law and security was an expression of civilization that enabled British legal experts to step outside local constraints, "it was thought, and thus acquire a universal vision and understanding."[61] Iran's arguments reflected "certain incontrovertible and classic principles regarding sovereignty and domestic jurisdiction,"[62] but the British government sought to exclude the local by framing its interests in terms of a peculiar battle, defining the universal struggle of an entire generation, the rule of law, and the industrialized West. This universality of the principles of international law and security "fixed its difference from what was exceptional and local"—the Iranian government, oil workers, and public opinion who lacked these features, most evident in their failure to follow legal "principles true in every country."[63]

As Antony Anghie explains, attempts by Third World countries such as Iran to regain control over their natural resources "generated . . . complex debates about several doctrines of international law."[64] The British invoked this emergent international legal order to re-establish the authority of the AIOC's oil concession over any other arrangement. But this discussion does not aim to open up the details of court proceedings in order to access the techno-legal content of the dispute. Rather, it tracks how mid-20th-century mechanisms of economic and legal governance, set up to deal with a new social reality of an expanded international community of nation-states, worked as techniques of political power that equipped the British with the agency to associate Iran's oil with foreign control and block national control of oil production. In this period, "developing states" such as Iran asserted their right to control their resources by relying on the principle of permanent sovereignty over natural resources.[65] Such efforts were connected to other emerging issues including the right to nationalize, the right to economic

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development, and the right to self-determination. The problem was that these states had played no role in the formulation of international law, which originated in Europe and became "universally applicable" in the 19th century "as a consequence of colonial expansion."[66]

In legal terms, every state has the undisputed right to vest properties and industries, "which it owns in a national board or company."[67] This constitutes an exercise of national sovereignty. As Bin Cheng explains, however, "this right has a corollary duty," the obligation to protect within its territory the rights of other states, and particularly, "the rights which each State may claim for its nationals in foreign territory."[68] In the exercise of its sovereign powers, therefore, a state is left by "international law with a great deal of discretion, which is the field of the State's domestic jurisdiction." But, to the extent that a state has duties under "international—customary or treaty—law, the matter ceases to be one which is exclusively within its prerogative."[69] While the Iranian government had the legal right to nationalize its oil resources within the field of its domestic juridical order, so too was it limited in these rights by having to abide by certain duties under international law. If the British government believed that Iran had failed to protect the rights of its national, a private oil company, the field of domestic jurisdiction in the exercise of Iran's sovereign rights was suddenly open for intervention and redirection in international law.

Second, a state has the sovereign right of expropriating private property within its territory, but is, at the same time, subject to international duties when the expropriation proceedings affect the property of aliens.[70] Cheng explains that in legal terms, a state may, in "certain exceptional circumstances, under the right of self-preservation," legitimately cancel a concession, "provided that compensation be paid to the concessionaire."[71] On the other hand, the case of cancellation does not entitle the "grantor Government unilaterally and arbitrarily to cancel the concession."[72] Such an instance must be deferred to an "impartial . . . tribunal." According to Article 26 of the 1933 concession, Iran did not have the right to cancel the concession. Instead, both parties to the concession agreement needed to nominate an arbiter, as stated in Article 22. However, if they failed to do so, they must resort to international law to appoint one. At the same time, the Iranian state appeared to have the right of cancellation so long as compensation was paid to the British concessionaire. Indeed, Mossadegh had insisted that "fair compensation" be based on the value of the oil installations in 1951, but the AIOC's understanding of "fair compensation" was based on projected profits until the expiry of the concession in 1993. As Ervand Abrahamian explains, it was ultimately America's rejection of Mosaddegh's formula for compensation that "became part and parcel of the destabilization strategy" that led to the August 1953 coup.[73]

In the legal view of the British memorial, however, the act of expropriation directed exclusively against foreigners constituted a "discriminatory" move exposing nationalization as a "disguise for confiscation."[74] Even if the Iranian government was entitled to terminate the concession of 1933 unilaterally, this right did not extend to Article 22 calling for arbitration. Thus, the British government sought to restore the certainty built into the concession's terms by referring to its articles on arbitration and insisting that the Iranian government's motives were hostile, disassociating them from the political question of the right to national sovereignty over oil.

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The crux of the British argument, which would serve as the basis for the ICJ's final judgment, was that the 1933 concession had "a double character." "On the one hand it was a contract between two parties," one a state and the other "a national" of the United Kingdom.[75] On the other hand, the concession implied an agreement between the government of the UK and the Iranian government. In 1901, a "prima facie international obligation" (concession framed in international diplomacy terms) was established upon a state, Iran, to observe the terms of the concession granted to a "foreigner," William Knox D'Arcy, such that the obligation was extended towards the United Kingdom, of which D'Arcy was a national. Thus, the "international responsibility" of the "grantor state," Iran, was engaged. This international obligation embodied a "contractual character," and therefore, according to the British government, "may be described as an implied treaty or convention between the two States concerned." The concession also had the character of an Iranian law but this did not prevent it from having the character of a contract or treaty too.[76] These legal points served as the basis for transforming the law by internationalizing concession contracts to enable foreign corporations such as the AIOC to take on a "quasi-sovereign status" and deal with nonwestern states such as Iran on an international playing field rather than a local-national one.[77] Anghie clarifies that "whether a quasi-treaty between a sovereign and a quasi-sovereign entity, or a contract between two private parties, what is common to both characterizations is the real reduction of the powers of the sovereign . . . state with respect to the Western corporation."[78]

One of the bases for the British government's case rested on the contention that the 1933 dispute, presented by the two governments before the Council of the League of Nations, was removed from the Council's agenda when, "but not until," the concession had entered into force on its ratification by the majlis and approval by the shah.[79] According to the British truth-making strategy, both disputing governments and the council had agreed to the withdrawal of the first concession dispute from the League of Nations in 1933. Thus, the act was the "equivalent of a resolution of the League accepted by the two parties," declaring that the dispute should be settled by enforcing the 1933 concession. It should be noted that the Council's actual ruling never expressed an opinion on the legality of the cancellation, the role of jurisdiction for the case, whether constituting diplomatic protection or a question for Iranian municipal law, or the legality of claims concerning the company's treatment of Iranian labor and its social impact on Khuzistan province. While the ruling acknowledged "the important questions of law" concerning the case, the council had simply approved a provisional agreement with both parties agreeing to the suspension of further proceedings.[80]

The British memorial made its case for the "double character" of the concession by framing its role in terms of an historical entanglement in the signing of the 1901 concession contract and its revision in the 1933 concession. This truth-making strategy relied on an assemblage of contracts, legal arguments, provisional measures, diplomacy, and economic sanctions. Working through the techno-legal details of the dispute has exposed the extension of British concessionary control from oil operations in southwest Iran to international tribunals abroad and back. International law and security worked as technologies of intervention helping the British side strengthen its bargaining position by transforming the political question of national control into a battlefield of technicality.

Contrary to the British position, the Iranian government did not want to associate international law with the flow of income from oil profits. Allahyar Saleh presented the legal

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basis of Iran's case to the Security Council, but this time on the grounds of a nationalist truth-making strategy which sought to include the political question of national control of the oil. He argued that the council did not have competence to deal with the dispute because the oil sources of Iran, "like its soil, its rivers and mountains, are the property of the people of Iran."[81] This ownership and authority constituted inalienable rights which rested on Iran's national sovereignty and equality among the other sovereign states of both the community of nations and the UN. He argued that the provision in the "Law Regulating Nationalization" on compensation to the AIOC, and the offer to employ British staff together demonstrated Iran's exercise of its sovereign rights, which was not "injurious to others."

Saleh associated the law to universal principles of sovereign rights. He argued that it was a settled principle of international law that in matters of domestic concern to which the dispute related, the exercise of sovereign rights "can neither be abridged nor interfered with by any foreign sovereign or international body."[82] Referring to Articles 1 and 2 of the UN Charter, he argued that their terms provided the basis for Iran's position that the council was incompetent to intervene in the oil dispute.[83] Invoking articles from the UN Charter as a legal defense represented an early attempt among "developing states" to use the UN General Assembly "to create a different type of international law," one that would work favorably in their interests when dealing with the West, particularly Western corporations.[84] The Iranian government had previously argued at the League of Nations that the concession was a "private agreement between the AIOC and the Iranian government," which could not limit Iran's sovereign rights to dispose of its resources as it saw fit. The British government had acted in violation of international law by seeking to "usurp Iran's sovereign rights in matters of domestic concern, by interfering in the internal affairs of Iran, by placing its armed forces" near Iran, and by its "abusive use" of the ICJ. The sovereignty of states, argued Saleh, rested within the laws established in Iran.[85] By relying on universalist rhetoric, Saleh rebutted the British argument that the Security Council was competent, but his country was in a weaker position militarily and economically than that of the British government, which had assembled warships in the vicinity of Iran.

HOW INTERNATIONAL LAW WAS TRANSFORMED BY OIL

After a series of delays on both sides, the Iranian government made its "Preliminary Objection" to the British government memorandum of 10 October 1951, addressing the competence of the ICJ, on 4 February 1952.[86] The "Iranian Declaration" limited the jurisdiction of the ICJ to disputes arising "after the ratification of the said Declaration" and similarly with regard to treaties or conventions.[87] The said "Declaration" confined itself to the Iranian government's undertaking to "respect in regard to British nationals the rules of general international law, the violation of which," it argued, was not invoked by the British government and therefore did not provide grounds for the commencement of proceedings before the court.[88] The Iranian government attempted to deconstruct the legal formulation put forward by the British by arguing that the concession did not possess the character of a treaty or convention because it was not made between two states, nor was it registered with the League of Nations as such. Thus, the court lacked jurisdiction.

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On 22 July 1952, over a year after the British government's "Application," the ICJ ruled that the court had no jurisdiction in the Anglo-Iranian oil nationalization dispute.[89] Ian Brownlie explains that before World War II, the notion that concession contracts might operate on the field of international law was "'heretical.'"[90] In 1952, the ICJ "declared in effect that an agreement between a state and a corporation was simply a concessionary agreement and could not be elevated to international law." Months later, in December 1952, UN General Assembly Resolution 626 was adopted on the right of people to exploit freely their natural wealth and resources.[91] On the one hand, the truth-making strategies pursued by the British government and the AIOC had provided a technical means for successfully delaying a resolution of the crisis until connections to other circuits and agencies—such as the flow of oil and income to the Iranian government—could be stabilized in an advantageous way. On the other hand, this strategy of temporization had failed to win the backing of international law. The court argued that Iran had "special reasons" for drafting the "Iranian Declaration" in a restrictive manner and excluding earlier circumstances. At the time, Iran denounced all treaties with other states relating to the Capitulations regime, uncertain as to the legal impact of these unilateral acts. It was unlikely that Iran would have willingly agreed to submit to an international court disputes relating to all of its treaties. Thus, the UK could not rely on them.

The court ruled that the 1933 concession did not possess a double character because the UK was "not a party to the contract," which did not constitute a link between two governments or regulate relations between them. Under the contract, Iran could not claim any rights from the UK, which it could claim from the AIOC, nor could it perform any obligations towards the UK, which it was bound to perform to the AIOC. This "juridical situation," argued the ICJ, "is not altered by the fact that the concessionary contract was negotiated through the League of Nations."[92] At the League of Nations, the UK had exercised its "right of diplomatic protection in favour of one of its nationals," and this had nothing to do with the contractual relation between Iran and the AIOC. Thus, the court concluded that it lacked jurisdiction. Arnold D. McNair, the prominent British judge who served as president of the ICJ between 1946 and 1955, concurred with court's judgement.[93]

The ICJ's judgment appeared to transport the dispute back to the domestic arena in Iran, suggesting that Iran's unilateral nationalization of the AIOC was legal. However, the ICJ ruling did not induce the British to relax the boycott of Iran's oil. As Mary Ann Heiss explains, the British interpreted the court ruling "simply as a recognition that it could not decide the dispute, not a ruling that the AIOC claims were invalid."[94] The British government's decision to resort to the rules of international law was intended to bring the truth of the principle of law to the disorder of striking workers in the oilfields and a nation lacking in adequate legal knowledge to take over an industry. Following the circuitry that was built between the control of oil in southwest Iran and institutions of international law and security has revealed the British strategy to temporize and delay in order to achieve an advantageous resolution. But this strategy of diversion failed to achieve the desired domination from London and the strengthening of the British bargaining position. Instead, international law ruled in favor of Iranian sovereignty in a landmark case known as *Anglo-Iranian Oil Co. (United Kingdom v. Iran)*, which set the precedent for future disputes between national governments of the Global South and foreign firms over the control of natural resources.

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International law was transformed by its encounter with Anglo-Iranian oil having to make adjustments, for the first time, to deal with a national government intervening in a foreign-controlled industry to take control in the name of political sovereignty. International law regarding contracts claimed a universality that was, in practice, "specifically devised to deal with a type of agreement to which only Third World states were parties," that is, "economic development agreements" such as the concession contract. In an emerging mid-20th-century context of "resource nationalism,"[95] it was no longer possible for western powers to preserve a distinction between the order of laws and contracts and the question of sovereignty over a nation's resources. The law would have to be transformed.

NOVEL LEGAL EQUIPMENT FOR A NEW ECONOMIC ORDER OF DEVELOPMENT

The Anglo-Iranian oil dispute triggered a crisis in international economic development and led to a considerable effort by western jurists in the following two decades to establish that foreign investment agreements were valid "on the plane of international law."[96] The reorganization of international legal studies ensued as international lawyers and judges addressed the problem of limiting international law to the unit of the nation-state and the need to open it to international government organizations, the position and welfare of the individual (e.g., human rights law), and the private corporation.[97] In 1956, Phillip Jessup, a prominent judge of international law, first identified the need for a redefinition of the scope of public international law. He proposed an alternative body of law, *transnational law*, to cope with a new economic order of international dimensions.[98] The goal of transnational law, he argued, was to provide better rules and make it unnecessary to worry whether public or private law applied.[99] The tension resided in the need to observe certain international standards and at the same time accommodate the promotion of national political interests among the new non-European, economically underprivileged states.[100] Other legal scholars such as Wolfgang Friedmann called on the people of these new states, "Hindus, Buddhists, Moslems, and others," to "actively participate in the redefinition of international law" and to "no longer plead that they were forced to accede to international law" developed by their "political and economic masters."[101] Neither the international lawyer of law and diplomacy nor the corporate or constitutional lawyer was equipped to handle this subject without cooperation with each other and among the leading economic and political scientists.

Jessup argued that the novel problems arising from the demands of the "underdeveloped countries must be described as transnational."[102] The Anglo-Iranian oil dispute constituted a transnational economic situation in which lawyers followed "rigidly compartmentalized legal systems unable to cope with the economic order of international dimensions . . . a new oil order." Likewise, Arnold McNair, the British judge, argued that the new type of agreement, replacing the older concession contract, needed a "suitable legal environment" that accounted for the fact that "rulers of undeveloped" nations were no longer "tribal chieftains" but "shrewd and enlightened men assisted by first class legal advice."[103] This new type of economic development contract must include certain "provisions for arbitration" respected by a "general consensus" among all parties on the system of law governing these transactions, namely, Article 38 of the statute of the ICJ or "general principles of law recognized by civilized nations."[104] McNair argued that Article 38 was the only

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"adequate system" for evaluating the AIOC case. He was referring specifically to the principles of "'respect for the private property and the acquired rights of foreigners, as undoubtedly constituting one of these [general] principles.'"[105] Thus, the 1950s marked the attempt to codify a new standardized body of law grounded in "general principles," which were thereafter included in the arbitration clauses of most foreign investment contracts.

Iran's oil nationalization act was implemented as a matter of national law, but not as a matter of contract. Any real nationalization in contractual terms was blocked due to the highly innovative way in which the concession was transformed into a consortium contract, preserving the terms of international arbitration for future disputes. The Iranian consortium agreement settled in 1955 was the outstanding example of the role of private corporations in contemporary international transactions of a public character.[106] Though seemingly a neutral agreement between two contractually equivalent parties, the device of the contract preserved its colonial past and reconstructed the power differential between former colonial powers and newly independent nation-states while circulating in academic circles by mixing economics with law to produce a new field of foreign investment law.

In order to accommodate nationalizations, the law had to be adjusted and redefined to protect the international oil order. International law concerning foreign investment contracts expanded because it played a useful political role by defining a set of technologies for managing relations between the so-called developed and developing world as part of the post–World War II petroleum order. In this period, Middle East states were still forming out of older local and imperial forms of rule. Oil companies such as the AIOC portrayed their role as the development of backward peoples in order to impose less equitable arrangements and avoid what happened with much older sovereign states in Latin America, which were increasingly able to win more equitable oil agreements.[107] Despite finding itself in an increasingly fragile position, Britain's efforts were not ineffectual. New forms of economic and legal governance concerning the investment contract emerged to ensure that the largest oil corporations would maintain their monopoly control of the production variable and disqualify producer claims whether in terms of a concession or a consortium contract.

To support this political project, a novel academic field of study known as international economic law emerged in American law schools with a growing emphasis on the legal aspects of international investment and relations between sovereign states and private investors. It was "a field," Friedmann says, "almost automatically excluded from the traditional study of international law, which recognizes only states as subjects of international law."[108] The field was "largely experimental, a branch of public international law concerned with the ownership and exploitation of natural resources." International law regarding economic development agreements revealed a flexibility that could be exploited by multiple sides with different interests at stake. In the post–World War II economic order, it was a necessary device to preserve economic development relations, which served to accommodate the powers of the multinational oil corporation while undermining the sovereignty of new states over their natural resources.

LEGAL ASSEMBLAGE OF THE INTERNATIONAL PETROLEUM ORDER

The Anglo-Iranian oil nationalization case helped establish the legal principle binding the link between permanent sovereignty and natural resources, or the fundamental right of

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nations to invalidate contracts deemed unjust. The principle was formalized a decade later in UN General Assembly Resolution 1803 of 1962 as countries of the Global South led by anticolonial lawyers and oil elites battled to define a "New International Economic Order." They drew on the rhetoric of universalism to secure benefits from exploiting natural resources for people formerly under colonial rule. The goal of the resolution was to provide new states with protection against violations of their sovereignty by foreign states or companies.[109] It combined previous resolutions passed in 1952 and 1954 in the context of Iran's oil nationalization crisis, which were formulated by Djlal Abdoh, Iran's representative to the UN who had worked with Mosaddegh in the 1940s.[110] The anticolonial strategists behind the drastic shift in power from the seven major oil corporations to newly sovereign states in the 1970s, such as Mahmood Maghribi and Nicolas Sarkis who served as Libyan ruler Muʿammar al-Qadhafi's oil advisers, had all studied the Anglo-Iranian oil case and the new international legal order. But their success also owed itself to a number of other forces such as the heavy international demand for oil, the emergence of "independent" oil producers to rival the oil majors, the existence of radical states in Iraq and Algeria, and the overall balance of power in the Cold War connected with the reluctance of the US to favor the old world order.[111]

The encounter of Anglo-Iranian oil with the law marked an early moment of crisis, precisely when the international system revealed the mechanisms of control on which it relied.[112] An investigation of the infrastructure of international law concerning the oil concession contract helps clarify the terms by which new postcolonial states were first constructed in this mid-20th century petroleum order. The device of the contract entered into by western multinational corporations with newly sovereign entities embodied a complex relation between the sovereignty doctrine and its past. As evident in writings by expert lawyers and judges of the period, international law maintained a division between civilized and uncivilized, and developed and developing, using extraordinarily innovative and flexible techniques, namely the foreign investment contract.[113] The powers of international law were shaped in relation to the local politics of the oil regions of southwest Iran. Extended connections having to do with the long-distance machinery of the multinational corporation as a political actor that reconfigured the shape of the resource-rich state and its sovereignty go unaddressed when the issue is narrowed to a technical concern of legal precedent or a master narrative of brutal power struggles between Iran, Great Britain, and the US.

The AIOC had no real grounds on which to prevent Iran's oil nationalization. The nationalization crisis was a challenge to Britain's world authority, causing "special embarrassment" to the Labor Party government which had nationalized its coal industry five years earlier.[114] Iran's 1901 D'Arcy Oil Concession was the first and largest oil concession granted in the Middle East. At first glance, the concession provided a legal framework for managing relations between two contractually equivalent parties, the Iranian state and the multinational oil company. But in practice, laws and contracts played a more crucial role in this history, helping to constitute the political agency of the oil corporation and the Third World nation-state by shaping who could act and on what terms. The powers of the actors involved were generated in the infrastructure of legal arguments, international tribunals, and court rulings put forward to resolve Iran's oil nationalization crisis. This article investigated the international legal dimensions of Iran's oil nationalization dispute as a process of manufacturing distinctions between the law and the political

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in order to preserve the British-controlled concession and keep profits high. Internalist views of petroleum legislation look only to the content of legal doctrines that guide decision making.[115] Externalist views of the oil crisis divert attention away from the technicality of the battle by focusing on the large-scale power dynamics and decision making of the most important governmental and foreign policy actors involved, particularly in the face of rising US hegemony.[116] This article has argued differently to treat law as a network of people and things in which legality is not a field to be studied on its own terms but is a mechanism through which the world of Anglo-Iranian oil was assembled as it became part of the decision-making process at The Hague and the UN.[117]

Anglo-Iranian oil played a pivotal role in the production of new legal facts concerning the right of new states to make claims in terms of permanent sovereignty over natural resources. It equally helped the oil corporation acquire a quasisovereign status forcing these states to deal with it on an international playing field rather than a local-national one. The amplification of local oil disputes on a global stage was a technique of managing the threat of militant nationalism pursued by oil workers and communism seeking more equitable forms of oil distribution and profits. By mapping the infrastructure of international law concerning oil, one gains an understanding of how the socio-technical world of oil transformed international legal practice and vice versa. Legal decision making about Anglo-Iranian oil was a political project that occurred as a documentary network of legal precedent, economic contracts, and memoranda. The encounter of Anglo-Iranian oil with the factory of international law exposed the inherent fragility of law and the political possibility for "developing" countries to pursue alternative rearrangements of the petroleum-based world order. The triumph may have been limited to the second half of the 20th century, but only by exposing the tools and arguments that were made available for handling the organization of oil infrastructure can resource-rich states generate new vulnerabilities to the international law of imperialism based on contract whose operation endures in the 21st century.

NOTES

Author's note: I am grateful for the critical comments provided by the three anonymous *IJMES* reviewers. Many thanks to Roham Alvandi, Houchang Chehabi, and Louise Fawcett for their comments on an earlier draft of this article.

[1]The original D'Arcy Oil Concession was signed with the Iranian government in 1901. For an extended discussion of the history of the oil concession in Iran, see Katayoun Shafiee, *Machineries of Oil: An Infrastructural History of BP in Iran* (Cambridge, Mass.: MIT Press, 2018).

[2]Recent historical scholarship has started to address the politics of international tribunals and legal thought. See Antony Anghie, *Imperialism, Sovereignty, and the Making of International Law* (Cambridge: Cambridge University Press, 2004); Susan Pedersen, *The Guardians: The League of Nations and the Crisis of Power* (Oxford: Oxford University Press, 2015); Victor Kattan, "Decolonizing the International Court of Justice: The Experience of Judge Sir Muhammad Zafrulla Khan in the *South West Africa* Cases," *Asian Journal of International Law* 5 (2014): 310–55; and Louise Fawcett, "Between West and non-West: Latin American Contributions to International Thought," *The International History Review* 34 (2012): 679–704.

[3]For example, Homa Katouzian discusses the ruling of the ICJ in relation to diplomacy and domestic politics that helped trigger the overthrow of the Mosaddegh government. William R. Louis mentions the court's ruling to highlight the "increased tension" it produced with the British side and how this coincided with events taking place in Iran. Darioush Bayandor considers the legal dispute in more detail but only in so far as it left an "imprint on policies and perceptions both within and outside Iran." Likewise, company histories of the oil industry mention the legal dimensions of the oil dispute only in terms of the rulings made and their impact on

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nationalization negotiations and the subsequent coup d'état. See Darioush Bayandor, *Iran and the CIA: The Fall of Mosaddeq Revisited* (Hampshire, UK: Palgrave Macmillan, 2010), 35; Homa Katouzian, "Mosaddeq's Government in Iranian History," in *Mohammad Mossadeq and the 1953 Coup in Iran*, ed. Mark J. Gasiorowski and Malcolm Byrne (Syracuse, N.Y.: Syracuse University Press, 2004), 7, 9–11; William R. Louis, "Britain and the Overthrow of the Mosaddeq Government," in *Mohammad Mossadeq and the 1953 Coup in Iran*, 149; J.H. Bamberg, *The History of the British Petroleum Company,* vol. 2, *The Anglo-Iranian Years, 1928–1954* (Cambridge: Cambridge University Press, 1994); and Ervand Abrahamian, *The Coup: 1953, the CIA, and the Roots of Modern US–Iranian Relations* (New York: The New Press, 2013).

[4]For a critical historical analysis of the development of laws and contracts in relation to sovereignty over natural resources in international law, see Nico Schrijver, *Sovereignty Over Natural Resources: Balancing Rights and Duties* (Cambridge: Cambridge University Press, 1997). There is only one comprehensive study of concession contracts in the Middle East, told in terms of the history of the discipline. See Henry Cattan, *The Law of Oil Concessions in the Middle East and North Africa* (New York: Oceana Publishers, 1967).

[5]Charlotte Joy Trudgill, "International Oil Companies and Petroleum Legal Policy in Iran: Evolution in the Shadow of Resource Nationalism, 1951–1980," *SOAS Law Journal* 2 (2015): 129–50; Homayoun Mafi, "Iran's Concession Agreements and the Role of the National Iranian Oil Company: Economic Development and Sovereign Immunity," *Natural Resources Journal* 48 (2008): 407–30.

[6]Ian Brownlie, "Legal Status of Natural Resources in International Law (Some Aspects)," *The Hague Academy of International Law* 162 (1979): 245–318; Philip C. Jessup, *Transnational Law* (New Haven, Conn.: Yale University Press, 1956); Wolfgang Friedmann, "The Changing Dimensions of International Law," *Columbia Law Review* 62 (1962): 1147–65.

[7]Christopher R.W. Dietrich, "'Arab Oil Belongs to the Arabs': Raw Material Sovereignty, Cold War Boundaries, and the Nationalisation of the Iraq Petroleum Company, 1967–1073," *Diplomacy and Statecraft* 22 (2011): 455.

[8]Anghie, *Imperialism, Sovereignty, and International Law*; Schrijver, *Sovereignty Over Natural Resources*.

[9]On the role of the World Bank in the oil nationalization dispute, see Staples, "Seeing Diplomacy through Banker's Eyes: The World Bank, the Anglo-Iranian Oil Crisis, and the Aswan High Dam," *Diplomatic History* 26 (2002): 397–418.

[10]International lawyers and legal consultants on both sides were highly experienced, having previously worked at the League of Nations, the ICJ, and the UN. They published their opinions in academic and professional law journals. See Henri Rolin, "The International Court of Justice and Domestic Jurisdiction: Notes on the Anglo-Iranian Case," *International Organization* 8 (1954): 36–44; Kenneth S. Carlston, "International Role of Concession Agreements," *Northwestern University Law Review* 52 (1957–58): 618–43; and Arnold McNair, "Individual Opinion of President McNair," *Anglo-Iranian Oil Co. Case (United Kingdom v. Iran)*, 116–23, International Court of Justice (ICJ), accessed 5 June 2016, http://www.icj-cij.org/files/case-related/16/016-19520722-JUD-01-01-EN.pdf.

[11]Timothy Mitchell, *Carbon Democracy: Political Power in the Age of Oil* (London: Verso, 2011), 138.

[12]Anghie, *Imperialism, Sovereignty and International Law,* 241.

[13]Bin Cheng, "The Anglo-Iranian Dispute, 1951," *World Affairs* 5 (1951): 394.

[14]Mostafa Elm, *Oil Power and Principle* (Syracuse, N.Y.: Syracuse University Press, 1992), 73–74.

[15]Cheng, "The Anglo-Iranian Dispute," 388.

[16]Alan Ford, *Anglo-Iranian Oil Dispute of 1951–1952* (Berkeley, Calif.: University of California Press, 1954), 51.

[17]Cheng, "The Anglo-Iranian Dispute," 389–90.

[18]Ford, *Anglo-Iranian Oil*, 56.

[19]Ibid., 50.

[20]Ibid., 58.

[21]The Iranian monarch's cancellation of the 1901 D'Arcy Oil Concession in 1932 was the most controversial confrontation between the AIOC and the Iranian government in the interwar period. Its resolution would set a precedent for managing future conflicts over oil. Article 17 of the 1901 concession provided for arbitration. The British Foreign Office argued that the dispute potentially involved a "confiscatory act of sovereignty committed against a foreign company." The latter point constituted a breach of international law and enabled the government of the injured party to make the matter the subject of a diplomatic claim. Framing the dispute in terms of international law and the cancellation as a hostile "act of sovereignty" gave the British government the right to get involved in Iran's concession dispute, on behalf of the AIOC. The Iranian government argued that the

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remedies of Iranian municipal law had not been exhausted by the British government. For this reason, it did not have the right to make a diplomatic claim. For a discussion of the negotiations that ensued, but one that underplays the work of Anglo-Iranian oil in international law, see Gregory Brew, "In Search of 'Equitability': Sir John Cadman, Reza Shah and the Cancellation of the D'Arcy Concession, 1928–33," *Iranian Studies* 50 (2017): 125–48.

[22]Ford, *Anglo-Iranian Oil*, 58.

[23]Ibid.

[24]Ibid., 59–60. See also Mafi, "Iran's Concession Agreements," 412–13.

[25]Ford, *Anglo-Iranian Oil*.

[26]Ibid., 61.

[27]"Application Instituting Proceedings," by Eric Beckett, 26 May 1951, *Anglo-Iranian Oil Co. Case (United Kingdom v. Iran)*, 12–13, accessed 5 June 2016, ICJ, http://www.icj-cij.org/docket/files/16/8979.pdf.

[28]Ibid.

[29]Ford, *Anglo-Iranian Oil*, 180.

[30]"Application Instituting Proceedings," by Eric Beckett, 26 May 1951, *Anglo-Iranian Oil Co. Case*, 13, ICJ, accessed 5 June 2016, http://www.icj-cij.org/docket/files/16/8979.pdf.

[31]Mitchell, *Carbon Democracy*, 75.

[32]Anghie, *Imperialism, Sovereignty, and International Law*, 239.

[33]Kenneth Rodman, *Sanctity versus Sovereignty: The United States and the Nationalization of Natural Resource Investments* (New York: Columbia University Press, 1988), 153.

[34]Anghie, *Imperialism, Sovereignty, and International Law*, 225.

[35]Cattan, *The Law of Oil Concessions*, 142–43.

[36]Anghie, *Imperialism, Sovereignty, and International Law*, 227. On the history of arbitral decisions in the Middle East, see Cattan, *The Law of Oil Concessions*.

[37]Ford, *Anglo-Iranian Oil*, 181.

[38]D.P. O'Connell, "A Critique of Iranian Oil Litigation," *British Institute of International and Comparative Law* 4, no. 2 (1955): 293. See also Mafi, "Iran's Concession Agreements," 412–14.

[39]Ford, *Anglo-Iranian Oil*, 61.

[40]Ibid., 62.

[41]Ibid.

[42]Ibid., 66–77.

[43]Ibid.

[44]Ibid., 85.

[45]"Request for Interim Measures of Protection," 22 June 1951, *Anglo-Iranian Oil Co. Case*, 46, ICJ, accessed 5 June 2016, http://www.icj-cij.org/docket/files/16/8983.pdf.

[46]Ibid., 51.

[47]Ibid., 52.

[48]"Oral Proceedings," 30 June 1951, *Anglo-Iranian Oil Co. Case*, 408, 417, ICJ, accessed 5 June 2016, http://www.icj-cij.org/docket/files/16/8991.pdf.

[49]Ford, *Anglo-Iranian Oil*, 78.

[50]Ibid., 74–75.

[51]Anghie, *Imperialism, Sovereignty, and International Law*, 223.

[52]"ICJ Order indicating Interim Measures of Protection," 5 July 1951, *Anglo-Iranian Oil Co. Case*, 93, ICJ, accessed 5 June 2016, http://www.icj-cij.org/docket/files/16/2013.pdf.

[53]"Dissenting Opinions by Judges Winiarski and Badawi Pasha," *Anglo-Iranian Oil Co. Case*, 96–97, ICJ, accessed 5 June 2016, http://www.icj-cij.org/docket/files/16/2015.pdf.

[54]Ford, *Anglo-Iranian Oil*, 88–89.

[55]Bruno Latour, *Science in Action* (Cambridge, Mass.: Harvard University Press, 1987), 250–51.

[56]Ford, *Anglo-Iranian Oil*, 122–23.

[57]Ibid., 124–25.

[58]Ibid.

[59]Ibid., 126.

[60]Ibid., 128.

[61]Timothy Mitchell, *Rule of Experts* (Berkeley, Calif.: University of California Press, 2002), 56.

[62]Anghie, *Imperialism, Sovereignty, and International Law*, 225.

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[63]See Mitchell, *Rule of Experts*, 56, 78–79.
[64]Anghie, *Imperialism, Sovereignty, and International Law*, 212, 216.
[65]Ibid.
[66]Ibid., 197.
[67]Cheng, "The Anglo-Iranian Dispute," 390.
[68]Ibid.
[69]Ibid., 391.
[70]Ibid., 392.
[71]Ibid., 393; Anghie, *Imperialism, Sovereignty, and International Law*, 214.
[72]Cheng, "The Anglo-Iranian Dispute," 394.
[73]See Abrahamian, *The Coup*, 161–63.
[74]"British Memorial," 10 October 1951, *Anglo-Iranian Oil Co. Case*, 64, 85, ICJ, accessed 5 June 2016, http://www.icj-cij.org/docket/files/16/8981.pdf.
[75]Ibid., 65–66.
[76]Ibid., 74.
[77]Anghie, *Imperialism, Sovereignty, and International Law*, 232–35.
[78]Ibid.
[79]"British Memorial," 10 October 1951, *Anglo-Iranian Oil Co. Case*, 76-78, ICJ, accessed 5 June 2016, http://www.icj-cij.org/docket/files/16/8981.pdf.
[80]Ibid.
[81]Ford, *Anglo-Iranian Oil*, 134.
[82]Ibid.
[83]Ibid., 135.
[84]Anghie, *Imperialism, Sovereignty, and International Law*, 222.
[85]Ford, *Anglo-Iranian Oil*, 137–38, 149.
[86]Ibid., 306.
[87]"Preliminary Objection," 22 July 1952, *Anglo-Iranian Oil Co. Case*, 93, ICJ, accessed 5 June 2016, http://www.icj-cij.org/docket/files/16/1997.pdf.
[88]Ibid.
[89]"Summary of the Judgment of the Court," 22 July 1952, *Anglo-Iranian Oil Co. Case*, ICJ, accessed 5 June 2016, http://www.icj-cij.org/docket/files/16/1999.pdf.
[90]Brownlie is quoted in Anghie, *Imperialism, Sovereignty, and International Law*, 230.
[91]Mafi, "Iran's Concession Agreements," 253; Stephen M. Schwebel, "The Story of the U.N.'s Declaration on Permanent Sovereignty Over Natural Resources," *American Bar Association Journal* 49, no. 5 (1963): 463–69.
[92]"Summary of the Judgment of the Court," 22 July 1952, *Anglo-Iranian Oil Co. Case*, ICJ, accessed 5 June 2016, http://www.icj-cij.org/docket/files/16/1999.pdf.
[93]"Individual Opinion of President McNair," 22 July 1952, *Anglo-Iranian Oil Co. Case*, 116-123, ICJ, accessed 5 June 2016, http://www.icj-cij.org/docket/files/16/2001.pdf.
[94]Mary Ann Heiss, "The International Boycott of Iranian Oil and the Anti-Mossadeq Coup of 1953," in *Mohammad Mossadeq and the 1953 Coup in Iran*, 195.
[95]Trudgill, "International Oil Companies," 129, 140.
[96]Brownlie, "Legal Status of Natural Resources," 308.
[97]Friedmann, "The Changing Dimensions of International Law," 1147, 1149, 1161–62.
[98]Jessup, *Transnational Law*.
[99]Ibid., 15.
[100]Discussed in Friedmann, "The Changing Dimensions of International Law," 1151.
[101]Ibid., 1153.
[102]Jessup, *Transnational Law*, 15.
[103]Lord (Arnold) McNair, "General Principles of Law Recognized by Civilized Nations," *British Yearbook of International Law* 33, no. 1 (1957): 2.
[104]Ibid., 6.
[105]Anghie is quoting McNair. The principles also include "unjust enrichment" when the corporation is denied its rights and the host state profits unjustly from this action. Anghie explains that once the category of "general principles" is established as a source of law, "a new 'natural law' of contract emerges . . . by which the law of the

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Third World state is effectively replaced by the law of England." See Anghie, *Imperialism, Sovereignty, and International Law*, 228–30.

[106]Friedmann, "The Changing Dimensions of International Law," 1158.

[107]Mitchell, *Carbon Democracy*, 114.

[108]Friedmann, "The Changing Dimensions of International Law," 1148.

[109]Schrijver, *Sovereignty Over Natural Resources*, 24. See also Umut Özsu, "'In the Interests of Mankind as a Whole': Mohammed Bedjaoui's New International Economic Order," *Humanity* 6 (2015): 129–43.

[110]Christopher R.W. Dietrich, "Mossadegh Madness: Oil and Sovereignty in the Anti-Colonial Community," *Humanity* 6 (2015): 65.

[111]I am grateful to the anonymous *IJMES* reviewer for drawing my attention to this point. It should be noted that the dominant oil companies of this period, the majority of which were American, maintained that concessionary rights, even if acquired as part of a colonial or otherwise dependent relationship, continued after independence. This argument formed part of the international legal principle of "legally acquired rights" which held that old investments should not be jeopardized by new laws. See Dietrich, "'Arab Oil Belongs to the Arabs,'" 454, 461.

[112]Anghie, *Imperialism, Sovereignty, and International Law*, 242.

[113]Ibid., 244.

[114]Anthony Sampson, *The Seven Sisters* (New York: Viking Press, 1975), 118; Mitchell, *Carbon Democracy*, 107–8.

[115]O'Connell, "A Critique of Iranian Oil Litigation"; Mafi, "Iran's Concession Agreements."

[116]Rodman, *Sanctity versus Sovereignty*.

[117]Ron Levi and Mariana Valverde, "Studying Law by Association" *Law & Social Inquiry* 33 (2008): 805–25.

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