INTERNATIONAL RESEARCHERS

UTI POSSIDETIS JURIS AND ESTABLISHED A GENERAL RULE OF INTERNATIONAL LAW

Ali Navari, Homa Anari

Volume No.9 Issue No.1 April 2020

www.iresearcher.org

ISSN 2227-7471

THE INTERNATIONAL RESEARCH JOURNAL "INTERNATIONAL RESEACHERS"

www.iresearcher.org

INTERNATIONAL RESEARCHERS is peer-reviewed, supported by rigorous processes of criterion-referenced article ranking and qualitative commentary, ensuring that only intellectual work of the greatest substance and highest significance is published.

INTERNATIONAL RESEARCHERS is indexed in wellknown indexing diectories

INDEX COPERNICUS INTERNATIONAL JOURNAL MASTER LIST with ICV value 5.90

ULRICHSWEB GLOBAL SERIALS DIRECTORY

JournalSeek

Directory of Research Journals Indexing

and moniter by

THOMSON REUTERS

UTI POSSIDETIS JURIS AND ESTABLISHED A GENERAL RULE OF INTERNATIONAL LAW

Ali Navari[1], Homa Anari[2]
[1]Assistant Professor, University of Judicial Sciences,
[2]Master Degree, Islamic Azad University Central Tehran Branch
(IRAN)
ali.navari@gmail.com[1], homaanari@gmail.com[2]

ABSTRACT

The border in international relations is of great importance because of the geographical and geographic location of the states. The displacement of borders is unacceptable for governments, and sometimes this leads to ethnic conflicts and long-term conflicts. The issue of the delimitation of borders, whether land or sea borders, has been and will continue to be the place of conflict and disagreement between governments in the international community. The delimitation of borderline boundaries, especially during the period of decolonization and the emergence of newly independent new states, made the international community a difficult test plant. The phenomenon of decolonization has led to the emergence of newly independent states with a great deal to limit their boundaries. Therefore, the international legal system should provide a definitive solution to the delimitation of post-colonial borders. This solution was introduced in the main format, the “Uti Possidetis Juris ". The International Court of Justice has repeatedly relied on the Uti Possidetis Juris as a consolidated legal principle in defining the borders of colonialism.

Keywords: Uti Possidetis Juris, territorial integrity, International Court of Justice, International Law.

1. INTRODUCTION

The border in international relations has a special status and status. It specifies the territorial boundaries of a state and determines the competence of the state. The status of borders in international law is of great importance because the rights and obligations of governments are exercised within their territorial jurisdiction. In international order, borders are the fundamental basis of effective application of the principle of respect for the territorial integrity of States and the principle of non-intervention. If the border of the state is uncertain and unstable, temporary and varied, territorial integrity is also vulnerable, which is why border treaties are permanently closed. Article 4, paragraph 2, of the United Nations Charter stipulates that "all States shall refrain in their international relations from threats of violence or use of force against the territorial integrity or political independence of other States or from any action that is contrary to the purposes of the United Nations.” The Uti Possidetis Juris, which is consistent with the principle of respect for territorial integrity, has been endorsed by the International Court of Justice in numerous cases, including in the case of the border dispute between Burkina Faso and Mali, in Nicaragua's case against the United States of America, and not the acts of the Uti Possidetis Juris of the first Times in Latin America and in the successor states of the Spanish Empire that came to independence, then spread to the African continent and Asia. Despite the fact that the borders of all states have remained in colonialism in Africa and have been limited in accordance with the demands of colonial governments, the African Unity Organization, by resolution of July 21, 1964, the Uti Possidetis Juris has been recognized. In Asia, this principle has been applied to the territorial disagreements among Asian countries, including in the judgment of the International Court of Justice in the case of the pre-aristocratic temple (the dispute between Thailand and Cambodia).
After the collapse of the Soviet Union (formerly), Yugoslavia (formerly), Czechoslovakia (formerly), the German unity of Germany and the two Yemeni territories, Uti Possidetis Juris of the existing borders was identified, and no country questioned its borders with its neighbors, which is itself a manifestation Another is the imperative of the Uti Possidetis Juris between countries.

The importance of this research is due to the importance of the issue of the boundary in international law, which has an indisputable role in regulating international relations and the exercise of the sovereignty of the countries. Given the lack of a comprehensive research that consistently describes the Uti Possidetis Juris, this suggests that conducting appropriate research and gathering information in this area together, as well as studying the opinions in this field, the judiciary has been issued.

a. Definitions

i. Border: The last limit of the land, sea, air and underground territory of each country is called the border of that country.

ii. Governance: Sovereignty in the form of summary and simple means great political authority. This concept provides the foundation of the modern international system and legitimizes the system of state-contemporary nation. At an elementary level, sovereignty means control over people and geographic space. This kind of control is typically implemented within the structure of government, and history focuses on continuous growth in sovereignty by national governments and simultaneous accumulation of power.

The principle of respect for the territorial integrity of states: This principle states that the land of a country should never be subjected to rape, invasion or unlawful destruction, that is, the territory of a country as a whole is immune to and inseparable and cannot by force Externally transformed or decomposed.

2. FACTORS AFFECTING BORDER DIFFERENCES

Several factors lead to border disputes; the most important of these factors are geographical, economic, political and cultural characteristics.

a. Geographical factors

One of the most important factors for border disputes is geographical features; perhaps the most important geopolitical component affecting border disputes is "geopolitics." First of all, it is necessary to give a definition of geopolitics. In the geopolitical definition, geopolitics the method of reading and writing international politics is by the power of thought and their influence on political decision-making at the national and regional levels. "Another author in the geopolitical definition states:" Geopolitics or geopolitics of the influence of the environment and the form or phenomenon Environmental factors such as geographical location, landforms, scarce resources, communication facilities (Earth, Marine, Air and Space), mass communication devices, etc., in political decision-making, especially at the wider regional and global levels. "Geopolitics also said:" Geopolitics is: Study of the Political Behavior of Governments, Groups and Organizations on Spatial, Environmental and Human Aspects".

b. Economic factors

The most important human needs are their physiological needs, such as food, clothing and housing. According to Abraham Maslow, the main factor determining the behavior of individuals is the need. In fact, humans need fertile and well-equipped lands to provide these basic essentials, housing, food and clothing. This has been one of the factors contributing to border disputes. Perhaps, before the Industrial Revolution, agricultural land and the surrounding large rivers were the main goal of governments to meet the above needs. But after the Industrial Revolution and the needs of the industry for energy resources such as oil and gas; the fields are the goal of the men's government and the most disputed borders of the states are due to the oil and gas fields. One of the main reasons for the border disputes between the countries of the Caspian Sea coast; the differences between them Oil and gas, and each country is trying to take advantage of these resources. One of the factors contributing to border disputes between the Gulf States is oil resources.

c. Political factors

Sometimes conflicts of interest and conflict between international law issues about the change and improvement of rights that are known as political differences lead to border disputes. Some writers discriminate between political discrepancies that cannot be resolved from a legal point of view. The origins of these differences can be the customs, history, structure of governments and national and international institutions. Among these differences are the differences between the socialist countries and the western countries. Some political factors have also been considered as a factor in the historical difference between Iran and the Arabs, because they are in a region with two different attitudes towards the region and international scenes and the definition of independence and depended on East and West. The differences arising from the presence of foreign intervention forces, the differences arising from regional and global geo-strategic rivalries, and the weaknesses and power of the central government, including political differences. In this case, one should not overlook the role of the foreign policy of the countries. Because this policy reflects a country's perception of another country, the hostile and challenging foreign policy of neighboring countries can affect the emergence and intensification of border disputes between them. The interests of governments can add to political interactions.

d. Cultural factors

Cultural challenges can be divided into two main groups of ideological and ethnic groups. As an example, one of the cultural problems of Iranians and Arabs is often caused by Shi'a and Sunni thought. While most of the Shiite Iranians are the majority, most Arabs are Sunni. Minorities in other countries sometimes reduce these differences and add time to these differences, for example, the recent tensions of Iran with the Persian Gulf states, including those disputes that have been witnessed by Sheikh Nemr and the problems of Bahrain; . The activities of some parties and nationalist groups add to these differences; for example, some Arabs, who over the years have considered themselves superior to Iranians, and some of Iranians also have such an impression on them against the Arabs and they consider themselves superior to them, influenced by the activities of the Pan-Arab parties

3. HISTORICAL BACKGROUND OF THE FORMATION OF THE UTI POSSIDETIS JURIS

a. The Uti Possidetis Juris in Roman law

With the emergence of a modern state in the Renaissance and the reform movement, the necessity of a legal system for regulating relations between countries was created. In the course of the evolution of international law, lawyers and educated judges were heavily influenced by the principles of Roman law. Roman law has always been a strong contributor to the evolution of law in Western Europe, and these judges and law graduates from Western Europe have been at the forefront of the transformation of international law. Thus, the Spanish lawyer Francesco de Vittoria introduced the theory of relations between countries, which, by borrowing from Roman law, called it the "rights of nations". Since the rights of nations were part of the Roman private right, Vittoria became a branch of public law to regulate relations between one person and another. The prominent Dutch lawyer, Hugo Grossius, was also heavily influenced by Roman law. In his treatise titled "The Rights of War and Peace", published in 1625, he relies almost entirely on classical writing as a valid text for his work. Until the early 20th century, the Uti Possidetis Juris was unusual as a principle related to peace treaties. Until then, all invaded lands had to return to a country that had legal ownership before hostilities began, unless the peace treaty was otherwise set. The ratification of the United Nations Charter in 1945 does not justify the use of the Uti Possidetis Juris as the basis for justifying land ownership acquired through another conquest, mainly because of Article 2 (4) of the Charter, which provides that all members shall, in their international relations, refrain from threatening or using force against the territorial integrity or political independence of any country, or in any manner contrary to the purposes of the United Nations.

The basis of Article 2 (4) of the 1970 Declaration of Friendship and other resolutions of the General Assembly of the United Nations and the Security Council is confirmed. Article 52 of the Vienna Convention on the Law of Treaties, which entered into force on January 27, 1980, He believes that any treaty will be void if it is imposed by illegal force in violation of the principles of international law set forth in the United Nations Charter.

b. The Uti Possidetis Juris in Latin America

The Uti Possidetis Juris The most prominent accomplishment of international law in the first decades of the 19th century was achieved by settling border disputes in Central and South America during the independence of these regions of the Spanish and Portuguese empires. Prior to that time, the Uti Possidetis Juris was used to resolve international border disputes between European colonial powers seeking to explore, exploit, and settle in the new world. In most cases, disputed claims, claimants had to resolve disputes, "the principle of practical ownership, that is, I am the owner-the Uti Possidetis Juris as the only possible solution." Hence, Spain and Portugal, during the treaties of 1750 and 1777, resolved their territorial claims in South America, to a certain extent, to rely on the practical ownership of the land by each of these two colonial powers.

In applying the Uti Possidetis Juris, it was stipulated that the borders of the newly independent states would be the same as those existing in the former colonial administrative units. A rational aspect of this principle was the right of every colonial administrative unit to connect itself to its chosen status. In this way, the administrative boundaries that were presented as international borders could never have been taken into account by colonial powers. As the International Court of Justice, in the dispute over the land, island and sea border dispute (between El Salvador / Honduras), the Uti Possidetis Juris "was a major turning point for us in order to determine the administrative boundaries of the international borders in principle entirely For other purposes ". The Uti Possidetis Juris had a special relationship with the colonial ownership of the mainland of European powers in Central and South America. During independence, the Spanish colonies in the heart of Central and South America were divided into four Mexican (New Spain), New Guinea, Peru and Rio de la Plata, and four governorates, Yucatán, Guatemala, Venezuela and Chile. The Portuguese empire was made up of Brazil, and Britain, the Netherlands and France had separate colonies in Guyana. When the application of the Uti Possidetis Juris in Latin America was different from that of Roman law, it was also different from its application as a principle of international law for deprivation of land

ownership through conquest. The use of Latin America from this principle, while insisting on the sanctity of the former colonial frontiers as new international borders, virtually eliminates the validity of sovereignty as the basis for justifying ownership of land through Fatah.

c. The **Uti Possidetis Juris in Asia**

Along with the decolonization wave in Asia after the Second World War, border disputes were subject to two arbitration decisions. The arbitration of the Asian border disputes was not dominant for two reasons for the implementation of the Uti Possidetis Juris, such as Latin America. First, a large part of Asia was formed from independent states with international boundaries. Second, in Asia, there was a general reluctance to have differences of this kind, including border disputes, resolved by the Arbitral Tribunal. Alternatives were more desirable to resolve the dispute. Of these two cases, the only decision in the case of the Indian-Pakistani West Bank (Rhne Kuch in the Gujarat region) was a complaint (India v. Pakistan) (Rhineh Hutchin). The implementation of some of the principles related to the Uti Possidetis Juris resembles what was previously posed in Latin America.

In the case of Ranchok refugee in Gujarat, the disagreements between Pakistan and India over the border between the pre-independence region, the Sindh province, now part of Pakistan, and the tributary province of Kuchma and other indigenous provinces of India, are now India and Pakistan provided different interpretations of this line, and this was the role of the Special Court to determine the true frontier. According to the terms of the June 30, 1965 agreement, "in the light of the relevant claims [India and Pakistan] and evidence presented."

d. The Uti Possidetis Juris in Africa

With the decolonization wave in Africa after the Second World War, an original, like the Latin American border patrol principle, was adopted to identify the international post-deconstructional frontiers. This principle was fully endorsed by the activities of the African Unity Organization. Article 3 (3) of the Charter of the Organization, adopted on May 25, 1963, stipulates that "... the territorial integrity of each country and its unconditional right to its independent existence will be respected." This was merely an indirect reference to the Uti Possidetis Juris. A more direct statement was issued in a resolution issued in July 1964 by the Heads of State and Government of the Organization for the Unification of Africa in Cairo, which stated that all the member states "committed themselves to having boundaries Available at the time of achieving national independence." In the case of the border dispute (Burkina Faso and Mali) (border dispute case), the International Court of Justice observed that the resolution of the African Unity Organization for the former colonial frontiers was due to the implementation of the Uti Possidetis Juris. As in Latin America, the basic laws of most African countries were based on the Uti Possidetis Juris, which explicitly stated that their borders were the same as the borders with former colonial entities. Therefore, Article 1 (2) of the 1966 Constitution of Lesotho stated that the territory of Lesotho was formed from the former colony of Basotholand. The 1968 constitution of the Kingdom of Swaziland, in Article 1 (2), was similar in scope to the former Swaziland undercover. The numerous autonomy laws passed by the parliament of this United Kingdom on the occasion of the independence of its African colonies usually referred to a new, independent state, which has a territory that is linked to the British colonial existence.

e. The **difference in the application of the Uti Possidetis Juris in Latin America with Africa**

i. Land without owner

In Latin America, the Uti Possidetis Juris was first and foremost justified on this basis, as was the case with the exclusion of the implementation of the doctrine of the homeland on the American continent, in order to further Europe's colonization of the region after the Independence War Prevent colonial rule. In Africa, such justification has never been heard. In Africa, the basic and fundamental justification for the application of the Uti Possidetis Juris, as the Court stated in the issue of border disputes, was "to preserve respect for territorial boundaries at the moment of independence."

ii. Critical times

The fact that the continual land-use operation was not a justification for the implementation of the Uti Possidetis Juris in Africa meant that the significance of the crucial principle of a critical date between Latin America and Africa was different. In Africa, this principle was related to a point in time in which material facts occurred in a conflict after the parties could no longer influence the issue by their own actions. However, in Latin America, this principle did not recognize the dates of 1810 and 1821 as the years after which the original land of South America and Central America was not recognized. Latin American countries did not deny ownership of the colonial powers

over the territories occupied by these operations, according to the operation of the land, before the relevant critical evidences. In Africa, because of the fact that the occupation of the land itself did not literally happen in the aftermath of the Second World War, the critical date was unimaginable. In Africa, the critical date was only technical in that the history of independence was a particular colony. That history was only "critical" because, according to that history, colonial boundaries were to be determined for the purposes of determining the international boundaries of a newly independent state. This difference in significance between Latin American and African uses of the time of crisis was the fact that in Latin America, this critical date was always in 1810 or 1821, irrespective of the date on which a country became independent. Therefore, when Venezuela became independent from the expensive Colombia in 1829, it was the critical date of 1810, and the Venezuelan borders were the same as in Venezuela's General Directorate in 1810. In Africa, the critical date was the history of independence, whenever it occurred, and the principle of a critical date never played a role in demonstrating the end of the occupation of the land of Africa, according to the principle of land without blame.

iii. The Uti Possidetis Juris of the de facto

The principle of Africa was, in particular, the Uti Possidetis Juris. Although in Latin America, the Uti Possidetis Juris was often a case, but in Africa, it was a norm or criterion. In Africa, the Uti Possidetis Juris of the de facto borders, Ali al-Qaeda, was fully subject to the Uti Possidetis Juris, in Latin America, the two principles were rivaled. It cannot be said that the Uti Possidetis Juris of the de facto borders in Africa was unimportant. In Africa, the term "impact" was used instead of the Uti Possidetis Juris of the de facto. In the case of border disputes, the International Court of Justice pointed out that colonial influence in determining the border line was contingent on the Uti Possidetis Juris. Colonial influence was described as "the behavior of administrative authorities for the effective exercise of territorial sovereignty in that area during colonial times." This is in fact the Uti Possidetis Juris of the frontiers of the de facto by Judge Torres Bernards in the complaint about the dispute over the land, island and maritime border (El Salvador / Honduras) and by Judge Ajibulla in his separate comment on the territorial disputes (the Arab Republic Libya / Chad) will be confirmed.

At the same time, it can be noted that the practical role of the Uti Possidetis Juris of the de facto borders in Africa is much lower than in Latin America. Maps and border lines in Africa were more prestigious than Latin America. This was due to several factors. First, in Africa, the highest degree of administrative division was the colonial state that came to independence. The lower administrative divisions did not achieve independence. In Latin America, not only the realm of the reign of the monarchy, but also its numerous internal divisions, became independent. The sub-divisions below the main administrative divisions were largely unclear. Second, the mapping methods of the19th and 20th centuries were more advanced than the period before Latin America's independence. Third, the number of rival colonial powers in Asia and Africa was higher in comparison to Latin America, and most African colonial borders were, in fact, outside the internal administrative boundaries, such as the Spanish colonial United States. This meant that more detailed maps had to be made. Perhaps there was little doubt about the status of the borders in Africa and Latin America.

iv. International colonial frontier

Another difference that stems from the implementation of the Uti Possidetis Juris in Africa, the Uti Possidetis Juris, had its effect in Africa on the boundaries between former colonial entities, which were different colonial powers before independence. In Africa, the Uti Possidetis Juris rested on the former international borders between colonial powers, as was the case with the internal boundaries of colonial entities under the rule of a single power. The International Court of Justice, on the issue of border disputes, said on these international borders by gaining independence, a new country gains sovereignty over the land and borders left open to colonial power. This is part of the usual mechanism of country succession.

v. Only in the colonies

Another difference between the implementation of the Uti Possidetis Juris in Latin America and Africa is the fact that in Africa, as the highest level of administrative division, it was the colony that achieved independence. Almost everywhere, smaller administrative divisions did not become independent. In the former Spanish colonies of Latin America, not only the realm of the monarchy, but also the numerous internal divisions that came to independence. In a few cases like Bolivia, sub-divisions united across the boundaries of the Realm of the Monarchy to form a state. The leaders in Spanish-speaking America, despite their independence, first of all supported the idea that independence should be based only on the order of the colonial administrative units, but this did not happen. Therefore, Colombia's dearest country gradually split into 1830s and was divided into four countries: Colombia, Venezuela, Ecuador and Panama. Similarly, the Federal Republic of Central America was decomposed into five countries in Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua in 1838. This approach in Africa has

prevented the collapse of the colonies after independence, and this is a sign of the generally hostile attitude of African countries towards attempting to separate Katanga from Congo in 1960 and Beifera from Nigeria in 1967.

f. The Uti Possidetis Juris in Yugoslavia

What was decisive for the early recognition of separatism from Yugoslavia was the acceptance of the Uti Possidetis Juris, with the internal borders of Yugoslavia forming the international borders of the nation-state. The Bid enter Commission in its Declaration No. 2 referred to the Uti Possidetis Juris as a legal issue for these new international borders. The views of the Commission on the Uti Possidetis Juris are far from the most widely discussed in the statements issued by the Commission. Although the Uti Possidetis Juris is mentioned in Declaration No. 2, a more comprehensive discussion of this was made by the Commission on the Bread try in Declaration No. 3 of the Hague Conference of the Peace Conference of Yugoslavia (Statement No. 3) on January 11, 1992. In Declaration No. 3, the Bavintort Commission should answer the following question, which was raised by Lord Carrington:

g. Uti Possidetis Juris as a principle of international public law

In Latin America, before 1986, the implementation of the Uti Possidetis Juris was agreed upon, usually through a treaty, between the parties to the dispute. This transformation of the Uti Possidetis Juris into a "hollow principle of time" of international law was the result of the decision of the International Court of Justice on the issue of border disputes.

The Court, having decided that the Uti Possidetis Juris was an international law rule, revealed that this principle was not due to African practices in respect of colonial boundaries. This was not the case with the African countries in the gradual emergence of the customary law. Rather, this is due to the implementation of a "general rule of law" in Africa. The July 1964 Declaration of the African Unity Organization on the imperishability of the colonial frontiers was merely "a declarative, non-existent" aspect in relation to this principle. One consequence was that there was no challenge in implementing the rule of the Uti Possidetis Juris in this regard, that independence was achieved before the declaration of the African Unity Organization issued in 1964.

The International Court of Justice has explicitly abandoned the creation of a facility based on which the Uti Possidetis Juris is a "fully consolidated principle of international law that deals with decolonization." Technically, the Tribunal did not consider it necessary to establish a basis for its claim. Therefore, it was not necessary for the purpose of the particular case to be confirmed that the Uti Possidetis Juris was always implemented after decolonization. This was because the parties, through the introduction of the special agreement of September 16, 1983, had shown that the tribunal had to decide on their border divisions based on the "principle of inviolability of the boundaries inherited from colonialism". The Court interpreted this as having the Uti Possidetis Juris. In practice, the Court followed the practice of Latin American countries before 1986, and applied the Uti Possidetis Juris, since the parties to the dispute stated that it was implementing it. Hence, it was raised whether the Uti Possidetis Juris was a general principle of international law that was applied wherever decolonization took place.

However, the failure of the Court to prove its cause, that the Uti Possidetis Juris is an entirely international right, is in vain. No judge or arbitrator had previously said anything about it. The Court, due to its lack of proof, raises doubts about the validity of its cause. However, there are good reasons for the truth of the reason. The Court referred to the Uti Possidetis Juris in the Spanish colonial United States, and considered that the principle was not limited to that area, but that it was the principle that was of general application. The Tribunal then said that "the Uti Possidetis Juris, in the sense described above, was not implemented." In practice, the Court's decision was that, in the Spanish colonial United States, the Uti Possidetis Juris was applied because at that time there was a principle of universal international law that existed. As the discussion of the Uti Possidetis Juris has been mentioned, in the conditions of the American colonies of Spain, this statement was mistaken by the Court for two reasons. First, the Uti Possidetis Juris was not a principle of universal implementation in the Spanish border disputes of the Spanish colony. Instead, it was a clear principle, the key to resolving such disagreements. The Uti Possidetis Juris of the frontier borders was often the basis for resolving border disputes. Second, when the Uti Possidetis Juris was adopted in the Spanish colonial United States, it was because the parties to the dispute chose the Uti Possidetis Juris and therefore it was not a general principle that, in the absence of another principle, which the countries concerned in particular, To make The Spanish colonial experience of the United States, instead of confirming the views of the Court on the issue of border disputes, points to the opposite.

In addition, doubts about the general implementation of the Uti Possidetis Juris for border disputes in the aftermath of decolonization, at least implicitly, contradicted the judge's theory of arbitrary judgment in the Guinea-Bissau / Senegal case. In that case, the "bad" judge, to ensure that the Uti Possidetis Juris was implemented, thought that it was important to see if Guinea-Bissau agreed that the Uti Possidetis Juris would be enforced. He then announced:

This is artificial because the Uti Possidetis Juris for land borders has been attacked by certain African countries from the outset. Therefore, it must be ensured whether Guinea Bissau was one of them. This statement

suggests that if Guinea-Bissau was one of those countries, such as Somalia and Morocco, that questioned the Uti Possidetis Juris and disagreed with it, the disagreement was whether the Uti Possidetis Juris were run in disagreement with Senegal. However, if the Uti Possidetis Juris was in place at all, then it would be assumed that the issue raised by the judge was irrelevant and, contrary to what he said, "was not artificial " The fact that Guinea-Bissau was not at all disagreed with the adoption of the Uti Possidetis Juris, and because the disputed countries in the Guinea-Bissau / Senegal case clearly agreed that the Uti Possidetis Juris should be the rule of law enforced by the arbitral tribunal , Indicated that it was not necessary for the "bad" judge to pay more attention to this issue. On the other hand, he did not rule out the possibility that the Uti Possidetis Juris may be applied in the cases of post-deconstitutional border disputes, a principle of general application. An "evil" candidate after "any terms, conditions, doubts, arguments or the question "about the applicability of this principle in the action is ineffective because both parties to the dispute" clearly stated their agreement with this principle, "he said:

In my opinion, this is an enforceable law of the parties, beyond any other consideration of general international law that may justify or impose the application of the principle in question. Regardless of what was said about the "badly" judge's opinion, it is not easy to confirm explicitly the views of the International Court of Justice on the issue of border disputes, which, incidentally, he was the chairman. The objections to the views of the Court on the issue of border disputes were explicitly raised by Judge Lochari in his separate statement in that case when he noted that: The borders of an independent colonial state may differ from the colonial borders that it replaces, which may actually be the result of the exercise of the right to self-determination.

Whatever the position on the issue of the binding nature of the Uti Possidetis Juris in any arbitration and judicial review of border disputes, it is evident that in practice it was not something that was pursued in Africa. This fact confirms the view that this principle does not have the same meaning as in the case of border dispute. So, in the former Congo-Germanic colony after the First World War, Britain and France divided that colony. In 1957, British Togoland merged with Ghana instead of becoming a separate country. In Cameroon, Britain, the northern part voted for integration with Nigeria, while the southern part joined Cameroon to join the Federal Republic of Cameroon. The United Kingdom of northern Somalia and the southern part of Somalia were united in Somalia and instead of the remaining two separate countries. The former Italian colony of Eritrea, which was administered by the United Kingdom after the Second World War, became a federal unit within Ethiopia, instead of an independent state in 1962. However, the Eritrean demands for independence were ultimately realized, and Eritrea became an independent state in 1993 following a long separation war from Ethiopia. On the other hand, in 1962, the Rwanda-Burundi, the Belgian colony, was divided into two independent states of Rwanda and Burundi. Ultimately, Wallace's colonial regions did not become independent and they joined the Namibian and Moroccan countries, respectively. With regard to the above-mentioned review of the ICJ's view of the Border Crossing case, it was found that the Court's decision was accepted and confirmed by the supervision of the case in El Salvador / Honduras.

4. CONCLUSION

The border is one of the most complex issues of international law. In fact, the existence of the land is the basis of governing sovereignty, the concept of sovereignty itself is based on the legal right to exercise administrative control over a particular land. The borders in international law describe the boundaries of the land of a country. Two pivotal aspects for the frontiers are (1) satisfaction and (2) stability. The border should be accepted by the countries concerned in order to be effective, and it is assumed that when the two countries cross the border, one of the main objectives is to achieve lasting stability and ultimately. Borders have been a constant source of conflict and conflict among governments. This is due to the close relationship between the border and the sovereignty of the state. Along with this, it is important to agree on a way to limit boundaries. One of the issues that has arisen due to the change in the sovereignty of states is the need to limit the boundaries and determine the boundaries of the newly independent states after the departure of colonial domination of colonial governments. In this respect, the main issue was the name of the Uti Possidetis Juris. This principle has first been accepted and followed by the colonies of Spain and then on other colonies. The International Court of Justice as an international judicial tribunal also has some of its votes, such as the "Burkino Faso / Mali", "Benin / Niger", "El Salvador / Honduras", "Nicaragua / Honduras (Caribbean Sea)" and "Indonesia" / Malaysia ", cited this principle. In fact, the root of this principle is its supreme goal of ensuring respect for territorial boundaries at a moment when independence is achieved. These territorial boundaries cannot be too far between administrative divisions or colonies, all of which are subordinated to a sovereign state.

Though these disagreements fluctuated between independent countries, it was more about the position of the border lines that were assigned by former colonial powers or powers. The purpose of this principle was to determine precisely where these boundaries were between dissenting countries that emerged from the war of independence or peaceful destabilization. In Latin America, this principle has inevitably led to the inhibition of land doctrine operations and to prevent or at least limit the emergence of differences between the newly independent states. In Africa, this principle was used exclusively for these two ends. This principle would only apply if the parties agreed to it. The agreement in this case was an absolute prerequisite. This was about Latin America, at least before

1986. In that year on the issue of border disputes, the Uti Possidetis Juris was an international law principle for general application in cases of border disputes after decolonization. It should be noted that there are uncertainties in this regard, whether the decision taken in the border dispute case is correct. However, even if it is accepted that the decision is correct, its effect does not negate the necessity of the agreement. This meant, especially in the context of the African border disputes, that this principle was implemented only if the parties to the dispute, despite having the freedom to act, did not stipulate that other principles should be implemented. In Latin America, other principles, including the Uti Possidetis Juris of the frontier and the equal contribution, were also implemented. In other countries, they resorted to war to resolve border disputes and, in practice, applied the Uti Possidetis Juris as they had previously exercised to determine the territorial rights following the end of the war. This principle applies only to border disputes between countries that they found independence from a colonial power. Despite the decision on the border dispute case in contradictory terms, this principle was not enforced in cases involving border disputes in countries where there were differences between colonial powers. In these cases, the principle of succession of the country was applied to the international borders. In no case was the difference between the countries that had different colonial masters, the Uti Possidetis Juris was not implemented. If these countries did not consider themselves bound by the principle of country succession within the boundaries of the existing international borders, which was true of Brazil, the Uti Possidetis Juris would be de facto. The Uti Possidetis Juris, in addition to determining the territorial dimension of the process of the transition of sovereignty to a new state, will constitute an inevitable starting point in the process of determining the position of the border between a disputed states. In the case of new states emerging through separation or dissolution, Independent countries will become, if the federal state, the new states will come from the same frontiers as federal units. The Uti Possidetis Juris requires an administrative line. But this is always subject to satisfaction with the conditions of a particular situation, including the constitution and procedures for the distribution of power and authority, as is often stated.

Of course, border issues may overwhelm territorial disputes in which border issues relate to lines between neighboring states, while territorial disputes entail a country's attempt to extort another area of its sovereignty based on Ownership is greater. These are not the same types of differences. A country's claim to a whole or a substantial part of another country is almost certainly a disagreement over the land of nine borders, while the disagreement over the accuracy of determining the boundary line is almost certainly a border dispute, not a territorial disagreement. However, the distinction between the two sometimes turns into a problem in which the boundary disparity covers a large area of land that forms a full-scale territorial claim.

The Uti Possidetis Juris remains in the framework of the principle of territorial stability and in the framework of the traditional principles of the seizure of land. And, with respect to the principle of respect for the territorial integrity of States, this doctrine has an important function in the international community of nations, and is recognized as an established international rule, which implies that the land should never be raped, invasive, Or decomposition, the territory of the country as a whole is inviolable and inseparable, and cannot be transformed or decomposed by force by force, but the Uti Possidetis Juris is not an inalienable absolute application of the principle that itself Solve border disputes or respond to all complex territorial issues. The Uti Possidetis Juris is a vital starting point, and sometimes also a final point in the phenomenon of territorial disparity.

REFERENCES

Ahmadi, Hasan, Rules of International Law and Method of Determining the River Borders; Journal of Law "Legal and Judicial Studies, No. 4, Winter, 1985.

Alvarez, 'Latin America and International Law', American Journal of International Law, 1909, vol. 3, p. 275.

Anderson, Imagined Communities: Reflections on the Origin and Spread of Nationalism, revised edition, London, Verso, 1991, pp. 56–9.

Argentine–Chile Frontier Case (1966) 16 RIAA 109, at 166–7. See also Eritrea/Yemen (Territorial Sovereignty) (1998) 114 ILR 1, at 32.

Attorneys, Frederic; Political Geography, 1879; quoted by Naderi, Hussein; Geopolitical Effective Factors in Iran-Iraq Border Disputes; dated: 25/03/1394 iranhdm, ir / article / 1% 20 (5), pdf.

B. Keith, Wheaton's International Law, vol. 2 – War, 7th English edition, London, Stevens & Sons Ltd, 1944, pp. 622–3.

Bigadley; Mohammad Reza; General International Law, Tehran: Ganj Danesh, 2014.

C. Hyde, International Law Chiefly as Interpreted and Applied by the United States, (3 vols), 2nd revised edition, Boston, Little, Brown & Company, 1947, in vol. 3, pp. 2416–17; Shearer, note 8, p. 517.

C.G. Fenwick, International Law, 3rd edition, New York, Appleton – century – crofts Inc, 1948, p. 661: C,Phillipson, Termination of war and treaties of pease, London, Sweet & Maxwell Ltd, 1916.

Case Concerning the Land, Island and Maritime Frontier Dispute (El Salvador/ Honduras) [1992] ICJ Rep. 383, at 636, 644–9, per sep. op. Judge Torres Bern rdez.

D.J.Bederman, 'Reception of the Classial Tradition in International Law: Grotius' De fure Belli ac Pacis , Emory International Law Reviw, 1996.

D.W. Bowett, 'The Dubai/Sharjah Boundary Arbitration of 1981', British Year Book of International Law, 1994, vol. 65, pp. 111–14; Thirlway, note 101, p. 33.

D ‹Perkins, *The Monroe Doctrine 1823–1826*, Gloucester, Peter Smith, 1965, pp ‹3, 40–69; C ‹Tower, 'The Origin, Meaning and International Force of the Monroe Doctrine', *American Journal of International Law*, 1920, vol ‹ 14, pp ‹4–5.

De Lapradelle, *La Fronti&e* (Paris 1928) 86, cited *in* Fisher, The arbitration of the Guatemala - Honduran boundary dispute, 27 *AJIL* 403 (1933), 416 note 50.

Deah, Francis (ed) Amerscan International Law Cases, vol.4, Control of Resouces 1971, Oceana Publications, Dobbs Ferry,New York p.134.

E. J. de Aréchaga, 'Boundary Disputes in Latin America: Uti Possidetis Doctrine', in R. Bernhardt (ed.), Encyclopedia of Public International Law, vol. 1, Amsterdam, North-Holland, 1992, p. 450.

Elkhda, Ali Akbar; Dehkhoda Dictionary, Tehran: Tehran University Press, 1993.

G. Fitzmaurice, 'The Law and Procedure of the International Court of Justice, 1951–4: Points of Substantive Law, Part II', British Year Book of International Law, 1955–1956, vol. 32, p. 20; L. F. Goldie.

G. Fitzmaurice, The General Principles of International Law considered from the standpoint of the rule of law, 92 *RCADI* 1957-I, 5 at 147-8. See also, Waldock, *supra* note 47.

G. Maier, 'The Boundary Dispute Between Ecuador and Peru', American Journal of International Law, 1969, vol. 63, p. 36, referring to the decisions of the provinces of Jaen and Guayaquil within the Audiencia of Quito to join Peru and Colombia respectively.

G. Schwarzenberger, 'Title to Territory: Response to a Challenge', American Journal of International Law, 1957, vol. 51, p. 310.

G.Fitzmaurice, 'The Juridical Clauses of the peace treaties' (1948), an axtract of which is quoted in M.M. Whiteman, Digest of international law, vol 2, Washington, DC Department of state publication 7553, 1963.

H. Wheaton, History of the law of nations in Europe and America: From the Earliest Times to the Treaty of Washington. 1842, New York, gould, Banks & Co, 1845.

Hafiz Nia, Mohammad Reza; Fundamentals of Socio-Political Studies, Tehran, Organization of Departments and Schools Abroad, Volume II, 2005.

Hafiz Nia, Mohammad Reza; Geopolitical Principles and Concepts, Papeli Publications, 2005.

Harritini Diapla, International Lakes Border, Translator, Bigzadeh Ibrahim; International Law Magazine, Spring & Summer 1998 No. 22.

Hoshang Mahdavi, Abdolreza, History of Foreign Relations of Iran, Tehran, Amir Kabir, 1998.

Industry, Javad; Factors Affecting the Determination of the Maritime Boundary Lines of the Caspian Sea Countries; Strategy Paper, 2011, No. 20, No. 20.

J. Clarke, British Diplomacy and Foreign Policy 1782–1865: The National Interest, London, Unwin Hyman, 1989.

J. Dugard, International Law: A outh African Perspective, Kenwyn, Juta & Co Ltd, 1994.

J.C. Garlomango, EL Derecho Fluvial International,Buenos aries,de martino,1913.

J.H.Parry, the Age of Reconnaissance, London, Weidfeld & Nicolson, 1963.

Javan Parvar, Mohsen, Factors Affecting Border Differences, Explaining and Leveling Factors Affecting Border Differences in Persian Gulf; Border Study Study; 2013/08/28.

Jaya Bigdeli, Mohammad Reza et al., Opinions and Advisory Opinions of the International Court of Justice, J 1, 2, 3, and 4. Tehran: Allameh Tabatabai University Press, 1392.
Korman, note 11, pp. 135-307; F. Wooldridge, 'Uti Possidetis Doctrine', in R. Bernhardt (ed.), Encyclopedia of Public International Law, vol. 12, Amsterdam, North-Holland, 1990, p. 519.
L. M. D. Nelson, 'The Arbitration of Boundary Disputes in Latin America', Netherlands International Law Review, 1973, vol. 20, p. 271.
M. A. Hill, 'What the Principle of Self-Determination Means Today', *ILSA Journal of International and Comparative Law*, 1995, p. 131.
M. Gongora, Studies in the Colonial History of Spanish America, Cambridge, Cambridge University Press, 1975, pp. 34–5.
M. N. Shaw, 'The Heritage of States: The Principle of Uti Possidetis Juris Today', British Year Book of International Law, 1996, vol. 67, pp. 130–1. Thus, in the dispute between Peru and Ecuador, Peru argued that the critical date was 1824, which was the real date of the end of colonial dependence of the area the subject of the dispute: St John, note 94, p. 117.
MalcoLm N.SHAW,THE HERITAGE of STATES:THE PRINCIPLE OF UTI POSSIDETIS YURIS TODAY,p.144.
Malkutian Ali, Master's thesis, "Limitation of the Caspian Sea", Tehran Central Azad University, 2001.
Mashirzadeh, Homeira, Khazar at a Glance, Tehran: Ministry of Foreign Affairs, Printing and Publishing Center, 2002.
Mayer Haider, Valley, Geopolitics: Providing New Definition, Geographical Quarterly, Thirteenth, No. 4, Winter, 1998.
Mirzaani, Abbas, Iran's Historical Treaties, Tehran, Publishing Target, 2007.
Mirza'i, Mohammad Ali; Hydropower Challenges of Iran and Iraq with Emphasis on Arvandrood, Journal of Political Economic Information, Twenty-Third Year, No. 11 and 12, September, 2009.
Mo'ein, Mohammad, Faithful Culture, Tehran: Tehran University Press, 1998.
Mojtehdzadeh, Victory, Frontier Amirs and Eastern Frontiers of Iran, Translator Hamidreza Malek Mohammadi Nouri, First Edition, Tehran: Shiraz Publishing, 1999.
Mojtehdzadeh, Victory, Political Geography and Geographical Policies, First Edition, Publication of the Party, 1381.
Mojtehzadeh, Victory, "Eastern Iran Borders", Quarterly Journal, No. 21.
Mosavi, Fazlollah; analytical review of various methods of determining boundaries in border rivers; Journal of Faculty of Law and Political Science (University of Tehran, Spring 2002, No. 55).
Mosavi, Mohsen; Master's thesis: "The Caspian Sea Legal Regime", Tehran: Imam Sadiq University, 2008.
Mousavi, Fazlullah; Is joint governance a suitable way to determine the boundaries of the rivers? ; International Law Journal, 2003, No. 28.
Nayebpur, Mohammad, Loghman and Maleki, Historical Geography of the Persian Gulf, Moon History and Geography, No. 148, 2010.
Nazami, Mehrdad; Caspian Sea and International Law: Various Options According to the Judgments of the International Court of Justice; International Law Magazine, 1380-81, No. 26-27.
New, Jafar; Border Contracts; Journal of the Month of History and Geography, Oct. 1391, No. 173.
Ozati, Ezatollah, Geopolitics in the 21st Century. Tehran: the side; 1380.
Pournouri, Mansour; International Law of the Seas, Tehran, First Edition, Volume II, Mahd-e Salat Publication, 2004. Ph.D., Zahra, Introduction to the Geography of the Seas with Emphasis on Iran's Waters, Tehran: Tehran University Press, 2005.
Prescat, J.; New trends in political geography, translation of Mir Haydar valley, Tehran, Tehran University, 1358.
Puruant to Article 38 (I) (d) of the statute of the international Court of Justice such juristic works are a recognized source of international law: I. A. Shearer, Starke's International Law, 11th edition, London, Butterworths, 1994.
Pyran, Sedigheh, Legal Status of Environmental Law, International Journal of Research, August 2009, issue 40.
R. McCorquodale, 'Self-Determination Beyond the Colonial Context and Its Potential Impact on Africa', *African Journal of International and Comparative Law*, 1992, vol. 4, p. 601.
Radan, Peter. The Break-up of Yugoslavia and International Law, London amd New York, Routledge, (2002).
Realitt: Festschrift für Karl Zemanek zum 65. Geburtstag, Berlin, Duncker & Humbolt, 1994, pp. 426–7.
S. N. Lalonde, 'Uti Possidetis and Internal Administrative Borders', unpublished doctoral dissertation, University of Cambridge, 1997.
S. R. Ratner, 'Drawing a Better Line: Uti Possidetis and the Borders of New States', American Journal of International Law, 1996, vol. 90, p. 593.
S. T. Bernardez, 'The "Uti Possidetis Juris Principle" in Historical Perspective', in K. Ginther, G. Hafner,W. L. H. Neuhold and L. Sucharipa-Behrmann (eds), V♀lkerrecht zwischen normativem Anspruch und politischer.
S.B. Jones, Boundary Making, (Washington, Carnegie Endowment for International peace, Division of International Law, 1945).
S.W. Boggs, International Boundaries: A Study of Boundary Functions and Problems, New York, Columbia University Press, 1940, p. 79.
Sadeghi, Taj Mohammad; developments in the international regime's legal regime with emphasis on Arvand Rood, Institute for Legal Studies and Research of the City of Knowledge, 2010.

Safmania, Mohammad Reza; Functional Analysis of the International Border; the Iran-Afghanistan Frontier, Moderator Quarterly Journal of Humanities, Vol. 8, No. 4, Winter 2004.
Sharif Voldani, Asghar; Using Iran's and Iraq's Borderline Water Resources and International Law; Journal of Public Law Research, Spring and Summer 2009, No. 26.
Shojaee, Hafiz; Master's thesis, "Legal Regime of the Caspian Sea and the Issue of Iran's Participation in its Substance", Imam Khomeini International University, Qazvin, 2012.
The Boundary Case Between Honduras and Nicaragua.
The Critical Date', International and Comparative Law Quarterly, 1963, vol. 12, p. 1254.
Wedlock, Disputed sovereignty in the Falkland Islands Dependencies, 25 *BYBIL* 311 (1948).
Zahidi, Habib; Borders and their Roles and Types, Journal of Faculty of Literature and Humanities of Tabriz, Summer 2010, No. 102.
Zarqani, Seyyed Hadi, Introduction to the Recognition of International Borders. Tehran: Police University; 2007. P. 50.