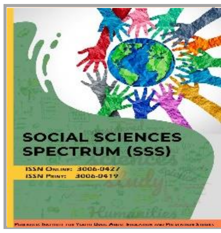

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International Commercial Arbitration: Understanding the Complexity of Iran-Pakistan Gas Pipeline Project

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Abstract

The Iran-Pakistan Gas Pipeline (IPGP) Project, a significant infrastructure venture, has dealt with different challenges, such as economic pressures, political tension and delays in its execution. Among the core unclear issues is the relevance of international commercial arbitration in bridging differences emerging from these challenges, mainly in relation to sanctions, investment, and contract breaches. Even with the importance of the project, there is absence of comprehensive analysis on how arbitration practices have been carried out to resolve conflicts, in which manner geopolitical factors molding arbitration outcomes, and in what ways legal frameworks like international conventions influence dispute resolution. This research will investigate how these factors entangle the arbitration procedure, affect tribunal decisions, and influence the execution of arbitral awards. The study aims to probe these gaps by analyzing the complexities of international commercial arbitration in terms of the Iran-Pakistan gas pipeline (IPGP) project, concentrating on its political, economic and legal implications. By examining these attributes, this study aims to provide a thorough grasp of the significance of arbitration in overseeing complex international infrastructure ventures, sharing perspective into practical and legal challenges encountered by states and corporations engaged in such ventures.

Keywords: Iran-Pakistan Gas Pipeline, International Commercial Arbitration, Economic Sanctions, Energy Project, Geopolitical.

Introduction

Recently Iran has rendered an ultimatum to Pakistan as for the long-halted Iran-Pakistan Gas Pipeline (IPGP) venture, signaling its plan to commence legal proceedings in the Paris Arbitration Court in case Pakistan unable to fulfill its commitment by the elongated deadline of September 2024. The notice comes throughout escalating frustration over Islamabad's passivity on its segment of the pipeline, which has endured of over past ten years' delay. These setbacks are mainly attributed to concerns encircling possible U.S sanctions, which complicated Pakistan's potential to precede with the venture. If Pakistan not succeed to meet the deadline, it might confront penalties totaling up to $18 billion (Profit ,2024). The Iran-Pakistan Gas Pipeline (IPGP) project commonly referred to as peace pipeline; symbolize among the top proactive energy ventures in the region. The pipeline objectives to transport natural gas from Iran's immense south pars field to Pakistan. This project tackling Pakistan's expanding energy needs and elevate the economic cooperation between the two states. In spite of its potential to soothe energy shortages in Pakistan, the venture has encountered remarkable legal and political hinders that have complicated its implementation. In the face of these challenges, the role of international commercial arbitration has surfaced as a key mechanism for resolving tiff between Pakistan and Iran. The legal architecture of the Iran-Pakistan Gas pipeline project entails a mixture of both international and domestic laws. The major legal problems center on construction, financing and contractual obligations between both states.

A notable complex legal aspect of the venture is the role of international sanctions, especially those charged by the United States and its allies on Iran on account of concerns over its nuclear program. These sanctions have hampered the financial and technological implementation of the project, obscuring negotiation and menacing the viability of the project (Ahmad, 2010). In addition, the worn out political relationship which has further aggravated by external geopolitical pressures which led to legal disputes between them. This factor concerning the obligations of both parties under their agreement, along with the issues related to gas pricing, financing and timeline for completion (BBC, 2013). International commercial Arbitration work as the key mechanism for fixing international disputes and also offering a neutral and legally binding platform for both entities (UNCITRAL, 2006). Arbitration mostly relevant in those cases where parties interesting to avoid the potential biases and political interference that could happen from national courts. The contract between Iran and Pakistan explicitly demands arbitration as the preferred method of resolving any conflict that may arise during the implementation of this project. Even so, this framework depicts its own range of issues. The first of these challenges is the choice of arbitration institution and attributes of the process. The expectation of how arbitration should unfold varying in both states because both states have distinct legal traditions. The inclusion of third party arbitration bodies like, international chamber of commerce (ICC) or the permanent court of Arbitration (PCA) brings its own complexities, in the capacity of both states need to agree on the rules and arbitrator.

On the top of that, the geopolitical landscape complicates the arbitration approach. The United States of America is a key player in international diplomacy and sanctions execution, has drew upon substitution pressure on Pakistan to relinquish the pipeline project by citing security and political apprehensions. This persuasion has made it difficult for Pakistan to go all in to the project and fulfill its commitments under the agreement with Iran (IPRI, 2013). As consequences, the arbitration process may be susceptible to external interference, where both parties molded by factors outside the legal scope of their agreement obligations. This external influence lifts questions about the equity and neutrality of the arbitration process, which are vital to ensuring the validity and potency of the dispute resolution method. Regardless of these challenges, the utilization of international commercial arbitration provides certain advantages over other types of dispute resolution (ICSID, 1965). Arbitration offers a more resilient and streamlines means of resolving disputes, notably in complex, multiparty international settings like the IPGP project. The arbitration process enables for the choice of neutral arbitrators, which can overcome the risks of political bias and assure that the disagreement is resolved as per international legal principles. Although, for arbitration to yield results, both parties must show a commitment to adhering the arbitration contracts and the following awards (Abbas, Rashid, & Bilal, 2022). When it comes to the Iran-Pakistan Gas Pipeline, the political pressure and strategic interests at play may erode the effectiveness of arbitration, particularly if one or both parties strive to use the legal process as take advantage in broader geopolitical dialogues.

Additionally, the part of international legal institution is pivotal in providing a blue print for resolving disputes neutrality. The engagement of institutions namely the ICC or PCA can lend reliability to the arbitration process, still they also must steer the sophisticated web of international politics and legal factors encircling the project. These institutions are instructed with guarantee that arbitration stay impartial and devoid of external political obstruction. Moreover, given the strategic relevance of the IPGP project for states and wider region, the arbitration process possibly influenced by political actualities that extended over the purely legal issues at hand. The Iran-Pakistan Gas Pipeline (IPGP) project emphasizes the complicated nexus of international commercial arbitration and geopolitics in resolving conflicts over cross-border energy projects. The legal issues that have surfaced from the project, mainly regarding sanctions, and the political settings, highlights the significance of arbitration as an instrument for conflict resolution. This research purpose to investigate these legal complexities in depth, giving clarity into how international commercial arbitration work in such a politically intense and legally tangled context. Through investigating the significance of arbitration in IPGP project, this research seeks to assist to the wider knowledge of dispute resolution model in international energy projects and their utilization in politically sensitive regions.

Significance

The gravity of this research comes from its potential to offer valuable insights into the position of international commercial arbitration in reaching a settlement related to transnational infrastructure projects, especially in politically sensitive regions. Through concentrating on the Iran-Pakistan Gas Pipeline(IPGP) project, the study will help simplify how arbitration can be harnessed to address issues like sanctions, financing issues, and breaches of contract, that are common in wide-scale, international ventures. This research also illuminates the impact of global political factors on the arbitration process, proposing a deeper realization of in what ways external political pressures can sway the outcomes of disaccord. Additionally, this study contributed to the subject area of international law through investigating the use of international legal protocols, like the New York Convention or the CISG, with regard to energy infrastructure. Especially, it offered guidelines for policymakers, legal fraternity, and international organizations engaged in similar trans-border venture, boosting their ability to proficiently navigate nuanced legal and political issues in future infrastructure improvement. Finally, this research contributed to the broader discussion on international dispute resolution and offer ways to improve the viability and productivity of international initiatives in volatile global political landscape.

Research Objectives

The primary objectives of this research are

- To investigate the influence of sanctions on the construction and time span of the Iran-Pakistan gas pipeline project.
- To study effects of sanctions on arbitration and dispute resolution in the Iran-Pakistan gas pipeline project.

Research Question

- How do international sanctions effect the legal and regulatory system leading the Iran-Pakistan gas pipeline project?

Literature Review

The literature on international commercial arbitration within the framework of Trans border infrastructure projects like the Iran-Pakistan Gas Pipeline (IPGP) highlights key challenges, primarily geopolitical factors and the purpose sanctions Arbitration is usually considered as a preferred conflict settlement approach for international contracts owing to its neutrality and functionality in resolving conflicts between entities from different legal systems (Lavranos, 2021). In the instance of the Iran-Pakistan Gas Pipeline, arbitration provision was included to resolve possible disagreement, affirming that the entities could tackle challenges like delays, payment defaults, and breaches in a neutral context (Burley, 2015). Moreover, the complexity of putting into practice arbitration at its stands is compounded by the economic sanctions on Iran, which have impeded the country's capability to fulfill its contractual obligations, thereby raising questions regarding in what ways arbitration can function when one party is strictly limited by international law (IPRI, 2024). The ramification of these sanctions on the arbitration process has not been fully explored, fostering a space in understanding how international legal frameworks, including the New York Convention, can gureente the validity of arbitration awards when one party is prone to such sanctions (Burley,.2015). In addition, political sways and geopolitical tensions, notably those involving the U.S and other Western countries obstruct the arbitration process, as the neutrality of arbitration panels might be scrutinize in such scenario (Raza, 2020).

The purpose of the CISG and additional international conventions in providing a legal basis for resolving commercial disputes in geopolitical delicate infrastructure ventures is critical yet commonly overlooked in the case of the Iran-Pakistan Gas Pipeline (Rashida Abbas, 2022). Eventually, the limited investigation of the specific legal challenges surrounding energy infrastructure projects in regard of arbitration is a significance gap in the literature. Energy ventures, like the Iran-Pakistan Gas Pipeline (IPGP), are critical endeavors that including complex political, commercial, and legal considerations. Another study suggests, energy disputes needs specialized arbitration framework that are delicate to the unique requirements of the energy sector, which is defined by long-term contracts, substantial investment, and political sensitivities (Lock, 2007). The literature frequently overlooks how international commercial arbitration can tackle the interplay of these aspects. Realizing in which manners arbitration mechanisms can discourse on these unique issues is significant for future research.

Research Methodology

The methodology for this study included a library assessment approach, concentrating on extensive review of existing literature, legal documents, case studies, and relevant academic and reliable sources. The study began with a detailed review of secondary sources such as books, journal articles, and reports, to grasp the theoretical frameworks and operational factors of international commercial arbitration. Key legal texts, including arbitration treaties, conventions (e.g., the New York Convention, the CISG), and contractual agreements referring to the Iran-Pakistan Gas Pipeline, were analyzed to assess the regulatory frameworks that lead dispute resolution in such ventures. This library based research offered a solid foundation for realization the complexities of international commercial arbitration in the Iran-Pakistan Gas Pipeline (IPGP) project and assisted in the broader analysis on dispute resolution in trans-border projects. In addition, expert recorded interviews were used to spot trends, challenges, and outcomes functional of arbitration in geopolitically sentimental infrastructure ventures.

Background

The Iran-Pakistan gas pipeline (IPGP) project, originally outlined in 1994 as the Iran-Pakistan-India (IPI) Pipeline, was proposed to relocate natural gas from Iran to India through Pakistan. The plan progressed into a bilateral venture between Pakistan and Iran subsequent the signing of a preparatory agreement in 1995. However, Iran originally proposed expanding the pipeline to India, reaching in a commencing agreement with India in February 1999 ((Perkovich & Prasad, 2005). In April 2008, Iran shared interest in engaging the People's Republic of China (PRC) in the pipeline project, a plan that was further amplified to Bangladesh in August 2010 (Kabir, 2010). But, after India signed up a nuclear agreement with the United States in 2008, India officially withdrew from the venture in 2009, invoking security issues and inflated pricing as its key motivation to withdrawal (Haider, 2010).

Following, in March 2010, India prompted for trilateral talks with Pakistan and Iran to review the possible continuation of the project, despite the fact that by this time, U.S. sanctions on Iran had become a major hindrance to the project's development. The United States had stimulated Pakistan to withdraw from the pipeline project, endowment instead assistance for the development of a liquefied natural gas (LNG) station and the bringing in of electricity from Tajikistan through Afghanistan's Wakhan Corridor (Iqbal, 2012). Regardless of these financial barriers, Iran successfully had done its part of the pipeline by July 2011. As per the bilateral contract, Pakistan would suffer a daily penalty of $1million if it unable to complete its section of the pipeline before the end of 2014 (The Nation, 2013). Pakistan's Ministry of Finance on 2012, stated that the lack of funding from private investors meant that the government probably need to either enforce consumer taxes or pursue government-to-government plans with Iran, Russia or China to push ahead with the pipeline (Zaafir, 2012). The pipeline, extended from Iran's border to Pakistan's southwestern port city of Gwadar, is still a pivotal but disputed section of the regional energy landscape (Perkovich & Prasad, 2005).

Regardless of persistent delays, Pakistan approved the agreement in January 2013, and by March 2013, development on the pipeline formally commenced. The Iranian part of the pipeline stretched approximately 1,100 kilometers, spanning various provinces including Fars, Kerman, Hormozghan, and Sistan-Baluchistan. The Pakistani part, which is approximately 780 kilometers, passes through Baluchistan and Sindh. Moreover, the project has struggled underway challenges because of U.S. sanctions on Iran and the aligned financial constraints. In 2014, Pakistan requested for a 10-year extension on the project to prevent paying a penalty of up to $1 million per day beginning in 2015. The Gas Sales Purchase Agreement (GSPA), ratified in 2009 under French law, appoints the Paris-based arbitration tribunal as the forum for addressing disputes between the two states. As per the revised contract, Pakistan was set to erect the segment of pipeline in its territory up to February-March, 2024. Iran still facilitated Pakistan and stretched out the 180-day due date that is to terminate in September 2024. But authorities again couldn't recline the pipeline (Mustafa, 2024).

The effects of international sanctions on arbitration proceeding

Economic sanctions are often imposed by states to respond issues like unfair trade practices, nuclear proliferation, violations of international law and acts of terrorism. Although sanctions are frequently designed as penal action, they can generate significant barriers in international commercial arbitration, especially when the entities involved are under the influence of these sanctions. Arbitration, recognized for flexibility, neutrality, and mutual approach, is importantly impacted by sanctions, which concession these primary principles. Sanctions can influence arbitration proceedings in various important ways, involving limiting the ability of sanctioned parties or persons to fulfill their contractual liabilities. The notion of Arbitrability that is, the scope of bickers that can be addressed through arbitration—becomes significant when sanctions are entangled. The UNCITRAL Model Law and the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards both are stipulate that execution of arbitral awards can be refused if courts ascertain that the dispute indeterminate through arbitration (Barraclough & Waincymer, 2005). Arbitrability is sectioned into two taxonomies:

- **Ratione Materiae** (Objective Arbitrability), which tackle the substantive problems that can be lawfully resolved through arbitration.
- **Ratione Personae** (Subjective Arbitrability), which corresponds to the capacity of parties to engaged in valid and binding arbitration contract.

The enforcement of economic sanctions usually renders the carry out of contractual obligations unattainable, urging arbitration tribunals to analyze several factors before hearing. Though sanctions are applicable to the contractual issues, in case there subsists a jurisdictional nexus between the sanctions and the written liabilities, and whether the court should take sanctions into consideration after evaluating all other factors of the dispute (Brabandere & Holloway, 2016). An award entailing a sanctioned party overruled execution either by the sanctioned nation (if the ruling disregards its policies) or by the sanctioning nation (if the verdict fails to concede with sanctions). Sanctions also perplexes the awarded decision implementation under the New York Convention. Economic sanctions may disrupt arbitration under various circumstances, as showing in diagram

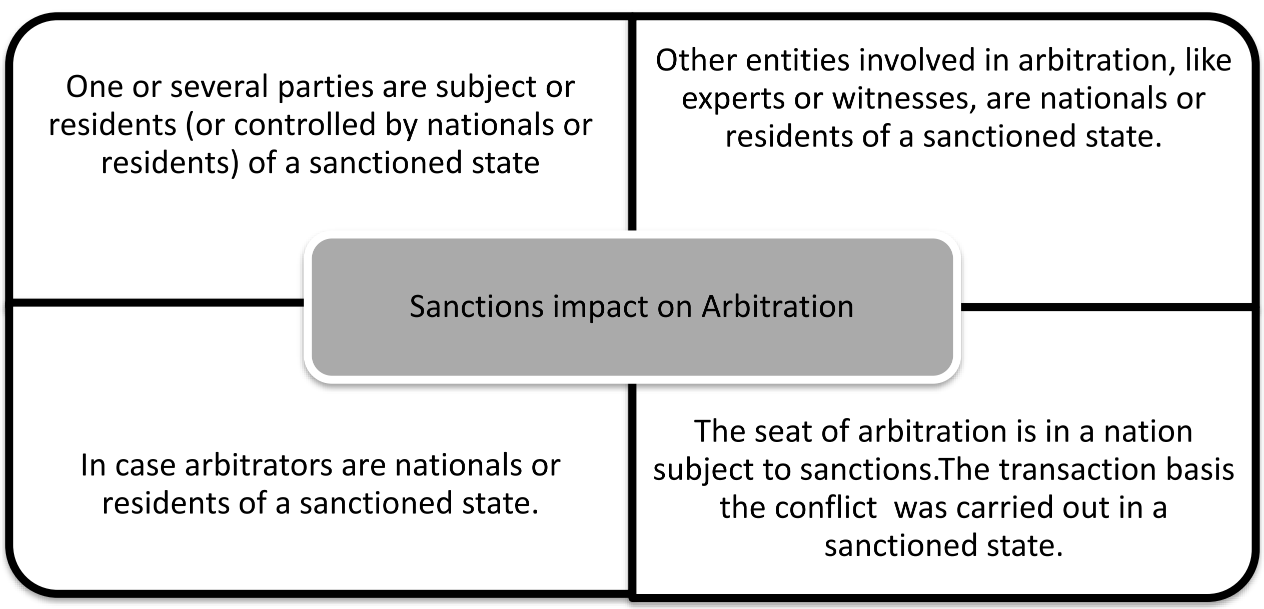

Diagram 1

Let’s explore landmark cases that highlight the treatment of state-sanctioned entities in arbitration, particularly focusing on enforceability.

Case law: Islamic Republic of Iran v. Gould, Inc.

The legal battle in Ministry of Defense of the Islamic Republic of Iran v. Gould, Inc. (1990) pivoted around a formal contract between the Iranian Ministry of Defense and American company name as Gould, Inc. (Bederman, 1990). The agreement concerned the stockpile of military equipment to Iran, however after the Iranian Revolution and the following breaking off diplomatic and commercial partnership between the United States and Iran. In the wake of disengaging relations this agreement became the subject of legal proceedings. Specially, the dispute surfaced from the failure of Gould, Inc. to supply the contracted military equipment. The Iranian Ministry of Defense requested remedy through the Iran-U.S. Claims Tribunal that was founded under the Algiers Accords in 1981 to address the disagreement between the two states stemming from the collapse of diplomatic relations (Damrosch, 1986).The Iran-U.S. Claims Tribunal, operation under the protocol of international arbitration, offered an arbitral award in support of Iran, verdict that Gould, Inc. was accountable for damages concerning to the breach of the contract, such as the return of military goods that had been inapproiately detained.

Following the tribunal proclaimed its award, Iran sought to execute it in U.S. courts subject to clauses of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958). Yet, the U.S. District Court in California refused to enforce the arbitral award following review. The court citing U.S. domestic laws, mainly the U.S. export control laws and economic sanctions that were in force against Iran. The court's ruling was based in the invocation of the public interest override under Article V (2) (b) of the New York Convention. This clause allows a court to deny to recognize or execute an arbitral award if it controversies with the public policy of the state in which enforcement is petitioned. The U.S. court validated that implementing the arbitral award in this senior would violate U.S state security laws and the overreaching objectives supporting the U.S. sanctions on Iran. The U.S. District Court’s ruling raised important legal questions in regard to the interplay between international arbitration and national security laws, and also the execution of arbitral awards under international agreements when one of the entities is subject to extensive sanctions (Ghodoos, 2014). The Ministry of Defense of the Islamic Republic of Iran v. Gould, Inc. ruling set important standards with respect to the execution of arbitral awards in jurisdictions with contradictory national security interests. Primarily, it clarified the adoption of the general policy exception subject to the New York Convention. The case showed that courts have wider discretion to deny enforcement of foreign arbitral awards if they considered that recognizing and execute such an award would breach pivotal national policies, like economic sanctions and export control laws. This case has been crucial in shaping the oration on the threshold of international arbitration in regard of national sanctions and security aspects, emphasizing the complex relationship between domestic political realities and international law.

Case law: Russia v. Ukraine

In 2014, Russia's invasion of Crimea, a peninsula that was globally acknowledge as part of Ukraine, set off severe political and economic sequel. With regard, the international community, as well as the European Union and the United States, urge an extensive number of sanctions on Russia. These sanctions singled out key segments of the Russian economy, namely energy, finance, and defense, and also individuals associated with the Russian authority and decision-making process. The sanctions had an intense impact on Russia’s potential to engage in stable international trade and business activities, such as its participation in commercial arbitration.

Russia's holdings were frozen, and Russian banks confronted restrictions that made it complex for them to retrieval international financial markets (Brabandere & Holloway, 2016). This dramatically complicated the efficiency of Russian parties to fulfill their contractual obligations and honor their financial commitments in recurring arbitration disputes. With respect to the Ukraine v. Russia conflict, Russia was engaged in multiple arbitration proceedings emerging from its failure to comply with contractual obligations because of the annexation of Crimea. These involving energy contracts, trade agreements, and other commercial deals that were based on arbitration clauses. Among many these disputes, Ukraine initiated arbitration across multiple international legal frameworks, like those provided by the Permanent Court of Arbitration (PCA) and International Chamber of Commerce (ICC). Sanctions were cricular in shaping the results of these arbitrations, primarily in terms of enforcement (Kryvoi, 2015).

Within the framework of the arbitration process, awards are commonly enforceable in legal domains that are parties to the New York Convention on the Recognition and Enforcement of Foreign Arbitral endorsement. even so; the sanctions imposed on Russia generated considerable hurdles in the execution of these awards. The Ukraine v. Russia lawsuit offers significant insight in figure out the dynamics in what ways sanctions impact arbitration and enforcement of awards (Freshfields. 2024). under these circumstances, courts in states imposing sanctions on Russia, mainly in Europe and North America, leaned on this exception to deny execution of arbitral awards. They determined that to regulate an award that would directly or indirectly enable Russia's access to funds could flout the sanctions and erode the sanctioning country's foreign policy. The case also showed how sanctions can sway the jurisdictional and procedural realms of arbitration.in specific situations; Russian parties strived to challenge the jurisdiction of arbitral tribunals or the selection of forum for arbitration, stating that sanctions offered the arbitration process unjust by nature or politically biased. While these challenges were ineffective, the case uplifted questions about the neutrality and fairness of arbitration when one entity is subject to different economic restrictions. The lawsuit highlights the intricate interplay between national sanctions, international law, and the arbitration process.

Strategic Policies Alternative for Pakistan's

- Pakistan's first legal view point is likely to be adduce the force majeure provision. Force majeure is an often used legalized in international commercial agreements that offer reassurance a party from its contractual responsibility. In case when an abrupt event out of party's sway, prevents or hitch the effectiveness of contractual liabilities. In the illustration of the Iran-Pakistan Gas Pipeline (IPGP) project, Pakistan might subject matter that the economic sanctions execute on Iran by international power, mainly the United States, hand out to a force majeure condition. These sanctions cramped Pakistan's ability to realize its liabilities of the agreement also made it difficult for Pakistan to complete the ventures as planned. Force majeure clause often includes events like natural disasters, political instability, war and sanctions. If the articles were properly drafted in the original contract, then it works under the brolly of Force majeure concept. The realization of this claim will depends upon whether the contract encompasses specific terminology about sanctions, boycott blocked, and international curtailment. If this provision subsists, Pakistan has the amplitude to insist that the sanctions are a sudden and unforeseen force, exonerate it from paying penalties and fulfilling particular aspect of the contract.
- A part of Pakistan's attainable defense approach in international arbitration could involve challenging the leeway of the arbitral tribunal or poke the applicable law. International arbitration agree mental terms generally define the forum for arbitration that could likely be an

international institution such as the international court of Arbitration (ICC) or permanent court of Arbitration (PCA).in addition, if the arbitration is enforced in a jurisdiction unfavorable Pakistan, it could assert for more neutral forum.

- Given the abrupt circumstances delayed from international sanctions, Pakistan might propose a renegotiation of the articles of the original contract. The economic sanctions on Iran and the global political climate are aspect that was likely unplanned over the course of drafting the contract. Hence, Pakistan could commend for a revision of the original agreement to extent deadlines or reduce penalties that authorized both states to go ahead with the proposal regardless the changed doom.

Conclusion

The Iran-Pakistan Gas Pipeline (IPGP) project outlines the intricate convergence of international energy trade, legal complexities and geopolitical tensions. In spite of the project's economic and strategic significance for both states primarily for Iran’s export ambitions and Pakistan’s energy security, this project faced number of hindrance by international political influence, mainly emanating from U.S. sanctions on Iran. If the matter carries on to international commercial arbitration, a number of challenges will emerge, such as the applicability of force majeure on account of sanctions, enforcement of possible arbitral awards and questions of sovereign immunity pursuant to international law. The arbitration process would not only have to navigate complex legal doctrines but also weigh the impact of shifting global alliance and international public policy. in addition, the involvement of state actors adds another degree of legal uncertainty, especially when determining obligation and governing authority .in conclusion, the Iran-Pakistan pipeline tiff act as a case study in how international law, mainly in terms of commercial arbitration, is commonly molded and confined by the broader realities of economic coercion and global diplomacy. Any resolution (judicial or negotiated) will likely create a legal framework for similar trans-border energy disputes in politically high risk areas. Thus, the case represents more than a contractual disagreement; it demonstrates the contested nature of worldwide energy regulation.

Conflict of Interest

The authors showed no conflict of interest.

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