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The Existence of nuclear power plants and pollution problems in the border areas accordance with international law

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Abstract

Nuclear power plants have created many environmental problems for neighboring countries in the border regions. In this paper which is applied and descriptive-analytical study, we use the library method to answer the question. what are the remedies about international instruments for controlling and preventing the environmental problems of nuclear power plants in the border regions? In customary international law and some international documents regarding these power plants in the border areas, we are witnessing some procedures that have been used to control the pollution by these power plants. In the context of the establishment and operation of nuclear power plants in the frontiers, neither the conventions nor the rules of customary international law, we haven`t any general prohibitions. Most environmental rights, both internationally and in the domestic arena, there is soft and advisory nature and we have to remedy that the environmental rights will be out of the state of emergency and to be strict and binding. we are trying to explain the damages and problems of these power plants and to find solutions by reviewing international conventions and laws and applying these rules to the general principles of law and taking into account the rights of neighboring countries.

Keywords

International environmental law, nuclear power stations, environmental pollution, customary international law, The Principles of Good-Neighborliness .

1. Introduction

On March 11, 2011, due to the devastating earthquake in Fukushima, Japan, followed by the explosion in Fukushima nuclear power plant, were released large amounts of radioactive material in that area. For this reason, It was raised the discussion of nuclear power plants and its effects on nature and human beings and the need to prevent such incidents in the international community. In many countries, the catastrophe has led states to rethink their energy policies and take important steps in this area. For example, three days after the incident on March 14, 2011, the German Federal Government was supposed with changes to the law and prohibition on the use of atomic energy, for this reason it closed all 17 nuclear reactors in Germany until 2022. One of the reasons that many governments are banning the use of nuclear energy for prevent from nuclear explosion, the leakage, release of radioactive materials in nature, the effects of these incidents on the environment, human beings in the present, future and severe damages. In addition, radioactive waste and after the destruction of the nuclear power plant on their useful life. It has caused a major concern, which accordance with the perceived

danger of this type of material, also this is not acceptable with scientific justification and national interest too. Even economic justification can`t be made, because the harm that these materials put on the environment and health of humans are more harmful and costly when it can be from its material wealth. The actions that governments are doing in the field of nuclear energy and nuclear safety in their own countries that is undoubtedly of particular importance. Due to transnational radioactive effects and damage caused by the release of radioactive material in nature, it will not be surrounded by any part of the country and will cover a large part of a region (which may be several countries or even the sea). As on 1986, in the Chernobyl disaster, not only in Ukraine (the disaster site), but also radioactive substances has been seen outside Ukraine in Russia and Belarus as well as in Bulgaria, Yugoslavia, Sweden, Finland, Norway, Romania, Poland, Austria, and even Turkey. Although the effects of nuclear power plants are wider in Ukraine and Russia in the first time, the transnational effects of these nuclear power plants have been more harmful to neighboring countries. It is critical in these areas that have been established especially in border areas and in places where the nuclear power plants to exist. From this point of view, the choice of location for the establishment of nuclear power plants can`t be a matter of domestic law, because does not only affect the inside of that country Radioactivity and Radiation materials in the event of an explosion or such an incident, but also the whole of an area that is likely to be several countries. Therefore, the establishment of a nuclear power plant in a country that is not only about that country, also its other states should look at this issue from according to international law and then consider its legal value and future risks, it`s possible necessary to prevent the establishment of such power plants.In Iran, some body has considered the issue of nuclear waste consequences and the its dangers. Basically, the issue of nuclear waste production has been considered since the discovery of radioactive material. The International Atomic Energy Agency (IAEA) has named Iran as a landfill site for a long time in its report to the Security Council from two regions. One region "Agh uler" in the mountains of Talesh and another "Sefid tappeh" between Chaboksar to Ramsar. This news was never endorsed by the authorities of the Islamic Republic of Iran. (Iran Health Environment web).One of the nuclear power plants is in the frontier zone, Fessenheim's old nuclear power plant, located 1.5 kilometers from the German border.in france it has been located in a dangerous area seismologically, this issue causing serious concern to German authorities. (Grenznahe Atomkraftwerke: 2010).The existence of nuclear power plants study in the border regions accordance with international law, especially the relevance of this topic has been discussed in this article. First, treaties, one of the main sources of international law that will be interest. However, the provisions contained in international treaties should be include suggestions on these plants, which the government has to deal with them. In addition to international treaties, governments must also pay attention to the provisions of the customary international law and act accordingly. But unlike the international treaties which two or more governments require them to be bound by international customary law. (Güneş, 2014: 3)

2. International Treaties

1.2 Convention on Nuclear Safety

The Convention on nuclear safety was adopted by the International Atomic Energy Agency in Vienna on June 17th 1994 and entered into force on October 24 th 1996. So far, 76 countries, including permanent members of the UN Security Council, have been members and 65 countries have signed it. Countries like Egypt, Algeria, Morocco, Syria, Cuba, and Israel are among the countries that have signed this convention. (Wikipedia) .The obligations of the parties to this Convention are largely determined by the principles set forth in the Agency's safety guidelines. Obligations include location, design, construction, assessment and verification operational quality assurances and readiness to deal with emergencies. It is said that the convention is an incentive and this is not intended to ensure the obligations fulfillment of the members through control and approval, but this is based on common interests to achieve higher levels of safety that are promoted through regular meetings of

members. The convention requires Member States to submit a report on the implementation of their commitments to review the level of attendance at the IAEA's meetings. This mechanism is the main innovation of the convention. (IAEA Action Plan on Nuclear Safety, 2011) .Substances 10 to 19 deal with the safety of nuclear facilities to various subjects. Article 17 addresses the location of a power plant. Paragraph 4 of article 17 is referred to the establishment and location of a nuclear power plant as follows: for consulting Contracting Parties in the vicinity of a proposed nuclear installation, insofar as they are likely to be affected by that installation and upon request providing the necessary information to such Contracting Parties, in order to enable them to evaluate and make their own assessment of the likely safety impact on their own territory of the nuclear installation. However, due to the general and hesitant expression of the establishment of nuclear power plants only in places of safety, there has been a lot of criticism of this article 17. (Faßbender, ZUR, 2012: 268) also it has addressed a significant issue in Article 6, but it has made general and vague statements in this article. The provisions of Article 6 shall be as follows: Each Contracting Party shall take the appropriate steps to ensure that is reviewed as soon as possible the safety of nuclear installations existing at the time the Convention enters into force for that Contracting Party. When necessary in the context of this Convention, the Contracting Party shall to guarantee to all reasonably practicable improvements which that are made as a matter of urgency to upgrade the safety of the nuclear installation. If such upgrading cannot be achieved, plans should be implemented to shut down the nuclear installation as soon as practically possible. The whole energy context and possible alternatives as well as the social, environmental and economic impact. In urgent cases, accordance with Convention, the Contracting Party will ensure that all scientific reforms are promptly implemented to enhance the safety of nuclear facilities. If such an upgrade is not realized, plans should be made to close the nuclear facilities at the earliest possible time. Consequently, agreements were broadly accepted that reached by the contracting parties on nuclear power plants. In addition, in treaties, the commitment of governments to report to the Agency are also significant. In this regard, article 5 states: " Each Contracting Party shall submit for review, prior to each meeting referred to in Article 20, a report on the measures it has taken to implement each of the obligations of this Convention" Reports provided by States Parties to the Convention that will be presented in separate reports in these meetings (review sessions). Although particularly nuclear safety and nuclear cooperation have reached a satisfactory level in terms of the establishment and operation of nuclear facilities and in terms of international law, the Convention has been criticized for the unclear structure of the Convention. In this regard, it must review the nuclear safety convention in order to meet the current needs of nuclear safety and even some believe that should be made a fundamental revision. (Völkerrecht, 2004: 57-92) (Faßbender, ZUR 2012, 270) .

2.2 Convention on Early Notification of a Nuclear Accident

In 1986, after the Chernobyl disaster, an early warning convention was created for a nuclear accident. (Schärf, 2008: 90) 101 governments are party of this convention even Iran. Territories that have nuclear power stations or neighboring countries with nuclear power plants must assume the release of radioactive material on their soil and create an early warning system. Therefore, the state is obliged, after evaluating its impact on the environment and humans, if a nuclear accident or emergency situation occurs in one of these countries and the dimensions of the incident, the time of incident, the location of the incident, the amount of material released Radioactive information and other necessary information related to the incident and report to other states and residents of the area as soon as possible and take appropriate action. It needs to be explained that emergency information and announcements are brought to the attention of other governments with IAEA investigations. Article 1 of this Convention to states the need for information on specific facilities and activities. Except for these cases, the government is

informed about other things. Article 5 states the duties of the government on information on the nuclear incident. (Islamic Parliament Research Center Of The Islamic Republic Of IRAN).

2.3. Paris Convention on Third Party Liability in the Field of Nuclear Energy

The convention was agreed in 1960, in some cases briefly referred to as the Paris Nuclear Convention or the Paris Convention. The convention is one of several international conventions that have emerged on nuclear facilities in various fields. (Korkusuz, 2012: 56) (Kissich, 2001: 63) .Since the convention came into being, it has undergone many changes, which was last revised with a protocol in 2004. These countries including Belgium, Denmark, Finland, France, Germany, Greece, Italy, Netherlands, Norway, Portugal, Spain, Sweden, Slovenia and Turkey are parties to this convention. Iran has not yet joined the convention.The main purpose of this convention is to compensate third parties in the international system. At times, in countries under the authority of governments, nuclear power plants are shipped with nuclear weapons, the responsibility of the damages are on the states. whether it is the natural or legal persons of the facility. Also, the damage by the transportation of nuclear materials and operators of the facility to individuals responsibility. The compensation provisions of this Convention shall be subject to time limits, which means that the persons have time to claim compensation for 10 years from the occurrence of the damage. However, in the event of a person's death due to these losses, the time required for claiming compensation and litigation that is 30 years since the death of the person. Damage caused by armed conflicts, civil war, natural disasters of these nuclear power plants to any person or persons is not covered by this Convention and this is not subject to compensation (GÜNEŞ, 2014: 8)

2.4. Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention)

The "Espoo Convention" is a brief introduction to the international convention entitled " Convention on Environmental Impact Assessment in a Transboundary Context", agreed in 1991. The convention came into force on the basis of international economic law. It was launched in 1997. 45 countries have joined the convention. (Budak, 2005: 2-21) International efforts to reduce the adverse effects of transboundary environmental and the importance of adopting prospective policies and need to enhance international cooperation have led to the establishment of a convention on the assessment of transboundary environmental impacts. The convention is the first legal document that defines the rights and duties of its members, taking into account the transboundary effects of proposed activities and provides transboundary practices in response to the transboundary environmental effects of proposed activities. The Convention is one of the few international legal instruments related to transboundary impacts from development activities that it will hope to solve environmental issues arising from environmental development projects and environmental projects. (Farshchi and Rouhshahbaz 2006:3) .With regard to cross-border issues, it needs to be clarified that the Espoo Convention, which applies to all European countries, it provides a specific method for cross-border issues that are used in all environmental assessment studies. Nevertheless, the pursuit of the convention objectives has been agreed upon by all member countries through the implementation of its requirements. According to the definition of the Espoo Convention, the effect of transhumance is any work resulting from a planned activity, all or part of its physical origin being carried out within the political limits of a State Party and it effect Appears in the sphere of the political influence of another country. The main model proposed by the Espoo Convention to carry out an environmental impact assessment of projects with transboundary effects that is the responsibility of the country to carry out the environmental assessment, which the project is implemented in the country's soil (country of origin). When a project with possible transboundary effects is proposed, governments whose soils may be influenced by the activities of that project and must be informed at the same time as the host country of the project. (Khodabandeh, 2008:5) .In evaluating these issues, it must be acknowledged that there is

still no legal document in which it directly, accurately, explicitly and independently addresses the issue of nuclear power plants in the border areas, in international law and in nuclear-related conventions. In fact, the issue of the existence of nuclear power plants in the border regions has not been mentioned separately in a holistic manner in various conventions. For example, the International Atomic Energy Agency's statute on nuclear safety allows the institution to adopt or adapt basic provisions (standards), but the Nuclear Safety Convention points to the issue that consultations with neighboring Contracting Parties (adjacent states) With proposed nuclear facilities that they are affected by the above facilities and upon request, provide the necessary information to the Contracting Parties in order to enable them to assess the impact of the potential safety of nuclear facilities on its territory. As can be seen, these cases are not sufficiently transparent and legally non-binding (mandatory). (Doğan, 2008: 123) . A brief look at these conventions that there are rules which are some vagues and in most cases non-binding, that indicates of itself that large nuclear states do not have the desire to adhere to provide explicit rules in this regard and try with excuses Justify their unjustified actions.

3. International customary law

3.1. General concepts

The customary international law refers to the conduct of international law enforcement cods who have come from the custom and it has been accepted as a general procedure. The international custom, along with the treaties and legal principles of the civilized countries, it is one of the main sources of the International Court of Justice to resolve disputes. (Statute of the International Court of Justice, 1945), contrary to the advanced legal systems of domestic law, which elements of the custom are intrusive and relatively unimportant. In the international arena, at least until now, the custom has been a dynamic source and it has played a prominent role in the formulation of international law. (Rebecca, 2015:37).The elements of the custom international can be divided into two categories:

1. In the ruling on the issue of the right to asylum in the 1950, the Court clearly stated that the term "public policy" is a continuous and unified form of government. Here there are two questions that should be answered: First, Does public policy belongs to all governments in the world or not? In response to this question, it should be said that the public policy is not the function of all states, but rather the behavior of a number of countries. when the custom can be important that they have beneficiary. Secondly, How will be established the state process? The answer is that procedures, usually based on the internal law and international reports that which are expressed accordance with the views of governments, give rise to a positive vote of courts on the resolutions and statements of the official bodies representatives.

2. Spiritual element: In addition aside from the continuous state, the beliefs of the state should be right of the state, so that it can be established as a customary rule. (Mirzaie, 2013:69). As we mentioned in the foregoing article, customary international law does not include one or more states, on the contrary as generally and without exception, it includes all states. But there is an exception; when the government always objects to a behavior that is accepted later as a custom, there is no requirement for an international custom. There are three main international customary on the existence of nuclear power plants in the border regions, including the prohibition of transboundary environmental pollution, the precautionary principle and the principle of cooperation.

3.2. Prohibition of Severe Transboundary Environmental Pollution

One of the most important regulations in international customary law is the ((Prohibition of Severe Environmental Transboundary Pollution)) (Güneş, 2012: 1 - 98) (Kloepfer, 1981: 29) (Epiney, 1995: 309). This rule is generally that It prohibits governments from engaging in activities that seriously contaminate the environment on their soil and even transboundary damage and it has recommended governments to take measures to prevent such contamination. This rule is in line with the two principles of international law, namely the national sovereignty principle and the territorial integrity principle. (Pazarcı, 1995: 153) (Arnauld, 2012: 332) (Epiney, 1995: 309), so the government is using its national

sovereignty,that should prevent serious damage to the environment and use its territorial integrity It must prevent the spread of environmental damage outside the borders of that country. The common ground is the principle of the prohibition of transboundary environmental pollution in accordance with article 74 of the United Nations Charter, which refers to the following: Members of the United Nations also agree that their policy in respect of the territories to which this Chapter applies, no less than in respect of their metropolitan areas, it must be based on the general principle of good-neighborliness, due account being taken of the interests and well-being of the rest of the world in social, economic, and commercial matters. Considering the general principle of good neighborliness, a state that does not comply with nature and environment in its territory and seriously it is prevented if it continues to cause serious damage to the environment and the nature of the neighboring country. Also it does not endorse these measures at all and do not allow such actions to their employees and citizens. This prohibition is also consistent with Article 21 of the Stockholm Declaration and Article 2 of the Rio Declaration. There are two well-known judicial decisions in the ban on transboundary environmental pollution. This decision was made for the first time in the Trail-Smelter case between the United States and Canada on 1941 (GÜNEŞ, 2014: 13). In the Trail-Smelter case, the tribunal should decide that Canada was liable for damage to state of Washington. It is due to the release of Sulfur Dioxide produced by a zinc and lead miner(this factory is in the state of British Columbia, Canada). The judgment of the Tribunal is: According to the principles of international law, no country has the right to use its land in its own way or to allow to be used in the form of steam (created by the metal smelting plant) to the land or property or persons of the state Other damages (vote 1941). Consequently, the court was sentenced Canada to compensation for the United States. Due to the principle of good neighborliness, Canada should not be detrimental to the environment and property and individuals in the United States through actions on its soil . Fifteen years later (1957), another court of arbitration over the cross-border damage between France and Spain regarding the use of the waters of Lake Lannox, again reaffirmed this diminutive of environmental protection: assuming the principles that set the high river country from creating the change in the river's waters so badly damages the country's low river, these principles do not flow in the present case, because the French project does not change the waters of the river Carol. This opinion shows which it was not accepted the environment as a common source at that time. It was the sole cause of environmental protection, but the environment was protected in a place where a state would be harmed to another states. unlikely those are two cases and were convinced that the environment, It has intrinsic value for protection, whether the damage has been inflicted on another government or not. Three conditions are required for the prohibition of transboundary environmental pollution:

1.The existing transboundary environmental damage

2.The existence of transboundary environmental damage caused by human activities

3.Existing serious crisis caused by environmental damage

In order to assess these damages, it is necessary to the definition of ecologists to investigate the damage to living organisms, vegetation, the environment and the nature of the environment apply this ban (Epiney, 1995: 334). Specifically This ban is considered necessary to prevent the loss of life to the people of that area. To assess the severity of the damage, these factors should be evaluated: the duration of the damage, the amount of impact on the environment, the possibility of compensation or non-compensation If possible compensation it should be calculated. (Epiney, 1995: 333) (Faßbender, 2012: 271) (Güneş, 2012: 1- 100) Extremely hazardous activities, such as the use of nuclear power plants that should have a material responsibility for the power plant operators, which it being great importance. One of the other features of the transboundary environmental pollution prohibition is the prevention of damage to the environment.

(Faßbender, 2012: 2728; Epiney, 1995: 329). It means that instead of spending graphs on compensation for damage, it is possible to prevent damages that are both cost-effective and harmful to nature, so that is to produce bad effect. The prohibition of severe transboundary environmental pollution is one of the most important principles that can be effective in preventing damages and to the border areas due to nuclear power plants. The remarkable thing is that we must consider extraordinary activities in comparison with other activities on a high scale and take measures to prevent these damages.Many international treaties and international declarations of precautionary provisions have been accepted as customary international (Faßbender, 2012: 271) (Handl, 1992: 16) (Epiney, 1995: 329) To prevent the entry of damages should necessitate by limiting, the founder of these plants to invest in the use of the best available technology. The International Atomic Energy Agency (IAEA) Statute also always refers to the application of safety standards (basic safety provisions) to the same interpretation of the best available technology.Shortly after and the Fukushima incident, the boss of the International Court of Justice, Christopher Gregory Weeramantry, called on governments to states that the continuation and increase of nuclear power plants is in contradiction with the general principles of international law. (Weeramantry, 2001: 2) It seems that if increases the risk of serious damage to the environment and human (the country where nuclear power plants are located) It should be able to prevent the nuclear activities of that power plant. But according to such circumstances, it is not possible to make such a statement in the form of customary international law. (Faßbender, 2012: 272) (Arnauld, 2012: 331) (Handl, 1987: 65) Because there is still no such material and spiritual element in this regard, however, among governments, sometimes there is an active consultation and collaboration to resolve such disagreements. (Faßbender, 2012: 272) (Handl, 1987: 23) (Geistlinger, 2003: 3)

3.3. Precautionary Principle

In order to achieve sustainable development policies should be based on the principle of prudential action. At a time when the principle of prevention did not have its main effects on the entire environmental protection regulations, the precautionary principle was considered and further developed. This principle can be considered as one of the most important initiatives of the Rio Declaration. As stated in principle 15 of the Rio Declaration: " In order to protect the environment, the precautionary approach shall be Widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing effective measures to prevent environmental degradation.." Referring to (governments), globalization, it implies the application of the principle and considering (the power of each government) indicates a common but different responsibility of governments. It seems that first, losses must be predictable, not current and future, since only a predictable outbreak can be prevented in the future. Secondly, the danger that should happen must be important. So ((logical predictive ability)) and ((the importance of danger)) are two components that must be considered in the application of the precautionary principle. (Dabiri et al., 2009:7) . The importance of the precautionary principle has been emphasized in some of the cases referred to the International Court of Justice. These include Ecuador v. Colombia on air pollution in the vicinity of its border lines.

3.3.1. Precautionary principle in Ecuador v. Colombia

In an Ecuadorian v. Colombian dispute filed on 2008 in the International Court of Justice, Ecuador claims that Colombia has committed airborne spraying in areas close to common border lines with Ecuador to deal with plant epidemics in Ecuador. Human health, agricultural and animal products, as well as severe environmental pollution in the country, which it has a wide range of biodiversity. Ecuador has claimed that Colombia's actions have expanded the dangerous of the prohability of damages in future that would violate customary norms and contractual rights. Also Ecuador stated that the damages and threats that it poses to some of the irreversible effects of the environment which confirms that Colombia has failed to comply with its precautionary

obligation to comply with its deterrent obligations. Therefore, the present case has provided the International Court of Justice with an unparalleled opportunity to focus on the content clarification dispute, the assessment of the status and applicability of some of the customary norms of international environmental law, including the main precautionary principle (Dabiri and others, 2009: 175). The precautionary principle can be applied to different methods and tools for nuclear power plants in the border regions. (Geistlinger, 2003: 19) (Faßbender, 2012: 273) (Epiney, 1998: 94) (Hummer, 2008: 511) It is noteworthy that the probability of damages being predicted on a large scale in the border regions due to nuclear power plants. The neighboring country has the right to request the non-proliferation of these damages based on the precautionary principle from the owner of the plant. Also the neighboring country has the right accordance with the precautionary principle, to apply the best technology available at the nuclear frontier and to take prudential and precautionary measures in advance of the establishment of the plant; but meantime, the border neighbors of the neighboring countries should not be forgotten either. As we mentioned in previous discussions, paying attention to human factors in preventing harm is very important to them. The damage caused by nuclear radiation has irreparable effects on human body and his soul and it is necessary to prevent such damages according to the precautionary principle. (GÜNEŞ, 2014: 20) .At last, the result of this principle is that governments can only do something to show that it does not cause harm to the environment because this is unacceptable. Although this interpretation and conclusion of the principle under discussion is aimed at curbing the sovereignty of countries. Similarly even this principle about non-verifiable environmental damage is cited only by the importance of danger, requiring compensatory measures and the burden of proving the safety of the activity laid with the opposing party (Dabiri et al., 2009:7-8)

3.4. Principle of cooperation

The principle of cooperation is an international commitment and this is an integral part of the United Nations Charter. in fact, it is one of the features of contemporary international law. The principle of cooperation under the United Nations Charter is binding and considering the transboundary nature in international environmental law is considered a strategic and important issue because the environment does not know the boundary and the environmental hazards have international aspects and consequently It protects the environment and confronts environmental hazards and it is out of the reach of one or more countries and requires the international community to take care, prevent, reduce, eliminate the negative effects of environmental degradation and pollution. The principal of Cooperation in the international community is both case-based and continuous and it is based on the principle of cooperation with the rules of Erga omnes, since the essence of international environmental law contrary to general international law does not rely solely on principles and rules based on mutual relations and the root of this principle is in the customary law and the old principles of international law. Since the founding of the international community, international cooperation has become an integral part of public international law, especially since World War I and World War II, Governments came to the conclusion that instead of fighting, they would work together. Based on this principle, governments are obligated to cooperate with each other in good faith to protect the environment. This cooperation in various fields are such as: information exchange, technology and specialists, financial resources, training courses, participation in international conferences and even emergency assistance. The environment has been raised through the establishment of agreements, conventions and protocols in the field of international law. (Kashiyan and Arghand, 2014:1) .Necessarily a common international life requires international cooperation. With regard to pollution and environmental degradation, which in some cases are also uncontrollable and affect the geographical boundaries of other countries, because the nature of pollution and environmental degradation is transboundary, which requires to the cooperation of all countries in the world Which will be in the long

run for the benefit of all nations. The existence of thousands of international treaties, whether multilateral, regional or international, requires cooperation with other governments. Cooperation in international environmental law is in various forms, including the exchange of information, technology and specialists, financial resources, training courses, participation in international conferences and even emergency conditions. It should be noted that the agreement on cooperation is in the form of agreements, which does not have any obligation for countries, which it will be the ground for attracting governments to conclude such agreements and in addition to countries, they will not lose their sovereignty, but they will have a positive image for governments. Although these are not binding agreements, like the United Nations declarations and the resolutions of the General Assembly, that they play a significant role in expanding awareness of environmental issues. (Kashiyan and Arghand, 2014:2-3).The principle of cooperation in the above case is emphasized by the International Court of Justice. on 1941 Trail Schlumberger case concerning transboundary pollution, it is argued that around the controversy, we must work together to resolve the issues of damage caused by air pollution that motive the Trilium Smolter plant jointly (Zarei And others, 2013:11) . Governments at the United Nations Conference on Human and Environment in Stockholm on 1972 declared "to have a healthy, livable, environmentally friendly environment" and therefore they have a right to access to the healthy environment. It is a fundamental right. Article 24 of the Declaration recognizes the need for the spirit of cooperation among members to address international issues, including environmental protection. In fact, environmental protection can give rise to rights for members of the international community. In the exercise of this right, the principles and rules of international executive capability will be recognized as customary international law, because all governments will share it without exception. Many of the customary rules of international environmental law are in the hands of governments. So the principle of cooperation is one of the rules deriving from customary international law. Accordingly, the principle of mainstream cooperation relate to all governments, whether or not they are members of the environmental conventions and they are required to comply. (Zarei et al., 2013:11-12) The principle of cooperation as one of the principles of customary international law should have led to these results in the application of nuclear power plants in the border regions. First, it is necessary to explain that before than start of nuclear activities and the establishment of power plants. Therefore the impact of these activities on environmental assessment and at the state level should be discussed in the form of Environmental Impact Assessment. The relevant activities should be communicated to the competent authorities of the neighboring country and subsequently, to the people of that land, in order to participate in the decision-making process of the establishment of the facility. Possibly this awareness of the neighboring country will prepare its government for nuclear disaster and environmental pollution and. that takes preventive measures. It is noteworthy that remains the duty of the neighboring government to notify these changes and inform the authorities of the necessary safety and precautionary measures if the government of the nuclear power plant wants to make fundamental changes to its facilities. Particularly when the nuclear disaster is about to happen, the government has a duty to guide its neighbors how to take precautionary measures. At the end of this paper, it is important to consult with competent authorities of the neighboring countries and to make a survey of the people of that land and to participate in the process of establishing and operating nuclear facilities in the border regions in the framework of the principle of cooperation and the safety measures adoption and the use of the best technology too. The existing one of them will help ensure that it process (nuclear power plants) is more reliable and reduces the risk of a disaster to a minimum. (GÜNEŞ, 2014: 22)

Conclusion

Nuclear power plants in the border areas are one of the most common global issues that have involved many countries. Treaties, one of the

main sources of international law have a number of conventions and notices which are noteworthy. Although there are certain provisions in these conventions and declarations in this regard, these regulations do not have a general and specific legal obligation. These conventions and treaties include: Convention on Nuclear Safety, Convention on early notification of a Nuclear Accidents, paris convention on Nuclear third party Liability (Paris Convention) and the Espoo Convention. Related announcements include the Stockholm Declaration and the Rio Declaration. The absence of clear legal rules in this regard indicates that major nuclear powers are unwilling to restrict their nuclear power. Also the rules of customary international law are particular importance in the issue of the existence of nuclear power plants in the border areas. Even the customary international rules in this area have more important and effective regulations than the legal sources (conventions and announcements). The three most common customary principles in the field of nuclear power plants in the border areas consists the prohibition of severe transboundary environmental pollution, the precautionary principle and the principle of cooperation. In the context of the establishment and operation of nuclear power plants in the border areas, not accepted generally rules in the conventions and in the rules of customary international law, there are no generally accepted rules. Unfortunately, the main environmental rights are soft and well-documented that environmental law should be removed accordance with the state of affairs in the international arena and in the domestic arena and that it should be strict and binding.

References

- Budak, Sevim(2005) Sınırötesi Çevresel Etki Değerlendirmesi (ESPOO) Sözleşmesi, Yeditepe Hukuk Fakültesi Dergisi, C. 2, S. 2, s. 21 vd.
- Dabiri, Farhad and others (2009) "Examining the Principles and Concepts of International Environmental Law with a Look at Sustainable Development", Environmental Science and Technology, 11th Edition, No. 3
- Doğan, İlyas (2008) Devletler Hukuku, Ankara
- Epiney, Astrid (2003) Zur Einführung Umweltvölkerrecht, JuS, s. 1066 vd.
- Epiney, Astrid/ Scheyli, Martin (1998) Strukturprinzipien des Umweltvölkerrechts, Baden-Baden
- Epiney,Astrid(1995)Das“Verboterheblichergrenzüberschreitenderumweltbeeinträchtigungen”: Relikt oder konkretisierungsfähige Grundnorm?, Archivdes Völkerrechts, s. 309 vd
- Farshchi, Parvin, Shahbaz, Nazanin (2006) "Using the Transboundary Environmental Impact Assessment (ESPOO) Convention to solve environmental problems with the transboundary nature of the Caspian Sea", Journal of Environmental Science and Technology, 8th, No. 3
- Faßbender, Kurt (2012) Atomkraftwerke aus umweltvölker- und nachbarrechtlicher Sicht, Zeitschrift für Umweltrecht, s. 267 vd.
- Geistlinger, Michael (2003) Völkerrechtliche Möglichkeiten Österreichs zur Verhinderung des Kernkraftwerkes Temelín, Salzburg
- GÜNEŞ , Ahmet M. (2014) »ULUSLARARASI HUKUK AÇISINDAN SINIR BÖLGELERİNDE BULUNAN NÜKLEER SANTRALLER« , TAAD, Yıl: 5, Sayı: 17
- Güneş, Ahmet M. (2012) Uluslararası Çevre Hukuku Üzerine Bir İnceleme, İstanbul Üniversitesi Hukuk Fakültesi Mecmuası, S. 1, s. 83 vd
- Handl, Günther (2012) Grenzüberschreitendes nukleraes Risiko und völkerrechtlicher Schutzanspruch, Berlin
- Health Environment of Iran
- www.archive.mardomsalari.com
- www.rc.majlis.ir
- www.environmentalhealth.ir
- Hummer, Waldemar: Temelín (2008) Das Kernkraftwerk an der Grenze, Zeitschrift für öffentliches Recht, s. 501 vd.
- Ipsen, Knut (2004) Völkerrecht, 5. Auflage, München
- Islamic Parliament Research Center Of The Islamic Republic Of IRAN, the Act of Accession of the Government of the Islamic Republic of Iran to the Convention on Aid to Nuclear Accident or Radiological Emergency and the Convention on the Urgent Nuclear Accident(2000), available at:

- Jalalian, Askar(2016) , International Environmentol Law, Tehran: Nashre-dadghostar Publication.
- Kashian, Hadi, Arghand, Bahareh (2014) "International Cooperation from International Public Law to International Environmental Law", Technical, Engineering, Social and Environmental Standards of Electricity and Energy Office
- Khodabandeh, Helen (2008) "Environmental Impact Assessment of Experiences, Challenges and Future Trends," Journal of Environment and Development, Second Year, No. 3
- Kissich, Susanne (2001) Internationales Atomhaftungsrecht, Baden-Baden
- Kloepfer, Michael/ Kohler, Christian (1981) Kernkraftwerk und Staatsgrenze, Berlin
- Korkusuz, Mustafa Refik (2012) Nükleer Santral İşletenin Hukuki Sorumluluğu, İstanbul
- Mirzai, Sa'ida (2013), "International Customs and International Decency", available at the address
- Pazarcı, Hüseyin (2005) Uluslararası Hukuk, 3.Bası, Ankara
- Schärf, Wolf-Georg (2008) Europäisches Nuklearrecht, Wien
- von Arnauld, Andreas (2012) Klausurenkurs im Völkerrecht, 2. Auflage, Heidelberg
- Wallace, Rebecca; Translator; Zamani,Ghasem-Bahramloo; Mahnaz (2015); International Law; Tehran; shahre-danesh Publication, Fifth Edition
- Zarei, Sahar and others (2013) "The Status of the Principle of Cooperation in International Environmental Law," Quarterly Journal of Public Law Research, Vol. 15, No. 39