



Toll Payment Obligation in the Strait of Hormuz in Charter Party Contracts: Analysis of Legal Conflict, Civil Liability of the Parties and International Dispute Resolution Forums

Kurdi ^{1*}, Akhmad Ikraam ¹, Teuku Ahmad Dadek ²

¹ Legal Studies Program, Universitas Adhyaksa, Jakarta, Indonesia,

² Department of Government Affairs and Administration, Universitas Syiah Kuala, Banda Aceh, Indonesia

*Corresponding author: kurdi@stih-adhyaksa.ac.id

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Abstract: The Strait of Hormuz is a strategic maritime route connecting the Persian Gulf with the Indian Ocean and serves as a transit corridor for much of the global energy trade. Current geopolitical dynamics demonstrate Iran's tendency to use control over the strait as an instrument of pressure on international actors, one form of which can be seen in the discourse on imposing tolls on passing vessels. This situation raises serious legal problems in the context of charter parties as contractual instruments for international maritime transport. This study analyzes two main issues: first, how the choice of law in a charter party regulates civil liability between shipowners and charterers when one party is unilaterally obliged to pay a toll by Iran; second, which forum is authorized and which law applies in resolving civil disputes between shipowners, charterers, and cargo owners due to losses incurred. This study uses a normative juridical method with a statutory and conceptual approach. The results of the analysis show that the governing law and war/piracy risk clauses in the charter party determine the allocation of toll burdens, while the London arbitration forum (LMAA) with English lex arbitri dominates the resolution of similar international maritime disputes.

Keywords: Charter Party; Strait of Hormuz; Choice of Law; Civil Liability; International Maritime Arbitration

Introduction

The Strait of Hormuz, which is a strategic strait with a narrowest width of around 56 kilometers and its existence connects the Persian Gulf with the Gulf of Oman and ends before flowing into the Indian Ocean, is in fact a very important strait.¹ The Strait of Hormuz is crucial because it serves as a maritime chokepoint for global trade. Its importance is evident in its capacity and impact, which is estimated to pass through 20% of the world's total oil supply, equivalent to 17 to 21 million barrels per day, according to data published by the US Energy Information Administration.² Given the conditions depicted in this data, it can be seen that the Strait of Hormuz plays a crucial role. Any problems in this strait could disrupt the rhythm of global trade.

With such geographical conditions in the context of international law, the Strait of Hormuz is recognized as a strait whose existence can be used as an international navigation route as regulated in Part III of the United Nations Convention on the Law of the Sea 1982 (UNCLOS).³ If we refer to the provisions of UNCLOS 1982, especially the provisions as regulated in Articles 37 to 44, it can be explained that there is a concept of a transit passage regime, where the existence of this concept provides the right

¹ Hamzei, Samad, Amirmahdi Zarboo, and Emad Koochaknejad. "Field investigation of water mass stratification and variability in the Strait of Hormuz." *International Journal of Coastal, Offshore And Environmental Engineering (ijcoe)* 10, no. 4 (2025): 45-54.

² US Energy Information Administration, Amid regional conflict, the Strait of Hormuz remains critical oil chokepoint, accessed from www.eia.gov On April 29, 2026 at 20:00 WIB.

³ Fahmi, Muhammad Saiful, Ilham Majid, and Ricardo Goncalves Klau. *Textbook of Maritime Law*. PT. Sonpedia Publishing Indonesia, 2025.

for all ships to be able to pass through the strait continuously and as quickly as possible without any obstacles.⁴If we refer to the provisions of UNCLOS 1982, it should be explained that there are clear rules regarding the right to pass without obstruction.

However, in reality, Iran, as a coastal state of the Strait of Hormuz, along with Oman, rejected a number of UNCLOS provisions, and this rejection was based on differing interpretations, particularly regarding the boundaries of its maritime sovereignty. This was even followed up by Iran ratifying UNCLOS with a number of rules that differed from those stipulated in UNCLOS. The existence of this problem was also exacerbated by the geopolitical tension between Iran and the United States and its allies. The emergence of these problems and political tensions resulted in Iran implementing transit fees in the Strait of Hormuz, and this is certainly not merely rhetoric, but the existence of this idea has now become a risk calculation used in the global shipping industry. Even various global maritime insurance companies such as Lloyd's of London have even included the Persian Gulf region, including the Strait of Hormuz, in the Joint War Committee (JWC) Listed Areas list, which has implications for a significant increase in ship insurance premiums.

If the concept of a fee or toll is actually implemented, it will undoubtedly have other impacts, in addition to the impacts described above. These impacts affect the legal relationship between the shipowner and the charterer, which is regulated in the charter party agreement. In this context, the charter party agreement can be described as a crucial instrument in the context of international trade and maritime law.⁵The charter itself can take several forms, including time charter, voyage charter, demise charter, or bareboat charter, each with different allocations of rights and obligations. The charter party's presence is also important because it often refers to international standards such as the NYPE (New York Produce Exchange Form) for time charters,⁶and GENCON (General Conditions of Charter) for voyage charter⁷has been developed for more than a century by maritime organizations such as BIMCO (Baltic and International Maritime Council).

The existence of additional cost concepts such as the toll concept in the Strait of Hormuz will raise issues regarding who, between the shipowner and charterer, is responsible for bearing these costs. This issue is not simple, as the answer depends heavily on various aspects of the contractual structure, such as the governing law clause (choice of law) and various additional risk clauses such as war risk clauses, additional insurance clauses, and clauses governing safe ports and routes (safe port guarantees). Beyond the complexity of the issues described above, there are other issues related to resolution. When a problem or dispute arises, it naturally raises questions about which forum can be used to resolve the problem, what settlement method can be used, and also the issue of determining which law should be applied.

Studies on the relationship between international maritime law, private international law, and geopolitics in the Strait of Hormuz are still rarely discussed in Indonesian legal literature. Many articles only explain the general regime of the United Nations Convention on the Law of the Sea without delving into practical issues such as charter party contracts or shipping business disputes. Yet, in a vital waterway like the Strait of Hormuz, legal issues extend beyond sovereignty and rights of passage to contractual relationships between parties from various countries.

This paper attempts to fill this gap by examining it from the perspective of international civil law and maritime contract law. It focuses on how geopolitical risks are incorporated into contracts regarding the allocation of responsibilities and dispute resolution options. With this approach, it is hoped that this study will benefit not only theoretical development but also practitioners and shipping industry players

⁴ Karagiannis, Syméon. "Reflections on Article 43 of the United Nations Convention on the Law of the Sea." In *International Straits: A Multidisciplinary Approach*, pp. 131-167. Brill Nijhoff, 2026.

⁵ Anwar, Syamsul Musbahul, Wiwik Sri Widiarty, and Binoto Nadapdap. "Juridical Analysis of General Average Action on Maritime Transportation Agreements with Time Charter Systems Applicable in Indonesia." *Journal of Social Technology* 5, no. 6 (2025): 1991-2002.

⁶ Matsushita, Jake. "The Scope of the Implied Indemnity: *Sino East Transportation Ltd v Grand Amazon Shipping Ltd (The Grand Amanda)* [2025] EWHC 1990 (Comm): Jake Matsushita." *Australian and New Zealand Maritime Law Journal* 39, no. 2 (2025): 14-24.

⁷ Voudouris, Ioannis, and Evi Plomaritou. "Comparative Study of Voyage Charterparties in Dry and Liquid Bulk Markets." *Perspectives of Law and Public Administration* 13, no. 4 (2024): 536-555.

facing similar risks. Based on the overall explanation above, the researcher intends to address this issue in this study, entitled "Toll Payment Obligations in the Strait of Hormuz in Charter Party Contracts: Analysis of Legal Conflicts, Civil Liability of the Parties, and International Dispute Resolution Forums."

Departing from the explanation of the background of the problem as explained above, the existing problems will be concretized into a problem formulation as follows: How does the choice of law determination in a charter party contract regulate civil liability between the shipowner and charterer when one party is unilaterally required to pay a toll by Iran in the Strait of Hormuz? Which forum is competent and which law applies (*lex arbitri* vs *lex fori*) in the settlement of civil disputes between shipowners, charterers and cargo owners due to losses arising from the closure and implementation of tolls in the Strait of Hormuz?

Research Methods

Conducting research certainly requires a research method to help researchers analyze the problem being studied. In this research, the juridical-normative method will be used.⁸ The normative juridical research method itself can be defined as a research method conducted by utilizing various legal norms and legal knowledge sourced from primary, secondary, and tertiary legal sources. Using this research method, existing problems are analyzed by linking them to existing regulations. This research is based on the nature of the problem being studied, namely normative conflicts and regulatory gaps in the relationship between international maritime law, international civil law, and cross-border business contract law.

This research was also conducted using a research approach to help guide the research. The research approaches employed in this study consisted of a statutory approach and a conceptual approach. The statutory approach can be described as an approach conducted through the review and analysis of various relevant legal norms.⁹ The legal norms referred to in this case include the provisions of UNCLOS 1982 (especially Part III concerning straits used for international navigation) as well as private international legal instruments such as the Rome I Regulation (EC No. 593/2008) concerning the law applicable to contracts, the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, and various standard charter party forms that have normative force in international maritime practice.

The second approach used in this research is a conceptual approach. This approach is implemented by analyzing the issues raised and connecting them to various concepts found in developments in the legal field.¹⁰ such as the concept of choice of law, *lex arbitri*, *lex fori*, party autonomy, privity of contract, safe port warranty, and also the concept of civil liability in the implementation of international maritime law in order to build analytical arguments on the problems studied. With a conceptual approach, the analysis of this problem can be more comprehensive because in this case the analysis is also based on various new sciences that exist in accordance with the development of legal science.

The legal materials used are classified into three categories. Primary legal materials include all the aforementioned laws and regulations along with relevant jurisprudence. Secondary legal materials include academic literature, national and international legal journal articles, textbooks on investment law, tax law, and contract law, as well as official government reports. Tertiary legal materials include legal dictionaries, legal encyclopedias, and glossaries, which are used as conceptual references. All of these legal materials are then analyzed using qualitative methods, which are carried out using legal interpretation techniques, including grammatical interpretation, systematic interpretation, and

⁸ Zainuddin, Muhammad, and Aisyah Dinda Karina. "The use of normative juridical methods in proving the truth in legal research." *Smart Law Journal* 2, no. 2 (2023): 114-123.

⁹ Wiratama, Aldi, Ajie Haikal, and Zainudin Hasan. "A sociological approach to legal regulation in understanding conflicts in Indonesia." *Wahana Pendidikan Scientific Journal* 8 (2022): 206-12.

¹⁰ Munib, Abdul. "Compilation of the Purposes of Marriage in Positive Law, Customary Law, and Islamic Law." *VOICE JUSTISIA: Journal of Law and Justice* 6, no. 2 (2022): 36-48.

teleological interpretation. This analysis is then followed by the development of structured arguments to answer the problem formulation.

Results and Discussion

Choice of Law in Charter Party and Civil Liability for Toll Payments in the Strait of Hormuz

The understanding of how choice of law truly exists within the framework of a charter party agreement, which, when examined from its very existence, naturally requires a starting point based on the principle of party autonomy. This starting point can be seen as a crucial principle in the implementation of commercial contracts across national borders. Referring to the existence of this principle will eventually create the possibility for binding parties to freely determine which country's law will be used and will govern them. The existence of this principle is also embodied in positive law as stipulated in Article 3 of the Rome I Regulation.¹¹ This legal regulation is not only in the Rome I Regulation, but there are also similar regulations or principles in the common law system in the form of contract jurisprudence since the 19th century which explains that the choice of valid law in the charter party is the determining factor before an analysis of civil liability can be carried out.

In practice, the majority of international charter parties generally include a governing law clause, which generally refers to English law as the applicable law. The inclusion of English law in the majority of charter parties is not coincidental, but rather demonstrates the dominance of England in the maritime or shipping world. Regulations regarding English governing law can also be seen in several legal instruments, such as Clause 45 of the 1933 NYPE Form, which explicitly states that contracts are governed by and interpreted under English law (English law to govern).¹² Similar provisions can also be seen in the updated GENCON 1994, which explains the standard arbitration clauses which all refer to London Arbitration.

With numerous regulations and principles referring to English law, it can be explained that English law is positioned as *lex contractus*. Based on this, the framework for analyzing the parties' responsibilities must refer extensively to English contract law doctrines, including those developed through English court decisions and maritime arbitration. Based on this explanation, the Strait of Hormuz issue can be reanalyzed. If we want to examine who bears the various costs arising from the closure of the Strait of Hormuz, which means raising the question of whether the shipowner or the charterer is responsible, then an analysis can be conducted in order to find the answer to this question.

When the question arises as to who is responsible, the answer depends on the applicable charter party. If the applicable charter party is a voyage charter, then it can be explained that the vessel is chartered for one or several specific trips from one port to another on an agreed route, with all costs, both operational and other costs, being the responsibility of the shipowner, unless otherwise agreed by the parties in the charter party. Conversely, if the applicable charter party is a time charter, then all costs incurred will be the responsibility of the charterer because the time charter scheme is that the charterer rents the vessel for a certain period of time and takes over operational control of the vessel, including determining the travel route.

Although determining responsibility can be said to be simple as explained above, in practice, resolving the problem of the Strait of Hormuz is not that simple. The complexity of the problem of the Strait of Hormuz changes from the imposition of responsibility to other legal issues, especially when toll tariffs are imposed unilaterally by the state authorities who have authority over the strait, of course, two main dimensions of the problem arise, which in this case consist of: First, the first dimension that arises in this case is the dimension of public international law and the dimension of civil law. In this dimension, the question that arises is whether Iran has the international legal authority to collect tolls from ships

¹¹ Abdul Nassir Mukhtar, Zein. "Party Autonomy Principle in the Rome Convention 1980 and Rome I Regulation (Regulation (EC) 593/2008) Texts-Do They Detract from the Need for Certainty and Predictability in Terms of Allocating Jurisdiction in Contractual Matters?" (2025).

¹² Zharikov, Andrii. "Arbitral Award Publications by the London Maritime Arbitrators Association: Improving the Policy for a Greater Impact." *Tul. Mar. LJ* 47 (2023): 245.

passing through. Article 26 paragraph (1) of UNCLOS expressly states that no charges may be imposed on foreign ships exercising the right of innocent passage solely because they pass through territorial waters.¹³ A more relevant regime for the Strait of Hormuz is the right of transit passage under Article 38 of UNCLOS, which provides even stronger protection than innocent passage because it is imperative and cannot be suspended.¹⁴ Article 44 of UNCLOS explicitly prohibits states bordering straits from impeding or suspending transit passage.

The aforementioned issues are further complicated by Iran's unique legal position, which is not fully aligned with UNCLOS, as outlined in the transit passage regime declaration (an Iranian interpretation that includes unauthorized passage). Iran's influence on this position creates practical uncertainty for ship operators. Furthermore, within Iran's domestic legal framework, the 1993 Marine Areas Act claims broader jurisdiction and could potentially serve as a legal basis for tolls.¹⁵ The second dimension related to this problem is the civil law dimension.

From a civil law perspective, the existence of tolls in the Strait of Hormuz is also problematic, even though the tolls are considered invalid under public international law. There are also cases of ships being intercepted or detained by the Iranian Navy, among other circumstances. Another issue in the civil law context relates to the pragmatic choice that must be made: whether to pay the toll to free the ship and cargo and then regress the charterer's payment (in the context of a time charter) or include it as a claimable expense. This is also recognized by law as regulated by the doctrine of economic duress, which provides a basis for the party paying under duress to regress the payment to the party to whom it is due.

In addition to the explanation above, in order to explain the responsibility for the implementation of the toll scheme in the Strait of Hormuz, the existence of a war risk clause in the charter party can also be analyzed. The war risk clause or BIMCOCONWARTIME 2013 itself can be explained as a clause that broadly covers not only open war, but also hostile actions, blockades, sanctions, and navigation restrictions imposed by any party that involve threats to ships.¹⁶ The existence of this war risk clause has implications where when the Strait of Hormuz enters the category of war risk zone, then the shipowner has the right to refuse to enter the zone unless the charterer is willing to make additional payments that may arise when passing through the war zone, for example the Strait of Hormuz when the toll is applied. Indirectly it can be explained that the existence of CONWARTIME in a contract can also be an aspect that determines the responsibility when a situation occurs as happened in the Strait of Hormuz.

In connection with the existence of problematic phenomena as occurred in the Strait of Hormuz, in this case, analysis can also be carried out using the doctrine of frustration of contract as contained in English law which was then formalized by *Davis Contractors Ltd v Fareham Urban District Council* [1956] AC 696.¹⁷ Referring to this doctrine, it can be explained that a contract can be declared frustrated if something occurs beyond the control of the parties. This occurrence can change contractual obligations, making it unfair for the affected parties to implement. When related to the issue of toll imposition, this certainly meets the requirements for frustration of contract, ultimately freeing the parties from contractual obligations without liability for damages.

In addition to the above, another aspect that should not be overlooked in analyzing the problems in the Strait of Hormuz is the relationship between the charter party and the bill of lading, which are separate legal instruments. Cargo owners generally have a contract with the charterer (not the

¹³ Grechishnikov, Aleksandr Vasil'evich. "Place of Transit Passage in the System of International Maritime Law and Its Comparison With Innocent Passage." *International law* 4 (2025): 116-128.

¹⁴ Solski, Jan Jakub. "The 'due regard' of Article 234 of UNCLOS: Lessons from regulating innocent passage in the Territorial Sea." *Ocean Development & International Law* 52, no. 4 (2022): 398-418.

¹⁵ Nikpayam, Amirmohammad, and Niloofar Kamyab Mansouri. "The Arrest of Ships in the Iranian Legal System." *Journal of Iranian and Central Eurasian Studies* 8, no. 1 (2025).

¹⁶ Nordfeld, Adriana Avila Zuniga, Dimitrios Dalaklis, Harold Thomas Workman, and Johan Granholm. "Lessons of the Russian-Ukraine Armed Conflict on Marine Insurance, Shipping and Food Security: A Matter of Blockade or Starvation?." *Journal of Maritime Research* 22, no. 2 (2025): 254-263.

¹⁷ Grey, Felicia A. "The English Law Doctrine of Frustration in the Context of the COVID-19 Pandemic." *Business Law Review* 45, no. 1 (2024).

shipowner) outlined in the bill of lading. When cargo is delayed, damaged, or lost due to toll payments or the closure of the Strait of Hormuz, the cargo owner will regress its claim to the party acting as its contractual counterpart in the bill of lading (usually the charterer). In this case, the charterer will regress through an indemnity mechanism or a back-to-back claim against the shipowner if the loss is caused by the shipowner's decisions or actions.

In this analysis it is also important to explain how to analyze the problem by considering the principle of a safe port guarantee is implicitly or explicitly inherent in most charter parties. In a time charter, the charterer is obliged to order the ship only to a safe port or waters. In *The Eastern City* [1958] 2 Lloyd's Rep 127, an English court defined a 'safe port' as a port that the ship can enter, use, and leave under normal conditions, without danger that cannot be avoided by good planning and careful supervision.¹⁸ The Strait of Hormuz which is threatened with unilateral tolls or even forced closure can be qualified as unsafe waters, which means that the charterer's order to pass through the strait is a violation of the safe port warranty and creates an obligation for the charterer to compensate the shipowner for all additional costs incurred, including tolls, additional insurance premiums, and costs due to delays.

Based on the explanation above, it can be concluded that in a charter party, where English law is the *lex contractus*, the determination of civil liability for incidents such as those that occurred in the Strait of Hormuz depends heavily on the type of charter chosen, the presence or absence of a war risk clause, and whether the route, which in this case passes through the Strait of Hormuz, is chosen or ordered by the charterer. In a time charter, the burden of toll tends to fall on the charterer through the operation of the CONWARTIME clause and safe port warranty; in a voyage charter with a predetermined route, the analysis is more contextual and may involve the doctrine of frustration. What serves as a buffer for both parties is war risk insurance, which each party is required to have, where Club P&I (Protection and Indemnity) and war risk underwriters ultimately become the *de facto* guarantors of most of the losses incurred.

Dispute Resolution Forum and Lex Arbitri vs Lex Fori in the Charterer Party Dispute Due to the Strait of Hormuz Toll

In relation to problems that arise in charter parties, the resolution is almost universally carried out through the use of arbitration schemes rather than settlement through litigation schemes in state courts. This is not without reason, but rather because in arbitration there are various advantages, including confidentiality, procedural flexibility, the choice of arbitrators with maritime technical expertise, and ease of enforcement of decisions in various jurisdictions through the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention).¹⁹ This convenience is also guaranteed by the current condition where the New York Convention has been ratified by 172 countries, which in this case shows that the use of arbitration is something that is very rational to do.

As explained in the case of charter party dispute resolution, the most dominant settlement scheme is arbitration, but in arbitration itself there is a forum that is also dominant, namely the London Maritime Arbitrators Association (LMAA), which can be seen from the many choices of this reference forum with a total of more than 2000 arbitration references per year. LMAA uses LMAA Terms as procedural rules and designates London as the seat of arbitration.²⁰ The seat of arbitration has very important legal significance because the selection of this forum has an impact on determining the *lex arbitri* or the law governing the arbitration procedure.

¹⁸ Bowers, Jamie. "The Significance of the Ocean Victory Case in Maritime Insurance." *Southampton Student L. Rev.* 14 (2024): 10.

¹⁹ Zaheeruddin, Mohammed. "Recognition and Enforcement of Annulled Arbitral Awards Under the New York Convention of 1958." *International Journal of Professional Business Review: Int. J. Prof. Bus. Rev.* 8, no. 7 (2023): 75.

²⁰ Putri, Jufianty Trisna. "Resolving Furniture Export Contract Problems from the Perspective of International Trade Law (Case Study at CV Haqare Furniture)." PhD diss., Islamic University of Indonesia, 2024.

Referring to the explanation above, there are two closely related principles: *lex arbitri* and *lex contractus*. While these two principles are closely related to dispute resolution, such as that which occurred in the Strait of Hormuz, they are distinct and should not be confused. *Lex contractus* can be defined as a principle that governs the substance of the dispute, the rights and obligations of the parties, and various matters related to the contractual agreements agreed upon by the parties.²¹ Meanwhile, *lex arbitri* in this case can be interpreted as a principle that explains the procedures, how arbitration is carried out and various matters related to the implementation of arbitration in settling a contract.²² When viewed from the implementation, these two principles in fact often meet at the same point, because the choice of English law as the *lex contractus* and the choice of London as the seat results in the *lex arbitri* also being English law.

In addition to the principles explained above, there is another principle, namely the *lex fori* principle. The concept of *lex fori* here becomes relevant when the dispute that occurs is brought to court, either as a suggestion for resolving the main dispute or as a means to test the arbitration award in relation to the implementation of the award. The existence of the *lex fori* concept can be interpreted as being related to the place of the court handling the case. This means that if the settlement of the charterer party dispute has been determined and decided based on the LMAA arbitration award and the decision is made in Indonesia (for example, because the defendant's assets are located in Indonesia), then the *lex fori* is Indonesian law, and the Indonesian court will use Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution along with the provisions of Supreme Court Regulation No. 1 of 1990 concerning Procedures for the Enforcement of Foreign Arbitration Awards as a reference. Indonesia has ratified the New York Convention through Presidential Decree Number 34 of 1981, so that LMAA arbitration awards that meet the requirements of the Convention can be executed in Indonesia.²³

In the case of problems arising as a result or impact of the implementation of toll tariffs in the Strait of Hormuz, it is necessary to differentiate dispute resolution scenarios based on the parties involved. In this case, the disputes that may arise can be two-party disputes or multi-party scenarios. The most common two-party dispute is between the shipowner and charterer and is resolved through an arbitration mechanism as stipulated in the charter party. If the charter party uses the LMAA clause, then the parties will each choose an arbitrator, and the two arbitrators will choose an umpire (third arbitrator) if they cannot reach an agreement. This entire process is governed by the LMAA Terms and the Arbitration Act 1996 as the *lex arbitri*.

The problem becomes more complex when the dispute turns out to be a multi-party dispute, which can arise as a result of the involvement of the cargo owner. As previously explained, the cargo owner has a separate contract (bill of lading) with the charterer (or in some cases with the shipowner, depending on who issued the bill of lading). The bill of lading usually also contains choice of law and arbitration clauses. In practice, it is not uncommon to find situations where the charter party chooses London arbitration, while the bill of lading issued under the charter contains a different choice of forum clause (e.g., litigation in a specific country's court or arbitration at the Singapore International Arbitration Centre (SIAC)). This divergence of clauses creates the possibility of forum shopping and even the risk of conflicting decisions.

This uncertainty is further complicated by the fact that although a state's act of levying tolls may violate norms of customary international law and UNCLOS as the principle in the case of *Nicaragua v. United States* (1986) such violation of public law is not automatically enforceable through a private law forum such as the LMAA.²⁴ The ITLOS settlement route is also only open to states through diplomatic

²¹ Putra, Albert Fajar Yuga Yusdi, Dwi Fitriana, and Khetrin Triandana. "Testing the Principle of Freedom of Contract in Smart Contracts: What Do the Parties Need to Know? Research." *Journal of Community Service and Educational Research* 4, no. 4 (2026): 24393-24401.

²² Desri Novian, SH Arbitration Procedural Law in Indonesia. *bisakimia*, 2025.

²³ Hasan, Habib. "Implementation of Cancellation of International Arbitration Awards in Legal Perspective in Indonesia (Study of Cassation Decision Number: 219B/Pdt. Sus. Artb/2016)." " *Dharmasisya*" *Journal of Master of Law Program FHUI 2*, no. 1 (2022): 31.

²⁴ Nugraheni, Prasasti Dyah, and Andrianantenaina Fanirintsoa Aime. "Completion of International Disputes Between Nicaragua and United States in International Law Perspective." *Law Research Review Quarterly* 8, no. 2 (2022): 185-202.

claims, not to private legal entities. Therefore, commercial arbitration forums such as the LMAA, the New York High Court, or the SIAC are preferable.²⁵ remains the primary focus, although the involvement of entities associated with a particular country is often hampered by the complexities of international sanctions regulations such as OFAC which can limit the participation of arbitrators and legal counsel.

From a procedural perspective, the Arbitration Act 1996 provides for the intervention of English courts within certain limits, such as the filing of an appeal on a point of law under Article 69 or a jurisdictional challenge under Article 67.²⁶ However, UK jurisprudence tends to favor the principle of finality to maintain the efficiency of maritime arbitration. This efficiency issue is further tested when faced with disputes involving shipowners, charterers, and cargo owners in the same case. Unlike institutions like SIAC, which have comprehensive consolidation and multi-party arbitration mechanisms, the LMAA Terms 2021 do not provide for mandatory consolidation, leaving parties in different contract chains at risk of being trapped in separate, inefficient processes.

This is crucial considering that in disputes over tolls or shipping costs in the Strait of Hormuz, every claim filed by a cargo owner almost always triggers a series of subsequent claims in the form of indemnities between the charterer and shipowner. The layered contractual relationships inherent in charter party practices mean that disputes do not arise in isolation but rather develop into multi-party disputes with intertwined legal bases and interests. Under such circumstances, the potential for inconsistent decisions and overlapping jurisdictions increases if an integrated arbitration clause is not designed from the outset.

Furthermore, the effectiveness of dispute resolution is not solely determined by the arbitrator's ability to interpret and apply substantive law (*lex contractus*), but is also greatly influenced by how the parties strategically formulate the dispute resolution mechanism within the contract. Careful coordination of arbitration clauses is crucial to ensure alignment between the forum, applicable law, and procedures, thereby minimizing the risk of legal fragmentation during the recognition and enforcement stages of the award. Therefore, a comprehensive approach to drafting arbitration clauses serves not only as a dispute mitigation instrument but also as a guarantee of legal certainty in the complex international maritime trade regime.

Based on the overall explanation above, it can be concluded that in the context of charter party disputes or issues, the most common and common dispute resolution, especially after the existence of the toll implementation problem in the Strait of Hormuz, is settlement through LMAA arbitration in London with the *lex arbitration* in the form of the English Arbitration Act 1996 and *lex contractus* (material law) in the form of English law reflecting the choice of the parties. In this case, it can be explained that *lex fori* or local law will only be used when we want to enforce the decision in the country where the opposing asset is located. The main problem is that these disputes are often fragmented due to differences in contracts between the shipowner, charterer, and owner of the goods. Because the standard rules of the LMAA do not automatically regulate the consolidation of disputes from various parties, the parties must be very careful in drafting their arbitration clauses to ensure that the resolution is consistent and does not overlap.

Conclusion and Suggestion

Conclusion

Based on the explanation as explained above, the following conclusions can be drawn: That the Choice of law in a charter party (which generally almost always refers to English law as the choice of law *lex contractus*) plays a very determinative role in determining the civil liability of the shipowner and charterer for the imposition of a unilateral toll such as in the Strait of Hormuz. In a time charter there are

²⁵ Defriza, Rita. "Unenforceable Arbitration Awards: A Comparative Analysis of Indonesian Arbitration Law, the New York Convention, UNCITRAL, and SIAC." *Sasana Law Journal* 12, no. 1 (2026): 107-121.

²⁶ Grierson, Jacob. "Two Brief Comments on the Law Commission's Proposed Reform of the Arbitration Act 1996." *Journal of International Arbitration* 39, no. 6 (2022).

various quite important things such as the existence of the CONWARTIME 2013 clause, the existence of a safe port warranty, and the doctrine of English contract law in this case allocating the burden of tolls and related incidental costs to the charterer, because the charterer assumes operational control of the vessel and is responsible for route instructions. If the focus of the discussion is a voyage charter, the existence of responsibility is more contextual and depends on whether the route through the Strait of Hormuz has been agreed upon in the main contract with the possibility of invoking the doctrine of frustration of contract if the imposition of a toll fundamentally changes the character of the agreed obligations. The most relevant and effective dispute resolution forum for resolving charter party issues in toll or closure issues of the Strait of Hormuz is the LMAA arbitration in London, with the *lex arbitri* being the English Arbitration Act 1996. In connection with the resolution of these disputes, conceptual differences often arise between *lex arbitri* (regulating arbitration procedures) and *lex fori* (court law in the process of enforcing decisions), which have quite crucial impacts, such as the parties need to be careful in separating the law governing the substance of the dispute from the law governing the procedure for its resolution. In addition, in connection with the problems that occur, two types of disputes often arise: disputes between parties and multi-party disputes. Among these disputes, multi-party disputes still have structural complexity in the form of forum fragmentation due to the existence of two or more contracts in the transportation chain (charter party and bill of lading), each of which may contain different arbitration clauses. In addition, in relation to enforcement of decisions in the case of disputes in the Strait of Hormuz, there are also problems considering that Iran is not a signatory to the New York Convention.

Suggestion

Based on the conclusions as explained above, the following suggestions can be given: Parties involved in a charter party, particularly those navigating high-risk areas like the Strait of Hormuz, should clearly define the distribution of additional costs due to geopolitical conditions. Costs such as tolls, insurance premiums, or route changes should be disclosed from the outset to avoid disputes. Furthermore, the parties should include the 2013 CONWARTIME clause in their contracts, and the addition of this clause should be understood to avoid conflicting interpretations. To avoid disputes involving multiple parties, shipping companies should use arbitration clauses that allow for consolidation of cases. The rules of the Singapore International Arbitration Centre or the International Chamber of Commerce can be used as alternative dispute resolution clauses due to their more flexible nature. From an international policy perspective, countries with interests in shipping lanes, including Indonesia, should push for clarity on Iran's legal stance to align with the transit passage principle under UNCLOS. This legal certainty is crucial for maintaining the smooth flow of trade and the stability of global supply chains.

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