

Advances in Science, Technology & Innovation
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Talal Abdulla Al-Emadi

Joint Venture Agreements in the Qatari Gas Industry

A Theoretical and an Empirical Analysis

Advances in Science, Technology & Innovation

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“It’s less important to try to have the last word on a subject than the first word”
Abram Chayes (1922–2000)

(The late Felix Frankfurter Professor Emeritus at Harvard University Law School)

To my mother, Fatma, my wife, Reem, my daughter, Aya, the memory of my son, Essa, 2008–2013, my young son Ibrahim, my best friend Abdulla, my cousin Ibrahim, and the memory of my father, Abdulla, 1930–1975.

Foreword

The unincorporated joint venture has long been the preferred cooperative approach to upstream oil and gas projects. These agreements, in the form of what is commonly called a “joint operating agreement” (JOA), have become so widely utilised that we can safely say that they are part of the custom and practice of the upstream petroleum industry. They are less common when host governments are a party or the underlying party. Host governments tend to prefer concessions, production sharing contracts or service contracts, probably because they give governments the political advantage of being able to portray itself as the “supervisor” of the development of the nation’s resources, rather than a co-operating party. Superimposed on these more common agreements may be joint venture arrangement in the form of a JOA between a national oil company and the other petroleum investors. But pure joint ventures are not common.

Dr. Al-Emadi has studied the unincorporated joint venture used in Qatar—a major producer of natural gas—gas that would be largely stranded if it were not for development of Liquefied Natural Gas (LNG) projects. The liquefaction part of LNG commerce is more “midstream” than upstream. In the petroleum industry midstream, a variety of cooperative venture agreements are used, including incorporated joint ventures, partnerships, limited partnerships, limited liability companies and unincorporated joint ventures. Qatar LNG projects operate under the unincorporated joint venture model.

Dr. Al-Emadi’s book, which he originally prepared as a doctoral thesis at the University of Oxford, provides a comprehensive analysis of why Qatar follows the unincorporated joint venture model. The book should be of primary interest to academics who teach and write about petroleum business planning and strategy. But lawyers and negotiators who design and implement joint ventures will also find the book of interest, especially if they are representing investors in projects that will be conducted in an Islamic state, whether or not those projects involve petroleum development. A tenant of Islam is that cooperative business arrangements should be based upon risk and profit sharing, a common hallmark of unincorporated joint ventures.

As Dr. Al-Emadi indicates, Qatar’s joint venture approach resulted from a deliberative decision-making and negotiation process between the government, represented by the national oil company, and petroleum investors. He considers and discusses a host of influences on this outcome, including ownership, location, culture, history, religion and technology transfer. His book is an important and insightful contribution to the literature of international business transactions.

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John S. Lowe
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This book has been in the works for some time. It is a result of work done in three universities: Oxford, Harvard and Qatar universities. The idea of it hit me when I started reviewing Qatar's petroleum agreements at the Amiri Diwan, back in 1999. It became a Ph.D. proposal and then developed into a thesis, and after several years, I could transform it into a book. There are a number of people and institutions whose contributions to this book deserve acknowledgement.

In particular, I want to thank my wife, without her this work would not have seen the light. I thank my main doctoral thesis supervisor, Prof. Bettina Lange (Wolfson, Oxford and CSLS). I benefited from her continuous brilliance and support. I thank Prof. Ewan McKendrick (Lady Margaret Hall, Oxford), the Registrar of the University, for his support and mentorship.

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I conducted field studies and interviews in Doha, London and Boston, so I interviewed a number of officials without whom it would have been impossible to assemble the needed facts about Qatar's regime in the petroleum regulation, law and business, and economics arenas. Those were Robert Tuttle of Bloomberg Qatar; HE Abdulla Al-Atya, former Minister of Energy; Dr. Ibrahim Al-Ibrahim, former Vice Chairman of the former Rasgas (merged as Qatargas); Sultan Al-Abdulla of Al-Abdulla Law Offices; Salman Al-Ansari of Al-Ansari and Associates, Danni Kabani of Simmons and Simmons in Qatar; HE Yousif Kamal, former Minister of Finance, and many dignitaries at Qatar Petroleum, ExxonMobil, Shell and Squire Patton Boggs. I am very grateful to them for providing evidence to the interviews. I would like to thank them for their time to meet me, for their opened doors, prompted replies to emails and generosity in sending materials.

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Contents

1	Thinking About Joint Venture Agreements as the Result of a Decision-Making Process	1
1	Question of the Book	1
2	Contribution of This Book to Academic Literature	1
3	Theoretical Basis of the Book	3
3.1	Micro-level Analysis: The Perspective of International Oil Companies	4
3.2	Macro-level Analysis: The Perspective of the Organisational Culture of the Qatari Gas Industry	4
4	Research Design	6
4.1	Qualitative Strategy for Exploring the Preference for Joint Venture Agreements	6
4.2	Case Study Design: The Case of the Qatari Gas Industry	7
5	Collecting and Analysing Data About the Preference for Joint Venture Agreements in the Qatari Gas Industry	7
5.1	Triangulation of Data Collection Techniques	7
5.2	Thematic Analysis of Qualitative Data	9
6	Structure of This Book	10
2	The Relevance of Dunning's Ownership, Location and Internalisation Advantages for Explaining Why International Oil Companies Engage in Joint Venture Agreements in the Qatari Gas Industry	13
1	Three Key Reasons for the Relevance of Dunning's Eclectic Paradigm	13
2	Comparative Analysis of Co-operation Agreements in the Gas Industry	14
2.1	Why are Joint Venture Agreements Foreign Direct Investment?	15
2.2	Classification of Co-operation Agreements according to Different Modes of Entry	15
3	The Evolution of Dunning's Eclectic Paradigm	17
3.1	The Evolution of Location (L) Advantages	17
3.2	The Evolution of Internalisation (I) Advantages	18
3.3	The Evolution of Ownership (O) Advantages	21
4	Key Criticisms of Dunning's Eclectic Paradigm	22
4.1	Is Dunning's Eclectic Paradigm a Shopping List of Variables?	22
4.2	Are Ownership Advantages Necessary to Explain Foreign Direct Investment?	23
4.3	Does Dunning's Eclectic Paradigm Explain Micro-economic Phenomena?	24
5	Direction for Applying Dunning's Eclectic Paradigm in this Book	25

3	Why Do International Oil Companies Engage in Joint Venture Agreements in the Qatari Gas Industry? – Dunning’s Ownership, Location and Joint Internalisation Advantages Perspective	27
1	Realising Ownership, Location and Joint Internalisation Advantages	27
2	How Can International Oil Companies Realise Ownership (O) Advantages?	28
2.1	Asset-Specific Advantages (Oa)	29
2.2	Transaction Cost-Minimising Advantages (Ot)	30
2.3	Institutional Advantages (Oi)	30
3	How Can International Oil Companies Realise Location (L) Advantages?	31
3.1	Supply of Natural Gas	32
3.2	Formal-Level Institutions: Governance Infrastructure	33
3.3	Informal-Level Institutions: Human Infrastructure	34
4	How Can International Oil Companies Realise Joint Internalisation (I) Advantages?	35
4.1	Minimising Transaction-Related Costs	36
4.2	Minimising Social-Related Costs	37
5	Evidence of Institutional Influences in Ownership, Location and Joint Internalisation Advantages	37
4	Empirical Evidence of the Significance of Dunning’s Themes of Ownership, Location and Joint Internalisation Advantages for Explaining Why International Oil Companies Engage in Joint Venture Agreements in the Qatari Gas Industry	39
1	Three Key Themes of Ownership, Location and Joint Internalisation Advantages	39
2	Theme of Ownership (O) Advantages in the Qatari Gas Industry	40
2.1	Liquefied Natural Gas (LNG) Technology	40
2.2	Large Size and Multinational Experience	41
2.3	Effective Human Resources Management	43
3	Theme of Location (L) Advantages in the Qatari Gas Industry	44
3.1	Qatar’s North Field	44
3.2	Qatar’s Political Stability	44
3.3	Qatar National Vision 2030	46
4	Theme of Joint Internalisation (I) Advantages in the Qatari Gas Industry	47
4.1	Avoiding Opportunism	47
4.2	Avoiding Uncertainty	48
5	New Light on Dunning’s Three Key Themes	49
5	Giddens’ Structuration Theory as an Analytical Framework for Understanding the Influence of Organisational Culture on the Preference for Joint Venture Agreements in the Qatari Gas Industry	51
1	Giddens’ Structuration Theory as a Macro-Level Approach	51
2	The Components of Giddens’ Structuration Theory	52
2.1	Human Action Based on the Stratification Model of Personality	52
2.2	The Interplay Between Action and Structure Based on the Duality of Structure	53
2.3	Three Structural Elements of Power, Meaning and Morality	54
3	Legitimation (Morality)	56
3.1	The Integration Between Agency and Structure	56
4	Key Criticisms of Giddens’ Structuration Theory	57
4.1	Is Structuration Theory Too Eclectic?	58

4.2	Should Action and Structure Be Viewed as a Dualism Instead of a Duality?	58
4.3	Is the Concept of Structure Based on Rules and Resources Too Broad?	58
4.4	Is Structuration Theory Irrelevant to Empirical Research?	59
4.5	Can Routine Create Ontological Security?	60
4.6	Which Structural Property Has Primacy?	60
5	Direction for Thinking About Organisational Culture Based on a Structural Approach	61
6	Conceptualising the Organisational Culture of the Qatari Gas Industry Based on Giddens' Structuration Theory	63
1	Three Dimensions for Exploring Giddens' Structuration Theory	63
2	The Relationship Between Giddens' Structuration Theory and Organisational Culture	64
2.1	Why "Organisational Culture" Is Better for This Study Than Either "National Culture" or "Legal Culture"?	64
2.2	A Structuration Perspective of Organisational Culture	66
3	The Application of Giddens' Structuration Theory to Empirical Research	67
4	The Extension of Giddens' Structuration Theory to Non-Western Contexts	68
4.1	The Emic (Contextualist) and Etic (Universal) Approaches	69
4.2	Indigenous (Integrationist) Approach	70
5	Making Giddens' Structuration Theory Accessible to Organisational Culture	71
7	An Analysis of the Organisational Culture of the Qatari Gas Industry in Terms of Giddens' Domination Structure: The Case of Interactive Positions of Power	73
1	Domination as the First Structure of Organisational Culture	73
2	A Historical Component: The Role of Participation	74
2.1	The Disappearance of the Classical Concession Agreements	74
2.2	OPEC and the Strengthening of Its Member States' Bargaining Power	75
2.3	Participation Agreements and the United Nations Resolutions	76
3	A Regulatory Component: The Regulatory Framework of the Qatari Gas Industry	77
4	An Enforcement Component: Authoritative and Allocative Resources of Power	80
4.1	The Role of Production Sharing Agreements and Service Contracts	80
4.2	The Legal Vehicles of Joint Venture Agreements	82
5	Historical, Regulatory and Enforcement Components of Domination	87
8	An Analysis of the Organisational Culture of the Qatari Gas Industry in Terms of Giddens' Signification Structure: The Case of Religion	89
1	Signification as the Second Structure of Organisational Culture	89
2	Religion as a Signification Dimension of Organisational Culture	90
2.1	The Meaning of Religion	90
2.2	The Relationship Between Religion and Signification	92
3	Conceptualising Religion Through Cornwall's Model of Religiosity	92
3.1	Manifestations of Religious Components	93
3.2	The Functional Components of Islam	95

3.3	Empirical Application of Religious Components	97
4	Unique Application of Cornwall's Model of Religiosity	100
9	An Analysis of the Organisational Culture of the Qatari Gas Industry in Terms of Giddens' Legitimation Structure: The Case of Technology Transfer	101
1	Legitimation as the Third Structure of Organisational Culture	101
2	Technology Transfer and the Duality of Technology	103
2.1	Technology: The Physical and Social	103
2.2	Technology Transfer Understood Through Legitimation	105
3	Successful Technology Transfer	107
3.1	Users and Designers of Technology	107
3.2	Joint Venture Agreements and Successful Technology Transfer	108
4	Two Premises About the Importance of Technology Transfer	110
10	Why Are Joint Venture Agreements Preferred in the Qatari Gas Industry?	113
1	Reflection of the Qatari Gas Industry Relative to Neighbouring Gas Sectors	113
2	Six Main Reasons for the Preference for Joint Venture Agreements in the Qatari Gas Industry	113
2.1	Three Micro-level Reasons: Ownership, Location and Joint Internalisation Advantages	114
2.2	Three Macro-level Reasons: Domination, Signification and Legitimation Structures	114
3	Exploring Dunning's and Giddens' Ideas as Avenues for Future Research . . .	115
3.1	Exploring Dunning's Ideas on Foreign Direct Investment: The Case of Spillovers	115
3.2	Exploring Giddens' Ideas on the Interrelationship Between Organisational Culture and National Culture	116
4	Limitations of This Book	117
5	Preference for Joint Venture Agreements Through Dunning's Eclectic Paradigm and Giddens' Structuration Theory	118
	Appendices: Sample of Interview Questions	119
	Bibliography	123
	Chapters in Books	127
	Articles	129
	Theses	135
	Miscellaneous	137

About the Author



Dr. Talal Abdulla Al-Emadi is the Oil and Gas Law Professor and the Founding Director of Qatar University (QU) Press. His broad academic interest is in International Economic Law. He focuses on how the law interacts with the important things in petroleum investment: not just profit, but trust and long-term relationships between Qatar and international oil and gas companies. He is a registered lawyer in the Qatari Bar. He was seconded from QU to the Amiri Diwan as a legal counsellor for the Minister of State for Council of Ministers Affairs. He holds a law doctorate from the University of Oxford and a law master's from Harvard University. He received his bachelor's in law from QU. He has served various national and international committees. He sits on Qatar National Committee for Climate Change and the Qatari National Committee for International Humanitarian Law. He is the President of International Law Association Qatari Branch and a member in the Georgetown Center for International and Regional Studies Program Committee, and he is the Founder of Oxford Alumni Branch in Qatar. He served HBKU Law School Establishment Committee in Qatar Foundation as a member. On an international level, he sits on Harvard University IGLP Academic Council, the Educational Advisory Board of the Association of International Petroleum Negotiators, and served the United States Department of Commerce International Legal Standards Advisory Group. He has published in leading law journals and led a QNRF's NPRP project which implemented TradeLab in Qatar. He has been consulted by international law firms, educational institutions and governments on subjects related to joint ventures, education reform, natural resources, environmental and investment laws.

Abbreviations

Notes on Abbreviations and Footnotes Format

This book follows Oxford Standard Citation of Legal Authorities (OSCOLA) spirit and thus makes use of further abbreviations that fit the dual motivations of shortening citations and being true to usages understood in the field. These include:

Organisations

GCC	The Co-operation Council for the Arab States of the Gulf
OAPEC	Organisation of Arab Petroleum Exporting Countries
OECD	The Organisation for Economic Co-operation and Development
OPEC	Organisation of Petroleum Exporting Countries

Journals (in Addition to Commonly-Understood Abbreviations)

JWIT	Journal of World Investment and Trade
OGEI	Oil, Gas and Energy Law Intelligence
TDM	Transnational Dispute Management
JWELB	World Energy Law and Business

Abbreviations Used in the Text *(As Acronyms Might Impede Readability, I Repeatedly Defined Them in My Examiners' Copies)*

Aramco	The Arabian American Oil Company
BOD	Board of Directors
ENI	Ente Nazionale Idrocarburi (the Italian National Oil Company)
IOC	International oil company
JOAs	Joint operating agreements
JVAs	Joint venture agreements
LLP	Limited liability partnership
NIOC	National Iranian Oil Company
NOC	National Oil Company
Pas	Participation agreements
PSAs	Production sharing agreements
PSCs	Pure service contracts
Qatargas	Qatar Liquefied Gas Company Ltd.
QP	Qatar Petroleum (the Qatari national oil company)
Rasgas	Ras Laffan Liquefied Natural Gas Company Ltd. (merged with Qatargas)
RSCs	Risk service contracts
SCs	Service contracts