

Obstacles and capacities in the European Union regarding the establishment of direct human rights obligations for transnational corporations

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Abstract

The recent increased role and capacities of transnational corporations on the one hand, and the lack of accountability towards human rights violation on the part of the mentioned corporations on the other, have provoked serious human rights concerns among human rights defenders. The unsuccessful experience of national legal systems, particularly those of developing states, to prevent human rights violations inflicted by such powerful entities is the main reason for raising the discussion on creating and imposing direct human rights obligations upon transnational corporations within both International Law and regional legal systems. The unique characteristics of the European Union *i.e.* The ability to enact and impose direct human rights and obligations for transnational corporations as well as its absolute commitment to human rights, have made The Union one of the most prominent pioneers in this field. With the use of descriptive and analytical method of study, this paper seeks to review the existing obstacles and capacities of the European Union in order to establish direct human rights commitments upon transnational corporations.

Keywords

accountability, direct obligations, European Union, human rights, transnational corporations.

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The structure and substance of government from the perspective of aim and means in the light of the theory of conventions (E'tebaariaat theory)

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Abstract

Regardless of the role of agent and recognizing the impact of the behavior of government officials in achieving the objectives of all systems of governing, the interactions between the structure and the substance of a government is an essential and a complex issue. In addition to the said interactions, occasionally the perceived mean attains prominence and becomes the goal. Such incidents not only exists in all fields of law, specifically in Public Law and more particularly Constitutional Law but is also seen in other areas of the human studies. This article seeks to consider the relations between the structure and the substance and their interaction from the perspective of aim and result based on E'tebaariaat theory of Ayatollah Tabatabaei, as an innovative viewpoint in human science in accordance to the Public Law. Based on the aforementioned theory, proper recognition of humans along with their needs and goals would describe the cause of establishment of legal and social foundations. The main subject of review is, "Does any content and aim call for its appropriate structure?" or "Are the structures and legal foundations in governments similar to neutral containers which are formed by their own content?"

Keywords

Allameh Tabatabaei, E'tebaariaat, political regime, structure, substance.

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Military intervention in Yemen from the perspective of international law

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Abstract

Following the developments in recent decades in the Middle East, many tragic events have unfolded in this region. From the imposed war of Iraq's dictator, Saddam Hussein, against Iran in the 1980s, Kuwait's occupation by Ba'athist Iraq, acts of aggression by Israel's regime against Lebanon, Gaza along with other incidents, Military intervention in Afghanistan and Iraq by the United States and its allies, brutal and criminal acts of violence committed by terrorist groups in Iraq and Syria with the support of regional and trans-regional powers, to the most recent military intervention and acts of war against the people of Yemen. Not only have these events been in violation of fundamental rules and principles of the International law, but they have also endangered the current international order. Unfortunately, the international practice especially responses by a number of States and international organizations have not been as expected. This essay reviews the facts and issues regarding the military intervention in Yemen according to the rules and principles of International Law and International Customary Law, to prove it as an unjustified and illegitimate act.

Keywords

military intervention, principles of The United Nations charter, Saudi Arabia, Security Council, use of force, Yemen.

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Assessment of applicability of rule 154 of the constitution of the Islamic Republic of Iran in contemporary international law

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Abstract

Based on Islamic teachings and human values, and in pursuance of the fight against injustice, The Constitution of the Islamic Republic of Iran has made supporting the oppressed and aiding liberation movements worldwide one of the main policies of the government of the Islamic Republic of Iran in the international arena. Based on this assumption, Under the Constitution the responsibility of defending the oppressed, regardless of their religion, is an obligation upon the government of the Islamic Republic of Iran. However, there appears to be a contradiction between the above-mentioned Rule which requires the government of the Islamic Republic of Iran to assist people's movements in pursuit of justice, and the Principle of Non-Intervention. A principle regarded as one of the most fundamental principles of contemporary International Law and viewed by the State of Islamic Republic of Iran as binding and obligatory. Based on an exploratory study, this article is an attempt to evaluate current theories on the applicability of the mentioned principles.

Keywords

foreign policy, Human Rights, international rights, JIHAD, principle of non-intervention, rule 154 of the constitution of the Islamic Republic of Iran.

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Obligations of states to legal assessment of new weapons in international law

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Abstract

According to 1907 Hague Regulations, the right of belligerents to adopt weapons and methods of warfare is not unlimited. All States have obligations to ban or restrict certain weapons under International Agreements and International Customary Law. The reality of everyday developments in military and weapons technology led the founders of the 1977 Additional Protocol (I) to the Geneva Conventions (1944) to designate an Article with the purpose of obliging member States into legal assessment of their new weapons. Hence, Article 36 of Additional Protocol I (1977) of the Geneva Conventions (1944) indicates that States must determine whether new weapons, means or methods of warfare they intend to study, develop, acquire or adopt comply with the rules of International Law applicable to them. However, the practical aspects of the said review mechanism are not clear. As a result, to this date only six States have attempted to apply Article 36. Examining the practice of the aforementioned countries will help other States to fulfill their obligation of legal review of their modern weapons.

Keywords

Article 36, distinction between civilians and combatants distinction between civilians and combatants, first protocol 1977, international humanitarian law, legal review of weapons, new weapons.

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Human Dignity and Reliance of Human Rights and Citizen's Rights Enshrined in The Constitution of The Islamic Republic of Iran on Human Dignity

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Abstract

Inherent dignity is the basis of human rights and individuals as members of the human race are entitled to the mentioned rights. As a result and in the emergence of States, governments and social-era, the humankind is demanding access to the said rights. Democratic governments, in the exercise of power and authority and "to recognize and respect the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare", inevitably, limit the rights of the people. The authors, with the assumption that all human rights are not absolute in society, seek to demonstrate Acquired dignity as a basis for Citizen's rights and to illustrate that based on this assumption, legitimate governments, from which the theocratic government of Iran is not an exemption, shall provide the rights of their citizens. While accrediting the existence of common human values, the fact that each society has a distinctive set of values must be observed. In closing, this paper attempts to study The Constitution in order to obtain the above-mentioned methods and differentiations regarding the two categories of dignity to shed light on necessities of entitlement to Acquired dignity.

Keywords

acquired dignity, citizenship, constitution, inherent dignity, people.

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Critical analysis of positive approaches to law (legal positivism) (Case study: Hans Kelsen and Herbert Harts' viewpoints)

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Abstract

Legal Positivism is among legal theories that deems a morally neutral descriptive perspective not only possible, but also necessary. Based on this theory, positive laws are passed by governments. Therefore these laws are distinct from ethical principles which under the Natural Law Philosophy are considered to be eternal and even in some theories are hold to be divine. Contemporary Legal Positivism has been mainly introduced and heavily influenced by views of Hans Kelsen and Herbert Lionel Adolphus Hart. The impact of the aforementioned scholars is to the extent that it's merely impossible to speak of positivism without analyzing their narratives. Kelsen's Pure Theory of Law attempts to introduce a pure and sharp positivist approach, whereas Herbert Hart follows a utilitarian approach with a more moderate tone. However, both Kelsen and Harts' viewpoints are rooted in principles of positivism. Whether considered exclusively or in the legal scope, based on Kelsen and Harts' view, the above-mentioned principles lack consistency and are in conflict with the function of law in today's society. As a conclusion, if applied, these principles will encounter unintended results.

Keywords

fundamental norm, Hans Kelsen, Herbert Hart, law, positivism, rule of distinction.

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Norm-making evolution in the international law of space: The 1992 principles relevant to the use of nuclear power sources in outer space

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Abstract

Norm-making in International Law of Space has gone through quite significant shifts. After the conclusion of the Moon Agreement, It was commonly believed that the chances for the adoption of a hard-law document in the Law of Space re next to none. Thus, States began to embrace guidelines, codes of conduct and even national legislations regarding space in order to fill this normative void. Another manifestation of this shift is the adoption of space-related Resolutions in the United Nations. A prime example of such documents, adopted by the UN's General Assembly, is the 1992 Resolution on Principles Relevant to the Use of Nuclear Power Source in Outer Space. The article at hand endeavors to analyze the said normative shift and peruses the aforementioned resolution as a case-study.

Keywords

Committee on the Peaceful Uses of Outer Space, international law of space, norm-making in outer space, nuclear power sources.

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The legitimacy of actions of coalition against Daesh (the Islamic state) in Syria

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Abstract

The initiation of U.S led coalition air strikes against Daesh positions in Iraq and Syria, has invoked the question of its legitimacy under the International In an attempt to justify its military operations, the aforementioned coalition resorts to principles such as the principle of self-defense and the unwilling or unable doctrine under International Law. However, it was the Security Council's Resolution 2249 (2015) that shed light on the matter in the end. Emphasizing on sovereignty, territorial integrity and independence of the States of Iraq and Syria, The said Resolution determines IS as "A global and unprecedented threat to international peace and security". The said instrument calls upon all states to take all necessary measures against IS, and even though it does not explicitly authorize or provide any legal basis for use of force either in Syria or Iraq, the wording of the mentioned resolution indicates support from The Council. Based on the principle of self-defense and the resolutions adopted by UN's Security Council, this paper will discuss the key arguments regarding the use of force against The Islamic State by The Coalition.

Keywords

Daesh, operations of the coalition against IS, the Security Council's Resolutions, self-defense, use of force.

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