

Legal Status of Offshore Bunkering in EEZ and other Maritime Zones, Based on the Case Law of ITLOS

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Abstract

The exclusive economic zone for the first time was defined in the 1982 law of the sea convention. By entrusting the competence over this zone to coastal states and defining significant rights and competence in coastal states' favor, the convention answered to the will of states. However, since the Exclusive Economic zone covers a wide area of the sea (almost one-third), powerful coastal states didn't consent to grant all the rights and competence to coastal states. Such disagreement led to defining certain sovereign rights regime instead of sovereignty over the EEZ. Certain Sovereign rights could not be sufficient an act decisive in case of any disputes between states. This defect has been the main reason for disputes over EEZ between states, since adoption of the law of the sea Convention. An example case is Saint Vincent and the Grenadines v. Guinea which finally ruled by international tribunal for the law of the sea during the M/V Virginia G case 2014. In this article, we are going to study M/V Virginia G and other related cases and probe the legality of bunkering ships and vessels on EEZ and other maritime zones.

Keywords

EEZ, Convention of the Law of the Sea, Offshore Bunkering, ITLOS, Virginia G Case.

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The Principle of Legal Certainty and Government Interventions in the Economy

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Abstract

In my opinion, the necessity of government's intervention in economy is beyond doubt, but if such intervention become incompatible with the rules, it would cause negative effects on the market system. One of the principles that is needed to be observed in such intervention is the principle of legal certainty. This principle represent predictability and reliability of administrative decisions. So citizens would be able to trust the government institutions and plan for their lives. The Elements of the legal certainty are as follows: legitimate expectation, non- retroactivity of administrative decisions, introducing the law publicly in reasonable and transparency. Some of these indices has been recognized in the Iranian legal system by the legislator or judicial authorities .But in many cases this principle is not being observed. However, due to its impact on the economy it is necessary to pay due attention to this principle.

Keywords

Legal certainty, economic public law, legitimate expectation, administrative decisions, predictability.

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Violation of States' Airspace by U.S Drones (Case Study: Pakistan)

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Abstract

In recent decade, the U.S. government has achieved the technology of remote control automated weapons such as advanced drones which are equipped with modern intelligence facilities, smart missiles and targeted killing programs. This achievement has created new challenging issues in international community. Use of the drones in borders of several Islamic countries like Yemen, Somalia, Afghanistan, Iraq and especially Pakistan, has caused dissatisfaction among the people and the government of these countries. Regarding Pakistan's, these drones have caused fatalities and injured many civilians and destroyed many buildings. These attacks are mainly illegitimate, violation of international law, the UN charter and the norms of human rights and humanitarian law. This paper discusses the various aspects of the subject, and also analyze the drone attacks. Examines the taken position by international law and Humanitarian law regarding Drones' strikes? Answers the question whether this attacks can be the subject ICC jurisdiction in terms of aggression and violation of rules of war?

Keywords

drones (UAVs), airspace violations, Humanitarian Law, THE USA, Pakistan

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An Analysis of Detection of Crime in Iranian Legal System in Lights of the Requirements of International Human Rights Law

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Abstract

Judicial security is one of the most important subjects in the international human rights field and this paper intends to analysis this rule from the aspect of crime detection at internal and international regulations levels. Results indicate that Iranian legislative has shown a great tendency towards international regulations on crime detection and have introduced numerous obligations on police as the main official institution dealing with crime detection. Moreover, criminalization the offences of government officials in Islamic criminal Act and forecasting council of preservation of citizens' rights and respect to legitimate freedoms Act which are being exerted under supervision of supreme authority of judicial branch , are seems to be effective guarantees for protection of defendant and victim's rights in crime detection.

Keywords

Judicial security, police agents, crime detection, Universal declaration of Human rights, procedural criminal new Act.

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Deprivation of Nationality of Sheikh Isa Qassim from the Perspective of International Law and Bahrain Domestic Law

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Abstract

Bahrain's government has faced with people openly protest over the past six years. The peaceful demonstrations, often with intention of self-determination for the people of Bahrain has been done. Sheikh Isa Qassim, one of the religious leaders of protesters arrested by the government and was deprived of his Bahraini nationality in 2016. The present analytical – descriptive article indicates that nationality is an internationalized issue and arbitrarily deprivation of nationality is prohibited under international law. since in case of Sheikh Isa Qassim, terrorism charges against him has not been proved and there is no provision on fair trial has been provided in Bahrain's laws regarding prevention of arbitrarily deprivation of nationality, it seems that Bahrain's government breached its commitments to international human rights obligations.

Keywords

Sheikh Isa Qassim, Bahrain, Nationality, Right to Nationality, Deprivation of nationality, arbitrarily.

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A Study of the Relationship between Legal Hermeneutics and the Interpretive Judgements of the Guardian Council

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Abstract

Hermeneutics is the art of comprehension and the science of interpretation. Fundamental changes toward hermeneutical have prevented from a creation of comprehensive definition for hermeneutics. Basically, approaches toward hermeneutics is a threefold: specific, general and philosophical. The classic or general hermeneutics presumes a fixed meaning for the text and tries to find out the intention of the writer. However, in the philosophical hermeneutics, the text does not necessarily refer to a fixed meaning. This is due to the unlimited real meanings of one text, none of which has priority over the others. The classic hermeneutics has a close relationship with the topic of Terms (*Alfaaz*) in the principles of Islamic Jurisprudence (*Figh'*). On the other hand, the theoretical foundations of the philosophical hermeneutics are mostly inconsistent with the opinions of the Islamic scholars. Hermeneutics is the science of understanding the texts which are interpretable according to the nature of their subject matter. The laws are also in need of being interpreted in case of their ambiguity, deficiency or silence of the legislator. Hence, interpretation of the legal texts is considered as a branch of hermeneutics named as legal hermeneutics. The Constitution is not exceptional; its interpretation is specifically assigned to the Guardian Council. The Guardian Council is a legal authority with legal-jurisprudential tendencies that in its capacity as the interpreter of the Constitution, tries to discover the legislator's intention through the principles of Shia Jurisprudence. Therefore, only those hermeneutical tendencies that believe in a fixed meaning of the text can be evaluated by the interpretive judgments of the Guardian Council; the philosophical hermeneutics which is based on a changeable understanding of a text cannot be implemented in the Council's interpretive judgments.

Keywords

Legal Hermeneutics, Classic Hermeneutics, Philosophical Hermeneutics, the Guardian Council Interpretation, Textual Principles.

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The Position of Microstates in the Main Organs of the United Nations

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Abstract

Studying the position of Microstates in the Main Organs of the United Nations and their contribution in the budget of the UN, is the subject of this article. In this article, Microstates refers to states that either have a population of less than 500 thousand people and their width is less than 1,000 square- kilometers. The above-mentioned features and characteristics can be found in 31 countries. Although the founders of the League of Nations and the United Nations, had shown little interest in the admission of microstates to the organization, approaches gradually has been changed. During 1990s, microstates joined the United Nations because at the time it was believed that all governments both small and large can help to attain the main objective of the organization which may lead to peace and international security. However, the presence of microstates in the main organs of the UN, including the Security Council is rare. On the other hand, the microstates members of the United Nations have participated more than regular states in financing of the costs of the UN.

Keywords

Microstates, Main organs of the UN, Security Council, International court of justice, budge of the UN.

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Principles of International Humanitarian Law from Imam Khomeini's Viewpoint

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Abstract

One of the most important issues in the international scene in recent decades has been humanitarian law. The purpose of humanitarian law is to protect human beings in armed conflicts and limiting the use of certain warfare and methods during a war. In fact, humanitarian law deals with principles principles which limits inhuman behavior during a war. Imam Khomeini who was the chief commander of the eight year war, strictly adhered to these rules and regulations based on Islamic laws and regulations. In spite of violating such regulations by the Iraqi army, he never allowed infringement of those laws. In this contribution, by using analytical - descriptive method, I have tried to explain Imam Khomeini's views on humanitarian law. At the end, the conclusion indicates that human behavior, denial of raid and ambush in armed conflicts, the distinction between military personnel and civilians, restrictions on the use of weapons, proportionality and necessity of military action, love and kindness to prisoners of war and protection of environment have been considered as the most important principles of humanitarian law in Imam Khomeini's thoughts.

Keywords

International Humanitarian Law, Weapons, Distinction, Military Necessity, Civilians.

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International Legal Consequences of the Withdrawal of the United Kingdom from European Union

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Abstract

The United Kingdom (UK) never had any strong ties with European Union (EU) and its national interests had frequently preferred over the EU. The latest example of discord between EU and the UK became apparent in 2016 during the Brexit referendum. The Brexit has pros and cons which apparently the voice of dissents were stronger. However, this referendum is not the end of the story and the UK must begin the process which has been mentioned in Article 50 of TEU in accordance with the Constitution of the UK. If the UK withdraw from EU, this separation will costly for UK and EU but we must consider the fact that whatever is disagreement between the parties, there are some minimum and common points that can keep UK in the EU.

Keywords

UK, European Union, withdrawal, Brexit, Referendum.

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Some Considerations on Accession to the Hague Convention on Civil Aspects of International Child Abduction (1980) for Iran

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Abstract

Removal to or retention of children in foreign countries by one of their parents who has not the custody rights has created a lot of problems and difficulties for those children, their parents and also Judiciary System in Iran. The Islamic Republic of Iran has not yet received any positive respond from foreign countries that those children have taken to or retained in wrongfully, due to not acceding to the Hague Convention of 25 October 1980 on Civil Aspects of International Child Abduction. Meanwhile, invoking the treaties on judicial cooperation in civil matters, which has some articles dealing with enforcement of civil judgments, could not completely secure the prompt return of unlawful removed and retained children. It seems by acceding to this Convention, while considering all aspects; the child abduction phenomena in Iran could be overcome.

Keywords

International Child Abduction, Enforcement of civil Judgments, Wrongful removal or retention of child, the Best Interests of the child, 1980 convention on Civil Aspects of International Child Abduction.

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The International Responsibility of Host States for Damages to Foreigners in Their Territories with an Emphasis on Mena Catastrophe

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Abstract

Mena Catastrophe is among the deadliest catastrophes in world of Islam. This happening has caused various concerns among Islamic jurists and they intend to probe different aspects of that event impartial. Meanwhile, international responsibility of Saudi Arabia has to be taken into account and the international responsibility of states for damages to foreigners in their territories could play an important role in justification of Saudi Arabia's responsibility. In the light of the minimum standard of treatment as a criteria, observing minimum factors like due diligence, the necessity of administrative transparency, paying respect to the legitimate expectations of foreigners and fair and equitable treatment of host state alongside with fulfilling fundamental principles of international human rights such as right to life and paying respect to human dignity, we can conclude that Saudi Arabia international responsibility in Mena catastrophe is obvious because of failing to fulfil its international contractual obligations, failing to provide accurate information on the number and identity of victims and desecrating their bodies, failing to transfer remains and failing to conduct judicial prosecution of the Mena catastrophe responsible persons.

Keywords

Mena Catastrophe, Foreigners, International Responsibility, Damages, Hajj.

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Cyber-attacks and the Principles of International Humanitarian Law (Case Study: Cyber-attacks on Georgia)

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Abstract

21st century is the beginning of change in one of the areas of International Law namely the law of armed conflicts. Access to new weapons, technological developments and resorting to today's tactics, not only lead the insidious phenomenon of war to be totally departed from International Law but by some recent changes, more complexities are added. The conflict and its forms that were primarily being accepted in traditional international law as a principle in International Relations and in the light of subsequent developments of various legal instruments were accepted as an exception in states relations, with the development of technology, have been transformed significantly faster than the conceptual evolution in rights and obligations. Conceptual evolution in the use of force not only has changed the fundamental concepts and principles of conflict but also the elements of traditional conflict and propounded subjects including principle of distinction, legality and legitimacy. With analyzing the concept of cyber warfare, we intend to assess the possibility of extending the rules governing traditional armed conflicts to cyberspace and evaluating its legal limitations. Since this matter would not be possible without concentrating on international practice, cyber-attacks on Georgia will be examined as a case study.

Keywords

Armed Conflict, Cyber Warfare, Principle of Distinction, Principle of Proportionality, Principle of Neutrality, Principle of Military Necessity, Georgia.

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