

**The Concept of Impediment in Granting an Exemption to the Obligor in Disputes Related to the Sanctions**

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**Abstract**

The impediment is an “event” which makes the performance of a contract impossible or, in cases where the performance of the contract is still physically possible, makes it so difficult that it can no longer reasonably be expected from the obligor to perform the contract. In legal and technical terms, if the event is perceived as an ‘impediment’, the obligor will be exempted from paying damages for the non-performance of his obligations. The main question of this paper is whether “the sanction itself”, “the enforcement measures of a sanction”, and, “the threat of penalty for breach of a sanction” can be perceived as an impediment to the performance of the obligations and provide an exemption for the obligor? Circumstances may occur where the sanction itself can be perceived as an impediment to the performance of contractual obligations and provides an exemption for the obligor. But “the enforcement measures of a sanction” and “the threat of penalty for breach of a sanction” cannot provide an exemption for the obligor neither as a “legal impediment” nor as a “factual impediment”.

**Keywords**

Commercial Sanctions, Exemption, Factual Impediment, Legal Impediment, Enforcement Measures of a Sanction, Threat of Penalty.

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**Party Autonomy in Judicial Review of Arbitral Awards**

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**Abstract**

The arbitral awards are final and binding yet may be challenged before national courts. Generally, the extent and scope of judicial review and reasons that seek to set aside the award are determined in the national law of the parties or international instruments. Is this agreement valid if the parties change the scope of judicial review by the national courts? Depending on whether this change is related to exclusion, limitation or extension of judicial review, legal systems have different approaches. Except in cases where the agreement of the parties is contrary to public order, in other situations the free will of the parties must be respected. New approaches on the initiative of the parties in the administration of proceedings and the contractualisation of justice reinforce this doctrine.

**Keyword**

National Courts, Judicial Review, Parties' Agreement, Public Order.

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**An Overall Approach to Non-Compliance Procedure in Multilateral Environmental Agreements (Referring to the Montreal Protocol on Substances that Deplete the Ozone Layer)**

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**Abstract**

The international environmental law as a relatively systematic legal system consistent with changing the international community's approach to environmental issues has embraced major developments. The establishment of a mechanism called the non-compliance procedure in multilateral environmental agreements since the early 1990s is one of the most important developments. This procedure, which is different from the traditional methods of international dispute settlement, consists of the arrangements which as a result of their application, are attempted by adopting a wide range of measures including soft measures (such as financial and technical assistance) and hard measures (such as sanctions) to ensure more complete compliance with the obligations. This paper, based on a descriptive-analytical method, while outlining the status of the non-compliance procedures in the multilateral environmental agreements in general, in a case study, analyzes the structural and institutional aspects and some of the most important practical results of the Montreal Protocol on substances that deplete the ozone layer. In the end, this article argues that this procedure has a stable legal status in these agreements, and the examination of the implementation of the Montreal Protocol implies an increase in the membership of the members as a result of the application of this procedure.

**Keywords**

Multilateral Environmental Agreements, Enforcement, Non-Compliance Procedure, Montreal Protocol, Compliance Body.

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**The Legitimacy of the Doctrine “Anywhere, Anytime, Managed Access”  
in International Law**

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**Abstract**

This article seeks to examine the constraints arising from the “rule of law” over the International Atomic Energy Agency (IAEA) verification system within parties to the NPT. One of the main tasks of the IAEA as an independent intergovernmental, science and technology-based organization is to verify non-nuclear weapon states’ compliance with their international obligations, including the non-diversion of declared nuclear materials and absence of undeclared nuclear material and activities. The ultimate aim of the arms control inspection system is to ensure the exclusively peaceful nature of the nuclear activities of countries. In order to achieve this goal, it does not need either the violation of a country’s sovereignty or the use of force against its nuclear program. From the perspective of international law, the doctrine “anywhere, anytime, managed access” can jeopardize the maintenance of international peace and security in the long run and increase the willingness of countries to develop nuclear weapons as deterrent against the threats of global powers.

**Keywords**

Verification, IAEA’s Inspection Scope, Unlimited Access, JCPOA’s Obligations, Section T.

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**The Feasibility of the Criminalization of Politicide with Emphasis on International Instruments: International Law in Harmony with Reality**

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**Abstract**

Based on 1948 Genocide Convention and Rome Statute, the commission of genocide as the most dreadful international crime occurs with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group. But when ratifying, it was repeatedly criticized since it was not supposed to include and consequently endorse political groups whereas the number of political victims has historically been high. In the 1980s, some authors sought to theorize that politicide or political genocide must be included in genocide as well. Therefore, they reconciled the *actus reus* and *mens rea* of politicide to genocide though the legal element has remained challenging. A teleological interpretation of international criminal law and the criminalization of genocide may ultimately lead us to the fact that it is the time to amend to the international instruments to criminalize politicide will function.

**Keywords**

International Crimes, Genocide Convention, Statute of the ICC (Rome Statute), Genocide, Political Genocide, Politicide, Political Groups.

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**International Law and the Constitution of the Islamic Republic of Iran  
Case Study: Recommendations of FATF**

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**Persian Text pp. 197 - 222**

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**Abstract**

The interaction of national legal systems with international legal order needs to be reviewed. This paper describes the state of the current international legal order in a generalized framework, focusing on one of the recent examples of these international components- the Financial Action Task Force (FATF) as a “legal regime”- in the virtue of verifying the capacity of the Islamic Republic of Iran's national legal system to face this situation and evaluating the distinct principles of Iran's Constitution on the Islamic Consultative Assembly. In this way, the general pattern of the position of Iran's legal system is criticized. Accordingly, the exercise of parliamentary competence is possible and necessary concerning the deal with recommendations of FATF under the principles of 77 and 125 of the Constitution of the Islamic Republic of Iran.

**Keywords**

International Legal Order, Financial Action Task Force, Legal Order, Principles 77 and 125.

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**Violation of International Obligations by the United States *vis-a-vis*  
Asylum Seekers in Caravan**

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**Persian Text pp. 173 - 196**

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**Abstract**

The proper reaction to the mass influx of asylum seekers is a great challenge of the international community. The approval of the New York Declaration for Immigrants and Refugees by a unanimous vote of 193 member States at the General Assembly (19 September 2016) and subsequently the approval of the international Pact for Refugees (December 17, 2018) would support this claim. Mass influx is not only a source of crisis for host States but it can also lead to widespread human rights violations if the host States refuse to comply with the non-refoulement obligation. The present research provides legal evidence to broaden the scope of non-refoulement from a purely contractual and an “in-territory” obligation to a contractual and customary “in-the-border” obligation. This would make it possible to argue that the United States has breached its conventional and customary obligations under international refugee law.

**Keywords**

Asylum-Seeking, Refugee, Non-refoulement, Mass Influx, Rejection at the Border, the United States of America, Caravan.

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**International Law Protection for Children Born by Women Victims of  
Sexual Violence during Armed Conflict**

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**Abstract**

Rape and sexual violence in various forms are one of the most terrible consequences of armed conflicts and a major concern in humanitarian law. Despite the numerous studies and relatively comprehensive rules that have been approved by international lawmakers in protecting women in such circumstances, the continuation of the massive and severe occurrence of this crime against humanity, albeit less than before, is undeniable. But what makes the significance of this issue more visible is one of the worst results of these acts- children born as a result of such violations which are called "children of war" in the present study. It is estimated that only in the past decade, tens of thousands of children have been born as a result of collective rape or sexual exploitation during the war. Throughout their lives, these children are profoundly influenced by social changes in the community and suffer greatly from their biological roots. A quick look at this issue, however, will reveal a very serious vacuum and a deep divide in the international legal system regarding the protection of this vulnerable stratum. This not only requires action in the field of national and international legislation but also special oversight acts thus necessitating the involvement of other members of the international community namely international organizations.

**Keywords**

Children of War, Armed Conflict, Violence against Women, International Law.

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**Legal Challenges of Cyber Space Capabilities in Light  
of Article 36 of 1977 Additional Protocol I**

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**Persian Text pp. 119 - 144**

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**Abstract**

For more than four decades, Article 36 of the Additional Protocol to the Geneva Conventions has been considered as a norm for assessing the legality of new weapons. The criteria included in this article are based on weapons that were in existence at the time of its adoption. New technologies have brought new weapons which challenged the existing norms. Cyberspace as one of these technologies has capabilities that are used in software or malware forms for causing damages or injuries in the armed conflicts. The question posed here is whether Article 36 of the Additional Protocol I can regulate such capabilities under international humanitarian law? Due to the novelty of these capabilities and the difficulty of naming them as weapons, their legal review is faced with challenges in the light of Article 36 of the Additional Protocol. The review of Article 36, along with the nature of cyberspace capabilities shows that their legal assessment faces challenges such as the lack of rules and regulations that explicitly prohibits or allows explicitly the use of cyberspace, entrusting the definition of weapons to the member States of the Protocol, the definition of new weapons, the non-application of the object to computer data for the perceived cyber-weapons as a weapon, the lack of an international consensus on the virtual effects of the use of cybercriminals, the lack of regulation on the requirement for individuals and groups to produce cyber weapons for legal assessment, and most importantly, the interconnection of military and civilian networks and the possible use of cyber-weapons likely to infect critical civilian networks. Therefore, respecting the fundamental principles of International Humanitarian Law including distinction, proportionality, military necessity, and precautionary measures will be difficult.

**Keywords**

International Humanitarian Law, Law of Armed Conflict, Additional Protocol I, Cyber Space, Legal Review, New Weapons, New Technologies, Tallinn Manual.

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***Intuitu Personae* Character of Arbitration's Mandate and Use of  
Legal Assistants in International Arbitrations**

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**Persian Text pp. 89 - 118**

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**Abstract**

Use of legal assistants in international arbitrations, especially in important and complex cases, has become a common practice to the extent that arbitrators or arbitral tribunals carry out a great number of procedural or substantive matters having the help of their legal assistants who are normally chosen from young lawyers or interns. No doubt benefiting from services of assistants will bring different advantages in time, costs and efficiency of arbitration process and allow arbitrators to devote most of their time to the case scrutinizing different aspects of the case, and in turn, delegate matters such as organizing evidence and documents, coordinating the hearings, summarizing the parties' pleadings etc. to their assistants. In spite of this, the question has been raised recently that whether delegating arbitral tasks to assistants is against the *intuitu personae* character of the arbitrators' mandate since the parties have appointed arbitrators due to their personal characteristics and by accepting their mandate, they are expected to carry out their duty in person. The concern becomes greater when one faces delegation to the assistants of substantive issues, such as researching legal sources and relevant jurisprudence, summarizing parties' memorials, attending deliberations, and drafting certain parts of the award. The present article will discuss the conflict between *intuitu personae* character of arbitrators' mandate and benefiting from arbitral assistants' services in international arbitrations. To that end, rules of arbitral institutions, legal doctrines and jurisprudence have been examined and finally, the standard for judging the violation of *intuitu personae* character of arbitrators' mandate will be introduced.

**Keywords**

International Arbitration, legal Assistant, *Intuitu Personae* Agreements, Delegation of Judicial Powers.

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**The Erosion of National Sovereignty in Contemporary International Law: from Authoritarian Sovereignty to Conditional Sovereignty**

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Persian Text pp. 59 - 88

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**Abstract**

Over time, sovereignty as the supreme power of sovereign policy has been united in line with humanitarian rules. Accordingly, in the contemporary era, Westphalian sovereignty is far from its concept and it is no longer the absolute power and today is considered as responsibility. Human rights and globalization are two phenomena that have eroded national sovereignty. Human rights and the international focus on it has debilitated the principle of non-intervention in the internal affairs of States so that governments have been forced to adapt its sovereignty with human interests. Moreover, the phenomenon of globalization has taken the monopoly of States governance in an international sphere and leads to global governance. In this paper, it is tried to first discuss the concept of sovereignty and its transformation in international law, and then it is considered in the context of the next development in the framework of the principle of non-intervention and globalization.

**Keywords**

Sovereignty, International Law, The Principle of Non-Intervention, Globalization, Global Governance.

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**Application of the Genuine Link Doctrine on Granting Nationality to Ships by the Flag State**

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**Abstract**

Nationality is a legal component of the ship's operation in international shipping which is granted by the Flag State and the ship is granted the nationality by flying the flag of the Flag State. There is a fundamental resemblance between granting nationality to ships and granting nationality to the natural persons by a State. On the matter of granting nationality to a natural person, there should be a genuine link between the granting States and the receiving person. In case of a lack of a genuine link between the State and person, other States may refuse to recognize the nationality given by a State on the basis of the judgment of the International Court of Justice. A great majority of the ships operating in international shipping lack a genuine link with their Flag States amounting to a lack of jurisdiction and effective control on the ship by the Flag State and violation of the international regulations by such ships. This paper examines the possibility of applying the genuine link doctrine on the shipping industry and the possibility of the other States refusing to recognize the nationality granted to the ship by the Flag States in the case of lack of a genuine link between them.

**Keywords**

Genuine Link, Flag State, International Shipping, International Tribunal for the Law of Sea (ITLOS).

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**The Challenge of Virtual Currencies in Combating Money Laundering and Financing of Terrorism with Emphasis on the Actions and Recommendations of the Financial Action Task Force (FATF)**

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**Abstract**

Money laundering instruments and techniques, as the main tool for facilitating the financing of terrorism, have become so diversified with the emergence of new technologies that the fight against it can no longer be confined to traditional forms. Terrorists and criminals make great use of new technologies such as the internet and virtual currencies to develop their criminal methods. Virtual currencies operate on a decentralized basis and under anonymity. These currencies often lack government support and do not bear any warranties or oversight. Although the special features of virtual currencies facilitate work for perpetrators and terrorists, this should not be the way to go exaggerated. The study of international institutions such as the Financial Action Task Force in recent years has partially revealed the strengths of the fight against criminal acts committed by these virtual instruments. This study seeks to analyze the impact of anti-money laundering (AML) and combating financing of terrorism (CFT) methods by analyzing different aspects of virtual currencies. In particular, in recent years, in addition to various countries, it has attracted the attention of institutions such as the Financial Action Task Force.

**Keywords**

Anonymity, FATF, Money Laundering, Financing of Terrorism, Virtual Currencies.

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