Abstract
Party autonomy indebted its own genesis and development to the evolutions in general field of contract. After stabilization in this field and becoming a main principle of conflict of laws in contracts, it has extended to other fields of private international law. Non-contractual obligations which alongside with contractual obligations constitute the most part of legal obligations, are the most important and the newest part of the law in which the idea of “party autonomy” has permeated. In 2007, Rome II regulation on the law applicable to non-contractual obligations, passed with the purpose of unification of the conflict of laws rules among the European Union’s member States. This regulation, providing “party autonomy” in article 14, recognized the will of the parties in non-contractual obligations. Nowadays, we can say that primary conflict of laws rule in the legal system of EU’s member states, in the field of legal obligations (contractual and non-contractual), is “party autonomy”. In Iran we need to have a rule of conflict of laws to deal with non-contractual obligations. For this purpose and for the knowledge of Iranian lawyers the study of EU legal system on the issue will help as an experience.

Keywords: conflict of laws, party autonomy, applicable or governing law, non-contractual obligations, European Union, Regulation Rome II.
Validity of the Treaty of Amity between Iran and the United States: Some Considerations in Theory and Practice

Aramesh Shahbazi

Persian text pp. 55-71

Abstract
The 1955 Treaty of Amity, Economic Relations, and Consular Rights was signed on August 15 in Tehran. It secured the most-favored-nation treatment in matters of the rights of American and Iranian citizens and companies and also of trade and consular relations. This treaty replaced the temporary trade agreement and the temporary agreement on personal status and family right (1928). It was concluded for ten years and is to be automatically renewed. After 1980 some sanctions on Iran, taking some reciprocal measures, and actual interruptions in consular and diplomatic relations by the parties of the said treaty, many focused on some doubts about the validity of this document in mutual relations of Iran and the U.S. In this essay we will take a look at some practical and theoretical debates concerning the validity of the said text in mutual relations.

Keywords: Treaty of Amity, Iran, United States, International Court of Justice.
Study of Public Policy Standard in Supervision
on International Commercial Arbitration Award

Alireza Iranshahi

Persian text pp. 73-114

Abstract
Public policy is the most important standard of judicial supervision on arbitration awards which has been foreseen in the sources of international commercial arbitrations and its main purpose is to support the most basic rights and values of every country. Public policy is a flexible and dynamic concept that covers both substantive and formal issues. Of course, all public policy considerations are not applicable in international commercial arbitrations, but merely the international public policy considerations of related country must be applied in such arbitrations, preferably with strict interpretation. The most important characters of this standard are: conceptual elasticity and dynamism, possibility of entrance of court to merit, possibility of per se challenge of arbitral award by court, absence of time limit for resort to it and unwaiveability of the right to rely on it.

Keywords: public policy, international commercial arbitral award, international public policy, transnational public policy, challenge of arbitral award, enforcement of arbitral award.
UN Security Council's Smart Sanctions in Light of 1929 Resolution: Maintenance or Threat of Peace?

S.Ghasem Zamani & Jamshid Mazaheri

Persian text pp. 15-161

Abstract
Today there is a widespread consensus that the UN Security Council's comprehensive sanctions regimes have been a rather blunt instrument and further sanctions should be designed more humanely. Economic sanctions—even when targeted and designed in a “smart” way—are liable for severe human rights violations due to their complexity and the fact that unforeseen factors may greatly enhance their adverse side effects. Building on these experiences, UN Security Council measures of the type adopted against Iran in 1929 resolution have arguably managed to strike a more tolerable balance between the necessary degree of effectiveness and the injuries imposed. Increased awareness of the after-effects of sanctions is a prerequisite for making balanced proportionality assessments in the future, as well as maintaining international peace and security as the very goal of the original UN sanctions regime.

Keywords: Security Council, economic sanctions, comprehensive sanctions, smart sanctions, human rights, 1929 Resolution, Iran
The Definition, Elements and Conditions for the Exercise of Jurisdiction over the Crime of Aggression

Hussein Aghaei Janatmakan

Persian text pp. 163-184

Abstract
The definition and conditions for exercise of jurisdiction over the crime of aggression has been returned to Review Conference that is convened every seven years after entry into force of statute, in latest days of Rome Conference has resulted to ratification of the International Criminal Court Statute. Article 5 (1)(d) of the statute, has recognized jurisdiction over the crime of aggression. But article 5 (2) has predicted that exercising jurisdiction over this crime will begin when according to articles 121 and 123 of the statute, regulations about definition and conditions for exercise of jurisdiction over the crime of aggression is approved. Finally, on 11 June 2010, the first Review Conference of the Rome Statute after hot and long discussions and negotiations within preliminary commission for establishing court and special working group on the crime of aggression has passed resolution RC/Res.6 (adopted at the 13th plenary meeting, on 11 June 2010, by consensus). However, the court shall exercise jurisdiction over the crime of aggression, subject to a decision to be taken after 1 January 2017. Some questions are arising here, what are aggression and elements of it? What are conditions for exercise of jurisdiction over the court? What is the Security Council’s role in determination of aggression?

This paper will have a brief view on the international measures that have resulted in convening of the Kampala Agreement and will explain the definition, elements and conditions for exercise of jurisdiction with respect to the crime of aggression.

Keywords: definition, conditions, aggression, crime, Kampala Agreement, first review conference, Security Council, consensus
International Civil Liabilities of the States for the Nuclear Activities

Mehrab Darabpour & Roya Zare Nemati

Persian text pp. 185-222

Abstract
After the Hiroshima and Nagasaki being bombarded by the USA and also the reactor catastrophe at Chernobyl and There Mill Island and etc., the whole international community became concerned about the damage and loss of life and properties, which might be caused by the nuclear incidents. Nuclear accidents show that, in addition to the loss of life and property, several other serious diseases occur after chronic low dose irradiation. Distortions of the central nervous system are observed, especially mental illness, as well as malfunction of other organs. Therefore, it seemed necessary to discuss several matters in relation to the nuclear activities, including: limitations created by nuclear plants, and liability and responsibility for injuries and damages caused by them, risk of the use of nuclear energy for the environment, the main principles of the state liabilities, concepts of nuclear activities and incidents and the main civil liabilities of the states and operators. Under the light of these matters, in this article, some fundamental questions related to the international civil liabilities of the states for the nuclear activities are considered in detail. In addition to the discussion as to reduction of the risks, in above cases, the entities which are liable for the given type of damage and loss are dealt with. The international civil liability treaties which contain uniform provisions for the type of damage and loss covered, type of liabilities (i.e. fault based or strict), financial limitations of liabilities are also dealt with properly. We finally came into the conclusion that irrespective of many rules and regulations as to the civil liabilities and responsibilities of the states, there are still some deficiencies which are carefully discussed and dealt with in this article.

Keywords: nuclear activities, civil liabilities, responsibilities, damages, nuclear accidents, limitations, risks.
Various Aspects of Responsibility in
International Criminal Law

Alireza Delkhosh

Abstract
Current changes in the international law are a consequence of new fundamental concepts of the sovereignty of states. In the classical meaning of the sovereignty of states, states used to enjoy special immunity. Under the cover of immunity, states possessed absolute authority and inviolability. No mechanism of control with respect to their dealings had been taken into consideration. Established on the same foundation of inviolable authority, the pertinent United Nations Charter did not allow the intervention of the charter in the sphere of the sovereignty of states. The Charter identified the legitimacy of dealings of states and international organisations dependent of strict consideration of the principles of 'the sovereignty of states' and 'equality of states'. Changes in the international law have, especially after the second World War, led to 'individual rights', irrespective of nationality, race, or kind of people. With respect to their inhabitants, states are bound to follow those principles and regulations that are generally referred to as 'the laws of human rights'. The coming into existence of human rights as well as the commitment of serious offences by states against the international criminal law have brought about special enactments on states codified in the general international law. The special enactments are additional to the code of international criminal laws and the laws of criminal responsibility of an individual.

As a result of the Contemporary developments, the current international criminal law has, by way of making a distinction between International Crimes and International Felony(Delict), brought about an increase in their responsibilities beyond the regular international responsibility of states. International responsibility of states was mainly performed on the principle of compensation of damage, whereas no punitive penalties were characteristic of them and this is something which is totally different with responsibilities in international criminal law.

Keywords: International Criminal Law, States Responsibility, Criminal Responsibility of States, International Criminal Court.
Abstract
Rules in Conflict of Law are based on physical proximity. So nature and form of contracts will be governed by the law with the closest connection.
Physical proximity which has been typically reflected in *lex loci solutionis* and *lex domicilii*, is mainly location focused. Applying these connecting factors in order to determine competent law, we need to find a location, since they are all based on a material location. But since there is no place in cyberspace, how can we determine competent law governing the form and nature of electronic contracts through these connecting factors? So, this question is principally a challenge for private international law. What is lawmakers’ approach to deal with this challenge? This article seeks to review methods adopted by Iran, United States, UNCITRAL and EU law to cope with this challenge.

**Keywords**: electronic contract, connecting factor, applicable law, technological neutrality, functional equivalence.
The Role of Forensic Sciences in Proving
the International Crimes

Mansour Farrokhi

Persian text pp. 283-299

Abstract

Forensic sciences involve scientific fields that seek to study and analyze criminal evidence in order to determine manner and cause of death and other bodily and mental damages resulting from crime. Because of the complexity of international crimes and some difficulties in access to witness testimony, the role of forensic sciences in international criminal trials seems to be very important. In addition, it is very difficult to manipulate physical evidence gathered through the techniques of forensic sciences. Thus, the credibility and certainty of physical evidence is far greater than that of a testimony. However, there are particular challenges to the use of forensic evidence in international criminal law. Overcoming these challenges requires the cooperation of all the relevant parties, including the states in which the investigations must be conducted, judicial authorities, forensic experts and victims’ families.

Keywords: forensic sciences, international criminal law, international crimes, international criminal court, physical evidence, scientific investigation.