

ABSTRACT

The Regime of Archipelagos: An Investigation of the Customary Status of Part IV of the 1982 United Nations Convention on the Law of the Sea.

Christine Kaminee Manickchand

This paper, which investigates the customary status of the provisions of Part IV of the United Nations Convention on the Law of the Sea, is divided into two parts.

Part I lays down the groundwork for the investigation. The reasons why knowledge of the rules of customary law is imperative even in the face of an all-encompassing treaty such as the 1982 Convention are examined. Then, since the aim of the paper is to determine customary law on archipelagos, the constituent elements of custom are set out. The fact that the Convention purports to deal comprehensively with archipelagic States must not be ignored in the investigation of customary law on the matter, and so the general relationship between treaties and custom is examined. The Convention was not concluded in the same manner as most treaties, however, and thus the paper also a) sets out the innovative methods used in drafting the Convention, and then b) determines if, and how, these methods modified the relationship of the treaty to customary law.

The background for the investigation of customary law on archipelagos having been established, Part II then contains the substantive examination of the Convention's provisions. An investigation of custom with respect to archipelagos before the Third United Nations Conference on the Law of the Sea is undertaken, and it is concluded that up to the beginning of that Conference there was a lacuna in the law. This means that it is mostly State practice from the Conference onwards that is of importance. State practice is then investigated and conclusions drawn with respect to the customary status of the Convention's provisions on each aspect of the archipelagic regime.