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DISPUTE SETTLEMENT MECHANISMS UNDER THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA 1982: THE WAY FORWARD FOR MALDIVES

[MEKANISME PENYELESAIAN PERTIKAIAN DI BAWAH LOSC1982: HALUAN KE HADAPAN UNTUK MALDIVES]

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Abstract

The maritime boundary delimitation judgment by the International Tribunal for the Law of the Sea between Mauritius and the Maldives was the first Maldivian dispute settled at an international court or tribunal. Regrettably, misinterpretation and misinformation regarding international laws and the Maldivian domestic laws related to the dispute became prevalent among the Maldivian community. One of the core concerns that need to be addressed is how Maldives got subjected to a legally binding dispute settlement mechanism concerning a dispute that was initially regarding the sovereignty over the Chagos Archipelago between two other States, namely: Mauritius and the United Kingdom. Additionally, it is important to determine whether Maldives has any other legal means to safeguard its maritime zones from future maritime disputes. The main objective of this paper is to explore the dispute settlement mechanisms under Part XV of the United Nations Convention on the Law of the Sea (LOS) and determine how these provisions can be utilised to safeguard the Maldivian maritime zones. This research is primarily a doctrinal legal research. Firstly, the article outlines the provisions under Part XV of the LOS whilst exploring its drafting history. Next, the article analyses the optional exception on maritime delimitation under LOSC Article 298(1)(a) and its significance to the Maldivian situation. It suggests that considering the undelimited outer continental shelves of Maldives, Maldives should consider declaring an optional exception under LOSC Article 298(1)(a). The article concludes that optional declarations serve as safeguards against premature and costly dispute resolution. © 2023, International Islamic University Malaysia-IIUM. All rights reserved.

Author keywords

Dispute Settlement Mechanism; LOSC 1982; Maldives; Maritime Delimitation; Mauritius

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Abstract

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