Demise of equitable principles and the rise of relevant circumstances in maritime boundary delimitation

Abstract
The tension between the Equidistance-Special Circumstances rule (articulated in the 1958 Geneva Convention on the Continental Shelf) and the Equitable Principles-Relevant Circumstances rule (declared in the 1969 North Sea Continental Shelf cases of the International Court of Justice) prevented the 1982 United Nations Convention on the Law of the Sea from stipulating a specific method for the delimitation of the EEZ or the continental shelf. For this reason, the role or status in maritime delimitation of the equidistance method, equitable principles, and relevant circumstances must generally be determined by reviewing the decisions of international courts and tribunals. The equidistance method has been employed in international case-law as a means of constructing a ‘provisional’ line. Analysis of international case-law also shows that the current rule governing maritime delimitation is the ‘achievement of an equitable solution’ in and of itself. The concept of equity in maritime delimitation is therefore only relevant to the equitability of the ‘result’ to be reached. Thus, the argument that equitable principles applicable to the examination of relevant circumstances are ascertainable and meaningful in maritime delimitation should be dismissed. Guaranteeing the equitability of principles or processes does not necessarily lead to the achievement of an equitable result. The remaining concept of significance to the delimitation process is that of ‘relevant circumstances’, which must be taken into account in order to reach an equitable result. The patterns or processes involved when the delimitation rule is applied by taking account of relevant circumstances are not predictable. The achievement of an equitable solution in maritime delimitation is preceded by the flexible consideration of relevant circumstances. The increasing importance of relevant circumstances to the delimitation of maritime boundaries is proven by two practical instances. One is the establishment of a single maritime boundary, which constitutes one typical maritime boundary; the other is the delimitation of the outer continental shelf, which has recently been included in international case-law. In brief, this thesis will show how best to arrive at an equitable solution by drawing attention to the demise of equitable principles and the dominant role of relevant circumstances. The clarification of taking into account relevant circumstances enables us more clearly to understand what is entailed in the task of achieving an equitable solution.

URI
http://hdl.handle.net/1842/7576

Collections
Law thesis and dissertation collection
The increasing importance of relevant circumstances to the delimitation of maritime boundaries is proven by two practical instances. One is the establishment of a single maritime boundary, which constitutes one typical maritime boundary; the other is the delimitation of the outer continental shelf, which has recently been included in international case-law. In brief, this thesis will show how best to arrive at an equitable solution by drawing attention to the demise of equitable principles and the dominant role of relevant circumstances. The clarification of taking into account relevant circum...