

Borderlines

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NEWSLETTER AND CALENDAR OF EVENTS

De-mystifying boundary disputes? The decisions of international courts and tribunals



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IBRU maps contested
space in the South Atlantic
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Adjudication takes centre stage

Third-party adjudication remains a popular form of boundary and territorial dispute resolution, but its political convenience can mask a number of drawbacks.

International adjudication has taken centre stage in the last two years as several states have turned to courts and arbitral tribunals for binding settlement of their boundary and territorial disputes. Frustrated by decades of fruitless negotiations, Bangladesh turned to third-party intervention to delimit its maritime boundaries with neighbouring Myanmar and India in late 2009. Bangladesh and Myanmar submitted their maritime boundary case to the International Tribunal for the Law of the Sea (ITLOS), the first of its kind in the ITLOS docket since it began work in 1996. With India, Bangladesh initiated arbitration proceedings under Annex VII of the UN Convention on the Law of the Sea and the members of the tribunal were announced in March 2010. Bilateral negotiations are continuing parallel to these proceedings.

Burkina Faso and Niger took many boundary experts by surprise when they submitted a case concerning delimitation of the lengthy central section of their land boundary to the International Court of Justice (ICJ) in July 2010. Costa Rica appealed to the ICJ in November 2010 for provisional measures and settlement of its dispute with Nicaragua over a boundary section in the San Juan River. After a complex and difficult ratification process in both states, it appears that Croatia and Slovenia will submit their land and maritime boundary dispute to an arbitral tribunal in early 2011, paving the way for Croatia's accession into the European Union. Similarly, Belize and Guatemala have agreed to submit their boundary and territorial dispute to the ICJ if approved in referendums in the two states scheduled for 2011.

Decisions, decisions

There have been four notable judgments rendered in boundary or border-related cases since 2009. In June 2009, an arbitral tribunal handed down a controversial decision defining the Abyei area within Sudan which could be seen either as a harbinger of future trends in adjudicated boundary delimitation, or simply as an anomaly that was based more on political expediency than legal arguments. However scholars assess the Abyei decision in the future, it is likely to have an important impact on the referendum in South Sudan to be held in January 2011.

Although related more to treaty obligations, the ICJ rendered a decision in the *Argentina v. Uruguay Pulp Mills* case in 2010 which involved issues of transboundary water management. In 2009, the ICJ also gave its judgment in the case between Costa Rica and Nicaragua concerning navigation rights in the San Juan boundary river and delimited the disputed maritime boundary between Romania and Ukraine. In addition to the new Burkina Faso-Niger and Costa Rica-Nicaragua submissions, the ICJ has three boundary, territorial and border related cases on its docket, including the long-running *Nicaragua v. Colombia* island sovereignty and maritime boundary case, the *Peru v. Chile* maritime boundary case and the *Ecuador v. Colombia* case concerning the transboundary affects of aerial herbicide spraying.



Source: International Court of Justice

Risks involved in adjudication

Of course, there are other forms of third party involvement in dispute resolution outside of binding settlement mechanisms. Djibouti and Eritrea agreed in 2010 to allow Qatar to mediate their negotiations over the disputed boundary on the Doumeira peninsula and outlying island. After seizing the ICJ, Costa Rica and Nicaragua later accepted offers by Guatemala and Mexico in December 2010 to help mediate their boundary dispute. However, the sheer number of boundary and territorial adjudications in recent years reveals that governments around the world regard it as a popular route to dispute settlement.

While it is always encouraging to see these disputes being resolved through peaceful means, there is also a warning to be heeded. Most boundary experts would argue that these disputes are best resolved through negotiation by the disputant states in a spirit of cooperation. This allows states the flexibility to find a solution that best fits the context of a specific dispute. Obviously, negotiations are exposed to a wide range of political tensions that can stall settlement, sometimes for decades, and leave a dispute open to escalation. However, submission of a dispute to an international court or tribunal should not be taken lightly, nor should it be the first reaction if negotiations break down.

As Croatia and Slovenia can attest, it can often be as difficult to negotiate the terms of submitting a case as it is to resolve the dispute itself. In addition, the decision in the *Abyei* arbitration shows just how unpredictable a court or tribunal can be. This is particularly significant in the context of land boundary disputes where a decision impacts on many social layers of human geography.

More fundamentally, the structure of international law means that the question posed before a court or tribunal may not fully address the dispute, as the on going problems between Cambodia and Thailand over the undefined boundary around the Temple of Preah Vihear clearly illustrates. Rarely have international courts or tribunals been tasked with addressing some of the long-term, practical border management issues such as the use of natural transboundary resources, security and access problems, or environmental regulatory inconsistencies that often underlie a boundary or territorial dispute. International adjudication of a boundary or territorial dispute does provide a binding decision to whatever question is submitted by the disputant parties, but this is often just the first step in what must be viewed by states as long-term peace-building in borderland areas.

Front cover image: A Cambodian soldier stands in the grounds of Preah Vihear Temple. The temple was awarded to Cambodia in 1962 by the International Court of Justice, but the boundary with Thailand in the vicinity of the temple remains contested between the two states.

Source: Reuters/Adrees Latif

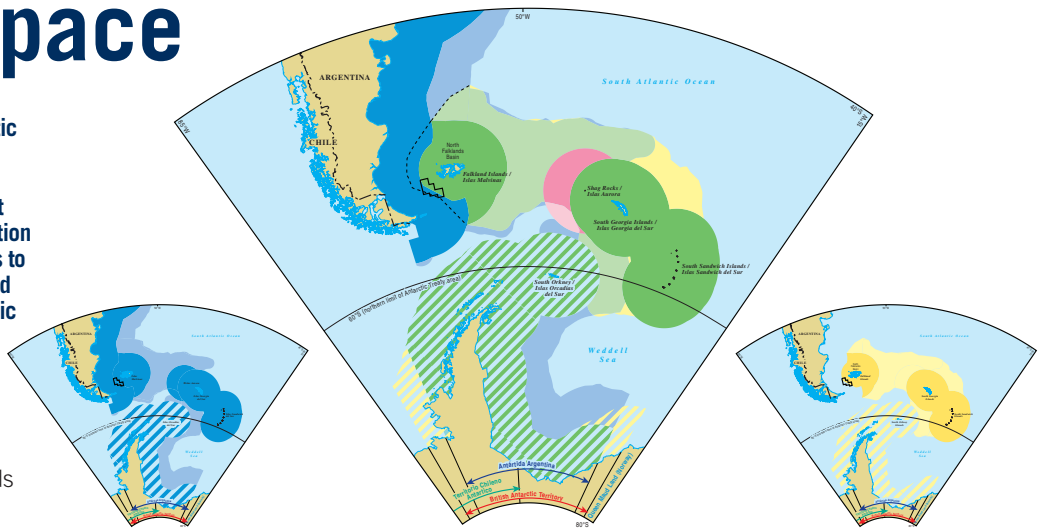
Mapping contested maritime space

The continental shelf around the Falkland/Malvinas islands in the South Atlantic Ocean has long been considered prospective by oil and gas companies. Some oil was discovered in exploratory drilling in 1998 but the low price of oil at the time made exploitation commercially unviable. However, discoveries to the north of the islands in 2010 have renewed interest in the region and raised the diplomatic temperature between Argentina and the UK over the long-contested islands.

As well as the Falkland/Malvinas islands, the two states have competing claims to sovereignty over South Georgia, the South Sandwich Islands, the South Orkney Islands and a significant portion of the Antarctic continent - although claims south of 60° South are frozen under the terms of the 1959 Antarctic Treaty. Sovereignty over these territories also generates sovereign rights over the marine resources of vast areas of the South Atlantic and Southern Oceans.

In 2010 IBRU prepared the first detailed comparative maps of the maritime jurisdictional claims of Argentina and the UK and the extent of overlap between them.

The area of overlapping exclusive economic zone (EEZ) and continental shelf claims around the Falklands, South Georgia and South Sandwich Islands alone is more than 2.5 million square kilometres. The potential EEZ off disputed Antarctic



The IBRU maps showing published and potential maritime claims of Argentina and the UK in the South Atlantic and Southern Oceans

territory is around 2.1 million square kilometres, and Argentina has identified a further 740,000 square kilometres of seabed as being part of the continental shelf of its claimed Antarctic territories. If the price of oil remains high, more hydrocarbon exploration in the disputed waters can be expected, increasing tensions between the already-antagonistic claimants still further.

The maps were prepared by IBRU researchers using specialist GIS software (CARIS LOTS) with support

from the Cartography Unit in Durham's Department of Geography. IBRU offers a range of mapping services to assist in the analysis and resolution of boundary and jurisdictional disputes on land and at sea; for further information on these services, contact Martin Pratt (m.a.pratt@durham.ac.uk).

High resolution versions of the South Atlantic maps are available for download from www.durham.ac.uk/ibru/resources/south_atlantic

Boundaries in the news 2010

In March the South Korean patrol vessel ROKS Cheonan sank near the disputed de facto maritime boundary off Baengnyeong island in the Yellow Sea taking 46 lives. An international inquiry later found that the Cheonan had been sunk by a North Korean torpedo. Tensions between North and South Korea subsequently rose to the highest level in decades.

In April Norway and Russia announced a preliminary agreement on their maritime boundary in the Barents Sea and Arctic Ocean after many years of negotiations. A formal delimitation instrument was signed in September following several months of technical work. The agreement eliminated the joint fishing 'Grey Zone' established in 1978 but continued other cooperative fishing arrangements and provided for future cooperation over hydrocarbon exploitation.

Grenada and Trinidad and Tobago also agreed delimitation of their maritime boundary in April.

Brunei and Malaysia resolved a long running territorial dispute over the Limbang province and confirmed delimitation of their maritime boundary in a historic agreement reached in May.

In August Israel and Lebanon clashed briefly across the Blue Line which serves as the de facto land boundary between the two states. The skirmish began when Lebanese forces fired on Israeli personnel attempting to clear trees outside its border security fence. However, it is likely these operations were located on the Israeli side of the poorly marked Blue Line.

Following the deployment of US National Guard troops in 2006 under Operation Jump Start, 1,200 troops were again sent to the border between Mexico and the USA in August. While the previous mission was concerned with the construction of border fencing, the 2010 deployment has been reported as focusing on counter-narcotics enforcement.

In October the European Union undertook the first deployment of Rapid Intervention Border Teams organised by the Union's border security agency Frontex. The 175 guards come from 26 countries, and will work in support of Greece's existing border agents along its short land border with Turkey. Greece requested help from the EU after the numbers of migrants and asylum seekers crossing this border, predominantly from northern Africa and Afghanistan, rose significantly in 2010.

In early September a Chinese fishing boat collided with pursuing Japanese patrol vessels in waters surrounding the disputed Senkaku/Diaoyu islands, located in the East China Sea. The captain of the Chinese boat was detained by Japanese officials for several days, leading to an extended diplomatic row.

Keep up with boundary-related news from around the world at www.durham.ac.uk/ibru/news Also available as a RSS feed.



Dr Andrew Burridge

IBRU welcomes new researcher

IBRU is delighted to welcome Dr Andrew Burridge to its research team.

Andrew joined IBRU in July 2010 as a Research Associate and is an expert on the Mexico-USA borderlands. His research has focused on the impacts of border securitisation practices on undocumented migrants and local communities on both sides of the international boundary. Between 2006 and 2009, Andrew researched and volunteered with several humanitarian aid groups based in southern Arizona, United States, and northern Sonora, Mexico; he has also been involved with anti-deportation campaigns and migrant rights organising. Andrew completed his PhD in Geography at the University of Southern California in 2009 and holds a BA in Urban Planning and Development from the University of Melbourne.

Congratulations

In March 2010 John Donaldson, Senior Research Associate at IBRU, successfully defended his thesis entitled *Marking Territory: demarcation of DRC-Zambia boundary from 1894 to the present* to be awarded his PhD. John is now widely recognised as one of the world's leading experts on African boundaries.

Congratulations also go to Martin Pratt, Director of Research at IBRU who has won the Michael Barrett Award of the Royal Institute of Chartered Surveyors (RICS) which is awarded annually to



Martin Pratt receiving the Michael Barrett award of the Royal Institute of Chartered Surveyors. Accompanied by Ruth Adams, FRICS (left) and Shannon Pratt (right)

the person who has contributed the most to the understanding of the subjects of land transfer, registration and administration, encroachments, cadastre and boundary issues within the UK and overseas. In addition to this prestigious award, Martin has been made an Honorary Professor in Geography in recognition of his outstanding contribution to Durham University over the last 20 years. Congratulations to Professor Pratt.

In Memoriam

It was with deep sadness that IBRU learned of the death of Professor Kaiyan Homi Kaikobad on 1 July 2010 after a short illness. A public international lawyer specialising in boundary and territorial issues, Professor Kaikobad was a long-time associate of IBRU. He led the MA programme in International Boundaries alongside IBRU during his many years in the Law Department at Brunel University in 2007. Professor Kaikobad was a passionate teacher, incisive scholar and trusted colleague who will be sorely missed.

Boundary-related conferences in 2011

Association for Borderland Studies 53rd Annual Conference

Salt Lake City, USA
13-16 April 2011
www.absborderlands.org/2annualmeetings.html

Fences, Walls & Borders: State of Insecurity?

University of Quebec at Montreal, Canada
17-18 May 2011
<http://tinyurl.com/fwb-soi>

The Mobile Borders

Border Regions in Transition (BRIT) XI
University of Geneva, Switzerland and
University Joseph Fourier-Grenoble I, France
6-9 September 2011
www.pacte.cnrs.fr/spip.php?article2543

Crossing African Borders: Migration & Mobility

5th annual conference of the African Borderlands Research Network (ABORNE)
ISCTE-Lisbon University Institute, Portugal
21-25 September 2011
www.aborne.org

If you wish to publicise a boundary-related event in future editions of *Borderlines*, please contact Liz Kennedy

IBRU in the media



President Baugh of the Micronation 'Molossia' featured in the documentary 'How to Start Your Own Country'. Photo by Jody Shapiro

Boundary and territorial issues often capture the public imagination, and IBRU is regularly approached by journalists and film-makers for advice and comment on topical issues. IBRU featured in a number of different media projects in 2010, including two well-received documentaries.

IBRU's Director of Research Martin Pratt was interviewed by Professor Jerry Brotton for the BBC series *Maps: Power, Plunder and Possession* which explored the role of maps as tools of geopolitical power and persuasion

throughout history. The feature examined how IBRU's 2008 map of maritime jurisdiction and boundaries in the Arctic has helped to inform debate about what many commentators seem determined to portray – largely inaccurately – as a scramble for vast oil resources or even a 'new Cold War'. The map was cited as a good example of the way in which, in the words of Professor Brotton at the conclusion of the series: "In the 21st century, mapmakers have become peacemakers".

2010 also saw the premiere at the Toronto Film Festival of the documentary film *How to Start Your Own Country* directed by Jody Shapiro. The film primarily examines the creation of idiosyncratic and sometimes absurd 'micro-nations' but also offers some insightful analysis of the nature statehood and citizenship through interviews with participants at IBRU's 2009 conference *The State of Sovereignty*, including William Worster, Michael Strauss, Anton Zeilinger, Somaliland foreign minister Abdillahi Mohamed Dualeh and IBRU's founder Gerald Blake.



Source: Princeton University Library

The old and the new; Mercator's 1595 map of the Arctic 'Septentrionalium Terrarum descriptio' and the modern day IBRU map depicting maritime jurisdiction and boundaries in the Arctic region.

IBRU Arctic map available for download from www.durham.ac.uk/ibru/resources/arctic

IBRU's unique professional training programme has been running since 1996, attracting over 1,100 participants from 114 countries around the world. Workshops are led by teams of expert tutors and provide a relevant combination of theory and practical application in an informal teaching environment. Numbers are limited to maximise interaction between tutors and participants so early booking is strongly advised. Four unique workshops will be held in 2011.

16-17 May
2011

Venue:
Eversheds LLP, London

Price: £1450*

Preparing for Boundary Arbitration & Litigation

Although it is widely recognised that boundary disputes are best settled through negotiation, there are times when recourse to third party settlement also needs to be considered as an option. This workshop is designed to help governments and their legal advisors to evaluate the pros and cons of third party adjudication, and to equip them with information and skills to ensure a successful outcome from the process.

Led by highly experienced international lawyers and boundary practitioners, the workshop will offer practical instruction on topics such as choice of forum, assembling and assessing evidence, building and managing a team; and presenting your case and rebutting your opponent's case.

The workshop, organised in partnership with leading International law firm Eversheds will be of value not only to countries currently involved in boundary litigation or arbitration but also to any country seeking to achieve a peaceful boundary settlement with its neighbours.

In Association with



EVERSHEDS



Source: International Court of Justice

18-20 May
2011

Venue:
Eversheds LLP, London

Price: £1450*

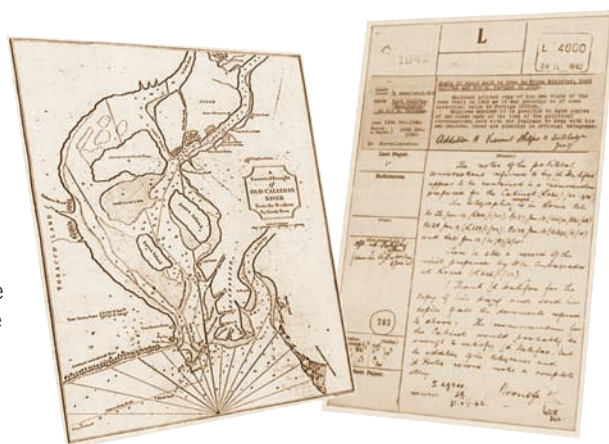
Archive Research for Boundary Dispute Resolution

Most countries' archives contain a wealth of material relating to international boundaries, much of which can be crucial to the understanding of boundary and territorial disputes. However, the size and complexity of many archives means that finding relevant material and compiling an accurate picture of the key issues is rarely a straightforward task. This workshop, led by experienced archivists, researchers and case managers, is designed to help participants appreciate how archive material can be used to help build a case, and to provide practical guidance on how to make the best possible use of time available for archive research. The workshop, hosted by Eversheds will also include practical sessions at The National Archives and The British Library.

In Association with



EVERSHEDS



Discounted price of £2,465 (15% discount) if you book on both *Preparing for Boundary Arbitration & Litigation* and *Archive Research for Boundary Dispute Resolution* workshops.

11-13 July
2011

Venue:
Durham University

Price: £1650*
Including accommodation
and all meals

Geographic Information in Boundary-Making & Dispute Resolution

Geographic information, particularly as presented on maps and charts, has always been central to the process of creating and managing international boundaries. Access to accurate geographic information does not guarantee that a boundary will be problem-free, but boundaries created on the basis of poor geographical information almost invariably become a source of friction and occasionally even armed conflict between states.

This workshop is designed to help boundary practitioners make the best use of geographic information in their work. The workshop will examine the use of maps, charts and other traditional sources of geographic information in boundary settings and explore how modern Geographic Information Systems (GIS) can contribute to effective boundary creation, management and dispute resolution.



The workshop will include hands-on exercises designed to allow participants to evaluate key geographic technologies and resources in a range of boundary-related settings.

19-21
September
2011

Venue:
Centre for International
Law, National University
of Singapore

Price: £1450*

Maritime Boundary Delimitation

Clearly-defined maritime boundaries are essential for good international relations and effective ocean management, yet few coastal states have agreed all their maritime boundaries with their neighbours. Part of the reason for this is that boundary delimitation requires a range of specialist legal and technical skills which are not always readily available to governments. Combining lectures, discussion and practical exercises, IBRU's most popular workshop helps participants develop the skills needed to achieve an equitable division of maritime space and clearly defined maritime boundaries.

IBRU is delighted to be partnering with the Centre for International Law at the National University of Singapore in organising its first training workshop to be held in Southeast Asia.



In Association with

CIL

Centre for International Law
National University of Singapore

For further information or to reserve a workshop place, please contact Liz Kennedy

Tel: +44 (0)191 334 1965 Email: ibru-events@durham.ac.uk or book online at www.durham.ac.uk/ibru/workshops

*workshop fees for UK-based participants are subject to VAT at 20%

Please note that the fees for workshops in London and Singapore do not include accommodation



Borderlines is the newsletter of the International Boundaries Research Unit at Durham University. It has a readership of more than 3500 boundary scholars, practitioners and enthusiasts around the world.

IBRU works to minimise conflict associated with international boundaries on land and at sea around the world.

Our work is interdisciplinary in approach and global in scope, integrating theory and practice in order to provide:

- Practical expertise in boundary-making, border management and territorial dispute resolution
- Academic leadership in the study of boundaries and their impact on international relations and border development.

Contact

International Boundaries Research Unit
Department of Geography
Durham University
Durham, DH1 3LE
United Kingdom

Tel: +44 (0) 191 334 1961
Fax: +44 (0) 191 334 1962
Email: ibru@durham.ac.uk
Web: www.durham.ac.uk/ibru