

Borderlines

ISSUE 16 • SPRING 2018

NEWSLETTER AND CALENDAR OF EVENTS

Extending the Borders of Borders Research



The NEW 2018
Professional
Training Workshop
Programme

Brexit Borders
and Ireland



Extending the Borders of Borders Research

IBRU has long maintained that questions of boundary delimitation are essential to borders research, *writes IBRU Director Professor Phil Steinberg*. That's why we focus much of our energy on workshops designed to assist border professionals in the cartographic and legal technicalities employed by negotiators and arbitrators as they determine where a border gets drawn. However, we also maintain that the question of where a border is drawn is only one aspect of the bordering process. Different borders are managed in different ways, to impede or facilitate the flows of different peoples, goods, and ideas, and for different ends. These different functions are reflected in a border itself, where it is located and how it is manifested on the ground.

For one example, we can turn to the United Kingdom, where in recent months the coalition government had its greatest crisis to date because of an internal disagreement over the nature of the post-Brexit border between Northern Ireland and the Republic of Ireland. The differences were not over *where* the border was to be or *whether* there was to be a border. Rather, the differences pertained to *what* that border would regulate and *how*.

In particular, parties in the ruling coalition had differing concerns regarding the precedent that the relative 'hardness' of the border might have in the context of strained relations between Northern Ireland and the Republic, between the UK and the EU, between the UK and Northern Ireland, and between the UK and its other constituent countries (most notably, Scotland).



Image courtesy of Pixabay/BRU_n0

For another example, one can turn to the other side of the Atlantic. There, *The New York Times* reported, despite all the attention given to failed attempts at boosting border infrastructure (e.g. President Trump's famed wall with Mexico) and enacting border legislation (e.g. the series of proposed travel bans), the United States' frontiers are indeed slowly being strengthened, one visa application at a time. The article reported that, due to an intensified regimen of visa interviews and increased requirements for evidence, the U.S. has seen a significant reduction in immigrant numbers, particularly among those seeking skilled-worker H-1B visas.

Both of these vignettes suggest that if one approaches borders simply as lines on a map that define how much territory belongs to a state (with states 'naturally' trying to extend their borders so as to claim the biggest swath of territory), one misses a number of the complex functions played by borders in the world today.

These different functions of borders, and, more broadly, border management regimes, were made evident to IBRU this year when we received two inquiries from two very different groups, each requesting our services as border research experts.

Citizenship for Sale

The first enquiry was from an international consulting firm that advises entrepreneurs and wealthy individuals on how they might meet their financial or legal needs by obtaining residency or citizenship in multiple states. Of course, many individuals come by dual citizenship without premeditated effort; an individual may have citizenship in one state due to birth or heritage and then receive citizenship in a second state after residing there for a number of years. In 2017, this became an issue in Australia, when it was discovered that a number of MPs held dual citizenship (in some cases unknowingly), in violation of a provision in the Australian Constitution that forbids members of Parliament from having multiple allegiances.

However, the firm that contacted IBRU specialised in providing services to individuals who were seeking residency or citizenship in a second state so as to reap specific benefits. These benefits might range from the relatively benign (e.g. one might seek to establish one's business in a country that provides a relatively business-friendly environment for resident investors, or one might seek a passport that permits extensive visa-free travel) to the more nefarious (tax avoidance, protection from extradition, etc.). Estonia's e-Residency programme, whereby individuals who pay a €100 fee become virtual residents, has attracted considerable attention. With only 1.3 million 'real' residents, and almost 30,000 e-Residents, over 2 percent of Estonia's population is now 'virtual'. This situation might have bearing as one considers the 'virtual' residency maintained by citizens of island-states that are submerged by rising seas, or as one considers any number of other states where there is an imperfect alignment between territory, sovereignty, residency, and citizenship.

While media attention on the malleability of 'belonging' to a state tends to centre on states like Estonia that offer expedited residency, as well as brass-plate tax havens like the Cayman Islands, a host of states offer simplified routes to citizenship, or at least residency, if one is willing to pay the price in cash, investment capital, or job creation. In the United Kingdom, for instance, the Tier 1 (Investor) visa programme exempts those who have £2 million from the need for a sponsoring employer. If one can invest £10 million the waiting period for seeking permanent residency is reduced from five years to two.

Search and Rescue, and Sovereignty

The second inquiry came from an international humanitarian aid group that was questioning whether Libya had the right to use its maritime Search and Rescue (SAR) Zone as the basis for interdicting departing migrant vessels. As IBRU worked with the group to consider how legal issues were nested within the political realities of the situation, it became clear that this was not simply a situation of the Libyan state exerting its sovereignty through claiming power over its (extended) borders. Rather, after undertaking further research, the humanitarian aid group reached the conclusion that Libya had the tacit support of other regional states that were seeking to maintain

their sovereignty by limiting the inflow of migrants, and that it also had tacit support from a world community that was loath to undermine the authority of the Libyan state.

Thus, the humanitarian aid group determined that the extension and intensification of borders through increased policing in the SAR Zone was not simply an assertion of power by the Libyan state but rather an assertion of the authority of the entire state system. Since there was no obviously aggrieved state, there was no party with an interest in taking legal action. Eventually, the aid group acknowledged that it (and other humanitarian aid groups) were effectively being crowded out of the region's seas, despite the fact that those seas were a flash point for international migration, and notwithstanding what the aid group saw as neighbouring states' failure to meet their humanitarian obligations.

Borders in Context

For the organisations that came to us with each of these enquiries, borders were actual, delimited lines on the ground (or the sea) that defined the limits of state territory or state sovereign authority. They existed within both legal frameworks (e.g. the United Nations Convention on the Law of the Sea and the International Convention for the Safety of Life at Sea, in the case of the humanitarian aid group) and legal infrastructures and institutions (e.g. border posts, passports, naturalisation procedures, in the case of the consulting firm). But they were also much more. For the consulting firm, borders were not only barriers. They provided a resource – difference – that could be exploited. For the aid group, while borders defined the limits of a given state's authority their ultimate significance was that they confirmed a system that favoured some actors (states) while diminishing the capacity of others (humanitarian aid organisations).

As we note on our website, IBRU has a three-part mission as a centre for borders research: "To facilitate enhanced understanding of border areas; [to] contribute to the peaceful resolution of boundary disputes; and [to] engage with broader geographic questions concerning the changing nature of sovereignty, territory, citizenship, and the political organisation of space." In fulfilling this mission, we seek to extend our focus to the borders of borders research, and beyond...because borders have no limits.



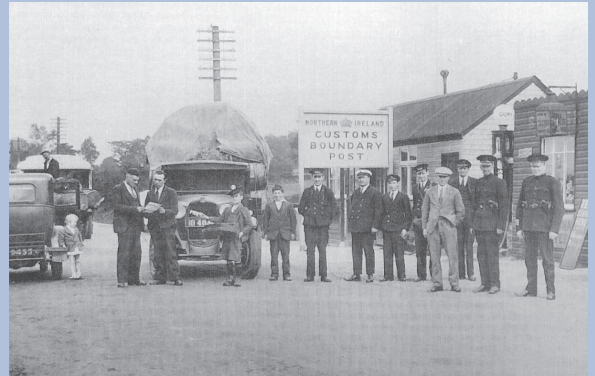
The open border between Norway and Finland where there is free movement of individuals. Image courtesy of Martin Doyle.

Brexit Borders and Ireland

Since 1922, the border between Northern Ireland and the Republic of Ireland has played a significant role in the relationships - political, social and cultural - of everyone on the island. For those who live in border counties on either side, the evolution of changes to that border has meant they have had to consistently change their daily lives and routines as the nature or objective of that border evolved, writes Professor Aoife O'Donoghue of Durham Law School

Brexit brings another wave of change to that border. While we can see that change as part of a long-term pattern, the starkness of change is perhaps most reminiscent of when the Border – as a political and legal infrastructure – first appeared in 1921. Joint membership of the EU, by both Ireland and the UK, combined with the Peace Process, has meant that the legal and security rationales for a visible border disappeared. Older border posts can still be found on minor roads, now generally in ruin. Changes from kilometres to miles, the absence or presence of both Irish and English, as well as the colour of road signs, are amongst the few visible indicators that you are entering a new country.

Life on the island evolved so that travelling to Belfast, to Dublin, to Galway, to Coleraine or to Cork for work, for leisure, to visit family is done without thought. Even inconveniences such as mobile phone roaming charges accidentally incurred as one walked along a beach in Derry with Donegal in sight have recently disappeared through EU membership. Human rights infrastructure has partially developed in response to the EU, making one's rights almost indistinguishable on either side. Although there are still key issues such as marriage equality, in most respects there is a present ease and this makes Brexit particularly disconcerting.



Northern Ireland Border Post circa 1922.
Photo courtesy of the Police Museum, Belfast



Protest signs against Brexit and potential hard border. Image courtesy of Niall Carson/Press Association

Brexit removes a key structure in the island of Ireland, creating a new reality. While it is still impossible to say what exactly the changes will be, change will come. Hard Brexit brings with it a hard border. World Trade Organisation rules require each customs territory – here in the UK and the EU – to impose either the same regulations and taxes on external products and services or no regulations and taxes on foreign products or services. Beyond those specifics, all customs territories protect their markets to some extent and both the UK and the EU are currently negotiating to consider how much to protect their markets from each other. Of course, beyond trade, there are political considerations that will influence how either side emerges from Brexit, and part of those considerations is Northern Ireland.

The Phase 1 Report created a new basis on which to move forward, but, even with regulatory alignment – which is the fail-safe – there will be change. The nature of the physical infrastructure is unclear – but at the very least some sort of anti-abuse measures – even with a comprehensive deal – will be necessary, as they are on any of the EU external borders, be it Norway, Switzerland or Ukraine.

The Common Travel Area does ease some of the problems for people – a fix that is not available for the UK and the rest of Europe. The Common Travel Area means that stopping people will not be necessary. But being a frontier worker may still be quite difficult, losing your job could lose you your status and the special arrangements that allow you to continue as a frontier worker. The Common Travel Area is a mix of legislation, statutory instruments, practice and a narrow treaty. Putting it on firmer grounds would give people in both Britain and Ireland more assurance as to their futures.

Borders in Ireland come in many forms. The Brexit border has yet to be determined, but on an island that has spent a considerable time deconstructing barriers, creating new ones should be avoided at all costs.

Boundaries in the news 2017

In January, courts in **Egypt** upheld a ruling halting a plan to transfer the Red Sea Islands of Tiran and Sanafir to **Saudi Arabia** which had originally been proposed by the Government of Egypt in 2016. Later in the year this ruling was overturned and the decision was reversed with the islands designated to be handed to Saudi Arabia subject to appeal and approval by Parliament.

In February it was determined that the **Kenya-Somalia** maritime boundary dispute will go to a full trial in form of the International Court of Justice (ICJ) after the court rejected Kenya's preliminary objections that the ICJ lacked jurisdiction to intervene.

The President of **Laos** visited **Cambodia** in February despite troops remaining at a standoff over a territorial dispute over a Cambodian road near the border between the two countries which is yet to be demarcated.

A new United Nations envoy was appointed to resolve a border dispute between **Venezuela** and **Guyana** in which Venezuela has claimed the waters off the Essequito, a disputed territory that borders Venezuela and encompasses more than half of Guyana. Dag Halvor from Norway was appointed to help broker a deal between the two countries. Ministry of Foreign Affairs officials from the two countries met in New York on 28 and 29 October 2017 to discuss the ongoing border dispute between the two countries. The meeting was part of the fulfilment of the mandate of the United Nations Secretary General under the Good Offices Process to "actively engage with the Governments of Guyana and Venezuela with a view to exploring and proposing options for a solution to the border controversy between the two countries".

The new Trump administration in the USA proposed a partition of **Libya** which acknowledges the *de facto* partition that already existed. Fears arose however that this could lead to intensified conflict over the location of the boundary between the

Northeast-ruled Egyptian/Russian anti-Islamist authority and the government-backed National Accord.

Troops from **The Philippines** were ordered to occupy uninhabited islands in the **South China Sea** in April in a move to claim the islands in the disputed area. The move was expected to anger **China** who had talks planned with the Philippines later in 2017 to address tensions in the area.

In May, **Malawi** announced it was intending to take **Tanzania** to the International Court of Justice over the disputed border across the northern half of Lake Malawi.

May also saw officials from the geological surveys of **Afghanistan** and **Pakistan** plan to use Google Maps to help settle the deadly border dispute which has been raging since 1947 when Pakistan gained independence from Britain. Afghanistan has never recognised the 1,500 mile border Pakistan inherited through independence.

The Permanent Court of Arbitration in The Hague ruled in July that **Slovenia** should have access to international waters by means of a 'Junction Area' through a portion of **Croatia's** territorial sea. The dispute between the two nations goes back to the 1990s and the break-up of the former Yugoslavia.

In July, **Costa Rica** asked the International Court of Justice to establish maritime boundaries in the Pacific Ocean and the Caribbean Sea to bring an end to its repeated border disputes with **Nicaragua**.

China demanded the withdrawal of Indian troops from a small area of disputed territory to end an escalating border row in late July. China claimed that Indian troops were occupying its territory, whilst both **Bhutan** and **India** maintained that the area in question belongs to Bhutan. China released a map showing the site of the dispute and their territorial claims at the India-China-Bhutan trijunction. China argued that its territory extends south to

an area called Gamochen, while India says Chinese control ends at Batanga La, further to the north.

A dispute between the **United Kingdom** and **Mauritius** over the disputed Chagos Islands in the Indian Ocean was referred to the International Court of Justice (ICJ) in July for 'Advisory Opinion'. Mauritius, a former British colony that gained independence in 1968, claims the islands are part of its territory and wants the ICJ to offer its opinion on the status of the islands' sovereignty.

The African Union (AU) planned to help to resolve the **Eritrea-Djibouti** border dispute by sending its peace and security commissioner to Eritrea following the withdrawal of Qatari peacekeepers from the area after Eritrea cut off diplomatic ties with Doha. The AU wants to decrease tensions after Djibouti accused Eritrea of occupying disputed land on the frontier.

Talks between **Sudan** and **South Sudan** were planned for August to resolve the ongoing dispute over the border region of Abyei. Ownership of Abyei remains a contentious issue after South Sudan separated from Sudan in 2011.

Guatemala voted to support the decision to hold a referendum to determine if their border dispute with **Belize** should go to the International Court of Justice to be settled. The go ahead has been given for the referendum to take place in April 2018.

In September, the Special Chamber of the International Tribunal of the Law of Sea (ITLOS) unanimously ruled in favour of **Ghana** in a three-year dispute between Ghana and **Ivory Coast**. The dispute concerned the delimitation of the maritime boundary between the two countries in the Gulf of Guinea and had arisen following the discovery of offshore oil and gas reserves in 2007.

Indonesia reiterated its commitment in the future to finalizing its border negotiations – on both land and sea – with its

neighbours. A recent Ministry statement reflected that since 2015, Indonesia has engaged in a large number of negotiations with its neighbours on border issues, including with Malaysia, Singapore, the Philippines and Timor Leste. In 2017, Indonesia ratified two maritime boundary agreements, the first on the Indonesia-Singapore maritime border and the second with the Philippines concerning the countries' exclusive economic zones (EEZs) in the Mindanao Sea and Celebes Sea.

India and **Sri Lanka** showed their commitment to working together to map their maritime boundary in November. Amid ongoing tensions over the arrest of Indian fishermen by the Sri Lankan Navy, the navies of both countries began the next stage of a joint exercise to map the maritime boundary between the two countries. The first phase of the exercise was completed in May 2016.

Bahrain reignited an old border dispute with **Qatar** in November by claiming they have the right to take territory which was awarded to Qatar in 2001 by the International Court of Justice. Bahrain announced that they have "every right to claim what was cut off forcibly from its land and to dispute the legitimacy of the Qatari rule". No action was taken on this claim in 2017 but it comes at a time of border tensions in the Gulf.

Tensions mounted between **Egypt**, **Ethiopia** and **Sudan** after Egypt raised concerns over the construction of a large dam by Ethiopia in the Blue Nile which is a main tributary of the Nile River and Egypt's main source of water. The Egyptians are concerned that the dam will reduce the flow of the Nile and consequently Egypt's share of the Nile waters which the desert nation relies on to sustain its population of around 100 million people. The hydro dam was more than halfway to completion in November and is expected to cost around \$4.8 billion.

IBRU sponsors forum on Irish border

IBRU teamed up with two other units at Durham University – the Department of Geography's Politics-State-Space research cluster and the Law School's Law and Global Justice Durham – to organise a two-day symposium building on the work of Garrett Carr, the author of the recent book *The Rule of the Land: Walking Ireland's Border*. In his book, Carr, a Lecturer in Creative Writing at Queen's University Belfast, uses a post-Brexit referendum walk along the Irish border to reflect on the ways in which borders are inscribed and erased through memories, stories, embodied experiences, artifacts, landscapes, infrastructures, and cartographic depictions, as well as, of course, through state-building policies. The book is, at one and the same time, a very personal reflection on everyday borderings and an inquiry into the various tendencies (historic and present) that work toward both unification and disunification in Ireland.

The symposium took place in February with Carr delivering a public lecture based on his book followed by two panels with invited guests. The first featured reflections on various methods used for narrating and understanding borders, with presentations from Kate Coddington (Assistant Professor of Geography and IBRU Board member), Mike Crang (Professor of Geography), Henry Jones (Assistant Professor of Law and IBRU Board member), and Olivia Mason (PhD student in Geography). The second panel, focused specifically on post-Brexit futures for the Irish border, with presentations from Niall Cunningham (Assistant Professor of Geography), Alan Greene (Assistant Professor of Law), and Aoife O'Donoghue (Professor of Law and Associate Director of IBRU).



Garret Carr and IBRU Director Professor Phil Steinberg at the Irish Border Forum.

2018 TRAINING WORKSHOP PROGRAMME

IBRU's unique boundary training programme has been running since 1996 attracting over 1,500 participants from 121 countries around the world.

Our workshops are led by teams of expert tutors and provide a relevant combination of background theory and practical application in an informal teaching environment. Numbers are limited to maximise interaction between tutors and participants so we advise you book early to guarantee your place. There will be three unique workshops held in 2018, with IBRU working with partners around the world to deliver a compelling programme.

**11 - 13
June 2018**

Venue:

London, UK
Price £2,220
(£1,850 + VAT)

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 will also include practical sessions at The National Archives and The Royal Geographical Society.

**2 - 4
July 2018**

Venue:

Durham, UK
Price £2,520
(£2,100 + VAT)
Includes 3 nights bed and breakfast accommodation

Boundary Demarcation & Maintenance

Delimitation of a boundary in a treaty is a crucial first step in boundary-making, but on its own delimitation is of limited value. For borderland populations, boundaries rarely have much meaning until they are identifiable on the ground - and it is arguable that it is only when a boundary has been physically demarcated that it can begin to function effectively.



Led by a highly experienced team of tutors and combining classroom sessions and practical exercises, this unique workshop will assist policymakers and practitioners in developing strategies for the effective demarcation and maintenance of international boundaries in different physical and human landscapes.

FORTHCOMING WORKSHOP

IBRU will be running a workshop on **Maritime Boundary Delimitation** later in 2018. Further announcements with the details of our most popular workshop will be made soon. Please get in touch via email to register your interest.

To make an enquiry about our workshops, please contact the IBRU Events Team

Tel: +44 (0)191 334 1965 Email: ibru-events@durham.ac.uk

Find out more and book online at www.durham.ac.uk/ibru/workshops

Seeking nominations for the Raymond Milefsky Award

IBRU was deeply saddened by the death on 1 August 2016 of Ray Milefsky, one of the leading lights of the border studies community. A long-time employee of the US Department of State's Office of the Geographer and Global Affairs, Ray was also a frequent tutor at IBRU workshops and a great supporter of IBRU's mission of encouraging peaceful settlement of border disputes through education and research. For more on Ray, see tributes to him on the websites of IBRU Director Philip Steinberg (<https://philsteinberg.wordpress.com/2016/08/09/ray-milefsky-1949-1967/>) and former IBRU Research Director Martin Pratt (<http://bordermap.com/ray-milefsky-tribute/>).

Ray has kindly endowed upon IBRU an annual award to honour a leading border practitioner or organisation. The award will be administered by IBRU and selection of the awardee will be made by a committee consisting of the members of the IBRU Steering Committee and an external representative.

The award will be presented to an individual or organisation who:

- Has advanced knowledge of boundary-making or cross-border cooperation, OR
- Has implemented a programme over the past year that has contributed substantively to boundary-making or cross-border cooperation.

The awardee will receive an award of **£745**, as well as a profile in the next edition of *Borderlines*.

IBRU is requesting nominating letters of no more than one page in length. They should briefly detail what the individual or organisation has contributed to boundary-making or cross-border cooperation, and how they meet the criteria noted above. Self-nominations are permitted.

Nominations should be sent to IBRU's email address (ibru@durham.ac.uk) and must be received by **15 June 2018**.



Borderlines is the newsletter of IBRU, the Centre for Borders Research at Durham University. It has a readership of more than 3,500 boundary scholars, practitioners and enthusiasts around the world.

Since its founding as the International Boundaries Research Unit in 1989, IBRU has been the world's leading research centre on international boundary making and dispute resolution. Today, IBRU brings together work in international boundary law with the geographic study of borders and bordering in the 21st century.

For more information about IBRU visit our website at www.durham.ac.uk/ibru

Contact

IBRU
Department of Geography
Durham University
Durham
DH1 3LE
United Kingdom

Tel: +44 (0) 191 334 1965

Email: ibru@durham.ac.uk

Web: www.durham.ac.uk/ibru

 [ibrudurham](https://www.facebook.com/ibrudurham)

 [@ibrudurham](https://twitter.com/ibrudurham)