



Visualising historical trends in global maritime boundary delimitations since the 1940s



Naohiko Nagasaka¹

MA Risk and Security, Department of Geography, Durham University, Lower Mountjoy, South Road, Durham DH1 3LE, United Kingdom

ARTICLE INFO

Article history:

Received 28 February 2016

Received in revised form

12 May 2016

Accepted 13 May 2016

Keywords:

Maritime boundary delimitations

Equidistant line

Coastal geography

Oppositeness and adjacency

ABSTRACT

The research aims to grasp trends of global maritime boundary delimitations from the 1940s to 2014 with statistical visualisations. The quantitative analysis reveals historical developments of delimitation schemes and methods. It also confirms the straight-forward relationship between coastal geography and delimitation methods which was insisted by the early work by Hankey and Legault (1993) [10] and general direction towards the equidistant based methods. Moreover, the finding of oversea territories cases will shed a light on other factors such as socio-historical contexts which might affect the delimitation direction as background circumstances.

© 2016 Elsevier Ltd. All rights reserved.

1. Introduction

Maritime boundary delimitation is one of the most fertile fields in international law in terms of studying the creation of new norms ([6], p.181). Maritime boundary delimitations based on bilateral agreements and the ruling of international courts, have steadily contributed to the development of norms and rules in the law field. The introduction of the Law of the Sea Convention (LOSC) also contributed to the rapid evolution of normative principles for reaching agreements. Though the well-known controversy between the “equidistant principle” and “equitable principle” used in delimitation methods has not been fully resolved in codification, settlements have been accelerated, partly because of the widely accepted Convention. While numerous detailed reports for each case such have been published, including in the journal *International Maritime Boundaries* by the American Society of International Law, the history of delimitations has remained an elusive and challenging field for political geographers. As Jones [11] once warned in the context of land borders, the danger of over-generalising the delimitation principle may also be applicable in regards to the ocean. Indeed, in the case of Libya/Malta in 1985, the court expressed a view (cited by [5], p.19): “The Court held that the practice cited fell short of proving the existence of a rule prescribing the use of equidistance, or indeed of any method, as obligatory.” On the other hand, some international court

judgements, including those of the ICJ, have noted recent general trends in maritime delimitations: “*The methodology which the Court usually employs in seeking an equitable solution involves three stages. In the first, it constructs a provisional equidistance line [...]*” ([20]). Therefore, one must question to what extent the evolution of norms and rules in the past three decades was observable in any “objective” way. Statistical analysis has rarely been used to explain these general trends. In order to understand the current situation as well as historical context, this present study focuses on the quantitative analysis of global maritime border delineation.

2. Background

A number of political geographers and practitioners, including international lawyers, have adopted quantitative approaches to reveal relevant factors in ocean delimitation, as well as the historical trend of settlements. For instance, Blake estimated that by 1985, there were 353 potential maritime boundaries in the world with 115 boundaries already being settled ([3], p. 7 and 9). However, the fact that only one-third of global boundaries had been established by that time, and the lack of detailed data in the paper, might hinder the insight of other researchers. Historical developments after the introduction of the LOSC in 1994 should also be considered. Recent international court judgements have suggested a certain consensus on the equidistant method as the primary method for establishing boundaries. In Volume V of the journal *International Maritime Boundaries*, Anderson [2] qualitatively reported an on-going trend to adopt the equidistance principle in case law from 1993 to 2004, describing “a remarkable consistency”

E-mail address: naohiko.nagasaka@kcl.ac.uk

¹ Current address: MA candidate Geopolitics, Territory and Security, Department of Geography, King's College London, Strand Campus, London, WC2R 2LS, United Kingdom.

towards “making the law more predictable in its results”.

However, states’ practices and court judgements are simply part of an on-going, dynamic process. During this decade, international society has entered a new phase of maritime delimitation. For instance, two recent cases of litigation regarding the Bay of Bengal and the Continental Shelf delimitation beyond 200 NM as a new type of delimitation predicted by Lathrop [14] reflect such dynamism. In those delimitations, including the first delimitation case for the ITLOS, it was notable that the distance criteria or equidistant-based principle maintained their positions in delimitation even beyond 200 NM, whereas the courts ignored the geomorphological/geological argument ([9], pp. 503–504). Therefore, to fill the research gap from 2004 (or even from the 1980 s), the research question would be set as; “What is the historical trend have followed previous studies?” and “Are there any specific preferences for boundary delimitation in different settlement types, such as bilateral negotiations and international court litigations?”.

As more of an *a priori* factor, Hankey and Legault [10] demonstrated a close connection between coastal geography and delimitation methods from 1942 to 1989. This study revealed that in “adjacent” coastal cases, it was more than five times as likely for a “non-equidistant line” to be used compared to “opposite” coastal cases (Table 1). Weil [19] argued that the primary importance of coastal geography either affects the delimitation positively (as a primary factor) or negatively (as a reduced or ignored factor). However, because the early findings about the role of coastal geography reached before the 1990 s have not yet been updated, it is important to explain the chronological change of the role of coastline geography.

Can one observe a dynamic and constructive process in a certain field of international public law? In order to answer this question, the current research compiles all delimitation cases that have taken place from 1942 to 2014 and visualises them in a quantitative manner. In addition, this study incorporates statistical methods as an essential tool that has not been fully utilised in previous works. It is necessary to distinguish the extent to which numbers in research is meaningful through statistical consideration, as the population parameter (the number of all potential boundaries) is four hundred at most.

In addition to the four main factors mentioned above (coastal geography, settlement types, delimitation methods, and their chronological change), the significant role of socio-economic factors should also be kept in mind. As Kwiatkowska [12] argued, states tacitly consider economic and environmental situations as relevant circumstances in negotiations. Either as a direct factor for actual boundaries or a background condition intertwined with the boundary settlement, the significance of natural resources and the environmental factor has been continuously observed throughout the 2000s ([13]). In that sense, relying only on coastline geography would be somewhat insufficient. Instead, we strive to quantify such subtle socio-economic factors that might affect states’ intentions or attitudes. As a starting point for such a discussion that also takes historical context into consideration, this research identifies “overseas territories” as one of the relevant social factors. The political status, as a remnant of colonial days, might reveal

some hidden tendencies to the choice of delimitation methods.

In this way, the accumulation of state practices, as well as correlation among various factors, will be visualised in a statistical way. Because the main research objective is to contribute to a comprehensive boundary database as part of an information infrastructure, the analysis of each topic in Section 4 is intended only to pave the way for further quantitative approaches. A research table covering the whole boundary cases is attached in an Appendix.

3. Methods and statistical treatment

The research published in the online journal *International Maritime Boundaries* by the American Society of International Law is the most reliable source to cover all 291 cases from 1942 to 2014 in a consistent manner. While certain of them treat only the tri-point among three countries or the joint development zone, 256 cases were classified as agreements of “international maritime boundary delimitation”. Additionally, this study basically accepts the same classification by Hankey and Legault [10] for the purpose of research continuity, except for a few additional indexes. As a principal factor, this study classifies delimitation methods under three categories: “strict or simplified equidistant line”, “modified equidistant line” and “non-equidistant line”. For coastal geography, “adjacent” or “opposite” cases are also considered. The details of those classification criteria are summarised in Table 2. It should also be remembered that in certain cases, multiple headings of “strict or simplified equidistant line”, “modified equidistant line” or “non-equidistant line” were applied because those agreements use a combination of several delimitation methods for different sections.

Because the table in the Appendix does not contain quantitative variables except for “date”, it is necessary to treat data as categorical variables representing either “just A” or “not A”. Generally, categorical data can be converted to dummy variables, such as by converting “not A” is to “0” and “A” to “1”. In the study, cross-tabulation tables were mainly used to denote general direction or meaningful differences. To distinguish whether the outcome is meaningful or the result of chance, Pearson’s chi-square test was generally used for tables in which all of the cells had more than 5 cases. In other tables (in which more than one cell contained fewer than five cases), Fisher’s exact two-sided test was generally used. For the two tests, a threshold value of 0.05 or 0.01 was widely recognised as a significant difference, which shows a meaningful hidden tendency ([17], p.295). In other words, if either of the two test values (called p-values) are less than 0.05 (or 0.01), it would suggest a certain meaningful direction in the cross-tabulation table; the probability that the situation represented in the table could be reached by chance alone is small.

The extent of the relationship between two factors is measured by a correlation coefficient, as explained in 5.14. Though it does not necessarily mean a causal relation between the two factors, it also suggests a certain tendency in the sample. A positive (or negative) correlation between information headings A and B means that, if a delimitation is applied in the heading A, it is more likely (or less likely, respectively) to be applied in heading B. Usually, the extent of correlation is evaluated as follows: $0.5 < \text{value} < 1.0$ as strong positive; approximately 0.5 as moderate positive; and $0 < \text{value} < 0.5$ as weak positive, and the same for negative values ([15], p.394).

On another note, hatched cells in the table in the Appendix were corrected from the original classification by Hankey and Legault [10] along with the classification criteria.

Table 1.
The result of the work by Legault and Hankey [10].

	Equidistant line	Modified equidistant line	Non-equidistant Line	Total
Opposite	28 (45%)	27 (44%)	8 (13%)	62
Adjacent	6 (20%)	6 (20%)	20 (66%)	30
Opposite/ adjacent Cases	29 (67%)	8 (19%)	13 (30%)	43
	(from 1942 to 1989)			

Download English Version:

<https://daneshyari.com/en/article/7488956>

Download Persian Version:

<https://daneshyari.com/article/7488956>

[Daneshyari.com](https://daneshyari.com)