

Kaiyan Homi Kaikobad. ***Interpretation and Revision of International Boundary Decisions***. New York: Cambridge University Press, 2007. Pp. xxvi + 364. \$105. ISBN: 9780521869126.

The adjudication of territorial disputes through arbitral tribunals and permanent judicial bodies, such as the International Court of Justice, is one of the main features of international law post-World War II. A glance at the present docket of the International Court of Justice and of the Permanent Court of Arbitration shows that this feature continues to characterize the settlement of disputes in the 21st century. Despite the many arbitral decisions and judgments delivered in

the last 30 years by international judicial bodies, the analysis of that case law has remained within the narrow ambit of a few legal experts. This has conveyed the impression that the law of territory constitutes a settled and uncontroversial body of international law. Dr Kaikobad's excellent book on the interpretation and revision of international boundary decisions is to be welcomed, and not just because it contributes to the reversal of this somewhat superficial impression. Moreover, the interpretation and revision of international boundary decisions has been the subject of sporadic contributions so far, none of them in the form of a detailed and systematic study of the kind written by Kaikobad.

The book is organized in three substantive parts, followed by a useful conclusion. The first part deals with the main legal and policy issues related to the settlement of territorial and boundary disputes, including the relation of the law of territory with the law of self-determination, the law of statehood and recognition and the law of armed conflicts and the settlement of these disputes through legal means, such as the conclusion of international agreements and/or the submission of the boundary dispute to a judicial body. This part introduces the main motive underlying Kaikobad's analysis: while international boundary decisions are binding and final, and international boundaries, so delimited, are subject to a presumption of stability, states may remain unhappy about those decisions and the implementation thereof, hence channelling their discontent through requests of interpretation and revisions of previous judgments and decisions.

The second substantive part of Kaikobad's book deals with the interpretation of boundary decisions. This should not be confused with the operation of incidental interpretation of legal instruments delimiting an inter-state boundary that all judicial bodies entrusted with the settlement of a territorial or boundary dispute may engage in. Yet, as Kaikobad aptly points out, it is not only limited to a request for interpretation of a final decision, often implying the conclusion of a new *compromis*, but it also

includes incidental interpretation of decisions such as that provided by Article 60 of the Statute of the International Court of Justice. The main argument presented is that the power of interpretation of previous decisions is not implied, in the sense that it always requires a manifestation of consent by both parties (it may also consist of an empowering provision within the instituting instrument or *compromis*), and that its purpose and scope should be interpreted restrictively (albeit including the possibility of redrawing the boundary).

The third substantive part relates to the revision of boundary decisions. To this end, Kaikobad meticulously analyses the *travaux préparatoires* leading to the inclusion of the explicit provision concerning the power of revision in the Statute of the Permanent Court of International Justice (Article 61), which was reiterated in the Statute of the International Court of Justice (Article 61), virtually without any discussion. The book considers then the procedural and substantive criteria for the revision laid down in Article 61. The substantive ones are the discovery of a fact existing at the time of the judgment, which is decisive in character for the purposes of the judgment but unknown to both the tribunal and the applicant state at the time when the judgment was given, provided that ignorance of the newly discovered fact was not on account of negligence on the part of the state claiming revision. As to the procedural criteria, a request for revision initiates separate proceedings and its admissibility is subject to time-limits, i.e. it has to be submitted within six months from the time of the discovery and within 10 years from the date of the judgment. Finally, the author discusses a number of selected substantive and procedural issues related to revision, such as the interplay between the power of revision and the principle of *res judicata*, the relation between revision and indirect delimitation and the merits of revising an international delimitation following a determination of admissibility in accordance with Article 61.

Dr Kaikobad is to be commended for exposing with great clarity and precision a highly

technical legal topic. The load of case law considered and analysed is impressive, placing Kaikobad's personal views and insights always on firm ground. The balance maintained throughout between the demands of finality of international judicial decisions in accordance with *res judicata* and of stability of international frontiers, on the one hand, and the remedial function that the powers of interpretation and revision may have with regard to the substantive and procedural fairness of judicial proceedings, on the other, adds to the feeling that the present book will constitute for academics and practitioners the primary reference on interpretation and revision of international boundary decisions for years to come.

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