



“Border Disputes, Confrontation of Border Models: *Collaboration,* the ultimate model”

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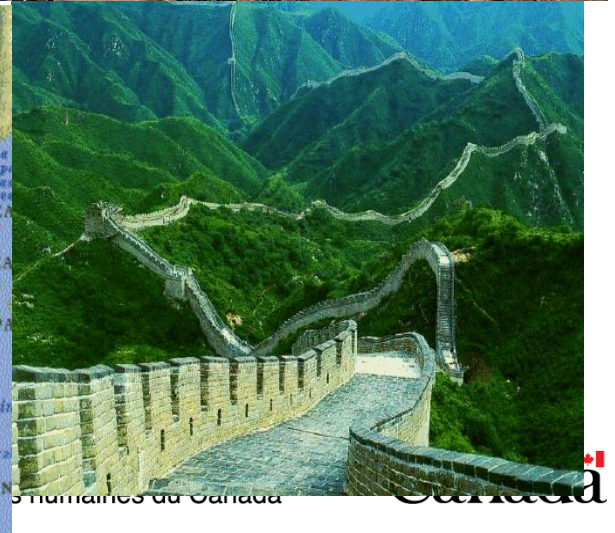
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Borders in history





Maps & Borderlands



Thanks to **astronomy** - **Ptolemy map world** C. 150 a reconstruction in the 16th century.



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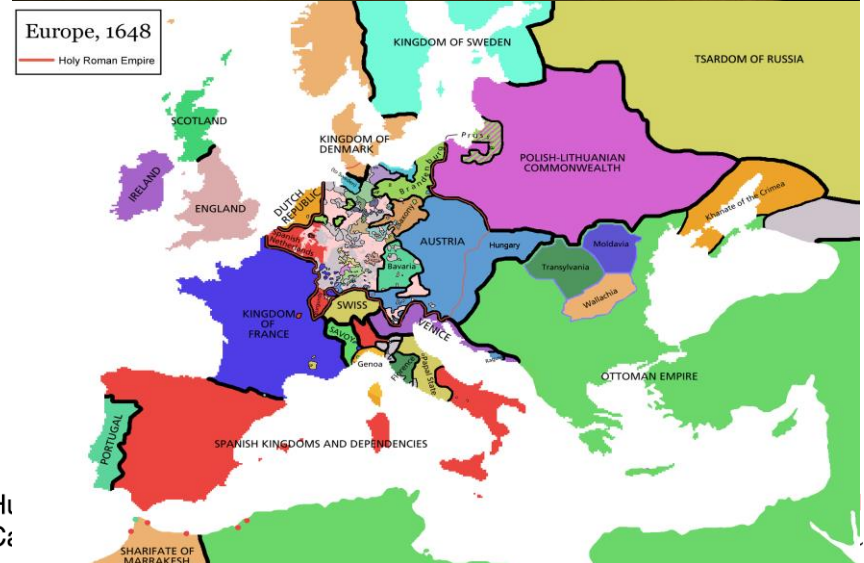
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Borderlands in Law

- A process whereby powers impose their will onto 'their' people and 'their' land/territories and conquests.
- Historians and lawyers usually go back to the treaties of Westphalia in 1648 to document the first international agreements: when Spain recognized the independence of the Dutch Republic.



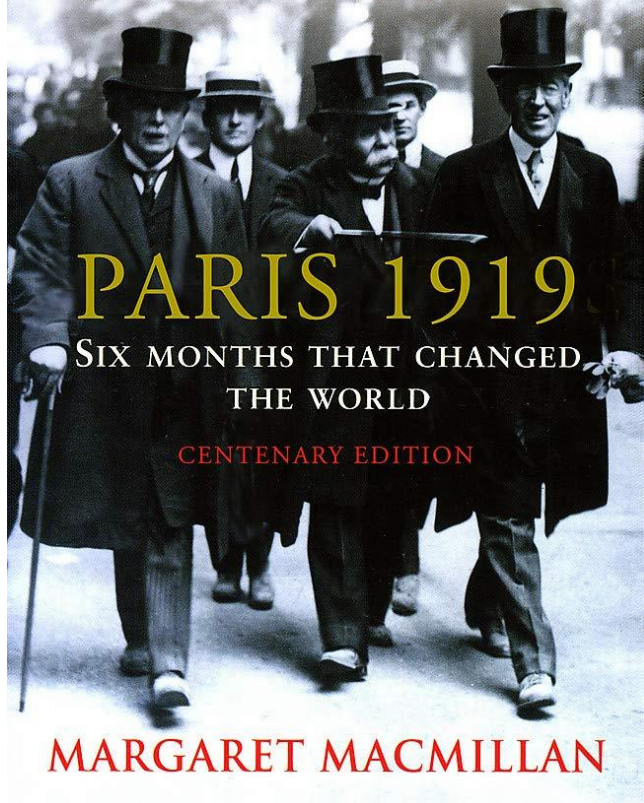


Border technologies: Law and Maps

Winner of the **BBC FOUR Samuel Johnson Prize**

'Splendidly revisionist and
daringly politically incorrect'

ANDREW ROBERTS, *Sunday Telegraph*



**The Paris Convention and Treaty
of 1919 (at Versailles) five empires
subdivides the world ...**



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Modern Era: Law and Technology

- Idea of writing borders in treaties comes from **Hugo Gotius' 1625 'De jure belli ac pacis'** that warring powers are peers when in peace.
- This is then written in the peace of **Westphalia in 1648**
- John Harrison creation of the **chronometer** in 1770s allows then for precise determination of boundary lines, even at sea (**longitude**)
- The Colonization of the 17-19th centuries then **generalized** those ideas world-wide, legal borders are enshrined in international treaties.
- Paris 1919 is the most important of those because wide-ranging, and also **generalizing sovereignty** as the right to exercise violence within its own borders.
- ***Two Technologies contribute to a new order: international treaty making, and the chronometer***





The United Nations, Decolonization, Borders & Borderlands



- **1946, 55 Members:** Afghanistan, Iceland, Siam[+], Sweden
- 1947, 57 Members; Pakistan, Yemen
- 1948, 58 Members; Burma
- 1949, 59 Members; Israel
- 1950, 60 Members; Indonesia
- 1955, 76 Members; Albania, Austria, Bulgaria, Cambodia, Ceylan, Finland, Hungary, Ireland, Italy, Jordan, Laos, Libya, Nepal, Portugal, Romania, Spain
- 1956, 80 Members; Japan, Morocco, Sudan, Tunisia
- 1957, 82 Members; Ghana, Federation of Malaya
- 1958, 82 Members; Guinea
- 1960, 99 Members; Cameroun, Central African Republic, Chad, Congo (Brazzaville), Congo (Leopoldville), Cyprus, Dahomey, Gabon, Ivory Coast, Malagasy Republic, Mali, Niger, Nigeria, Senegal, Somalia, Togo, Upper Volt
- 1961, 104 Members; Mauritania, Mongolia, Sierra Leone, Tanganyika
- 1962, 110 Members; Algeria, Burundi, Jamaica, Rwanda, Trinidad and Tobago, Uganda
- 1963, 113 Members; Kenya, Kuwait, Zanzibar
- 1964, 115 Members; Malawi, Malta, Zambia
- 1965, 117 Members; The Gambia, Maldive Islands, Singapore
- 1966, 122 Members; Barbados, Botswana, Guyana, Lesotho
- 1967, 123 Members; Yemen
- 1968, 126 Members; Equatorial Guinea, Mauritius, Swaziland
- 1970, 127 Members; Fiji
- 1971, 132 Members; Bahrain, Bhutan, Oman, Qatar, United Arab Emirates
- 1973, 135 Members Bahamas, Federal Republic of Germany, German Democratic Republic
- 1974, 138 Members; Bangladesh, Grenada, Guinea-Bissau
- 1975, 144 Members; Cape Verde, Comoros, Mozambique, Papua New Guinea, Sao Tome and Principe, Suriname
- 1976, 147 Members; Angola, Samoa, Seychelles
- 1977, 149 Members; Djibouti, Viet Nam
- 1978, 151 Members; Dominica, Solomon Islands
- 1979, 152 Members; Saint Lucia
- 1980, 154 Members; Saint Vincent and the Grenadines, Zimbabwe
- 1981, 157 Members; Antigua and Barbuda, Belize, Vanuatu
- 1983, 158 Members; Saint Christopher and Nevis[+]
- 1984, 159 Members; Brunei Darussalam
- 1990, 161 Members; Liechtenstein, Namibia
- 1991, 166 Members; Democratic People's Republic of Korea, Estonia, Latvia, Lithuania, Marshall Islands, Federated States of Micronesia, Republic of Korea
- 1992, 179 Members; Armenia, Azerbaijan, Bosnia and Herzegovina[+], Croatia[+], Georgia, Kazakhstan, Kyrgyzstan, Republic of Moldova, San Marino, Slovenia[+], Tajikistan, Turkmenistan, Uzbekistan
- 1993, 184 Members; Andorra, Czech Republic
- 1994, 185 Members; Palau, Eritrea, Monaco, Slovakia, The former Yugoslav Republic of Macedonia
- 1999, 188 Members; Kiribati, Nauru, Tonga
- 2000, 189 Members; Federal Republic of Yugoslavia[+], Tuvalu
- 2002, 191 Members; Switzerland, Timor-Leste
- 2006, 192 Members; Montenegro[+]
- 2011, 193 Members; South Sudan[+]

Based on "*Basics facts about the UN*", DPI, 2004, Sales No. E.04.I.7, and Press Release ORG/1469 of 3 July 2006





The United Nations, Decolonization, Borders & Borderlands

Territory is being reorganized world-wide - top down and bottom up:

Bottom Up – International Relation literature documents: **movements of self-determination**

Top – Down -
Intergovernmental/decentralization/regional literatures documents: **movement of democratic legitimacy**



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Border Disputes

- There are border disputes on all continents nearly all over the world
- The number of states is expanding: 46 states recognized themselves in the UN in 1945 – there are 197 states today in the UN. Four times more!
- There are 250,000 km or 156,000 miles of borders for about 334 dyads in addition to about 400 maritime dyads for which only 50% have legal agreements.
- Defining disputes?





What are Border Disputes?

- The literature classifies border disputes into three categories: territorial, positional and functional.
 - Territorial disputes are those that threaten the existence of a state
 - Positional dispute are those that deal with the position of the boundary line
 - Functional disputes are about what the border should be: a border function is dysfunctional or the exploitation of a resource spanning the border is at stake.





Territorial Border Disputes

- Territorial border disputes are about ‘terra’ which in *Latin* means ‘land’ or ‘earth’.
- Territorial disputes are justified by many reasons, which often have complex history, including being unresolved. They have justified, wars, pogroms and genocides.





Positional Border Disputes

- Positional border disputes result from uncertainties regarding the exact location of the boundary line: technical difficulties in many instances recent cases of maritime boundary delineation.
- These expanded in the post UNCLOS period: Post 1994 – just 20 years ago – which sets internationally agreed upon rules for the delineation of maritime boundaries.





Functional Border Disputes

- Functional border disputes are about issues with the ‘frontier’ or the ‘boundary’. The frontier is concerned with what is beyond the front (sharing natural resources spanning the border), the boundary is concerned about what is bounds together (enforcing the boundary line or not). The front is a transition zone, the boundary holds territory together.
- These disputes of border policy and administration of resources...





Border Disputes & War

- Territorial conquests that were common in the 17th, 18th, 19th centuries nearly completely disappeared in the 20th since the second world war.
- Today, territorial disputes are (Singer & Small 1972, and Sarkee, 2000) internal disputes.
- In the *Wages of War 1816-1965*, Singer and Small start a codification of wars and document each war since 1816. They want to compare hundred of cases of war.
- Three categories are in the literature: **Civil Wars** and **International Wars** (i.e. wars **across states** and extra systemic wars (**imperial or colonial** wars))
- Those three categories have to be refined in the 1990s when they realize that too many cases are only ***Civil Wars***...





Border Disputes & War

- Nine categories:
 - (1) Inter state, (2) extra-state/colonial, (3) imperial, (4) *intra-state to control the state*, (5) *intra state/local control*, (6) *intra-state/regional control*, (7) *intra state/interlocal-regional*, (8) *non-state wars* and (9) *cross-border wars*.
 - In parallel Goertz and Diehl (1992) discover that out of 800 case of wars 770 are territorial transfers (of those 415 are recurring disputes).
 - In sum disputes are the prime cause of war in the world today but not wars between states.





What security ? What border model ?

- Traditionally Limits, Boundaries & Borders delineate territories; yet today borders increasingly are about flows / mobility.
- States enforce the boundary lines (bounds the territory) – they are containers: have policies of identity cards, passports, & visas.
- Traditionally border studies focus on how boundaries and borders are sites of technological control of people, goods.
- Today, technology allows us to – enforce preclearance of goods and people – thanks to biometry the body becomes a password - we are our own border (iris biometrics – “we are” our trusted information) – (Deleuze,1995)
- **How do states adapt to this new situation?**



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Border Security What Technology?

- What is a mature security community?
- Note John Locke: *'nothing cements and establishes friendship and good-will, so much as confident communication of concernments and affairs. Other kindness, without this, leave some doubts'*
- This points to a form of trust analyzed in particular by Elinor Ostrom in Trust and Reciprocity (2003) i.e.
 - A Hobbesian understanding that trusting relationship depends on a higher authority enforcing an agreement, or,
 - Cooperation is based on **trust-and-reciprocity-relationship** whereby trust is always conditional on reciprocity and this on past behavior and cooperation disposition.



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Border Security What Technology?

- **Trust results from the ‘strengthening of norms and institutions’ (Vayrynen, 2000), Hoffman, 2004 suggests:**
 - First, trust implies the willingness of one actor to place their fate under the control of another.
 - Second, the relationship that is formed through trust is premised on the belief that one’s interests will not be harmed by the other party to the relationship.
 - Third, the degree to which trust is manifest between two actors can vary in intensity, or perception of trustworthiness. The scope of that trusting relationship can vary further, whereby a state may trust in one area of the relationship but not in another.
 - Fourth, a trusting relationship is dynamic, insofar as it depends on what is going to happen in the future. States engaged in a trusting relationship make predictions as to how each will respond to certain policy choices.
 - Finally, trust is constantly being reassessed by parties to the relationship. They evaluate potential outcomes and whether or not trust will be honoured or betrayed.
- **Thus, trust is a dynamic process where counterparts are constantly re-evaluating shared risk.**





Border Security What Technology?

- Initially, state and non-state actors involved in border security policy **coordinate** joint goals. They may collectively determine their common objectives before thinking about their implementation.
- A second stage of trust develops when **cooperation** is the continuity of coordination while each state actor or agency is implementing its own part of the common goal. Indeed, coordinating partners may implement goals in parallel without collaborating on the implementation on both sides of the boundary line. This can take the form of policy-parallelism (Brunet-Jailly, 2006, 2011).
- **Collaboration** may expand cooperation beyond each partners' own goals, and common goals, to include collaboration as a stage whereby each country's partners help one another to achieve common goals and whereby partnership networks formally implement common goals together on both sides of the border, within a borderland that straddles their international boundary.



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Ultimately, Collaboration

- The United States and Canada have a long tradition of bilateral and binational security coordination, cooperation and collaboration. This is evident in a vast and growing number of trans-governmental networks that facilitate and enable policy alignment and parallelism in defence, border security, intelligence and counter-terrorism.
- The security community has mastered coordination and cooperation. The US–Canada relationship is based on reciprocity. Despite its common cultural bedrock though, the US–Canada security community's hallmark is policy parallelism.
- Forms of mature collaboration remain limited and are only found on occasion. Partnerships have proven more successful in functional areas than in principled ones.





Ultimately, Collaboration

- The European Union's ***integrated border management*** is a mature model of bureaucratic standardization of *coordination, cooperation, and collaboration*, it is a comprehensive, multidimensional and collective response for ***countries with highly diverse norms, interests and priorities***.
- (1) A common border CODE standardizes border control and border surveillance (REGULATION (EC) No 562/[2006](#)); (2) intra-agency and inter-agency cooperation for border management brings together border guards, border police, customs service, national police, national law enforcement agencies and other relevant authorities, and (3) ultimately coherence across border security policies





THANK YOU!

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Border Disputes: The Role of the ICJ

- ICJ decisions generally recognize nine categories of justification of border disputes & claims: treaties, geography, economy, culture, effective control, history, *uti possidetis*, elitism and ideology.
- Three however are consistently referred to by the IJC: treaties, *uti possidetis*, and effective control – in this order of importance! And the court half (infra legem) the land/sea in dispute.
- The works of the court is to implement stability and predictability in the International System, and it favors international equity (infra legem).





Border Disputes: The Role of the ICJ

- Also the IJC implements the 17-21 July 1964 agreement on colonial borders – also called the Cairo Agreement of 1964
- It stipulates that de-colonized states '*respect existing borders once independent*'
- This is a challenge for new political communities despite this agreement's 50th birthday.





Border Disputes

Value of Territory

- The 'value' of the territory is central to a dispute being resolved:
- In Territory with high economic value dispute are 3.6 times more likely to be resolved – disputes are resolved in 62% of cases.
- Whereas an ethnic or strategical territory is 71% likely to fail.

