

History of Perceptions of Jurisdiction Boundaries and the Tsilhqot'in Land Claim in Canada

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SUMMARY

The paper informs the debate on the contrasting views of boundaries and territories in negotiations between aboriginal groups and the nation state. This paper describes the historical evolution of how maps and political boundaries have been viewed by Western nation states and contrasts this with how boundaries are viewed by select African customary groups. It then provides a brief description of the different world views concerning territorial claims and boundaries in the recently decided Tsilhqot'in case where the Supreme Court of Canada first grants aboriginal title. Tsilhqot'in is compared with African customary systems and contrasted against contemporary Western nation state views of boundaries and territory that are rooted in Ptolomy's cartographia. It informs the international literature on boundary determination between aboriginal groups and the contemporary Western nation state. It is also instructive for boundary dispute resolution between customary groups.

The article commences with a description about how political boundaries were understood and managed by ancient Western societies and the major influence exerted by Ptolomy's Cartographia in changing this view to its contemporary form where straight lines drawn on a map dominates the way adjoining jurisdictions define their boundaries and is consistent with the way the Canadian state views boundaries.

The paper then examines Bohannon's description of three African customary societies. It contrasts the linear cartographic view of the world with views of boundaries and territories that emphasize the notion of topology in physical space and the constellation of interests in the way people relate to land and territory.

The Tsilhqot'in view of boundaries and territory is compared with the evolution of boundaries in

Western nations and compared with Bohannon's view of boundary and territory in African customary societies. The comparison is then analyzed in terms of how different views of boundaries need to be described in boundary dispute resolution proceedings.

Tsilhqot'in shows that First Nations people occupied all the territory that they claimed, not in an intensive way, but to the exclusion of other bands. Outside the claim area they shared the use of lands with other bands, but claimed a superior interest.

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