



A controversial natural border: The making of the Spanish-Portuguese boundary along the Minho River (1855–1866)



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ABSTRACT

The paper intends to consider how territorial, political and legal culture dominant within mid-19th century Iberian Peninsula influenced boundary-making state practices, and to what extent a complex understanding of natural border areas –and particularly of river boundaries– emerged during this demarcation process. We draw on recent insights about, on the one hand, the important link among territory, nature and law within territorialization processes and state-making and, on the other, intrinsic problems of modern legal categories and juridical practices concerning river boundaries which are argued to be part of territorial ideologies associated with modern states.

Within this framework, the paper initially addresses main practices and discourses about territory in this particular Iberian context, regarding both the enduring relevance of theory of natural boundaries within European history of modern state-making and legal codification of river boundaries delimitation by Spanish and Portuguese law internationalists. The following part of the paper presents main historical problems and territorial border disputes along the Minho River which the 1864 Spanish-Portuguese Boundary Treaty attempted to settle. Discussions and negotiations taking place within the Joint Boundary Commissions in charge of examining, delimiting and demarcating this stretch of the border are analysed as to consider how diverging interest and competing discourses about this fluvial space were displayed and related eventually to the solutions adopted by the Boundary Treaty. In that sense, state-driven boundary-making proved to be an important tool for territorial management of this border space.

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1. Introduction: territorial ideologies and the history of state-building and border demarcation

Critical questions asked over the last several decades regarding the territorial ideologies associated with nation-states have given rise to a better understanding of certain hitherto undisputed geographical assumptions (Agnew, 2009; Neocleous, 2003; Taylor, 1995, 1996a,b; Forsberg, 2003; Brenner and Elden, 2009). Such criticism has rightly focused on the traditional tendency of certain human and social science disciplines to favour the nation-state as the main unit for analysis and to take it for granted as a natural entity (Agnew, 1994, 2015). A thorough analysis of the historical and conceptual dimensions of that particular form of territorial organization must be central to the important project of exploring territorial ideologies (Elden, 2010).

Closely related to this topic, the issue of borders has been given equal attention (Houtum, 2005; Johnson et al., 2011; Wilson and Donnan, 2012) insofar as it is another category that has transmitted territorial assumptions and their attendant ideologies most easily. Calling into question the “territorial (state) trap” or the habitual methodological nationalism of contemporary human and social sciences has thus been accompanied by the desire to debunk what has become known as the “enduring geographical myth of natural borders” (Fall, 2010). The pernicious effects of this “myth” have been highlighted in many works (Fall, 2005; Sahlins, 1990; Rankin and Schofield, 2004; Schaffter et al., 2010).

Within this framework, a historical study of the modern border demarcation processes in liberal states during the 19th century is of special interest in that it allows us to question the very idea of the “naturalness” of the borders as well as the closely linked notion of natural boundaries. Certainly, and as is well known, criticism of the latter concept – or more specifically the tendency to use it to the advantage of the geopolitical expansionist interests of certain states – was a common practice for some geographers and geographical schools of thought during the interwar period

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(Brigham, 1919; Brunhes and Vallaux, 1921; Ancel, 1938; Minghi, 1963).

However, this argumentative strand might also be strengthened by taking into account, as the case-study analysed in this article clearly shows, that the conflicts, discussions and arguments that arose in the course of certain boundary demarcation processes through 19th century clearly revealed the intrinsically problematic and contentious character of natural borders that had developed by that time. This is apparent due to a particular awareness of precisely that problematic and socially controversial nature of borders that leading actors involved in these processes demonstrated, as we will try to highlight.

In that sense, the paper provides an analysis of both the ideological and discursive traditions that dominated the process of boundary-making between Spain and Portugal. More decisively, it also analyses the rather practical and context-specific reasons that eventually gave shape to the resolutions adopted in Boundary Treaties (hereinafter BTs). The analysis of those discussions reveals that the territorial culture in which such ideas emerged embraced a more complex view of the “natural” than is often recognized; it also reveals that the demarcation processes themselves were undertaken, among other reasons, to resolve certain long-standing conflicts related to the assumed legal, social and geographic complexity of those border areas. Consequently, it was necessary to take a wide range of criteria and mechanisms into consideration to resolve those conflicts. Thus, the analysis that this paper provides demonstrates the distance between theory (international law in that era regarding natural boundaries) and practice (the particularities related to territorial cultures in the Iberian Peninsula, the geopolitical interests of both states and, notably, the relevance of the specific needs of a changing and dynamic environment such as Minho river). The fact that the latter proved to be decisive within this particular demarcation process reflects the pragmatic and flexible nature of BTs and the extent to which they were oriented towards rather practical goals to settle controversies about land, water use and rights at a local level.

This paper underlines the complexity and ambiguity surrounding the practicalities of specific statist techniques and government and territorial management practices at local level. This is an important contribution to recent efforts to clarify and gain a better understanding of how state agency has been historically and locally implemented as a key element in territorialization processes. This in turn makes it possible to qualify certain general historiographical views that have interpreted such statist territorial construction processes as being the result of either imposing rigid legal and scientific categorizations over complex and fluid realities or using simplistic criteria devoid of any historical, vernacular or social dimensions (as has already proven incorrect by Demeritt, 2001 and Blomley, 2008). The analysis carried out in this paper intends to engage in dialogue with these dominant historiographical standpoints and underlines the relevance of gaining a better understanding of the ways in which border demarcation processes took place in order to better examine current debates about state territoriality, natural border issues and transboundary environmental governance, particularly in the case of watercourses (Albert, 2000; Sneddon and Fox, 2006; Donaldson, 2009), as these transboundary issues clearly expose the multi-scalar and multi-actor character of water politics.

This article is composed of three sections in addition to this introduction and the final discussion. In the first one, the current literature on the link between state territorial construction and border demarcation is reviewed to highlight the relevance of historical analyses of the complexities and particularities of these processes to current debates concerning the understanding and governance of natural borders and international watercourses.

In the second section, some of the core elements of political, territorial and legal culture on the Iberian Peninsula in the mid-19th century are analysed to shed light on the dominant discourses on natural borders at that time. Though disputed and nuanced, the idea of natural borders being ideal elements for the political configuration of the state are shown to be central to these discourses. Along with this analysis, some of the legal tenets concerning the regulation of changes and conflicts affecting river boundaries are presented as they were codified in 19th-century Iberian international law manuals.

In the third section, we address the historical particularities of the Minho River border as a case study. First, we summarize the more significant territorial problems and conflicts that affected this area when its modern, definitive delimitation was being performed. Second, drawing mainly on the primary sources available at the National Historical Archive of Spain (*Archivo Histórico Nacional*, henceforth AHN), we outline the attitudes and arguments that each opposing party – i.e., the Spanish and the Portuguese – maintained within the Joint Boundary Commissions (hereinafter JBCs), which were in charge of carrying out the preliminary work for the 1864 Boundary Treaty (hereinafter 1864 BT) concerning two of the main conflicts to be resolved. The first was the allocation of certain islands located in the river, claimed by both countries in a long-standing dispute. The second was the regulation of the river's use and the man-made constructions built on its shores. In this regard, we attempt to analyse the role – ultimately a limited one, as we shall see – that certain legal principles accepted by the doctrines of international law predominant at the time played in the negotiation process as a whole. Thus, we provide an interpretation of the useful and pragmatic nature of the 1864 BT and of the criteria with which the territorial management of that border area was carried out. Finally, we underline how these government practices at the local level are key to understanding the territorial construction of state hegemony.

2. Questioning the naturalness of natural boundaries

In recent decades and as part of a wider reappraisal of states' spatial properties and territorial strategies (Taylor, 1994, 1996; Brenner et al., 2003), important criticism has been made concerning the methods and criteria adopted by states in establishing their borders (Blomley, 2003; Craib, 2004) or their internal territorial organization (Brenner, 1997). The study of the relationships that have developed between law, territory and nature within the wider framework of these processes of territorialization has become a relevant focus for study, as observed in works such as Carter (2007), Sletto (2011) or Asher and Ojeda (2009). Here, nature is argued to have played a central role in constituting state hegemony, and boundaries are presented as state-driven unequivocal delineations imposed over local populations. The main claim within this type of literature is that the state territorialization of nature is a central element in consolidating state spatial rationality, insofar as nature and territory became enmeshed in wider institutional statist cultures of quantification, scientificity and efficacy.

There is an important legal dimension within these territorial processes that has to be taken into account, as “critical legal geography” studies have recently underscored, notably by showing the link between legal and geographical imaginaries prevalent in modern states (Braverman et al., 2014; Benton, 2010; Benett and Layard, 2015). In addition to this, it has recently been argued (Anghie, 2004; Koskenniemi, 2009) that the legal practices and even the normative framework of international law, from its early formulation in the modern law of nations to the establishment of treaties under international law in the 19th century, favoured the

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