



ESSAY

The “Frontier” According to Paul de La Pradelle *

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Essential author on the “frontier”, Paul de Geouffre de La Pradelle is known for his original legal theory. The author distinguishes between “delimitation” (which is a boundary-line) and “frontier” (which is a zone of cooperation). He also distinguishes what he calls the “national frontier” (“object of study of domestic public law”) and the “international frontier” (“object of study of international public and private law”).

Introduction

The term frontier allows verbal articulation of phenomena whose function is to differentiate. In law, in general, the international frontier of a State is understood as a territorial limit with a function of legal differentiation. This brief essay presents a detailed review of the essential ideas of the jurist Paul de La Pradelle on his conception of the frontier in international law. The works of this author are essential for studies on frontiers, international limits and frontier areas. La Pradelle, in fact, produced an original, complete, and rich legal theory on the frontier in his thesis published in 1928 entitled: “The Frontier: Study of International Law”.

As he says, his thesis broke with tradition. In the summary of his thesis, the author defended the idea that the frontier, before and after the delimitation, was better conceived as a “zone” and that this zone should not be confused with the concept of “limit”. Thus, Paul de La Pradelle clearly distinguished, on a terminological and legal level, the concept of “limit” on the one hand and the concept of “frontier” on the other. Inspired by Friedrich Ratzel, his main idea can be written as follows: the limit is a line; the frontier is a zone. For La Pradelle, if the “frontier” is a “complex territorial area” (1928, 14) or a “complex territorial regime” (ibid.), the

“limit” is, and can only be, a “line” (1928, 17). Based on this differentiation, after briefly introducing the author, this essay focuses on the ideas developed in his 1928 thesis and a synthesized article published in 1930 (an article devoted exclusively to the concept of “frontier” in the sense that La Pradelle understood it as an area of cooperation and neighborly relations).

Paul de Geouffre de La Pradelle (1902-1993) is the son of law professor Albert de Geouffre de La Pradelle (1871-1955). Born in Grenoble, Paul de La Pradelle, Doctor of Law and Associate Professor, was Professor of Law and Founder-Director of the Institute of Political Studies in Aix-en-Provence in France (from 1956 to 1974). He inaugurated courses in air law and participated in the first conferences on the law of the sea in Geneva (1958, 1960). He was also elected to the People’s Congress in 1977 and was President of the Institute of Global Studies (1978). His 1928 work on “The Frontier” (doctoral thesis) is an institution in legal doctrine, especially because his idea of the frontier as a “zone of cooperation” was contrary to the dominant doctrine of the time which understood the frontier as a line. Finally, international law practice did not accept his definition of the frontier as a zone.

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The 1928 Thesis: The Frontier as a Complex Zone

His 1928 thesis work contains an introduction divided into two chapters (1928, 9-51). The first part of his thesis deals with "Modern International Law and the Limits of States (Delimitation)" (53-222) and the second part with "Modern International Law and the Frontier Regime (The Neighbourliness)" (233-306). The first chapter of the introduction raises the idea that "there is no frontier other than the political frontier" (11). And it also refers to the fact that the historical phenomenon of the frontier "appeared as soon as the social groups were formed" (14). For La Pradelle, the frontier can be found in both domestic public law and public international law. On the one hand, the frontier is provided for by domestic public law, and is thus the "mode of expression of the unity and cohesion of the State" (14). Under this prism, the frontier corresponds to "all institutions created especially in the peripheral zone of the territory for purposes of defense or discipline. It is an area of public services, distinct from the internal services, specialized in frontiers with specific names. The customs frontier, the military frontier, the maritime frontier..." (ibid.).

On the other hand, the frontier is covered by public international law. In this case, the frontier is "an area of contact and contiguous relations between states" (ibid.). It is "a place of relations, a regime of relations between two states in a mixed territory resulting from the meeting of their respective peripheral territorial areas" (ibid.). It also presents there the successive appearance of the different elements of the modern frontier (18). He describes in detail the "limit" (*limes*), the "internal frontier" (*finis*) (20) and the "international frontier" (*confrontatio*) (25). La Pradelle limits his study of the frontier to a double aspect of delimitation and zone (and discards from his analysis the problem of what he calls frontiers in domestic law). For La Pradelle, the problem of "delimitation" answers the question of the location of the boundary-line and the legal and technical procedures by which this boundary-line will be fixed. The problem of the "zone" raises the question for the author "what will be the effects of the delimitation on the regime of the territory?" (17).

La Pradelle's theoretical and legal approach therefore includes the delineation of the territorial boundary and, what interested him most, the branch of cooperation across territorial boundaries. In his theory of the frontier in international law, everything related to the territorial limit corresponds to the branch of law that concerns the processes of delineation, demarcation, and marking, and all the legal acts that come from this act. It is the law of the territorial limits of States. On the other hand, the legal practice of interstate frontier cooperation agreements lays the foundation for its theoretical approach to the international frontier as an area. Therefore, La Pradelle differs from all other legal scholars for three main reasons: first, in that he

dissociates the meaning of "territorial limit" from that of "frontier"; second, in that he proposes that the "frontier" is an "area" with an internal aspect and an international aspect; and third, he makes a distinction in his general theory between the "national frontier" and the "international frontier". Everything related to the delimitation aspect is part of the legal regime centered on the concept of "limit" or "boundary-line". Everything related to the aspect of collaboration across the territorial boundary corresponds to the regime of the concept of "frontier".

Part 1: The Delimitation

La Pradelle defines a delimitation as "a form of formal and legal expression of the State" (55). Modern delimitation thus means a "separation of contiguous state powers" (30). It is an "attribute of authority" (56). The limit in turn constitutes a "framework for the exercise of authority" (64). The reasons for the delimitation are due to the "exceptional value that the modern conception of the State attributes to the political soil" (57) and to the "usefulness of a spatial determination of the competence and responsibility of the State" (59). From this, the author identifies three legal and political consequences of delimitation: peace, the affirmation of the independence of a state, and security. He specifies that "essential respect for the limits is only a consequence of respect for the treaties in which these same limits are recorded" (61).

No State may take any direct action beyond its territorial limits. For example, the executive formula of a foreign judgment cannot have effects in the national territory directly. For this to be the case, it must be authorized by the judge of that State in the exequatur proceeding (64). What the territorial limit strictly distinguishes by separating one from the other is only the executive powers. These do not overlap. Thus, La Pradelle specifies that the territorial limit takes its full real value as a limit in terms of an administrative act: "If we abandon the field of law, we consider the administrative field dedicated to the organization and operation of public services; if we move from the domain of legislative norms to that of the administrative act, the limit takes its real value as a limit of executive powers. Only the acts that constitute or guarantee the execution of laws are territorially limited" (ibid.).

To this he added: "As soon as it is no longer a question of issuing an order, but of its execution, the limit is the essential criterion of state competence" (65). The exercise of all forms of coercion beyond territorial limits is prohibited for any State. Acts that are not accompanied by coercive measures may be freely carried out by the foreign State (investigations, expert opinions, etc.) (ibid.). In short, apart from the field of justice, all activities that fall under the authority of State public power stop at the limit of the territory (ibid.). La Pradelle

acknowledges the existence of neighbourly relations between States that are due to the "growing needs of international trade" (65). These neighbourliness relations lead to public service connections that are made possible by mutual concessions and reciprocal delegations of competence. These neighbourliness agreements are "like many exceptions to the fundamental principle of spatial delimitation of enforcement powers" (ibid.). Finally, La Pradelle proposes to analyse the general competence of the State as a "bundle of competences" (ibid.).

La Pradelle draws an interesting parallel with Hans Kelsen's theory of law, allowing Kelsen to place himself in a theoretical approach to the frontier. On the one hand, La Pradelle recalls that from a legal point of view "all state boundaries have the same character. These are dividing lines of absolute competence" (62). Here, he makes his famous distinction between legislative powers (which are interpenetrable) and executive powers (which must remain independent). On the other hand, he pointed out that "the legislative competence of the State, considered as an issuer of norms, is not limited by a line, but rather by the validity of the norm. It was on the basis of this idea that we were able to develop a pure legal conception of the frontier" (ibid.). In fact, this reference to Kelsen's conception of the "validity of the norm" makes La Pradelle say that a frontier could be the object of a "pure legal conception" (ibid.).

The author also specifies the different operations of the delimitation in dozens of pages. "The normal procedure for a major territorial delimitation involves a series of operations that can be grouped into three phases: preparation, decision, execution" (73). He adds that "the execution consists of drawing the line described and adopted on the ground, an operation that bears the name of demarcation" (ibid.). Chapter IV reviews the different types of boundaries (astronomical boundaries; geometric boundaries; orographic boundaries; water boundaries including river, lake, and marine boundaries; reference boundaries) (172 and ff.). In doing so, La Pradelle reminds us that "any limit, geometric line, in the etymological sense of the word, is like any line, a succession of points" and that "any limit so defined is essentially artificial, and can only be conceived of as a creation of the human mind. The line can be a topographical process. It is not a natural truth" (172).

Part 2: The Neighbourliness

On page 226 of his thesis, La Pradelle exposes the heart of his theoretical and legal representation of the meaning of "frontier". "On each side of the intermediate zone, which is a zone of mixed and truly international jurisdiction, that is, in accordance with international law, they are the two extreme zones of territories with exclusive jurisdiction, which we have called 'the frontiers, national zones, and which are governed by

domestic law". As he writes, this juxtaposition of three zones is based on Ratzel's geographic conception that La Pradelle adapts to the legal approach (226). With respect to the intermediate zone, he mentions the idea of a "fusion zone" (ibid.).

La Pradelle recalls the customary origin of the "neighbourliness" (227); he situates the emergence of special institutions directly linked to the neighbouring state that create the frontiers, with the very old example of extradition (230). He also cites in particular the political activity of the kings of Scotland and England with respect to their frontier areas or "marches" (13th-15th centuries). And he also specifically refers to William Nicolson's work "Leges Marchiarum: Or, Border-Laws" (1705) (231), who seems to be the first to discuss these "marches" or intermediate areas. One of the agreements identified by Nicolson described these areas as "debatable ground" (1705, 80). La Pradelle writes that "the neighbourliness, until now a simple custom, appeared to the state as a necessary institution" (232). In the following pages (233-235), he justifies both the boundary-line approach for the States and the frontier collaboration agreement signed by these same neighbouring States. If for the State, the establishment of the boundary must be a line of contention, from the point of view of the individuals, the rigour of the boundary must be relaxed and accompanied by a specific consideration of the situation of contiguity. La Pradelle writes that "the contiguity of two territories necessarily gives rise to a regime of neighbourliness between States" (233).

As the territorial organization of the States improves with public services radiating to the periphery "there is pressure on the frontier of all the living forces of the country, which tends to force the limit and go beyond" (ibid.). Therefore, "the ramifications of state services tend to overlap beyond those of the neighboring state network" (ibid.). Consequently, adjacent governments sign bilateral agreements that establish, on the one hand, the special status of persons "who, descending from the Marcomans, became frontier workers" and, on the other hand, the "regime of collaboration of the various public services on the frontier" (234). With the political and legal organization of this general regime of neighbourliness, the States have organized "the fall of the classic conception of the limit that is insurmountable or difficult to cross" (ibid.). As evidence of this demonstration, he recalls that customs procedures on the periphery of the territory are considered "an obsolete institution" (235). La Pradelle gives the example of the International Convention for the simplification of customs formalities signed in Geneva on 2 November 1923 by 36 States. For La Pradelle, postponing customs operations to the points of departure and arrival within the territory is "the ideal solution" (ibid.).

The following pages focus on the frontier regime (236-264), which deals with the issue of property

boundaries, land uses, grazing rights (with the example of the Pyrenean pastoral conventions), industries and factories, liberal professions, religious and cultural relations, and the regime of specific facilities and conditions for frontier workers. The end of the book deals with the legal regime of conventional neighbourliness (the frontier, place of collaboration between states) and non-contractual (neighbourliness, creator of rights; and neighbourliness, excuse of obligations). The article published by La Pradelle in 1930 repeats the essence of his thesis, presents in an updated and synthetic way his theory of the frontier and describes the essence of the legal regimes on neighbourliness relations.

The 1930 Article: Frontier Theory

La Pradelle's article in the 1930 Repertory of International Law deals specifically with his "Frontier Theory". This article is structured in four chapters. La Pradelle speaks successively of agreements related to the frontier population (chapter I), agreements related to the collaboration of state services (chapter II), agreements related to the territorial interpenetration of state services (chapter III), and frontier conflicts and their methods of solution (chapter IV). "Contrary to the vocabulary generally adopted by international law theorists, we apply the word 'frontier' exclusively to the representation of a territorial area and contrast it with the term 'limit', capable only of representing the line that, in contemporary territorial practice, separates the 'executive' powers of States" (1930, 488). La Pradelle reminds us that this distinction between limit and frontier is not an innovation and that illustrations of it can be found both during the Roman Empire and in the Middle Ages.

In this article, the author considers that the concept of "frontier" corresponds to a "complex regime, the analysis of which is framed by national and international public law" (488). He therefore recalls that there is a national frontier and an international frontier. After the determination of the territorial limit, "the problem of the frontier is reborn in a static aspect. It consists of eliminating, in a given area, considered as a transition zone, the fundamental rigour of the limit for both the individual and the State" (488). This is "the administrative regime of frontier collaboration" (505).

La Pradelle also examines the legal consequences of the limit for the individual and for the State. In relation to the individual, the political limit is the "material sign of his submission to an administrative order, to a certain power of constraint. By crossing the limit, he escapes this restriction. Therefore, he can only cross it with authorization" (489). In this regard, La Pradelle's writings clearly show the distinction between the principal legal function of "territorial limit" (a limit of political and legal value) and the legal function of "control of respect for this limit" by the State authorities. In relation to the State, "the political limit has in

principle the value of absolute separation of administrative and executive powers" (489). It specifies that in the order of jurisdictional relations between States "the legislative powers are interpenetrable" and that "the executive powers must remain independent" (489). The "limit" ensures precisely this independence, and serves as a stopgap for the functioning of public services. In general, "the political limit of the States is a limit of executive competence, not of imperative competence. It is a limit of effectiveness, not of validity of the rule of law" (510). The fact that there is a strict limit contributes to disturbing both the life of individuals and the political life of administrative institutions. The regime of the La Pradelle frontier responds to these disturbances that arise from the delimitation and take the form of bilateral conventions that adjust the life of the frontier residents and the collaboration of the respective public services of the States.

As we said earlier, for La Pradelle, the "frontier" in international law is an area of collaboration that crosses the territorial limit and extends to both sides of it. The legal regime of the frontier takes the form of various collaboration agreements. Thus, first, the author distinguishes agreements related to frontier residents (agreements that deal with the determination of the frontier area, the identification of the frontier status, control measures; and then, with the specific situations of owners, users, and professionals) (489-500). Second, the author considers the conventions related to the collaboration of State services. In this case, for the author, the frontier is a place of collaboration of the police services (criminal, customs, and health police), a place of collaboration of the justice services (direct correspondence between prosecutors and courts), and a place of collaboration between municipal services (communication of civil status files, for example) (501-505).

With respect to the conventions of the frontier population, the author bases the existence and legitimacy of these on the fact that the act of delimitation disturbs the exercise of individual activity. The delimitation itself can effectively eliminate "an environment of a certain economic and social density" and deprive the professions "of the radius of action necessary for their exercise" (489). La Pradelle recalls that state governments decided to "soften the severity of the limit until it was erased" as soon as the first delimitation efforts were made (*ibid.*). This regime of facilities offered to frontier crossers dates back to the early years of the 19th century. "First it was applied only to landowners, then it was extended to the generality of the frontiers people" (*ibid.*).

With respect to conventions related to local collaboration of State services (501-504), these serve to counteract the effect of the limit that acts as a line of contention for the operation of public services. This includes customs, police, justice, and marital status services. For example, at the level of collaboration

between police services, let us cite the conventions on the repression of forest, hunting, and fishing crimes. At the customs level, let us cite the negative effects of the territorial and customs boundary that were later corrected by a regulation in the vicinity of the frontier that allows the implementation of the respective territorial powers (surveillance, repression) for the benefit of the neighboring State (applicable but subject to the principle of reciprocity).

With respect to the conventions related to "the territorial interpenetration of State services" (505), La Pradelle states that "the administrative regime of frontier collaboration is only an application of the principle that the political limit is a stop line for the operation of State services. It has no other purpose and no other result than to place the competencies of each of the adjacent States at the service of the local regulation of its neighbor in order to obtain maximum efficiency for it" (ibid.). In fact, the aforementioned frontier collaboration agreements do not authorize the public officials of a State to carry out an administrative act on the other side of the territorial boundary, that is, on foreign territory. La Pradelle then states that several recent agreements illustrate a new type of neighborly relationship that establishes a "localized territorial interpenetration" (ibid.) of the services of neighboring States. Thus, these agreements create an exception to the principle of the limit and the author postulates that it is "the outline of the future international frontier regime" (ibid.).

Conclusion

With his diverse works, Paul de La Pradelle is a key theorist for the investigation of international limits and frontier areas. For this author, the international frontier is an area, a place of collaboration, not opposition between states. According to him, the "frontier" regime, a place of neighbourliness cooperation, is the principle. And the exclusive regime of the "limit" considered as an insurmountable line for public services, as well as for individuals, is the exception.

In the final analysis, La Pradelle's thesis contains a relevant legal definition of the frontier: "The frontier, an expression taken in its legal meaning as a spatial circumscription of exercised rights" (1928, 11). In a historiography of scientific thought on the frontier it has as much value as, for example, the sentence of Georg Simmel "the frontier is not a spatial fact with sociological consequences, but a sociological fact that takes on a spatial form" (1908, 623) or that of Guillaume De Greef, in relation to the new economic forms "that are necessarily destined to transform the territorial and sovereignty frontiers of today and properly speaking into functional frontiers" (1908, 311). In the end, La Pradelle's legal approach of "neighbourliness relations", even if it remains at the interstate level, seems to be very useful for the conceptualization of the transboundary areas that are multiplying in the

world, especially in the European continent. In relation to old examples of neighbourliness relations across the territorial limits of the Pyrenees, the author Wentworth Webster spoke of "international municipal conventions" (1892). Several jurists have been able to write about this international neighbourliness (Andrassy 1951; De Visscher 1969; Pop 1980).

But between doctrine and state practice, there is a big gap. The concept proposed and defended by La Pradelle is that the frontier-area will not be held back by subsequent international law practice. In fact, we note that the frontier is legally defined as an international limit of State territories. For example, the International Court of Justice has emphasized that "to establish the boundary or boundaries between neighbouring States, that is to say, to draw the exact line or lines where the extension in space of the sovereign powers and rights of Greece meets those of Turkey" (1978, 35). We also note that the concept of "frontier zone" had been rejected in an arbitration decision: "As for recourse to the notion of the 'boundary zone', it cannot, by the use of a doctrinal vocabulary, add an obligation to those sanctioned by positive law" (1957, 307).

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