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## **Critical Border Studies and the Resolution of International Boundary Disputes**

### Research Plan for the 2015-2016 GlobalTrust Program

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Which considerations should international courts and arbitral tribunals take into account when resolving border disputes between neighboring states? For many years, such disputes have been decided almost exclusively according to the principle of territorial integrity, which, in the name of international stability, sanctifies colonial or otherwise pre-existing boundaries. Other considerations, such as access to agricultural lands by local farmers or the unity of boundary communities, were mostly deemed irrelevant for the delineation of inter-state borders. In recent years, however, international judges and arbitrators have shown some willingness to adopt a broader perspective regarding the delimitation of borders. In several border disputes, they contemplated such factors as the subsistence needs of local populations, the preservation of nomadic lifestyles, and even the general interests of the international community and of humankind.

This research project sets out to examine this evolving judicial trend and evaluate its sources, merits, and limitations. In order to do so, it turns to critical border studies (CBS), a branch of human geography dedicated to the critical examination of the phenomenon of borders. Inspired by critical theories such as feminism, race studies, and post-colonialism, CBS scholars seek to challenge common assumptions about the origins, nature, and functions of borders in the global era. Among other things, CBS scholars put into question essentialist conceptions of borders and emphasize the contingency of borders upon various social and political factors. They also attempt to draw attention to the real-life experiences and to the subjective narratives of various actors affected by borders.

CBS insights have already been imported into international law scholarship by scholars dealing with border-related issues such as immigration control, trade regulation, and crime prevention. So far, however, CBS has not been used by international lawyers to address the basic problem of determining the path of inter-state boundaries. This research will highlight the potential contribution of CBS for improving judicial decisions relating to border disputes. It will draw upon CBS to analyze the limitations of the traditional approach to border disputes and to identify additional factors and stakeholders that should be accounted for in the process of border delineation.