

State Sovereignty in a TFCA

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IUCN defines a *transboundary protected area* as "an area . . . that straddles one or more borders between states . . . whose constituent parts are especially dedicated to the protection and maintenance of biological diversity, and of natural and associated cultural resources, and managed cooperatively through legal or other effective means."

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The sovereign rights of each Party shall be respected, and no Party shall impose decisions on another.

Article 7(4) of the 2002 Treaty:

Where fences have been removed from previous international boundaries, each Party undertakes to respect the sovereign rights of a bordering Party and not to allow its officials to cross into a bordering Party's territory, unless previously agreed on through either arrangement with the JMB or appropriate communication between mandated security or other designated agencies of the Parties.

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The idea which prevailed in the past that ownership of land conferred the right on the owner to use his land as he pleased is rapidly giving way in the modern world to the more responsible conception that an owner must not use his land in a way which may prejudice his neighbours or the community in which he lives, and that *he holds his land in trust for future generations*. Legislation dealing with such matters as town and country planning, the conservation of natural resources, and the prevention of pollution, and regulations designed to ensure that proper farming practices are followed, all bear eloquent testimony of the existence of this more civilised and enlightened attitude towards the rights conferred by ownership of land.

Rhodesian Appellate Division , 1971

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A solution? :

A TBPA is an area . . . that *is composed of adjoining land formerly within the borders of the States Parties* [straddles one or more borders between states . . . whose constituent parts are] especially dedicated to the protection and maintenance of biological diversity, and of natural and associated cultural resources, and [managed] *governed in terms of the Treaty* [cooperatively through legal or other effective means] *by an authority established by the Treaty.*