FACING A BLOW TO SOVEREIGNTY, WHY COMPLY? AN ANALYSIS OF COMPLIANCE AT THE INTERNATIONAL COURT OF JUSTICE[1]

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The effectiveness of international courts is frequently viewed with skepticism, as no clear enforcement mechanisms exist to ensure the compliance of states. Some scholars argue, however, that states have complied fairly well with the rulings of the International Court of Justice despite the absence of enforcement (Colter, 1987; Mitchell and Hensel, 2007; Schulte, 2004). Why states might do so remains a puzzle. To answer this question and to build on previous studies, I test five hypotheses provided in existing literatures to determine why states comply with the International Court of Justice. I apply a structured, focused case study and compare a case of compliance (Nigeria v. Cameroon, 1994) to a case of non-compliance (Nicaragua v. Colombia, 2001). Based on resources from first-hand materials as well as news articles, the case analysis shows that easy implementation, democracy, reputation costs, and compulsory jurisdiction do not account for why states have complied with rulings delimiting territorial jurisdiction. Rather, the degree of obligation and precision in previous treaties, upon which the ruling of the ICJ was based, best explains why states comply with the rulings.

Introduction

On May 31, 2016, a preliminary ruling was made in the International Court of Justice (ICJ) regarding the case of *Costa Rica v. Nicaragua* on the territorial delimitation between the Caribbean Sea and the Pacific Ocean. This court case began two years earlier, in February of 2014, when Costa Rica requested that the ICJ provide specific coordinates to delimit the two bodies of water.[2]

1 This paper has been further developed from a paper presented in the MPSA 74th Annual Conference poster presentation titled "Why is the International Court of Justice Effective? Focusing on the Case Studies of Compliance in ICJ".

2 International Court of Justice, Costa Rica institutes proceedings against Nicaragua with regard to a dispute concerning maritime delimitation in the Caribbean Sea and the Pacific Ocean, 2014, 11 ac-

The complaint concerned whether or not experts' site evaluations were necessary. While Nicaragua maintained that site visits and expert opinions were unnecessary, Costa Rica welcomed the prospect of experts and even tried to provide logistical comments.[3] The court decided that expert opinions would be required for the delimitation. This case highlights important concerns over sovereignty. While issues of sovereignty are integral to states' national interests, countries nevertheless often resort to the ICJ to solve these disputes. As in this case, countries may apply for a court ruling because they have met an impasse in diplomatic negotiations and need a third party to adjudicate the process. However, after legal disputes and court procedures, a verdict is issued that may benefit one country over the other. In this circumstance, do countries comply despite suffering a blow to their national interests? The question can thus arise over whether the International Court of Justice is effective at all.

In international law literature, two opposing views address the effectiveness of international law and institutions. On the one hand, scholars such as Louis Henkin argue that international laws are effective because rational and deliberately calculated acts of nations lead them to avoid the costs of not complying with international rules.[4] In other words, international law itself functions as a policy constraint on countries. In contrast, other scholars like Abram Chayes, Thomas Ehrlich, and Andreas Lowenfeld assert that international law is a process of policy justification and authoritative decision-making.[5] Both groups, however, agree that compliance with international law can be explained with close attention to state interactions.[6] As these debates persist in international law scholarship, scholars of International Relations have also begun to explore similar issues, focusing on the effectiveness of international law and the compliance behavior of states. Surprisingly, scholars have concluded that states comply fairly well with the verdicts of international courts.

For example, Constanze Schulte, after examining ICJ judgments from 1946 to 2003, concludes that while the case of *Nicaragua vs. United States* (1986) is an exception, the rest of the ICJ verdicts have been fairly well complied with.[7] Similarly, Mitchell and Hensel, after exploring land dispute cases in the

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cessed 6 July 2016, http://www.icj-cij.org/en/case/157/institution-proceedings .

3 International Court of Justice, *Maritime Delimitation in the Caribbean Sea and the Pacific Ocean Order,* 2015, 31, accessed 6 July 2016, http://www.icj-cij.org/en/case/157/oral-proceedings .

4 Harold H. Koh, "Why Do Nations Obey International Law?" *The Yale Law Journal* 106, no. 8 (June 1997): 2599-659.

5 Ibid., 2618.

6 Ibid., 2617-2619.

7 Constanze Schulte, *Compliance with Decisions of the International Court of Justice* (Oxford, New York:

similarly situated Permanent Court of International Justice (PCIJ) and the ICJ, note that the verdicts were accepted in a vast majority of cases.[8] According to their database, states almost always complied with the judgements of the PCIJ and the ICJ, while there was only one case of non-compliance.[9] Other scholars have also reached the same conclusion regarding compliance with court decisions.[10] Critics such as Yuval Shany claim that a simple compliance rate may not be sufficient because states may only bring easy-to-resolve cases to international courts.[11] However, this criticism overlooks the fact that the above-mentioned scholars include sensitive territorial cases in assessing the effectiveness of courts. Given the tendency of states to accept court decisions even regarding costly cases, the puzzle remains: why do states comply with the verdicts of international courts?

This question is important for four reasons. First, it is puzzling why states might comply with international court rulings despite the absence of explicit sanctions or coercion. The existence and function of coercive power has been regarded as an important prerequisite for compliance as coercive power is what ensures compliance domestically when laws are enforced by the state. Yet state compliance with court rulings often occurs even without coercion. Understanding this pattern thus has important ramifications for the study of International Relations. Second, scholars have not yet reached a consensus regarding why states comply with international law. In this article, I contribute to the existing literature by evaluating the strengths and weaknesses of existing theories and weigh their explanatory power. Third, existing studies rely primarily on quantitative methods to test their claims.[12] An in-depth comparative case

Oxford University Press, 2004).

8 Sara McLaughlin Mitchell, and Paul R. Hensel. "International institutions and compliance with agreements." *American Journal of Political Science* 51.4 (2007): 721-737.

9 Paul. R. Hensel, *The Issue Correlates of War Project* (2004). Available at http://www.paulhensel.org/icow.

10 Colter Paulson, "Compliance with final judgments of the International Court of Justice since 1987," *American Journal of International Law* (2004): 434-461; *Compliance with Judgments of International Courts,* ed. Mielle K. Bulterman and Martin Kuijer (The Hague, Netherlands: Kluwer Law International, 1996), 9-46.

11 Yuval Shany. "Assessing the effectiveness of international courts: A goal-based approach," *American Journal of International Law*, 106:2 (2012): 225-270.

12 Refer to: Marit Brochmann and Paul R Hensel, "The Effectiveness of Negotiations Over International River Claims." *International Studies Quarterly* 55:3 (2011): 859-82; Stephen E. Gent and Megan Shannon, "The Effectiveness of International Arbitration and Adjudication: Getting into a Bind," *Journal of Politics 72:2* (2010): 366-80; Holley E. Hansen, Sara McLaughlin Mitchell, and Stephen C Nemeth, "IO Mediation of Interstate Conflicts Moving Beyond the Global Versus Regional Dichotomy," *Journal of Conflict Resolution* 52:2 (2008): 295-325; Paul K. Huth, Sarah E. Croco and Benjamin J. Appel, "Does International Law Promote the Peaceful Settlement of International Disputes? Evidence from the Study of Territorial Conflicts since 1945," *American Political Science Review* 105:2 (2011): 415-36;

study can provide supplementary evidence by exploring the dynamics of state compliance in actual cases before the ICJ. Finally, this paper introduces new cases and updated records of compliance that have not yet been subjected to close study. ICJ cases that began around 2000 have been recently concluded, and these cases have not yet been examined in detail. Therefore, introducing new comparative cases and exploring the compliance choices of involved countries may contribute to the field of compliance literature by updating the patterns in the ICJ case load.

In this article, I find that compliance with the verdicts of the ICJ is not dictated solely by the interests of the state, but rather is influenced by the state's awareness of international law based on the level of legalization of previous treaties. Legalization here is defined as "a particular form of institutionalization characterized by three components: obligation, precision, and delegation."[13] I draw from the literature on legalization provided by Goldstein et al. to suggest that the degree of obligation and precision of the treaties upon which rulings of the ICJ are based creates a certain compliance pull that influences countries to comply with rulings that affect their national interest. This is due to the fact that states are unable to refute the legitimacy of the ruling if the obligation and precision of former treaties they have signed clearly delineate disputed territories.

This article is composed of three sections. I first review the various theories that account for why states comply with ICJ verdicts. I then outline the research design of this study. Lastly, I test five hypotheses related to ICJ compliance through a comparative case study of two ICJ cases: *Cameroon v. Nigeria* (1994) and *Nicaragua v. Colombia* (2001). The case analysis suggests that previous studies may not fully account for why states comply with ICJ verdicts when it comes to territorial concessions. This study further suggests that the legalization of treaties that countries have made before the court procedures represents an influential factor in state compliance.

Why Do States Comply with Court Rulings?

Three distinct perspectives explain state compliance with international court rulings, each corresponding to a mainstream theory in International

Harold Hongju Koh, "Why Do Nations Obey International Law?" *The Yale Law Journal* 106:8 (1997): 2599-659; Beth A. Simmons, "Capacity, Commitment, and Compliance International Institutions and Territorial Disputes," *Journal of Conflict Resolution* 46:6 (2002): 829-56; Krista E. Wiegand and Emilia Justyna Powell. "Past Experience and Methods of Territorial Dispute Resolution," Paper presented at the APSA 2009 Toronto Meeting Paper, 2009.

13 Judith Goldstein, *Legalization and World Politics,* (Cambridge: MIT Press, 2001), 17.

Relations. Realists contend that state interests are the basis of compliance and non-compliance, specifically state interests in relation to their own power resources. Liberals, conversely, focus on institutional or domestic factors in explaining both compliance and non-compliance. Finally, constructivists appeal to the 'logic of appropriateness'.

Realism

For realists, international legal obligations are weak at best. Realism is based on the idea that national interests defined by power determine state behavior.[14] This assumption leads to a logic of disregarding international law and obligations, since they lack enforcement mechanisms.[15] In terms of compliance, if state's power interests are greater in not complying with the verdicts of international courts, it is likely that states will not obey rulings.[16] Nevertheless, when the interests of states are not challenged by international obligations, or states power resources may be enhanced through compliance states may obey international law.[17] This would not be a function of international obligations, as states may not comply in an absence of material pressures or might comply when "coercion or coincidence of interest" exists.[18] Instead, the crux of the argument is that international law is inconsequential and epiphenomenal, and that states obey international law only when they are themselves willing to implement the verdicts for national interest, or if it is simply easy to do so.[19]

Liberalism

For liberals, two major streams explain compliance, focusing on regime type and international institutions. To start, liberal scholars typically rely on domestic factors in explaining the compliance of states.[20] Some discuss the importance

14 Hans J. Morgenthau, "The U.S. and the Mideast". *The New Leader,* 13 (1967): 3–6.

15 Jack L. Goldsmith, and Eric A Posner. *The Limits of International Law*. Vol. 199: Oxford University Press Oxford, 2005.

16 Ibid.

17 Andrew T. Guzman, "A Compliance-Based Theory of International Law," *California Law Review* 90(6), (2002, December): 1823-1887. He provides an example of how states are obligated by international law not to develop satellite-based weapons, but states will simply not develop them because technology is lacking, not because they are obligated by international law.

18 Goldsmith and Posner, *The Limits of International Law.*

19 George W. Downs, David M. Rocke and Peter N. Barsoom, "Is the Good News About Compliance Good News About Cooperation?" *International Organization*, 50:3 (1996): 379-406.

20 Andrew Moravcsik, *Liberalism and International Relations Theory,* Center for International Affairs, Harvard University Cambridge, MA, 1992. Similar arguments can be seen in Beth A. Simmons, "Capacity, Commitment, and Compliance International Institutions and Territorial Disputes," Journal of Conflict Resolution 46:6 (2002): 829-856.

of the rule of law as a factor that affects countries' compliance with international law.[21] There are also strategic explanations. In a democratic country, leaders tend to prefer a formal process of legal dispute resolution because the formal institutions can shield the domestic leader from criticisms regarding territorial concessions.[22] In cases where leaders are aware of the relatively minimal legal advantages in terms of a dispute, they may thus opt for a more formal process of dispute resolution to shield themselves from domestic criticism.[23] This is especially likely in cases of interstate security disputes, where the domestic audience may be particularly sensitive. This framework has value in explaining the domestic process regarding territorial disputes, but it does not provide an explanation for non-democratic countries that also resort to international legal procedures in territorial disputes.

Neoliberal Institutionalism

Some scholars focus on the role of international institutions to explain state compliance. States comply because international institutions decrease verification costs, punish cheaters, and increase the repeated nature of interactions, thus advancing cooperation.[24] Scholars focusing on institutions suggest three factors that make states more or less likely to comply: reputation costs, transaction costs, and the bargaining process. First, states' compliance depends on the level of reputation costs. States comply when those costs are high, but if the costs are deemed irrelevant, states do not comply. Second, centralization and independence of international institutions also increase efficiency, which eventually leads to a decrease in transaction costs. Thus, the role of institutions in integrating managerial and enforcement measures ensures the compliance of states.[25] Finally, the bargaining process occurring in international institutions affects state compliance. For example, joint membership increases interaction opportunities and lengthens the shadow of the future.[26] Moreover, international institutions directly involved as third

21 Beth A. Simmons, "Compliance with International Agreements," *Annual Review of Political Science* 1:1 (1998): 75-93. The details are explained well on pages 83 to 85.

22 Paul K. Huth, Sarah E. Croco and Benjamin J. Appel, "Does international law promote the peaceful settlement of international disputes? Evidence from the study of territorial conflicts since 1945," *American Political Science Review* 105:2 (2011): 415-436.

23 Ibid., 417.

24 Robert O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton: Princeton University Press, 2005).

25 Ibid., 26.

26 Paul R. Hensel, in *The Issue Correlates of War Project* (2004). Retrieved from http://www.paulhensel.org/icow.html, at 725.

parties try to support compliance through agreements, binding techniques of arbitration and adjudication.[27]

Constructivism

For constructivists, neither the imposed constraints suggested by realists nor the rational calculations suggested by liberals play an essential role in influencing state compliance. Instead, the most important determinant of a state's decision to comply or not is the existence of "internalized identities and norms of appropriate behavior."[28] If states internalize the core value and legitimacy of international law and institutions, a higher possibility exists that the states will comply with those international laws and procedures. Intersubjective meanings are developed through a constant process, and normative expectations like other norms, coherence, legitimacy and a process of persuasion lead to the acceptance of these norms.[29] State compliance is ultimately explained by a repeated habit of obedience that shapes the interests of states leading them to value compliance.[30]

However, constructivists do not provide a unidirectional explanation in which international normative structure unilaterally influences state behavior. States are not simply affected by international norms but also consciously try to "create information, ideas, norms, and expectations; to carry out and encourage specific activities; to legitimize or delegitimize particular ideas and practices; and to enhance their capacities and power."[31] In addition, legal scholars like Koh propose a more complex step of compliance referred to as "transnational legal process." Here, Koh adds the complexity of domestic processes and argues that a state's obligation to "obey an international norm becomes an internally binding domestic legal obligation when that norm has been interpreted and internalized into its domestic legal system."[32] Thus, only when a state internalizes the legal norms and implements them domestically does it comply with international law.

27 Ibid., 724.

28 Kal Raustiala and Anne-Marie Slaughter, "International Law, International Relations and Compliance," I*nternational Relations and Compliance:* Princeton Law & Public Affairs Paper 02-2 (2002).

29 Abram Chayes and Antonia Handler Chayes, "On Compliance," *International Organization* 47:2 (1993): 175-205.

30 Harold H. Koh, "Why Do Nations Obey International Law?", 2599-659.

31 Kenneth W. Abbott and Duncan Snidal, "Why states act through formal international organizations," J*ournal of conflict resolution* 42:1 (1998): 3-32.

32 Harold H. Koh, "Why Do Nations Obey International Law?" *The Yale Law Journa*l 106:8 (June 1997): 2659.

Research Design

Methods and Hypotheses

First, in order to test the theories explaining compliance, I apply a comparative case study described as a "structured, focused comparison."[33] "The method is structured in that the researcher writes general questions that reflect the research objective and that these questions are asked of each case under study to guide and standardize data collection, thereby making systematic comparison and accumulation of the findings of the cases possible."[34] A structured and focused comparison requires the same class of events to be analyzed, research objectives to be identified, and variables driven from theory to be explicated.[35] In this case, the class of events would be the compliance behavior of states after ICJ verdicts from two cases, *Cameroon v. Nigeria* (1994) and *Nicaragua v. Colombia* (2001). The purpose of this study is to examine the factors that influence states to comply. The variables are driven by the existing literature's explanations for compliance.

As the *Cameroon v. Nigeria* case represents a case of compliance, while the case of *Nicaragua v. Colombia* represents non-compliance, a clear contrast is available in terms of why states choose to comply with a verdict of the ICJ. In this literature, I define compliance as both accepting the judgment of the court (in cases where the countries were not asked to implement anything), and, if relevant, implementing the rulings provided by the ICJ. Operationalizing compliance in cases of ICJ rulings can be quite complex given that the types of rulings can differ drastically from case to case.[36] For instance, a ruling may order countries to accept the interpretation of a certain treaty, or to cooperate and negotiate acceptable terms. In the case of some rulings, there is little to implement, and states must simply accept it. The court may also provide rulings for states to implement through some action like ceding territory or removing personnel from certain areas.

In the case of territorial delimitations, the ICJ adjudges the delimitations of territory and requests that the countries abide by such rulings through certain logistical implementations. Therefore, in this case, whether countries

33 Alexander L. George and Andrew Bennett, *Case Studies and Theory Development in the Social Sciences.* (MIT Press, 2005), 67-72.

34 Ibid., 67.

35 Ibid., 69.

36 Constanze Shulte, *Compliance with Decisions of the International Court of Justice* (Oxford: Oxford University Press, 2004), 29-35.

have accepted and implemented positive rulings can be easily observed; non-compliance would mean that states refused to accept the ruling or to implement the recommendations that the ICJ provided. Considering that the ICJ does not impose time-limits[37], as long as the country eventually implements or accepts the ruling the ICJ provided in the judgment, this will be considered as compliance.

In this case study, I test five hypotheses derived from previous explanations. The first hypothesis is in line with the realist explanation for compliance. As realists perceive state interests to be integral to their behavior, compliance explanations are based on state interests.

> H1: If verdicts are beneficial to state interests, states will comply with the verdict of the ICJ.

Therefore, if this hypothesis holds, an ICJ verdict that bestows economic or territorial benefits on a state will lead that particular country to comply with the verdict. On the contrary, we should see that a verdict detrimental to a state's interests will most likely lead to that country refusing the ruling and thus demonstrating behaviors of non-compliance.

Two separate hypotheses, divided into domestic and international factors, can be derived from the liberal perspective on state compliance with ICJ rulings. First, as stated above, liberals believe that domestic factors influence state compliance. Therefore, if a country is democratic, a leader who wishes to gain legitimacy while shielding him or herself from public dissent will resort to international institutions and will comply. From this, we can derive the second hypothesis.

> H2: If the leader of a democratic country fears public dissent regarding the dispute, the leader will state the importance of compliance and abide by the verdict of the ICJ.

If this hypothesis is true, leaders of democratic countries should resort to the ICJ to legitimize the result of the dispute as an important step in abiding by international law, in order to shield themselves from the harsh criticism of

37 Ibid.

the media. The state would thus comply with verdicts of the ICJ even if they undermine the national interests of the state.

Second, in terms of neoliberal institutionalism, neo-liberals argue that international institutions decrease the bargaining process and transaction costs and raise reputation costs. Thus, states would comply to avoid reputation costs and the possibility of harming future reciprocity. From this the following hypothesis emerges:

> H3: If states fear reputation costs from non-compliance after the verdict of the ICJ, states will comply with the verdict.

If this hypothesis is true, we should see that countries concerned about reputation costs comply with the verdicts of the ICJ. As the ICJ is one of the principal organs of the UN, this reputation cost could bear consequences within the UN for countries that do not abide by the verdict of the ICJ. Thus, the countries that fear reputation costs like retaliation and international criticism would be more likely to comply with the outcome of the rulings.

Constructivists highlight the importance of inter-subjectivity, internalization of norms and the state's view of international law as part of a "logic of appropriateness." Therefore, considering the importance of the internalization of these norms, the following hypothesis can be derived.

> H4: If states have agreed to compulsory jurisdiction, they will comply with the verdict of the ICJ.

If this hypothesis were to hold, we would see countries that have internalized norms of international law abide the rulings of the ICJ. Indications of norm internalization may be seen in countries that have domestically legalized the norms, or countries that avidly take part in international treaties and abide by them. In this case, it could be countries that have already experienced the procedures of the ICJ, and have experienced compliance.

The last hypothesis emerges from a middle-ground between liberalism and constructivism; it derives from the concept of legalization inherent in the ICJ. In short, the decisions of states to comply with the ICJ or not may be influenced both by normative concerns and calculated costs related to legalization. The concept of legalization is characterized by the three elements of obligation, precision, and delegation. Through domestic means, compliance pulls, or levels of embeddedness, it is postulated that the level of legalization has an

effect on compliance and international cooperation.[38] Although, the effects of legalization on compliance are contested among authors,[39] I borrow from this literature and hypothesize that the degree of obligation and precision in the treaties upon which ICJ verdicts are based will influence compliance. This follows because the ICJ's rulings are based on previous treaties that states have made, and if none exists, the decisions are based on customary law. The fact that states have delegated the issue to the court, and that the treaties used to obtain a ruling are obligatory and precise, may prevent states from providing excuses to refuse implementation of the rulings.

> H5: If the treaties or agreements upon which the ICJ has based its rulings are high in levels of obligation and precision, states will comply with the verdict.

Delegation is absent from this hypothesis because the states have already delegated the issue of adjudication to the ICJ. The ICJ is considered to be moderate in terms of its level of delegation,[40] but the treaties or agreements upon which the rulings are based may have different levels of obligation or precision, thus creating potentially greater compliance pull. This may affect how states receive the ruling of the ICJ, and it could affect their compliance behavior. According to the literature, obligation is considered highest when it requires unconditional obligation, or when a political treaty implies obligation.[41] Obligations are low when there are few legally binding expectations.[42] In the case of precision, agreements are considered high in precision when the rules leave little room for interpretation, and low in precision when it is difficult to decide whether the treaty could be applicable.[43]

Case Selection

I use for purposes of comparison the cases of Cameroon v. Nigeria (1994) and Nicaragua v. Colombia (2001). These cases represent a clear contrast in terms of compliance: Cameroon and Nigeria have complied with the verdict of the ICJ and continue to implement the logistics to this day. In contrast,

38 Judith Goldstein, *Legalization and World Politics* (Cambridge: MIT Press, 2001), 9-96.
39 Ibid.
40 Ibid., 85.
41 Ibid., 26.
42 Ibid., 26.
43 Ibid., 35.

Colombia has stated that it will be unable to implement the verdict of the ICJ, and that delimitation provided by the court will not be accepted. As both cases were extremely contentious, it is useful to explore the factor that influenced the variance in outcomes. Furthermore, the fact that the verdict and implementation of these cases have been fairly recent contributes to the literature by adding new examples of compliance and non-compliance.

In terms of unit homogeneity, the two cases may seem dissimilar given the regional and yearly differences, as well as variance in the political contexts. However, several key features make them prime cases for comparison, including the similarity in ICJ procedures, the topic of contention, and the proximity of the two countries in dispute. Given the aim of theories in the literature to explain compliance in general terms, moreover, they should be able to account for cases across a variety of contexts. If a theory is able to explain slightly different cases for compliance, this would constitute a more robust explanation of empirical cases. The criticism remains in regard to selecting cases from the ICJ, as doing so requires that the states have chosen to go to court. While this could be interpreted as states taking only easy cases to court, for a number of reasons, the cases presented below clearly indicate that this is not the case.

First, cases involving territorial disputes are typically brought to the ICJ because diverse diplomatic and institutional negotiations have failed miserably. In this case, the countries are hoping to reach a solution to delimiting the regions of dispute that was unattainable through bilateral means. Second, in cases of permanent jurisdiction, countries are often 'dragged to court.' When reviewing the preliminary objections provided by countries that have been sued, countries often seek to avoid going to court by arguing that the ICJ does not have jurisdiction. Yet the ICJ has almost always overruled these objections, suggesting that there are cases in which countries are obliged to go to court despite their desire not to. Third, the price of going to court is quite expensive for states involved in a dispute. Costs regarding court procedures include, but are not limited to: experts, hiring of lawyers, costs for providing evidence to support their arguments, costs in regards to written pleadings in which some may have to be translated, legal research costs, expenses from oral proceedings and so forth.[44] For instance, in the case of *Costa Rica v. Nicaragua*, it is known that Costa Rica planned to use over one million dollars in the ICJ litigation process in 2015 alone, an expense that has been heavily criticized due to its impact

44 José Quintanaand and Juan Aranguren, *Litigation at the International Court of Justice: Practice and Procedure.* Vol. 10. (Leiden, The Netherlands: Hotei Publishing, 2015), 228.

on the national budget within the fiscal commission.[45] These factors help to mitigate concerns that the cases suffer from selection bias.

Case Analysis

A case study using a focused, structured comparison was applied to analyze the two cases below. The first case is the *Land and Maritime Boundary Between Cameroon and Nigeria (Cameroon v. Nigeria, 1994)*, in which both states complied with the ruling. The second case is the *Territorial and Maritime Dispute (Nicaragua v. Colombia, 2001)* where Colombia refused to comply with the verdict of the ICJ. The results show that hypotheses one through four[46] do not explain why states have complied with the verdict of the ICJ. Observing the variables through Mill's method of difference and comparing the two cases shows that the variables were consistent in both cases. Therefore, it is safe to say that at least within the boundaries of these two cases, existing theories explaining the compliance behavior of states do not apply and may not provide a generalizable explanation. Table T1 briefly summarizes the contents of the cases to be explained in detail. These contents indicate that the key explanatory factor explaining variation in the outcome is the degree of obligation and precision of the treaties that were used for the ICJ rulings.

Land and Maritime Boundary Between Cameroon and Nigeria (Cameroon v. Nigeria, 1994)

On March 29, 1994, the Republic of Cameroon (from now on Cameroon) filed an application instituting proceeding against the Republic of Nigeria (from here on Nigeria) requesting the court to adjudge on the sovereignty of the Bakassi Peninsula, as the hostility between the two countries had been unresolved. Cameroon requested that the court determine the maritime boundary including Lake Chad to the Sea, with an additional application made on June 6, 1994.[47] Nigeria objected that the court did not have jurisdiction, and that

45 "Costa Rica Spends over 1m Dollars at ICJ on Cases against Nicaragua," *PrensaLibre* (San Jose), October 2, 2014. BBC Worldwide Monitoring.

46 H1: If verdicts are beneficial to state interests, states will comply with the verdict of the ICJ.
H2: If the leader of a democratic country fears public dissent regarding the dispute, the leader will state the importance of compliance and abide by the verdict of the ICJ.
H3: If states fear reputation costs of non-compliance after the verdict of the ICJ, states will comply with the verdict.
H4: If the states have agreed to compulsory jurisdiction, they will comply with the verdict of the ICJ.
H5: If the treaties or agreements upon which the ICJ has based its rulings are high in levels of obligation and precision, states will comply with the verdict.

47 International Court of Justice, "Application Instituting Proceedings Filed in the Registry of the Court

Table T1

Variables	Cameroon v. Nigeria (1994)	Nicaragua v. Colombia (2001)
H1	Economically and territorially costly for the losing state	Economically and territorially costly for the losing state
H2	Intense public dispute within a democratic country; the leader stated the intention to abide by the ruling	Intense public dispute within a democratic country; the leader refused to comply with the ruling
H3	Fear of reputation costs, as the United Nations Secretary General fostered further implementation	Fear of reputation costs as the non-complying state, Colombia, initially needed the full support of the UNSC to broker a peace deal with FARC.
H4	Joined the Compulsory Jurisdiction	Joined the Compulsory Jurisdiction
H5	Ruling of the ICJ based upon a treaty with high levels of obligation and precision in delimiting the territory	Ruling of the ICJ based upon UNCLOS and neither country was a party to UNCLOS
Compliance	**Complied**	**Did not Comply**

maritime delimitation was to be settled by bilateral means, as the Lake Chad Basin Commission existed to solve such problems while taking into account third state interests.[48] The Court rejected this preliminary objection, and the case continued.

Costs of compliance

From the beginning of the court case Nigeria tried to refuse to go to court as the case was sensitive and contentious. Ramifications of the verdict could heavily affect the national interests of both countries. According to the ICJ, "this was the first time that the Court had been called upon to rule on a request

on 29 March 1994, Land and Maritime Boundary Between Cameroon and Nigeria," March 29, 1994. http://www.icj-cij.org/docket/files/94/7201.pdf.

48 International Court of Justice, "Case Concerning the Land and Maritime Boundary Between Cameroon and Nigeria, Preliminary Objections of the Federal Republic of Nigeria," December, 1995. http://www.icj-cij.org/docket/files/94/8598.pdf

for interpretation of a judgment on preliminary rejections."[49] This issue was so critical for both countries' national interests that even before the case was presented to the ICJ, the United Nations Security Council had an urgent meeting requested by Cameroon to address its concerns. The territorial dispute had also already been referred to the Committee for Conflict Management and Resolution of the Organization of African Unity.[50] In fact, the dispute reached levels extreme enough that Nigeria and Cameroon exchanged fire, and the ICJ issued preliminary measures for both countries to commit to their cease-fire agreement.[51]

Nigeria and Cameroon both considered the Bakassi peninsula crucial, as losing this territory would incur critical political and economic costs. For Nigeria, it was politically important because many Nigerians lived in the disputed area. The safety of Nigerians was thus a key issue if the case were to go to court. The Bakassi peninsula was also replete with oil, natural resources and minerals that would be economically resourceful for both countries. Losing the land would mean losing the possibility to tap into these resources that could be profitable for the country. Considering these possible ramifications, Nigeria's compliance with the ruling of the ICJ in the end and handing over the Bakassi peninsula is curious. This compliance behavior clearly contradicts the claim that states only comply with easy cases, insofar as the ruling resulted in heavy economic and political costs for Nigeria.

The Degree of Legalization

On the tenth of October in 2002, it was decided that Nigeria would have to hand over the Bakassi peninsula. The ruling was based on the 1920-1930 Thomson-Marchand Declaration and the Anglo-German Agreement of March 11, 1913 in which the coordinates of the territories were delimited.

The Thomson-Marchand Declaration was an agreement signed by the Governor of the Colony and Protectorate of Nigeria and by the Commissioner of Cameroon, which was under France. After World War I, France and England

49 International Court of Justice, "Request for Interpretation of the Judgment of 11 June 1998 In the Case Concerning the Land and Maritime Boundary Between Cameroon and Nigeria (Cameroon v. Nigeria), Preliminary Objections (Nigeria v. Cameroon) Judgment of 25 March 1999," March 25, 1999. http://www.icj-cij.org/docket/files/101/7633.pdf.

50 International Court of Justice, "Application Instituting Proceedings Filed in the Registry of the Court on 29 March 1994, Land and Maritime Boundary Between Cameroon and Nigeria," March 29, 1994. http://www.icj-cij.org/docket/files/94/7201.pdf.

51 Case International Court of Justice, "the Land and Maritime Boundary of Cameroon and Nigeria, Order of 15th March 1996," March 15, 1996. http://www.icj-cij.org/docket/files/94/7427.pdf.

specifically delimited territories, and this agreement was a part of that effort.[52] Its degree of precision was high enough that the delimitation had an overall influence upon the ruling of the ICJ. Furthermore, the agreement was high in obligation, as it was a binding international agreement. The states that consented to the agreement would thus have had little choice but to comply. Although the treaty was signed decades earlier, it still applied to both Nigeria and Cameroon due to statutory succession. The Anglo-German Agreement was more directly linked to the Bakassi peninsula. Before World War I took place, Germany and England had officially delimited the territory of Nigeria.[53] At that time, Bakassi belonged to Germany, and this was the only treaty that clearly and precisely delimited the boundary before Nigeria and Cameroon became independent.[54] The agreement was thus used as a blueprint to divide the current territory of Nigeria and Cameroon. Both the Thomson-Marchand Declaration and the Anglo-German Agreement were high in obligation and precision, and both clearly demonstrated that the Bakassi Peninsula was under the sovereignty of Cameroon. It would have been difficult for Nigeria to discredit the ruling, as it was based on previous agreements that had the status of international treaties.

As a result, Cameroon was to gain the Bakassi Peninsula and Nigeria had to withdraw all police forces and its administration. Likewise, for the territories belonging to Nigeria, Cameroon had to remove its personnel from the Nigerian territory.[55] According to the ICJ, the two treaties mentioned constituted precise evidence beneficial to delimiting the territory. Therefore, considering the level of obligation imposed by the previous treaties, it would have been difficult for Nigeria to argue that the treaty was unsound, or that the verdict was unfair. As there were no legal grounds to dispute the ruling of the ICJ, Nigeria thus decided to give up on contesting the ruling.

Reputation Costs & Retaliation

Both presidents Olusegun Obasanjo of Nigeria and Paul Biya of Cameroon promised to abide by the decision of the ICJ.[56] To see this implementation through, Kofi Annan, the UN Secretary General at the time, convinced Nigeria

52 International Court of Justice, "Land and Maritime Boundary Between Cameroon and Nigeria, Judgment of 10 October 2002," October 10, 2002. http://www.icj-cij.org/docket/files/94/13803.pdf
53 Ibid.
54 Ibid.
55 International Court of Justice, "Land and Maritime Boundary Between Cameroon and Nigeria, Judgment of 10 October 2002," October 10, 2002. http://www.icj-cij.org/docket/files/94/13803.pdf
56 "Cameroon; How Nigeria Lost Bakassi," *Africa News*, October 15, 2002. Lexis Nexis.

and Cameroon to sign the Green Tree Agreement in 2006, ensuring a peaceful handover of the territory. The mediation of Kofi Annan meant that the UN itself was focused on this matter. If Nigeria were to refuse the ruling, it would mean that the rulings of an official UN organ would be dismissed, which could cause reputational repercussions and could signal to other countries that the states were unfaithful to the principles of the UN. As the Secretary General (a symbolic figure of the UN) and the UNSC were heavily involved in this case, it can be postulated that compliance with the ICJ ruling may be due to fear of retaliation or costs to reputation.

Furthermore, theoretically, retaliation for refusal to comply could occur based on article 94 of the UN charter, which states that

> "if any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment."

However, the guideline could be viewed as obscure in this particular case, considering the fact that it does not explain the senate of Nigeria nullifying the ruling of the ICJ in 2007.[57] After the ruling of the ICJ and UN Secretary General Kofi Annan's participation in the initiation of the Green Tree Agreement, the Nigerian senate refused to comply with the ICJ ruling. Thus, it is difficult to say that reputation costs of the state or possibilities of UN retaliation led to Nigeria's compliance. Theoretically, it is plausible that the president called for compliance with the rulings of the ICJ in fear of the shadow of the future as well as the fear of reputation costs. However, the senate in Nigeria heavily criticized Obasanjo for signing the Green Tree Agreement and then nullified the treaty. This shows that reputation costs were not a consideration for domestic politics in deciding whether to comply, so that hypothesis does not seem to stand in this case.

Domestic Dissent and Compulsory Jurisdiction

As seen above, heavy domestic dissent existed regarding the issue of compliance within Nigeria, but the president nevertheless called for abiding by the ruling, as it was an international obligation. The hypothesis that leaders

57 "Nigeria; Senate Cancels Bakassi Handover." *Africa News*, November 23, 2007. Date Accessed: September 27, 2016. www.lexisnexis.com/hottopics/lnacademic

of a democratic country strive to decrease domestic criticism by stating the importance of complying with international law thus makes some sense; the hypothesis that internalization of norms leads to compliance is also plausible. However, these variables were quite similar in the case of non-compliance explained below, so those factors are held as constant. Considering the case of non-compliance, then, these two hypotheses may not be generalizable.

Both Nigeria and Cameroon had accepted compulsory jurisdiction. On April 1998, Nigeria declared that it would accept the jurisdiction of the ICJ without special agreement, and it made reservations in cases regarding domestic matters. While consent had been given much earlier, a declaration was submitted in 1998. The court deemed that Nigeria had consented to compulsory jurisdiction at an earlier time, and had commenced with the case.[58] Cameroon had declared compulsory jurisdiction a littler earlier, in March of 1994, without specific reservations. Thus, one might argue that the internalization of international norms could explain the compliance behavior of the states. This understanding of international law is observable: during the feud between the senate and the former president Obasanjo, the Nigerian president at that time, Umaru Musa Yar' Adua, stated in a letter to the senate that:

> You may kindly note that having subscribed to the jurisdiction of the International Court of Justice, Nigeria became duty bound to respect its judgment of 10th October 2002, which confers the sovereignty of Cameroon over the Bakassi Peninsula. Similarly, recall that in furtherance of that, and, as a responsible member of the comity of nations as directed by the International Law and procedure, Nigeria entered into the Green Tree Agreement with Cameroon on the modalities of implementation of that judgment.[59]

Despite the domestic disagreement, handover of the Bakassi peninsula took place on August 14, 2008. After handing over the Bakassi peninsula, the issue seemed to have been resolved, although the internal dissent regarding compliance has been continuous. The senate of Nigeria later urged President Goodluck Jonathan to file an appeal to the ICJ before the case expired on October 9, 2012. Senate President David Mark stated:

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58 Stanimir A. Alexandrov, "The Compulsory Jurisdiction of the International Court of Justice: How Compulsory Is It?" *Chinese Journal of International Law* 5:1 (2006): 29-38.

59 "Nigeria; Yar'Adua Seeks Senate's Ratification." *Africa News*. December 12, 2007. Date Accessed: September 27, 2016. www.lexisnexis.com/hottopics/lnacademic.

> "We have obeyed the international court to this point, but we still do not accept it. It is not that we accept it, we have simply obeyed their decision. We have not accepted it. There is a lot of pressure at home here and I think it is the belief of every Nigerian that we should not cede Bakassi, not the way it has happened. I think that is really where the problem is."[60]

President Goodluck Jonathan stated in the United Nations General Assembly that "what the President said is that as the judgment stands, we will obey it. That does not mean that we cannot appeal the judgment."[61] As of 2016, the implementation of the agreement, including moving of inhabitants residing in the area, still continues and the current Nigerian President Muhammadu Buhari conceded that "Since Nigeria allowed the case to go to court, and we lost, we have to abide by it."[62] In a joint conference that took place on May 5, 2016, President Buhari further stated that

> "On this Bakassi Peninsula issue, I'd like the government and people of Cameroon to keep their minds at peace, Nigeria is an internationally respectful and law abiding nation, somehow there was a crisis between the two nations on Bakassi Peninsula over the hydro carbon exploitation, but this issue has been dealt with by the International Court of Justice."[63]

Some have filed suits for proper relocation;[64] have requested that the Abuja Federal High Court restrain the federal government from handing over the territory until safe relocation has been ensured; and continue to claim that their livelihoods are being threatened due to hunger, rape and threats to their safety.[65] Despite this internal dissent, the implementation is still taking place,

60 "Senate to FG: Appeal Bakassi Judgment Now." *Vanguard*, September 27, 2012. Accessed September 28, 2016. http://www.vanguardngr.com/2012/09/senate-to-fg-appeal-bakassi-judgment-now/.

61 "Senators Ask Jonathan To Appeal ICJ Judgment On Bakassi." *PM News*, September 26, 2012. Accessed September 28, 2016. http://www.pmnewsnigeria.com/2012/09/26/senators-ask-jonathan-to-appeal-icj-judgment-on-bakassi/.

62 Nda-Isaiah, Jonathan. "Nigeria Will Abide By Decision of ICJ On Bakassi - Buhari." *All Africa Global Media* (Abuja), August 2, 2016. Lexis and Nexis.

63 "Nigeria; Nigeria Will Comply with ICJ Judgment On Bakassi - President." *Africa News.* May 5, 2016. Date Accessed: September 27, 2016. Lexis Nexis.

64 Number FHC/13/2007

65 "Nigeria; Bakassi People Cry for Help." *Africa News.* June 6, 2016 Monday. Date Accessed: September 27, 2016. Lexis Nexis.

and subsequent presidents have stated their will to abide by the rulings of the ICJ and to acknowledge international law.

States may comply with difficult cases despite notable costs to state interests, and that reputational costs may not heavily influence the compliance behavior of states. Heavy domestic dissent in Nigeria regarding compliance to the ICJ ruling has persisted, but internalization of international law and consent to the ICJ's compulsory jurisdiction seems to be present. The high degree of legalization is also apparent in this case. While viewing only this case may blur the explanatory power of the hypotheses provided above, a comparison with the case below clarifies the key explanatory factor in ICJ compliance.

Territorial and Maritime Dispute (Nicaragua v. Colombia, 2001)

Nicaragua filed an application against Colombia on December 6, 2001, arguing that its territory has been breached by Colombia and that its fishing activities suffered due to Colombia's military activities. While Nicaragua had tried to resolve this issue through bilateral means, those attempts resulted in failure numerous times. Nicaragua thus requested that the ICJ adjudge and declare that Nicaragua has sovereignty over the San Andrés and Santa Catalina islands, Roncador, Serrana, Serranilla and the Quitasueno keys, and to determine the maritime boundary between the two states. Furthermore, Nicaragua requested that Colombia compensate it for the losses it had suffered.[66]

Cost of Compliance

The territories in dispute were replete with the natural resources of hydrocarbon and natural gas; losing this land would be costly in terms of the economic profit that could be drawn from those natural resources. In the event of a ruling in favor of Nicaragua the country stood to gain about 75,000 square kilometers of the Caribbean, along with economic rights.[67] This would have resulted in a huge economic loss for Colombia, as the area that was to be given to Nicaragua included oil for which Nicaragua planned to obtain exploration licenses.[68] Furthermore, 54 percent of the area was declared an extensive ocean production system by UNESCO in 2000,[69] meaning that natural

66 International Court of Justice, "Application Instituting Proceedings filed in the Registry of the Court on 6 December 2001, Territorial and Maritime Dispute (Nicaragua v. Colombia)." December 6, 2001.

67 "Colombian, Nicaraguan Dispute Reignites Despite International Court Ruling," *BBC Monitoring Latin America - Political Supplied by BBC Worldwide Monitoring*. September 16, 2013.

68 Ibid.

69 "Colombian Daily Views Dispute with Nicaragua Over Nature Reserve," B*BC Monitoring Latin America - Political Supplied by BBC Worldwide Monitoring*. May 29, 2013.

resources are extremely abundant. For Colombia, implementing the ruling of the ICJ would not have been an easy task. Colombia had much to lose, and it had deemed the territory under dispute to be within its sovereign holdings for many years. Furthermore, the land that was considered a part of Colombian territory allowed fishermen to continue their livelihoods.[70]

Thus, Colombia worked feverishly to keep this case away from court, and when it failed, it refused to comply with the ruling provided by the ICJ. Colombia provided a preliminary objection based on the Bogota pact stating that the ICJ has no jurisdiction over the case. According to Article XXXIV of the Bogota pact, if a dispute has already been settled, the ICJ is not entitled to jurisdiction, and there is no such dispute regarding territorial claims.[71] The court found the 1928 treaty and the 1930 Protocol to be valid, allowing Colombia to retain sovereignty over San Andrés, Providencia and Santa Catalina, the rest of the islands have not been clearly delimited by previous treaties.[72] Thus, the court still has jurisdiction over determining the sovereignty of the rest of the islands mentioned by Nicaragua. Based on customary international law and the principles of maritime delimitation in UNCLOS (United Nations Convention on Law of the Sea) Articles 74, 83 and 121, the court decided that Colombia has sovereignty over the islands of Alburquerque, Bajo uevo, East-Southeasty Cays, Quitasueno, Roncador, Serrana and Serranilla. Furthermore, the Court provided the coordinates to delimit the continental shelf between Columbia and Nicaragua.

The Degree of Legalization

The degree of legalization of the treaty that the ICJ based its ruling on was quite low. This is in keeping with the hypothesis that low levels of legalization may provide a country with the room to refuse the ruling by providing excuses not to oblige. Unlike the case of *Cameroon v. Nigeria*, no relevant treaties directly allowed the ICJ to delimit the maritime boundary during the litigation. Despite the fact that Colombia was not a party to UNCLOS, the ICJ relied on UNCLOS and customary international law to delimit the exclusive economic zone between Colombia and Nicaragua.[73] Although UNCLOS does have a customary nature,

70 "Can Nicaragua Protect the Waters It Won?; A ruling at the UN's highest court redrew maritime boundaries around the Colombian island of San Andrés and Nicaragua. Security analysts say it could lead to unintended consequences like increased trafficking." *The Christian Science Monitor*, March 9, 2013.

71 International Court of Justice, "Territorial and Maritime Dispute (Nicaragua v. Columbia) Preliminary Objections, Summary of the Judgment of 13 December 2007." December 13, 2007.

72 Ibid.

73 International Court of Justice, "Reports of Judgments, Advisory Opinions and Orders, Territorial and Maritime Dispute (Nicaragua v. Colombia) Judgment of 19 November 2012," November 19, 2012..

Colombia did not sign this convention. Therefore, it could be said that the level of obligation was low for Colombia, as the verdict was based on a convention to which Colombia was not a party. Furthermore, whilst UNCLOS provided guidelines in delimiting the territory, those guidelines were not precise since disagreements could arise on the actual implementation of these guidelines, leaving room for interpretation. The precision of the convention in delimiting the territory between Colombia and Nicaragua was thus quite low.

This is apparent from the argumentation that Colombia employed to explain why it could not comply. President Juan Manuel Santos argued that the ICJ ruling over the maritime dispute could not be implemented because it goes against the constitution.[74] Santos argued that the ICJ was 'inapplicable' since there was not a preexisting treaty ensuring the rights of Colombians in the region, "because the maritime limits of Colombia can't be modified automatically by an ICJ ruling."[75] With some caution in regards to Colombia's international reputation, Santos stated that Colombia respects the international law. However, due to technicalities and domestic law, the ceding of sovereign territory would be impossible. The foreign ministry also declared that the territory delimitation as understood by Colombia would remain the same even after the ICJ ruling.[76] Colombia further requested that Nicaragua open up diplomatic channels so that a treaty could be negotiated in regards to this land. After the ruling, the Nicaraguan president stated that he may negotiate a treaty with Colombia as long as it enforces the ICJ's mandate.[77] Based on this argument, President Santos of Colombia asked Nicaragua to start negotiations for a new treaty for delimitation. Had the level of legalization been high in terms of obligation and precision, Colombia as a party to the treaty would not have been able to employ this kind of tactic used for non-compliance.

Reputation Costs

While the president of Colombia refused to implement the ruling based on domestic difficulties, he tried to evade the position by disregarding the court outright. For Colombia, there were possible reputation costs for non-compliance. Furthermore, Colombia tried to frame the issue as Nicaragua's intent to redraw boundaries with its neighboring countries including Panama,

74 "Colombian, Nicaraguan dispute reignites despite international court ruling," *BBC Monitoring Latin America - Political Supplied by BBC Worldwide Monitoring*. September 16, 2013.

75 Ibid.

76 "Colombian foreign minister says maritime border with Nicaragua unchanged," *BBC Monitoring Latin America - Political Supplied by BBC Worldwide Monitoring*. March 14, 2008.

77 "Panamanian president says Nicaragua wants to 'grab' state's territorial waters," *BBC Monitoring Latin America - Political Supplied by BBC Worldwide Monitoring*, September 12, 2013.

Costa Rica, and Jamaica. In fact, Colombia was willing to deliver a letter complaining about Nicaragua's expansionist intent to the Secretary General of the UN, along with a signature from the President of Panama.[78] This effort aimed to deflect the criticism of Colombia's non-compliance and to frame the issue as Nicaragua's constant intention toward territorial gains. These actions show that Colombia was indeed considering its international reputation. Thus, the idea that considerations of reputation costs lead a state to comply with the rulings of the ICJ does not seem applicable in this case.

Furthermore, Colombia was indeed positioned to care for the shadow of the future. Colombia was pursuing international initiatives to foster a domestic peace deal with the internal insurgent group Revolutionary Armed Forces of Colombia (FARC). To broker such a peace deal for disarmament, the participation of the United Nations Security Council was critical: the FARC had been active since 1964, and Colombia struggled to achieve internal peace in dealing with the insurgent group since then. Considering that the ICJ is a principal UN organ and that non-compliance may lead to a referral to the UNSC, it is understood that this issue would have been a concern for Colombia, had it refused to comply with the ICJ. While Colombia disregarded the rulings, Colombia's active call for the UN's participation in the issue of disarmament resulted in the unanimous Security Council resolution of 2261.[79] In sum, while there were possible reputational concerns, as well as concerns for the shadow of the future, Colombia still did not comply with the ruling of the ICJ.

Domestic Dissent and Compulsory Jurisdiction

The verdict entailing a loss of territory and possible economic loss created significant domestic dissent within Colombia, largely because Colombia had to cede a large part of the territory that it had deemed its own. In the face of this dissent, the President of Colombia stated that Colombia would not comply with the verdict of the ICJ. This goes against the explanation that domestic dissent should lead the president to decrease domestic criticism by stating that international law is binding. At that time, while most Colombians disagreed with complying with the verdict of the ICJ, some right-wing Colombians believed that complying with the ICJ was necessary for improving its international standing.[80] A right-leaning Colombian newspaper stated:

78 Ibid.

79 "Security Council Decides to Establish Political Mission in Colombia Tasked with Monitoring, Verifying Ceasefire, Cessation of Hostilities," United Nations Meetings Coverage and Press Releases, January 25, 2016.

80 "Paper views Colombia's Response to Court Ruling on Nicaragua Dispute." *BBC Monitoring Latin America - Political Supplied by BBC Worldwide Monitoring*, September 14, 2013.

> "Are we going to draw up a list of courts which, in Colombia's view, are either to be trusted or not in order to decide which of them we turn to? More than that: what credibility does a government signing a peace agreement have when it only abides by those agreements which suit it?"[81]

Furthermore, both Nicaragua and Colombia were parties to compulsory jurisdiction. Thus, internalization of norms leading to compliance does not explain why Colombia refused the ruling of the ICJ. Nicaragua joined the compulsory jurisdiction of the Permanent Court of International Justice on September 24, 1929. On October 24, 2001, Nicaragua again joined this particular treaty, recognizing the compulsory jurisdiction of the ICJ. Colombia joined the compulsory jurisdiction of the ICJ through the Bogota treaty of 1948.

However, directly after Colombia notified the Secretary General of the Organization of American States (OAS) that it would be backing out of the Pact of Bogota. This pact is what allowed the ICJ to have jurisdiction over Colombia regarding relevant cases.[82] While Colombia internalized international law in the past, the devastating ruling of the ICJ led Colombia to fear that it could be dragged back to court in the future, as well. While this fear was proven correct when Nicaragua filed a new application in regard to the alleged violations of sovereign rights and maritime spaces in the Caribbean Sea on November 26, 2013, this incident shows that internalization of norms did not by itself lead Colombia to comply with the verdict of the ICJ.

In the case of *Nicaragua v. Colombia*, the observable implications of reputation costs, internal dissent, and internalization of norms were all present. Considering Mill's method of difference, when comparing this to the case of *Cameroon v. Nigeria*, the degree of legalization is the only factor in which variance of outcomes exists. The treaties relevant to the ruling were high in obligation and precision in the case of compliance, but low in the case of non-compliance. This means that the rulings based on a high degree of legalization may have led the states to comply with the verdict, as there are no means to dispute the technicality or the precision of the ruling. On the other hand, in the case of *Nicaragua v. Colombia*, the ruling was rejected on the grounds of impossible domestic implementation. Had the previous treaties required a certain degree of obligation and precision that already affected the states prior to the ICJ ruling, this argumentation would not have made sense.

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81 "Editorial says Colombian government's reaction to UN court's ruling 'worrisome'." *BBC Monitoring Latin America - Political Supplied by BBC Worldwide Monitoring*, March 23, 2016.

82 "Colombian, Nicaraguan dispute reignites despite international court ruling," *MercoPress*, September 16, 2013, British Broadcasting Corporation.

Conclusion

By comparing a case of compliance and non-compliance, five hypotheses for compliance with ICJ rulings were analyzed. The case of *Nigeria v. Cameroon* (1994) showed that the variables of reputation costs, the degree of legalization, internal dissent, and internalization of norms could have led Nigeria to cede territory in compliance with the ICJ ruling. This was compared to the case of *Nicaragua v. Colombia* (2001), in which it was revealed that, except for the variance in the degree of legalization, other factors were similarly present. This analysis suggests that the first four hypotheses were held constant across the compared cases and thus may not account for why states comply with the verdicts of the ICJ.

This study concludes that the sole remaining factor—the degree of legalization of treaties that the ICJ uses as the basis for its verdicts—is critical in influencing states to comply with the given verdict. High levels of obligation and precision, explicated by the delegated authority of the ICJ, increases compliance pull and denies states the possibility to reject the ruling based on unfairness. While the existing literature explaining compliance may be applicable to other areas of international law, in these two cases, that literature is not fully generalizable in explaining the compliance behavior of court rulings from the ICJ. One more interesting factor to consider in future studies would be to categorize the type of applications states use in order to bring their cases to court. While this study has focused on territorial disputes that were initiated based on the compulsory jurisdiction clause, there will be other cases based on special agreements between two countries, or cases in which explicated treaties other than compulsory jurisdiction bind states to the ICJ.

As this paper analyzes only two cases, it may be difficult to broadly generalize from the suggested hypothesis. To enhance the robustness of the argument, a further study utilizing process tracing is needed to determine how the detailed dynamics influenced the outcome of compliance; a large-n analysis incorporating many cases of compliance and non-compliance will also be needed. If the correlations can be demonstrated across multiple cases, this will contribute greatly to the literature on compliance, international law, international institutions, and treaty making behavior. The central implication of this study is that the treaties upon which the ICJ bases its ruling have an important influence on the compliance behavior of states. It will be important going forward to determine whether this correlation is also apparent in the compliance behavior of other international courts and tribunals.