

# DECISIONS THAT BIND: THE ROLE OF REPUTATION COSTS IN TERRITORIAL DISPUTES



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## Abstract

This paper explains the decision to enter binding settlement in territorial disputes. States are generally unwilling to enter binding negotiations over disputed territory because these types of settlements bind the states prior to the decision being made, thereby forcing the states to give up their control over the outcome. In this paper, I test how reputation costs can lead states to enter binding settlements over disputed territory. Both quantitative and qualitative methods are employed for this investigation. Using the involvement of an international organization as the measure for reputation costs, I run a logit regression to examine the likelihood that the involvement of an international organization in a territorial dispute will lead to binding settlement attempts. Furthermore, this paper analyzes Belizean-Guatemalan territorial dispute to explore how Belize and Guatemala came to a decision to enter binding settlement when reputation costs were incurred. This research examines the dynamics between the disputants and the international environment, and how the involvement of the international community increases the reputation cost to disputants. I concede that there are limitations to this argument, as there are multiple factors that may negate the effects of reputation cost on different types of states.

Nevertheless, this study enhances our understanding of the dispute resolution process by providing a theoretical framework on the importance of reputation in influencing the states' decision to enter binding settlement in territorial disputes. This study further provides theoretical implications for the role of the international community in many ongoing interstate conflicts around the world, including the South China Sea dispute. China's perception of the reputation costs incurred among the international community including ASEAN members may provide a breakthrough for future negotiations and settlement attempts.

## Introduction

Interstate conflict management in territorial disputes represents a major field in political science as shared borders and history give rise to new disputes and make it difficult to resolve existing ones. Territorial disputes are particularly difficult to resolve because states' sovereignty, historical legacy, and often times critical strategic interests are almost always involved. Scholars explain settlement attempts in territorial disputes with various factors such as regime type, issue salience, bias of a third party, and a history of failed attempts. While these claims have strong empirical support, they seem to fall short of explaining one of the most notorious disputes in modern international politics - the South China Sea dispute. This is not because the literature lacks explanatory power *per se*, but because the South China Sea is a particularly complex case, one that a single explanation cannot account for. Concern for reputation is a powerful incentive that has motivated other states to make cooperative decisions in their settlement attempts, yet has been unexplored by the literature.<sup>1</sup> I attempt to fill this gap by examining the role of reputation costs in the resolution process in the general case. I argue that states enter binding settlement despite reluctance to do so when reputation costs are incurred. I use the Belizean-Guatemalan territorial dispute to test this hypothesis. Although the case of Belize and Guatemala is not a perfect parallel of the South China Sea disputes, this case study is exemplary of the general case and can provide important implications for the latter with regard to the issues that have yet to be explored by the literature.

As territorial disputes have become a festering issue in the international politics, substantial attention in political science has been given to dispute settlement procedures. These works range from analyses of when and why disputants agree to enter a dispute settlement procedure, to explorations of the types of dispute settlement tools that can effectively end territorial disputes. Beth Simmons argues that the involvement of international legal bodies is more effective in resolving disputes because disputants will face punishment by the international community if they renege.<sup>2</sup> In order to avoid punishment, the disputants are more likely to comply with any decision.

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<sup>1</sup> Reputation as a responsible actor is an important aspect of Chinese discourse with regard to its status in the international community. China has long been concerned about "saving face" and being perceived as a responsible and benign power in the international community. It is worthwhile to examine whether China will follow through with this narrative when it comes to dispute resolution.

<sup>2</sup> Simmons, Beth A. "Capacity, Commitment, and Compliance: International Institutions and Territorial Disputes." *Journal of Conflict Resolution* 46 (2002).

Similarly, Gent and Shannon<sup>3</sup> and Allee and Huth<sup>4</sup> argue that a binding conflict management tool is more likely to resolve disputes than non-binding alternatives. Arbitration and adjudication are binding forms of conflict management and both mechanisms rely on the international legal principles to settle conflicts. Thus, when a state fails to comply with the decision that came out of binding negotiations, it is shirking the well-accepted authority of international law and therefore generates reputation cost to itself. In order to avoid reputation losses that may hurt future opportunities, countries are more likely to resolve the dispute under binding negotiations. Mitchell and Hensel likewise argue that when international institutions arbitrate via binding settlement tools, this increases the likelihood that the disputants will comply with the decisions because renegeing will incur reputation costs.<sup>5</sup> Beardsley and Lo also claim that reputation plays a key role in mitigating commitment problems.<sup>6</sup> Disputants are reluctant to comply with settlement decisions out of fear that the opponent will renege and demand more concessions in future. But when reputation is at stake, disputants are less likely to breach the binding decision, assuring both disputants of the other's strong commitment.

Despite the substantial attention this literature receives, there is a lack of discussion on why states decide to enter binding settlement in the first place.<sup>7</sup> The discussion of reputation cost in the literature is limited to its role in compliance with settlement terms after the decision is reached, but this does not tell us much about why states will give up control over the outcome of settlement decisions. These questions are particularly important to explore in light of the growing importance of maritime disputes among interstate conflicts. Particularly in Asia-Pacific, a growing number of regional players with vested interests in the maritime domain has introduced and exacerbated a number of disputes that have been dormant in the past. Although maritime and territorial disputes are characteristically distinct, the settlement mechanisms through which these disputes are resolved are innately similar. Thus, identifying determinants of conflict resolution will not only address the interstate conflicts writ large, but will provide a timely response to growing maritime disputes.

In this paper, I argue that the concern for reputation drives states to decide to enter binding negotiations. For this, I will employ a mixed method of regression analysis and Belize-Guatemalan

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<sup>3</sup> Gent, Stephen E. and Megan Shannon. "Decision Control and the Pursuit of Binding Conflict Management: Choosing the Ties that Bind." *The Journal of Conflict Resolution* 55 (2011): 710-734.

<sup>4</sup> Allee, Todd L. and Paul K. Huth. "The Pursuit of Legal Settlements to Territorial Disputes." *Conflict Management and Peace Science* 23 (2006).

<sup>5</sup> Mitchell, Sara McLaughlin and Paul R. Hensel. "International Institutions and Compliance with Agreements." *American Journal of Political Science*, 51 (2007): 721-737.

<sup>6</sup> Beardsley, Kyle and Nigel Lo. "Third-Party Conflict Management and the Willingness to Make Concessions." *Journal of Conflict Resolution*, 58 (2012): 1-31.

<sup>7</sup> Simmons' argues states will prefer that international legal body to resolve the dispute only when they face domestic political opposition.

territorial dispute to test my claim. Although this dispute is not a perfect parallel to the South China Sea, this case study will nevertheless illustrate the dynamics between the disputants and the international environment and the role of reputation costs in resolving the dispute. Decision to enter dispute settlement procedure is the first crucial step of the settlement process, often prolonged due to the states' reluctance to delegate territorial matters to an international legal body. Identifying the factors that incentivize states to agree to binding settlement has important implications for policy makers as well as states, international organizations, and other international mediators with interest in the South China Sea disputes. More broadly, this paper will contribute to the growing literature on interstate conflict, where the role of reputation remains under-researched. Further study on different types of reputation in interstate conflict will provide insights to manage conflict escalation.

### **Claim**

My analysis focuses on the decision to enter binding settlement process which can be measured by both disputants signing a binding agreement.<sup>8</sup> Oftentimes, the disputants are unwilling to enter a binding settlement because they cannot control the outcome of the process. States have natural propensity to avoid a third-party intervention when the issue directly challenges territorial integrity. Contrary to this expectation, when there is power asymmetry between the two disputants, the weaker state may willingly agree to binding negotiations, believing that legal adjudication may lead to more favorable outcomes than forced concessions by coercion. Thus, the dependent variable will measure the point in which both disputants signed an agreement for either arbitration or judicial adjudication. My independent variable is the realization of reputation costs. According to Jonathan Mercer, reputation can be determined for various aspects of behavior - reputation for resolve or reputation for power, for example, or for commitment to various principles, like arms control or human rights. The focus of this paper is on reputation for commitment to international law. In international relations, states are given the responsibility to respect and comply with international norms and regulations. A state's reputation as a responsible actor is contingent upon its compliance with these norms and laws. On the other hand, failure to comply with these norms and laws, or using aggressive means to resolve disputes may result in the erosion of a state's reputation.

Such reputation cost is related to a state's status and image. According to Erickson, "states care about their reputation not only for the material benefits it can bring, but also—and sometimes

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<sup>8</sup> Binding negotiations include arbitration and judicial adjudication that are based on international legal principles. Non-binding tools include good offices, peace conferences, or multilateral negotiations that do not have enforcing power over the disputants.

primarily—for its social benefits, such as national self-esteem or international standing and legitimacy”.<sup>9</sup> She argues that disrespect for international law may incur social costs to their esteem and dignity in the international community. Likewise, Martha Finnemore and Kathryn Sikkink argue that participating in rules, norms, and responsibilities is analogous to conformity and esteem, while failure to comply results in loss of reputation, trust, and credibility- costs that come with being labeled as a “rogue state”.<sup>10</sup> Thomas Scheff cites Durkheim’s analysis of social influence model which follows similar logic, positing that conformity to norms is rewarded with feelings of pride and deference while nonconformity is punished by lack of respect and shame.<sup>11</sup> This literature demonstrates that social aspects of reputation costs are associated with erosion of image and loss of pride and standing.

In this sense, incurring reputation cost is similar to shaming in that the act induces loss of image. One way by which reputation costs can be realized is through pressure and criticism. Triggering of reputation damage is closely related to external normative pressure, because unlike economic coercion or military threat, normative pressure does not use force but rather relies on verbal or diplomatic interaction. While the purpose of military threat and coercion is to inflict physical damage, the essence of normative pressure is to cause reputation damage. Thus, mobilization of such pressure and will take the form of “name and shame” and social opprobrium.<sup>12</sup> According to Matthew Krain, such normative pressure essentially seeks to “publicly signal international disapprovals of the perpetrators [of norm violation] and their actions.”<sup>13</sup> In essence, pressure aims to disseminate information about an offending state’s norm violations to a larger audience of the international community. The target nation will incur reputation costs as a result of such publicity and will be induced to respond by changing its behavior to avoid further reputational loss.

Reputation costs are difficult to quantify or objectively substantiate through observation without reference to some tangible agreed-upon signifier. This is because states may perceive reputation costs differently according to their regime type, or the size of power. For instance, authoritarian regimes may be less susceptible to international pressure but it is hard to establish the assertion that all authoritarian regimes tend to be rogue.<sup>14</sup> Likewise, not all democratic states are concerned about

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<sup>9</sup> Erickson, Jennifer. *Dangerous Trade: Arms Exports, Human Rights, and International Reputation*. New York: Columbia University Press, 2015: 6

<sup>10</sup> Finnemore, Martha and Kathryn Sikkink. “International Norm Dynamics and Political Change.” *International Organization* 52 (1998): 903

<sup>11</sup> Scheff, Thomas J. “Shame and Conformity: The Deference-Emotion System.” *American Sociological Review* 53 (1988)

<sup>12</sup> Erickson (2015), 25

<sup>13</sup> Krain, Matthew. “J’accuse! Does Naming and Shaming Perpetrators Reduce the Severity of Genocides or Politicides?.” *International Studies Quarterly* 56 (2012): 576

<sup>14</sup> Weeks, Jessica L. “Autocratic Audience Costs: Regime Type and Signaling Resolve.” *International Organization* 62 (2008): 35-64. Weeks argues that some authoritarian regimes are more close to democratic regimes and are susceptible to

international pressure, particularly when the state in question is a great power with sufficient military and economic means. For the sake of analysis, I assume that not only states are reputation seekers, but that they are susceptible to international pressure. The degree to which they are influenced may differ, but for now, I consider all states as having same degree of susceptibility to reputation costs.

In order to operationalize the act of triggering reputation costs in this analysis, it is necessary to consider how pressure can be observed. Pressure must be comprised of public action. In order to reach international audiences, pressure must be public rather than private or bilateral. From this perspective, one way to measure pressure is by the scope of the actors that exert it. Another is by the degree of authority or influence wielded by those taking public action. Although pressure can be imposed by any actor ranging from individuals, state leaders, non-governmental organizations and even international organizations, reputation costs are likely to be triggered when the actor(s) applying pressure is highly influential. For instance, when the pressure is imposed by the United Nations, reputation costs are more likely to incur due to the salience of the actor. Even if international organizations are not involved, a single state with high status, like the US, can trigger reputation costs. Smaller states can also trigger reputation costs, but probably require sufficient numbers.

It is also necessary to examine the social setting in which pressure is manifest. Reputation is more easily formed or damaged in public context of international institutions because they help legitimate rules and norms.<sup>15</sup> Furthermore, international institutions provide a setting that easily disseminates information so that it is widely known to other members when a nation is being criticized. Thus, reputation costs are likely to be triggered when pressure is applied in salient forums like transnational or regional meetings. Regional meetings hold salience particularly with regard to the territorial disputes because contentious territorial disputes most likely involve claimants located in geographic proximity of each other. Thus, when an issue is presented in regional forums, there may be significant attention attached to this issue, as resolving territorial disputes may be a pressing concern, not just to the parties, but for regional security more generally. On the other hand, when pressure is mobilized in private settings such as bilateral talks, reputation costs are not likely to be triggered.

From this logic, it follows that involvement of salient actors in the resolution process will drive the disputants to agree to enter binding settlement.

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audience costs. Following this logic, one can argue that authoritarian regimes like Vietnam are more susceptible to the international environment while a rogue state like North Korea is less so.

<sup>15</sup> Erickson (2015), 28

***Hypothesis 1:** When salient actors are involved in settlement attempts, disputants are more likely to enter binding settlement.*

I will test this claim in the case analysis, demonstrating that salient actors such as an international organization, regional organization, and major power were reinforcing factors that triggered reputation costs.

In the regression analysis, I use the involvement of international organization as a proxy for my independent variable. Involvement of international organizations in settlement attempts can trigger reputation costs to the disputants because of their salience. Also, due to the membership of various states in an international organization, an issue that is raised at such multilateral forum gains publicity. The following hypothesis follows from this logic:

***Hypothesis 2:** When international organizations are involved in settlement attempts, disputants are more likely to enter binding settlement.*

I demonstrate this claim in my quantitative analysis. Furthermore, I lay out the causal claims in more detail in the following case study of Belize and Guatemala, demonstrating how the involvement of international organization, a major power, and regional organization have triggered reputation costs that led to the decision to enter binding settlement.

## **Research Design**

In the existing literature, quantitative research is widely used as research methodology to analyze a large number of ongoing and resolved territorial disputes. Examples of disputes are sprinkled briefly throughout the analysis, but these cases are not reviewed with in-depth detail. Accordingly, I provide both quantitative and qualitative perspective to this discourse, by explaining my causal mechanisms in case analysis.

First part of my research contains a large-n analysis using 1.1 version of Issue Correlates of War (ICOW) database. The dependent variable of my analysis indicates whether the disputants made the decision to enter binding settlement. I examine all binding settlement regardless of whether the attempt produced an agreement or resolved the dispute. The dependent variable is coded 1 if the settlement attempt was binding, either by arbitration or adjudication. All other types of attempts are coded 0. According to my hypothesis, disputants are more likely to accept binding settlement when reputation is at stake. Moreover, to operationalize triggering of reputation costs, I use the involvement of international organization in settlement attempts as a proxy for whether or not reputation costs were triggered. The independent variable is coded 1 when at least one international organization was involved

in the negotiations and 0 if not. The correlation between international organization involvement and the decision to enter binding settlement will test the validity of my hypothesis.

In addition to theorized variables, I include four additional control variables that potentially affect the decision to pursue binding settlement. Shannon and Gent (2011) argue that when there is power asymmetry in a dyad, disputants are likely to be influenced by the degree of relative power at work.<sup>16</sup> The state with power leverage has more favorable outside options beyond binding settlement. The more powerful state can resort to military means or economic strength to coerce or threaten its opponent into accepting a settlement decision without having to bind itself in arbitration or adjudication. Great powers are generally more susceptible to reputation costs and are more likely to prefer bilateral negotiations or other unobserved or private settings. For the smaller state, binding settlement is a way to put both disputants on a more level playing field. Moreover, when international legal bodies are involved in binding settlement attempts, the smaller state may draw the international community's attention and place the dispute under scrutiny, hence preventing the stronger state from using coercive force. Thus, the disputant with less power leverage over its opponent is more likely to accept binding settlement. Therefore, I include a measure of power asymmetry using the Composite Index of National Capability (CINC) index. I generate a variable for power asymmetry by calculating the difference between the two disputants. This variable, if controlled, will provide a more robust result to the regression.

Furthermore, I include a variable to control the effect of salience of the territory. I measure salience of the dispute using the salience variable in ICOW dataset that ranges from 1 through 3. If the value of territory is high (i.e. territory that is strategically located or contains valuable resources), the potential costs of an unfavorable outcome are significant. Thus, states are less likely to enter binding settlement when the salience of the claim is high.

The history of unsuccessful negotiation of the dispute also affects the willingness of parties to pursue binding dispute settlement. In particular, disputants are more likely to pursue binding measures if they are relatively certain that the outcome of the settlement attempts will be favorable. On the other hand, if the disputants are uncertain about the potential outcome, they will have less propensity to pursue such type of settlement. If there is a history of successful negotiation between the disputants, this will reduce the uncertainty and increase the likelihood that the disputants will accept binding settlement. Therefore, I include a variable from the ICOW dataset that measures the number of unsuccessful attempts in the past 15 years to examine how this affects parties' decision to enter binding settlement.

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<sup>16</sup> Gent, Stephen E. and Megan Shannon. "Decision Control and the Pursuit of Binding Conflict Management: Choosing the Ties that Bind." *The Journal of Conflict Resolution* 55 (2011).

Finally, I include a measure of the number of militarized interstate disputes (MIDs) that occurred during any dyadic claim in each case. According to Allee and Huth (2006), rival states with a history of MID are more likely than other dyads to pursue arbitration or adjudication to resolve territorial disputes.

## Results

**Table 1. Decision to Enter Binding Settlements (Logit)**

	Binding Settlement	
	Model 1	Model 2
<b>International organization</b>	<b>2.317 (0.268)***</b>	<b>2.323 (0.256)***</b>
<b>Saliency</b>	<b>-0.207 (0.153)**</b>	-
<b>MID</b>	<b>0.002 (0.036)</b>	-
<b>Unsuccessful attempts</b>	<b>0.186 (0.065)</b>	-
<b>Power Asymmetry</b>	<b>-2.343 (1.482)</b>	-
<b>Constant</b>	<b>-3.441 (0.359)</b>	<b>-3.694 (0.166)</b>
<b>N</b>	<b>1661</b>	<b>1687</b>

\*p < 0.10, \*\*p < 0.05, \*\*\*p < 0.01. Robust standard errors in parentheses.

The results of the logit analysis can be found in Table 1. Model 1 serves as the baseline regression and includes all the independent variables. Model 2 drops all the control variables. I have argued that the involvement of international organization is more likely to trigger reputation costs and hence the states are more likely to enter binding settlement when international bodies are engaged. The consistently positive and statistically significant sign on international organization coefficients supports the hypothesis that the involvement of international organization increases the likelihood that the disputants will enter binding dispute settlement. Moreover, the results of Model 2 demonstrate that the statistically significant coefficient for my independent variable is not confounded by other variables. My statistical result shows no significant effect of power asymmetry counter to the findings of Gent and Shannon. Furthermore, I find that the number of past MIDs or unsuccessful settlement attempts have no significant effect on the decision to enter binding settlement. However, the negative and statistically significant coefficient for saliency is in line with the findings by Gent and Shannon, confirming that saliency of the dispute decreases the propensity of leaders to come to binding settlement.

The results indicate that the involvement of an international organization is a significant factor that influences the decision to enter binding disputes, as is the salience of the dispute. Considering the fact that international organizations are more likely to become involved in disputes with salient claims, further research can include whether the involvement of an international organization is particularly useful in pressuring disputants to agree to binding settlement when the dispute is highly salient, or whether such attempts are likely to fall short.

## Case Study

While quantitative analysis shows a clear correlation between the discussed variables, perception of other states and fear of reputation loss are not easily captured through quantitative analysis. It behooves us to consider the causal mechanism suggested by the global data by drawing on a case study. The Belizean-Guatemalan territorial dispute provides an interesting candidate because this dispute involves a dyad of minor powers with relative power symmetry. In this dispute, Belize's attempt to gain publicity on the issue in the international community shifted international consensus to its favor while imposing reputational damage on Guatemala. In this process, the UN was involved as the third-party, providing a multilateral setting that drew the attention of the international community. As a result of publicity gained at the UN, Guatemala's aggressive and extreme position was criticized not only by the Organization of American States (OAS), but even Guatemala's long-time ally, the US opposed it. With pressure from UN, OAS, and the US, in 2008, Guatemala and Belize finally agreed to refer the dispute to the ICJ for final resolution.

## Background



Figure 1: Map of Belize- Guatemala Territorial Dispute (Source: Atlas)

as the governing authority in Belize. A month after its independence from Spain, Guatemala wrote to Britain, proposing a “definitive commercial agreement,”<sup>17</sup> including the determination of Belize's

Guatemala's claim over parts of modern-day Belize stemmed from ambiguous jurisdictional divisions of Belize when Spanish authorities oversaw the territory. It is not clear what part of Spanish empire had been responsible for the territory of Belize during the colonial period, and these ambiguities set the ground for Guatemala's claims over Belizean land. Guatemala argued that it inherited the rights over part of Belize from Spain, and that it had the right to take up their claim with the UK

<sup>17</sup> Shoman, Assad. *Belize's Independence and Decolonization in Latin America: Guatemala, Britain, and the UN*. New York:

boundary with Guatemala. The UK looked favorably on the proposal and, in 1859, a convention was signed between the two powers regarding the boundaries of Belize. This treaty confirmed Guatemala's recognition of the present boundaries of Belize in Article 1, and in return, the British government agreed in Article 7 to compensate Guatemala with the establishment of adequate communication by road, river, or rail between Guatemala and the Atlantic Coast.<sup>18</sup> However, the road was never built. In 1884, Guatemala declared that unless Article 7 was complied with, Guatemala would not consider itself bound by Article 1.<sup>19</sup> For the rest of the century, Guatemala made attempts to reach a settlement of the dispute, without any effect.

In Belize, demand for self-government and independence from Britain spread, but Belize could not be officially independent without a resolution of the territorial dispute with Guatemala. However, not only was Guatemala unwilling to forfeit its claim over parts of Belize, but the US was in full support of Guatemala's position. During 1950s, the US supported Guatemala's Ydigoras Fuentes military-backed regime as a bulwark against communist influence in Latin America and especially against possible Cuban invasion. In this Cold War context, Washington also support Guatemala's territorial claims.

In contrast to Guatemala, Belize had no support from a major power in its claim. Thus, Belize's best strategy was to mobilize international pressure in its favor and divert support from Guatemala. Belize's first Prime Minister George Price believed that Guatemala would not attempt to invade Belize as long as international attention was drawn to the dispute.<sup>20</sup> Price's main strategy was to seek publicity by politicizing the dispute in multilateral settings. First, he undertook a Central American tour in March 1964 to seek support for Belize's stance from its regional neighbors.<sup>21</sup> With Price's efforts, the Belizean perspective slowly began to be heard and Latin American leaders showed their support domestically and internationally.

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Palgrave Macmillan, 2010. 28

<sup>18</sup> Humphreys, R.A. *The Diplomatic History of British Honduras, 1638-1901*. London: Oxford University Press, 1961. 47-58

<sup>19</sup> Ministry of Foreign Affairs. *Continuation of the White book: Controversy Between Guatemala and Great Britain Relative to the Convention of 1859 on Territorial Matters*. Guatemala City: Ministry of Foreign Affairs, 1943. 138-39

<sup>20</sup> *Ibid.*, 150

<sup>21</sup> Government Printer. Report on the Goodwill Tour of Central America. Belize, 1964.

### *Triggering Reputation Cost: Involvement of the UN*

Price's final mission was to take the dispute to the UN, in which Belize was able to appeal to larger international audiences who could sympathize with their claim. Although a UNGC resolution does not bind disputants in the manner of an ICJ or Arbitration decision, a UNGC decision is made under the scrutiny of international law, and so non-compliance results in significant reputation costs. However, while the involvement of the UN provided Belize the opportunity to pressure Guatemala, it was still constrained in its efforts in lobbying for its independence due to the conflicting interests of the US.

### *Triggering Reputation Cost: Pressure from the Major Power*

The biggest turning point for Belize was a change in the US attitude about their dispute. The Final UN Resolution on Belize was adopted in the Fourth Committee of the UN in 1980 by 130 votes to 1 (Guatemala) and passed the General Assembly on November 11, 1980 with unanimous consent from the Security Council. The most important development was that the US voted in favor of the resolution for the first time. The change in US attitude during Carter's presidency was a determinant factor in the adoption of Final Resolution. Despite the Cold War, US policy during the Carter presidency was "much more sensitive to the international community and the UN"<sup>22</sup> and Carter himself was a human rights advocate who frowned upon dictatorships in Latin America. Carter's displeasure with authoritarian regimes in Latin America and Guatemala in particular was the decisive factor that reshaped the dispute.

Another factor that influenced the change in the US attitude was Guatemala's aggressiveness and the spread of extreme nationalist values there. US reliance on Guatemala as its stronghold against communism in Central America allowed Guatemalan leaders to take an extreme position against Belize and impose their stance regardless of shifting international opinion that increasingly sympathized with Belize. In this context, Guatemala's aggressive diplomacy induced negative reactions from the majority of the UN members, including the US. Furthermore, the Guatemalan government indoctrinated the populace that Belize's territory belonged to Guatemala by infiltrating school textbooks. Such top-down penetration of nationalist language was publicized by Guatemala's own national press, fabricated as populist outcry "Belize is ours".<sup>23</sup> Major powers that originally supported Guatemala, such as the UK and US frowned upon Guatemalan government's manipulation of nationalist discourse to justify its hardline policy. These factors encouraged the adoption of Final Resolution at the UN in 1980 with a

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<sup>22</sup> Ibid., 191

<sup>23</sup> Wiegand, Krista E. "Nationalist Discourse and Domestic Incentives to Prevent Settlement of the Territorial Dispute Between Guatemala and Belize." *Nationalism and Ethnic Policies* 11 (2005): 360-61

unanimous vote (Guatemala was absent). Subsequently, Belize achieved its independence in 1981 and was accepted as the 156<sup>th</sup> member of the UN. Furthermore, Britain pressured Guatemala to formally agree to the independent state of Belize and recognize its territorial sovereignty.<sup>24</sup>

### *Triggering Reputation Costs: Pressure from the OAS*

Although the adoption of the UN resolution in 1980 built tremendous pressure for Guatemala to settle the dispute, Guatemala renewed its claim over Belize in 1999. However, at that time, regional players wanted to avoid repeating the negative spiral associated with this dispute and instantly built up pressure on Guatemala to settle it. In 2002, OAS proposed a draft settlement for both countries which included a referendum on third-party adjudication. While Belize's Assad Shoman and Guatemala's Edgar Gutierrez initially agreed,<sup>25</sup> a few months later, Guatemala issued a communiqué calling the OAS proposals "unacceptable and not consistent with the laws of Guatemala".<sup>26</sup> Guatemala declared that it would reject OAS proposals and its intransigence escalated to a border dispute with Belize.

In response, Belize criticized Guatemala for rejecting a solution proposed by the OAS, stating that "Guatemalan action is a violation of International Law".<sup>27</sup> Belizean Prime Minister Said Musa suggested his country might take the matter to the UN arbitration if new discussions failed. He said "we may be forced, if this kind of intransigence continues on the part of Guatemala, to go to the international court, and we believe we have a very strong case."<sup>28</sup> The OAS also responded with strong criticism, "call[ing] on the governments of Belize and Guatemala to avoid an escalation of tensions and to renew their efforts to establish a lasting peace".<sup>29</sup> In November 2007, OAS Secretary General expressed deep concern over growing tensions and failure to resolve the issue, and recommended that the dispute be referred to the ICJ.<sup>30</sup> These criticisms built up tremendous pressure for Guatemala to enter binding settlement with Belize.

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<sup>24</sup> Shoman (2010), 186

<sup>25</sup> "The Guatemalan Claim Pt. 10." August 19, 2015. Accessed April 26, 2016. <http://www.ninebelize.com/the-guatemalan-claim-pt-10/>

<sup>26</sup> "Guatemala rejects differendum proposals." *News 5*, August 29, 2003. Accessed April 26 2016. <http://edition.channel5belize.com/archives/14626>

<sup>27</sup> "The Guatemalan Claim Pt. 10." August 19, 2015. Accessed April 26, 2016. <http://www.ninebelize.com/the-guatemalan-claim-pt-10/>

<sup>28</sup> "Belize threatens to take border dispute with Guatemala to UN." *Jamaica Observer*, May 21, 2005. Accessed April 26, 2016. [http://www.jamaicaobserver.com/news/80821\\_Belize-threatens-to-take-border-dispute-with-Guatemala-to-UN-court](http://www.jamaicaobserver.com/news/80821_Belize-threatens-to-take-border-dispute-with-Guatemala-to-UN-court)

<sup>29</sup> Organization of American States. [http://www.oas.org/en/media\\_center/press\\_release.asp?sCodigo=E-049/16](http://www.oas.org/en/media_center/press_release.asp?sCodigo=E-049/16)

<sup>30</sup> "Timeline Belize." *BBC News*, March 16, 2012. Accessed April 26, 2016. [http://news.bbc.co.uk/2/hi/americas/country\\_profiles/1210772.stm](http://news.bbc.co.uk/2/hi/americas/country_profiles/1210772.stm)

### *Decision to Enter Judicial Adjudication*

The year 2008 marked a major diplomatic breakthrough. Foreign Ministers from both countries, Wilfred Erlington and Roger Haroldo Rodas Melgar signed a “Special Agreement to submit Guatemala’s Territorial, Insular and Maritime Claim to the International Court of Justice” in Washington, DC at the OAS meeting. The Special Agreement provided for a referendum in both countries to gauge support for ICJ settlement. If the referenda were passed in both countries, the Special Agreement required referral to the ICJ, followed by the formation of a bi-national commission to carry out the marking of boundaries in line with the judgment. This was a historic first step toward peaceful settlement of a dispute started nearly 150 years before. For more than a century, Guatemala was adamant that attempts to resolve the dispute through international legal means prolonged the dispute settlement process. However, involvement of UN, a change in US attitude, and pressure from the OAS triggered reputation costs to Guatemala that ultimately led to the decision to agree to ICJ settlement.

### **Implications**

This paper attempted to explain the role of international pressure and states’ perception of reputation costs in territorial disputes. States are generally reluctant to enter binding settlement in territorial disputes because the process ties the disputants to an outcome prior to a decision rendered about the contested territory. However, this type of agreed settlement procedure can be more effective in resolving disputes because states are accountable to any decision reached. While states are generally reluctant to enter this type of arrangement, they are incentivized to make this decision when reputation costs have been triggered by external pressure. This pressure is particularly effective when salient actors are involved, such as major powers, regional forums, or international organizations like the UN. The disputant who was once unwilling to enter binding settlement is incentivized to change its stance in order to stem the pressure from the international community and avoid reputation costs.

These mechanisms are not generalizable to all disputes, but provide important implications for other cases, like the South China Sea disputes. The Philippines’ use of an international mechanism to advance its claims has important implications for understanding the role of international pressure and reputation costs in conflict management. When there is power asymmetry in a dyad, the country with no chance of winning a military contest or wielding military leverage can turn to courts to resolve territorial claims. This is an attractive strategy for both Belize and the Philippines.<sup>31</sup> By placing the contested issue in the context of international law, the disputes come under scrutiny by the international

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<sup>31</sup> Characterization of the Philippines as a ‘weak power’ may seem unfair considering it is a treaty ally of the US, who also expressed disapproval of China in the South China Sea. Guatemala was an indispensable partner of the US as a bulwark against Cuban invasion and Communist expansion in Latin America. The US supported Guatemala not necessarily to resolve or contain Belize, but because Guatemala was important in serving US needs. The US disapproves of China’s behaviors, but does not necessarily lend support to the Philippines.

community. By doing so, China and Guatemala are confronted with significant pressure to submit to binding settlement. For Guatemala, such pressure was significant enough to make the decision to bind itself. For China, whether it will ever decide to enter binding settlement is unclear.

Although China has expressed immediate refusal to participate in arbitration proposed by the Philippines, it is premature to declare China is immune to reputation costs. While China may be reluctant to give up its control over the territories, changing policies elsewhere demonstrates China is responsive to reputation costs in certain circumstances. For instance, China joined the UN regime on Human Rights as it was criticized by the US and other UN members on its domestic human rights policies. Although China has not changed its stance on arbitration with Philippines, China's recent North Korea policy demonstrates a significant departure from previous partnership. China has helped sustain Kim Jong-Un regime, by opposing harsh international sanctions in UNSC. For this reason, China has been viewed as a crucial partner to achieve North Korea's denuclearization if China participates in international sanctions. After North Korea's fourth nuclear test in 2016, China for the first time has agreed on consistent implementation of UNSC resolution to impose sanctions against North Korea. When China is responsive to reputation costs and when it is not depends on the salience of an issue agenda to national objectives and regime survival. But given that China is a reputation seeker, the range of those circumstances in which China may be susceptible to international pressure may yet widen over time.

## **Limitations**

I have laid out the premise that states are reputation seekers, but this is not always the case in the real world. For example, great powers are generally less susceptible to the international environment than small powers. Great powers like the US and China are even less likely to cede their control over sensitive issue areas like territory. When a great power is dealing with small powers, it is highly unlikely that it will respond to reputation costs by making concessions. However, when a great power is dealing with another or multiple great powers, it may succumb to their demands because reputation cost triggered by great powers can be felt more than that of small powers.

Furthermore, while states may be concerned about reputation as a responsible actor, they are also concerned about their reputation for resolve. According to Shiping Tang, reputation for resolve means "others' perception of state's resolve to risk war in a . . . situation"<sup>32</sup> where a state must either concede or show resolve. For China, its reputation as positive and responsible actor is important aspect of international image, but it is more concerned about the reputation for resolve in security related issues.

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<sup>32</sup> Tang, Shiping. "Reputation, Cult of Reputation, and International Conflict." *Security Studies* 14 (2005): 38

For instance, concessions made to one disputant may signal weakness China's use of escalation strategy in the South China Sea sends a credible signal with resolve to other states, demonstrating it will follow through with its words. It is also important to note that domestic reputation is an important factor to take into account. Elites are susceptible to the international environment, but they are also liable to domestic audiences because domestic reputation is directly linked to individual leaders' political costs.<sup>33</sup> When nationalism is at height, elites are bound by popular opinion and cannot easily cede territory. This is particularly true of democratic regimes that are more susceptible to their constituents for each voting cycle. Political leaders are punished by voters in reelection if they fail to follow domestic popular opinion. Authoritarian regimes on the other hand have longer time frame in which they can withstand reputation costs because of shorter turnovers.

Another factor to take into consideration in examining dispute settlement is salience of the contested territory. The statistical results show that salience is a significant factor that affects states' decision to enter binding settlement. The indigenous Guatemalan government never controlled Belize and there is no evidence that the same Spanish jurisdiction that ruled over Guatemala also ruled Belize. For Guatemala, the costs of the pressure by the international community were significantly greater than the costs of losing the territory. However, for China, the prospect of losing its claim in arbitration is directly associated to its territorial integrity and national sovereignty. The effect of a reputational cost on China's approach to these disputes must be considered against the salience of sovereignty as a motivating factor.

Power dynamics among disputants must also be taken into consideration. Guatemala was a minor power dependent on the US for military assistance and strategic support. Although it was stronger than Belize, it was susceptible to both the US and OAS pressure. The prospect of losing its claim through binding settlement did not trump the cost of losing US backing or regional reputation through the OAS. On the other hand, China is a great power whose economic and military power far surpass the Philippines, almost on a level playing field with the US. Even if the US lends its supports to Filipino claims, China's power projection capability makes it less susceptible to pressure, the costs of reputation loss are not greater than the costs of backing down on territorial claims.

Regional players surrounding the South China Sea dispute and Belizean-Guatemalan dispute play distinct roles. Both Belize and Guatemala were members of the OAS by the time that Belize was officially recognized as an independent nation, thus both disputants were susceptible to the influences

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<sup>33</sup> Putnam, Robert D. "Diplomacy and domestic politics: the logic of two-level games." *International Organizations* 42 (1988): 427-460. Putnam argues international negotiations are based on the interaction between the negotiators at the international level and the domestic politics in the national level. The negotiators seek to satisfy domestic interest groups by negotiating deals that lie within Level II winsets to increase incumbency.

of the OAS. On the other hand, China is not a member of ASEAN which makes it less susceptible to the pressure asserted by this regional organization. Furthermore, ASEAN's multilateral approach is weak and fragmented compared to OAS. In ASEAN, it is increasingly difficult for members to agree to joint communiqués on regional security issues, and their individual tendency to turn to the US for support when the circumstances deteriorate is also increasing as a result.<sup>34</sup> In addition, claimants of the dispute do not see eye to eye on underlying issues impacting the dispute, such as the UNCLOS, which prevent them from effectively exerting unilateral pressure on China. China exploits these fissures for its own ends, persuading and sometimes threatening each country into bilateral dealings using its economic power. Thus, many ASEAN states end up in benefitting from bilateral relations with China, which exacerbates ASEAN's division. This is a decisive factor that allows China to ignore the Philippine's legal challenge. If ASEAN can impose more coherent pressure on China to submit to arbitration without renegeing from this multilateral commitment, China may be more responsive to reputation costs.

These mechanisms are important factors to take into account in examining dispute settlement attempts. Reputation costs and international pressure may shape the disputants' decision to enter binding settlement, but reputation alone cannot drive dispute resolution. In fact, when the salience of contested territory is high, states will be reluctant to cede any control of the dispute to a third party, even if reputation is at stake. In addition, when the disputants have military and economic capacity that surpasses its opponent and other actors surrounding the dispute, the disputants have less incentives to come to a decision to enter binding settlement. Nonetheless, discussion of reputation costs provides explanatory power to understanding an important facet of dispute resolution.

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<sup>34</sup> Jones, David. "Can Asean ever solve the South China Seas dispute through multilateral dialogue?." *The Telegraph*. November 24, 2015. Accessed on April 26, 2016. <http://www.telegraph.co.uk/news/worldnews/asia/china/12012915/Can-Asean-ever-solve-the-South-China-Seas-dispute-through-multilateral-dialogue.html>

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