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Does International Law Promote the Peaceful Settlement of International Disputes? Evidence from the Study of Territorial Conflicts since 1945

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In this article, we explain the role of international law in the resolution of territorial disputes from 1945 to 2000. In doing so, we focus on three outcomes of interest. First, when do states choose to revise the territorial status quo through negotiations instead of force? Second, when are states able to reach a final settlement? Third, when do states prefer a process of legal dispute resolution (i.e., adjudication or arbitration) to bilateral negotiations? To answer these questions, we argue that when the legal principles relevant to the dispute are unambiguous and clearly favor one side, a law-based focal point will emerge. This focal point, in turn, facilitates the settlement process by helping leaders overcome distribution problems, a central obstacle in reaching a final agreement. We find strong and consistent empirical support for our hypotheses regarding international law and peaceful dispute resolution.

Is a legal advantage an important source of bargaining leverage for state leaders as they negotiate over security issues in international disputes? Does international law provide the foundation for the peaceful settlement of security-related disputes? In a system defined by anarchy, there are reasons to question whether international law can play a central role in the orderly and peaceful resolution of disputes when security issues are at stake for leaders. Indeed, many would argue that the shadow of military power is an ever-present influence over such bargaining processes and that international law is, therefore, not a viable substitute for military strength and credible threats of force to secure the peace. As a result, although law may have an important role to play in governing international economic relations (e.g., Goldstein, Rivers, and Tomz 2007; Simmons and Hopkins 2005; von Stein 2005; Zangl 2008), where the parties will often have strong incentives to coordinate their behavior, the role of law in settling disagreements over security-related issues is a far more contentious question among scholars and policy makers.

In such situations, leaders will often have divergent preferences over how the issue should be resolved, making the identification of a mutually acceptable solution difficult. The security aspect of the dispute compounds this problem because leaders will be reluctant to sign any agreement that they believe might decrease the safety of their state or make them appear weak to future adversaries. Finally, interstate security disagreements often capture the attention of domestic audiences, making compromises or concessions costly propositions for leaders. For these and other related reasons, many scholars have concluded that international law is not a primary explanation of state behavior, especially in the high-stakes realm of international security (e.g., Goldsmith and Posner 2005; Mearsheimer 1994; Waltz 1979).

Nevertheless, in recent years, political scientists and legal scholars have sought to explain how international law can be effective under these conditions (e.g., Guzman 2008; Morrow 2007; Simmons 2000). Specifically, scholars working in the rational choice tradition have drawn on theoretical arguments regarding the role of international institutions in promoting cooperation between states to provide a foundation for theorizing as to how international law might lead to cooperation (e.g., Abbott and Snidal 1998, 2000; Goldsmith and Posner 2005; Keohane, Moravcsik, and Slaughter 2000; Martin and Simmons 1998; Morrow 2007; Simmons 2000).[1] For scholars working in this literature, international law is of instrumental value to leaders when it helps them overcome hurdles in achieving cooperation on pressing issues.

In this article, we apply this approach to explain the role of international law in the resolution of territorial disputes from 1945 to 2000. In doing so, we ask three related questions. First, when leaders are unsatisfied with the territorial status quo, why do some allow it to persist, whereas others actively challenge it through either force or negotiations? Second, if both sides agree to negotiate, then under what circumstances is a settlement most likely to materialize? Finally, if the parties decide to pursue a settlement, then when do leaders

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[1] We recognize that there is a large literature in which scholars use a logic of appropriateness to explain how international law can lead to peaceful outcomes (e.g., Chayes and Chayes 1995; Finnemore 2004; Franck 1992; Koh 1997). We focus on the rationalist scholarship because we develop our argument using these assumptions.

prefer to have an international legal body determine the final terms as opposed to negotiating the terms themselves? Answering these questions, we believe, requires an understanding of the strength of a state's legal claim to the disputed territory relative to its adversary's. More specifically, we argue that international law will facilitate the dispute resolution process when one of the parties has a clear legal advantage. Under such circumstances, the allocation of the contested territory suggested by international law will emerge as a focal point and, for reasons we discuss later, will encourage *both* parties to work toward a final settlement.[2]

This article offers at least four important contributions. First, we identify when international law will be most capable of helping states resolve disputes. In doing so, we advance existing theories on international law and focal points, which do not fully address how or why international law's ability to serve as a focal point varies across disputes in systematic ways. We posit that the bargaining solution suggested by international law will only emerge as a focal point for states if two conditions are present: namely, if the legal principles relevant to the dispute are clear and if one state has an unambiguous legal advantage over its adversary. As we argue in more detail later in the article, if either or both conditions fail to hold, then international law is far less likely to contribute to the peaceful settlement of territorial disputes.

Second, this article represents one of the few attempts to measure the concept of a legal advantage. This allows us to undertake a rigorous test of theoretical claims regarding the role played by international law in settling international security-related disputes peacefully. The majority of the existing theoretical literature, even within the rationalist paradigm, has focused on studying compliance with international law and treaties regarding human rights, international trade, or the environment (e.g., Hafner-Burton and Tsutsui 2007; Hathaway 2002; Lutz and Sikkink 2000; Mitchell 1994; Simmons 2000). Only recently have scholars such as Legro (1995); Mitchell and Hensel (2007); Morrow (2007); Simmons (1999, 2002); and Valentino, Huth, and Croco (2006) begun to address theoretical questions about the effect of international law on state compliance in the realm of security policy. Given the early state of this literature, there is a clear need for more focused theoretical and empirical analyses of the role international law might play in the resolution of international security disputes.

The context of territorial disputes is an appropriate proving ground in this regard because it provides an especially "hard test" of the potential for international law to influence state behavior. Territorial disputes are often highly salient to domestic political audiences, regardless of the strategic or economic value of the land in question. The potential backlash for a leader who would offer even limited concessions creates a strong incentive for many leaders to refrain from compromise in any form. It is largely for this reason that interstate disputes centering on disagreements over territory are more likely to escalate to war than disputes over other issues (e.g., Hensel 2000; Senese and Vasquez 2008). Territorial disputes, therefore, provide a high bar for theories of international law to clear because they represent a bargaining situation in which many scholars would expect the likelihood of compliance with law among all parties in a given dispute to be low.

Third, focusing on the context of territorial disputes allows us to broaden what we mean by "international law." As the literature currently stands, much of the research centers on state compliance with formal treaties. Although this is a logical and important topic to study, treaties are far from the only source of international law. In fact, there are several others sources, such as customary international law, rulings from international judicial bodies, and the writings of legal scholars. Despite this, Goldsmith and Posner (2005, 21) argue that scholars have written "practically nothing" about international law other than treaty law. Moreover, with respect to territorial disputes, customary international law and rulings from international judicial bodies are particularly important sources for understanding what legal principles are central to the legal claims states make to contested territory. Moving beyond examining whether a state either signed or did not sign a treaty, therefore, permits a deeper theoretical and empirical investigation of how international law affects state behavior.

Fourth, as many scholars have noted, problems of selection bias create substantial inference problems for researchers interested in determining the effectiveness of international law (e.g., Downs, Rocke, and Barsoom 1996; Simmons and Hopkins 2005). We avoid issues associated with selection effects by incorporating multiple sources of international law into our analysis. Because states do not actively "select into" the many sources of international law that are relevant to territorial disputes, the probability that they will strategically observe the law only when it does not require major policy changes on their part is relatively small. Instead, leaders will be forced to reckon with the legal standing of their states' claims, even if they do not align with their territorial goals.

Overall, we find strong support for our hypotheses regarding the pacifying effect of international law. More specifically, leaders with strong legal claims who are dissatisfied with the territorial status quo are more likely to challenge it by opening negotiations and less likely to resort to threats or the use of force. Furthermore, disputes in which one of the states enjoys a clear legal advantage relative to its opponent are more likely to be resolved through negotiations than disputes where neither side has strong claims to the territory in question.[3] Finally, we also find support for the notion that the lack of a legal advantage will cause

[2] Our use of the word "emerge" is intentional. As we discuss in greater detail later, when a focal point is identified by international law, a full recognition and understanding of that focal point may only develop and solidify as the parties gain more information about each side's legal claims during the bargaining and negotiating process.

[3] As we explain in more detail later in the article, leaders with a strong legal claim necessarily have a legal advantage over their

democratic leaders to prefer a settlement arranged by international legal bodies to one that is a product of direct, bilateral negotiations.

The rest of this article consists of five sections. In the next section, we discuss the three stages of peaceful territorial dispute resolution. In the second section, we develop our theory by elaborating on the circumstances under which a focal point based on international law is most likely to emerge, as well the rationale for why the focal point should affect the behavior of both parties. We also present hypotheses regarding the effect of the focal point across the three stages. The third section discusses our research design, where we describe the operationalization of our legal variables in greater detail, whereas the fourth presents our results. The final section concludes with the implications of our findings.

TERRITORIAL DISPUTES AND THE PEACEFUL PATH TO SETTLEMENT

Following Huth and Allee (2002), we determined the set of territorial disputes by systematically searching for instances in which two conditions are met.[4] Namely, when (1) official executive state leaders lay claim to the territory of another state or contest its very sovereignty; and (2) in response, the targeted government's leadership rejects the territorial claims of the adversary. For each dispute, we identify a challenger, the state that is dissatisfied with the current territorial status quo, and a target, the state that would prefer to maintain the territorial status quo.[5] In some disputes, both parties lay claim to the territory in question and are therefore both coded as challengers.[6] Although there are several different outcomes to territorial disputes (e.g., no resolution, settlement via a bilateral treaty, or military conquest and annexation), we focus on the process by which leaders end these disputes through either negotiated settlements or a formal process of international legal dispute resolution.

Our analyses focus on three interrelated yet distinct stages of this "peaceful pathway" to dispute resolution. The first stage, which we term the "challenge the status quo" phase, involves three possible choices available to the challenger: he or she can challenge the present border by either calling for negotiations or threatening military force, or he or she can maintain the status quo without actively confronting the target with diplomatic or military challenges.[7] To construct this variable, we observed the challenger state on a monthly basis; the 165 cases of territorial disputes in our data set produced 3,840 observations for the first stage. If the challenger decided to either open negotiations or issue a military threat in month X, then we considered month X to be an instance of either seeking talks or initiating a military confrontation, respectively, in our data set.[8] If, however, the challenger made no direct attempts to revise the territorial status quo in the 12 months prior to and including month X, then we coded his or her choice as "maintain the status quo" for that month's observation.[9] In this first stage, therefore, the key theoretical question we focus on is how the strength of the challenger's legal claims to the disputed territory influences his or her decisions on whether and how to seek a change in the territorial status quo.[10]

adversary; both parties cannot have strong legal claims to the territory in question simultaneously. The terms "legal advantage" and "strong legal claims," therefore, are synonymous.

[4] A summary of each case and its sources is found in Huth and Allee (2002). In identifying the territorial dispute cases, as well as collecting data on the military and negotiating history of each dispute, the authors searched through more than 600 English and foreign language sources that included (1) secondary sources on the history of specific disputes, (2) reference books and annual reviews of countries, (3) reports and documents from the United Nations and regional security organizations, (4) government documents and archival materials, (5) the territorial dispute data sets of Paul Hensel (2001) and other data sets on military conflict behavior that contained information on whether the conflicts involved disputes over territory [e.g., COW MID data set (Ghosn, Palmer, and Bremer 2004); COW Territorial Change Data Set (Tir et al. 1998); ICB data set (Brecher and Wilkenfeld 2000)], and (6) the database of the International Boundaries Research Unit (www.dur.ac.uk/ibru).

[5] A dispute between Afghanistan and China, for instance, began in 1919, when China laid claim to Afghani territory in the Pamir region along the border between the two states. In this case, China is the challenger, and Afghanistan is the target.

[6] For example, in the Middle East, many of the disputes that Saudi Arabia had with its neighbors over borders were two sided (e.g., United Arab Emirates, Yemen, Kuwait, Oman, Iraq, Jordan). In such cases, we randomly selected one of the challenger dispute dyads for inclusion in our statistical analyses.

[7] Importantly, maintaining the status quo does not imply that the challenger has renounced its territorial claims. It only means that the challenger is not actively engaging the target in pursuit of its territorial claims at that particular point in time. It is important to include these observations because the policy of avoiding direct challenges reflects a choice on the part of the leadership.

[8] When talks are held during a military confrontation, they are not considered to be a separate case of talks but instead are part of the military confrontation. As a result, in this first stage, we code the initiation of talks only when they are unrelated to military threats and the use of force. As such, the initiation of talks is potentially the first stage in the peaceful path leading to a dispute settlement. This is why we do not consider a formal process of legal dispute resolution as one of the courses of action available to the challenger in this first phase; in almost all cases, states first enter into negotiations to try and reach an agreement to pursue a formal process of legal dispute resolution. As such, the opening of talks is typically necessary before an agreement to seek a legal ruling can be reached.

[9] It is not uncommon for territorial disputes to go through long stretches of inactivity. Indeed, "maintaining the status quo" is the most common choice leaders make in our data set. As noted previously, periods without direct challenges to the status quo do not mean that the dispute has ended. In the aforementioned dispute between Afghanistan and China, for instance, the Chinese did not actively press their territorial claims for decades after first issuing their claim in 1919. Therefore, although the dispute was not a source of direct conflict, it nevertheless remained unresolved. It was only in the early 1960s that China sought negotiations with Afghanistan, which concluded with the two states reaching a settlement agreement in 1963.

[10] Importantly, as Bearce, Floros, and McKibben (2009) argue, the decision to seek negotiations is often not carefully addressed by scholars, especially in the standard two-phase cooperation framework (e.g., Fearon 1998). Although they argue that a longer shadow of the future increases the likelihood of the onset of talks, we focus on how resolving distribution problems can increase the probability of both negotiations and peaceful settlements.

If a challenger pursues talks, then the dispute moves into the second stage, which we refer to as the "negotiations" phase. Importantly, the unit of observation changes from a challenger-month to a round of talks between challenger and target, of which there are 1,140 in our data set. This change also entails moving from the challenger-centric setup that we had in the first stage to a dispute-centric setup in the second. A framework that is designed to capture behavior at the dispute level is more appropriate for this second stage because the outcome of interest is whether both parties to the rounds of talks can reach an agreement to settle the dispute peacefully. In our data set, 96 disputes are resolved peacefully in one of two ways: an agreement that is the product of bilateral negotiations or an agreement to settle the dispute by a formal process of legal dispute resolution.[11] Theoretically, the central question we address is whether an asymmetry in the relative strength of the states' legal claims affects the probability of the dispute being resolved peacefully through *either* type of agreement. Put differently, for this particular stage, we are only interested in whether the parties can agree to end the dispute peacefully, not the venue in which they end it.

We consider the choice of settlement venue in the third stage ("mode of settlement"), which models the decision to end the dispute through either (1) direct negotiations or (2) an agreement to settle the dispute by a formal process of legal dispute resolution in which an arbitration panel or the International Court of Justice (ICJ) resolves the dispute by issuing a ruling on competing territorial claims.[12] Theoretically, the key issue is whether the strength of a state's legal claims influences the leader's choice of settlement venue. Therefore, the relevant cases in this third stage are the 96 rounds of talks that end with either a final bilateral settlement agreement (78 cases) or an agreement to seek a legal ruling that will settle the dispute (18 cases).[13]

THEORY

Our argument consists of two related parts. The first part, which focuses on the first and second stages, speaks to how international law can help state leaders identify a solution to the problem of how to divide the contested territory, thereby enabling them to move toward a settlement agreement. We posit that international law will facilitate a peaceful path to settlement when it is able to help leaders solve distribution problems—that is, when it is able to provide a clear and precise solution for how the contested land should be allocated between the parties. International law will be most likely to perform this role when two conditions hold. First, the relevant legal principles must be unambiguous, or, put differently, capable of suggesting a *single* way to divide the disputed territory. Second, one state must have a definitive legal advantage over its opponent.[14] If these two conditions are met, we argue, a focal point based on international law is likely to emerge as both parties investigate the strength of their legal claims. This focal point, in turn, will shape the course of the dispute by granting the legally advantaged leader substantial bargaining leverage.[15]

The second part, centers on the third stage, which examines which mode of settlement disputants opt for: bilateral negotiations or third-party adjudication. This portion of the analysis focuses on the potential domestic costs for some leaders in making concessions to reach a settlement, and how the mode of settlement might mitigate these settlement costs. We also consider the regime type of the state that has a weak legal claim to the contested territory. If the state is a democracy, then the leader should prefer a more formal process of legal dispute resolution instead of a negotiated settlement. This preference exists because the former option better insulates the leader from domestic criticism over the territorial concessions contained in a settlement agreement.

[11] Of course, the dispute is not fully settled until the legal ruling is formally issued and accepted. States, in agreeing to a formal process of legal dispute resolution, pledge in advance to accept the legal ruling, and, in fact, the compliance rate of states with formal legal rulings in territorial disputes is very high (allowing for protests and some delay before the losing party fully accepts the ruling). As such, the intent and general practice of states in agreeing to legal rulings is to effectively settle the issues in dispute [also see Mitchell and Hensel (2007) and Powell and Mitchell (2007)].

[12] We use the term "formal process of legal dispute resolution" to refer to both rulings from the ICJ and other legal bodies established to arbitrate territorial disputes. Although there are differences between the two, we believe that combining them under this single category is theoretically justified because arbitration bodies and international courts share three important traits when settling territorial disputes (Brownlie 1998, 704–7). First, both follow similar procedures in hearing the legal case of each side. Second, both rely extensively on existing legal principles when making their decisions. Third, both require states to agree in advance that they will comply with the final ruling. Similar to Simmons (1999, 2000), therefore, we treat the two institutions as functionally similar.

[13] Among the 18, there are 10 agreements to refer the dispute to the ICJ between 1950 and 1998 and 8 agreements to form arbitration panels from 1948 to 2000.

[14] We discuss the relationship between these two conditions in more detail later in the article.

[15] Although we recognize that enforcement concerns can also prevent states from reaching a settlement agreement, our discussion of how international law helps resolve bargaining problems centers primarily on distribution problems. We believe that this decision is justified for at least two reasons. First, distribution issues are more relevant to a dispute over territory because, at root, the disagreement turns on how a piece of land should be allocated. Second, we believe that legal-based focal points can lessen enforcement concerns. This process occurs because the signing of a treaty that is based on a focal point invokes additional legal principles [most important, *pacta sunt servanda* (i.e., treaties between parties are binding and must be executed in good faith), but potentially other principles such as state succession, stability of borders, and estoppel (i.e., parties may not challenge a boundary line at present if they failed to challenge the boundary when it was established and furthermore engaged in subsequent actions that indicated their acceptance of the new boundary)]. These principles encourage compliance by reinforcing the legality of the original settlement and, in doing so, weakening the bargaining position of any future challengers. The empirical record supports this logic. As Huth (1996) reports, of the 45 settlement agreements reached between 1950 and 1990, only one (Iraq in their dispute with Iran over the Shatt-al-Arab Waterway) did not endure.

The remainder of this section proceeds as follows. First, we discuss our general theoretical framework and the bargaining obstacle of distribution problems, which often prevent leaders from reaching settlements, even when both have an interest in cooperating. Second, we elaborate on the role of a focal point and specify in more detail the conditions under which we expect one to emerge. Following this, we specify our hypotheses about how the focal point will affect leader behavior in the first and second stages, which examine whether and how a leader will challenge the status quo and whether states are able to reach a peaceful resolution, respectively. Finally, we expand on the domestic constraints logic outlined previously and present a hypothesis regarding the effect of a state's regime type on its preference for a particular settlement venue.

Bargaining and Focal Points

To develop our argument on the role of international law in the peaceful resolution of territorial disputes, we draw on the rationalist bargaining literature on international cooperation (e.g., Blaydes 2004; Fearon 1998; Koremenos, Lipson, and Snidal 2001; Morrow 1994). Specifically, we focus on how leaders must solve distribution problems if they are to reach an agreement (e.g., Fearon 1998; Garrett and Weingast 1993; Keohane and Martin 1995; Koremenos, Lipson, and Snidal 2001; Krasner 1991; Martin and Simmons 1998; Morrow 1994). Leaders have incentives to solve the problem and reach an agreement because, as other scholars have argued, allowing a dispute to continue can carry considerable political and military costs (Simmons 1998).[16]

Distribution problems are central to territorial disputes for several reasons. First, any piece of contested territory can be divided an infinite number of ways. Second, leaders will have conflicting preferences over which of these possible solutions they would accept as the final settlement. In addition, because there is usually private information over the minimum amount of territory a leader is willing to accept, it is possible for states to misrepresent their bargaining positions. In light of these three common aspects, it is not surprising that disputes are often resolved over time through a series of offers and counteroffers as leaders try to avoid concessions while holding out for a better deal.

We argue that when legal principles are able to act as a focal point, they can help resolve the distribution problem and break the bargaining impasse by indicating how the disputed territory should be divided between the two states. This is true for at least two reasons. First, international law can help leaders identify which legal principles are relevant to the dispute. In doing so, international law provides a way to frame the problem by focusing on evidence and arguments that establish the legal merits of each state's claims to the territory in question. Once these legal principles have been identified, states can then begin to craft an agreement based on the merits of legal claims.

Second, as Schelling (1960, 71) argues, focal points help leaders overcome distribution problems by providing them with a way for leaders to "coordinate their expectations." The need for convergent expectations is critical because many failures to settle stem from the fact that bargaining "includes maneuver, indirect communication, jockeying for position, or speaking to be overheard, or [a confusion of] a multitude of participants and divergent interests" (74). If parties are to reach an agreement, Schelling posits, then they must identify a single point (or a narrow range of points) within the bargaining range that neither side expects the other to reject. Recognizing this strategic element of bargaining wherein one state attempts to predict what *its adversary* expects *it* to offer, as well as how this facilitates the convergence of expectations, is crucial to understanding how focal points can help parties overcome distribution problems.

On a related point, the ability of the focal point to narrow the range of acceptable outcomes also helps make negotiations more productive by limiting the ability of a state with weak legal claims to persist in misrepresenting the strength of its bargaining position in negotiations over a possible settlement. Leaders with weak legal claims are less able to make credible bluffs about the terms they are willing to accept if those terms are inconsistent with the distribution of territory called for by the focal point. For instance, if a focal point indicates the leader of state A should receive 75% of the territory, whereas the leader of state B is only entitled to 25%, then state B's leader knows that the leader of state A will not accept B's preferred settlement of an even split. Given this, leader B knows he or she must offer a division to A that is closer to 75% than to 50% to reach an agreement and avoid the costs of allowing the dispute to continue. The focal point also curtails the ability of the disputants to misrepresent what they think they are entitled to. That is, the leader of state B cannot credibly demand 90% of the disputed good when the focal point allocates only 25% to him or her. By narrowing the set of possible agreements, the focal point solves both the coordination and distribution problems by identifying which of the infinite number of potential settlements to start with. It also makes negotiations more efficient by deterring states from offering terms their adversaries would reject. Consequently, even though the existence of a distribution problem necessarily implies that parties have divergent preferences regarding the terms of the final settlement, having a focal point that identifies a particular solution can still influence leader behavior.

[16] Although we return to this point in more detail later in the article, in short, we argue that it is in both parties' interests to adhere to the solution suggested by the focal point, even if the final terms of the agreement do not align with their preferences. Although the disadvantaged party may not be pleased with the final terms, the costs of perpetuating the dispute, coupled with the low probability of securing better terms in the future from an adversary with a superior legal claim, should compel the leader to accept the settlement. Moreover, making peace with an adversary can free up resources that would otherwise be tied up in the dispute, allowing the leader to redistribute them to other domestic issues. Because the costs of continuing to fight vary across our sample of territorial disputes, we include several control variables (e.g., enduring rivals, value of territory) in our models.

Focal Points and International Law

Several scholars, drawing on the insights of Schelling and others, have argued that international law is capable of providing a focal point to help leaders divide a valuable good (e.g., McAdams 2000; McAdams and Nadler 2005, 2008; Norman and Trachtman 2005; Powell and Mitchell 2007; Swaine 2002; Trachtman 2008).[17] This notion rests on two assertions about the characteristics of international law.

First, international law and legal principles are common knowledge among states (McAdams and Nadler 2005, 2008), having been established through either formal channels (e.g., treaties, agreements, court rulings) or less formal means (e.g., customary international law, general principles, writings of legal scholars).[18] Consequently, they are a well-known source of third-party expression for leaders to reference when they disagree. Indeed, leaders will have strong incentives to invest the time and resources necessary to determine the strength of their state's legal claims.[19] For instance, if a leader suspects he or she has a legal advantage relative to his or her adversary, then he or she will want to investigate the relevant legal principles to support his or her claim. Leaders who are unsure about the strength of their state's claim will also have an incentive to determine their standing to prepare themselves against a possible legal challenge. Leaders that know they are at a legal disadvantage will, obviously, want to avoid drawing attention to specific legal principles that undercut their territorial aspirations. Their opponents, of course, will have every incentive to draw attention to the state's legal disadvantage, especially when they have strong legal claims. In sum, leaders will want to investigate and assess the merits of their legal-based claims to disputed territory, and, typically, at least one disputant per dispute will want to make the legal merits of rival claims to disputed territory known to third parties. The process of exchanging offers and counteroffers enables leaders to become more aware of how their adversary conceives of the legal issues and the possible merits of its legal claims. In doing so, information about the relative strength of the parties' legal claims that was initially private becomes common knowledge as the disputants update their legal assessments based on new information.

Second, international law provides a common set of standards to assess the relative merits of competing claims. This feature is particularly important for resolving the distribution problems because it provides a means of identifying which of the many potential ways to divide the contested territory the leaders should choose. Some have questioned whether international law is capable of acting as an exogenous force on state behavior because critics claim it is often created by powerful states to further their own interests (Danilenko 1993; De Visscher 1968; Goldsmith and Posner 2005). Although we recognize this concern, we second the claims of other scholars that it is possible for law to play a role independent of the states that created it (e.g., Abbott and Snidal 1998; Byers 1999, 17; Chayes and Chayes 1995; Franck 1990; Henkin 1979; Ikenberry 2000; Keohane and Martin 1995; Slaughter, Tulumello, and Wood 1998). We have at least three reasons for arguing this.

First, many of the legal principles relevant to territorial disputes predate the territorial disputes we examine here. Therefore, although the great powers may have originally crafted specific legal principles to serve their interests in a particular dispute, it is possible that those same principles will work *against* the interests of the leaders of those same states in the future when new disputes arise. Second, international law is not simply a reflection of past or current great power preferences; the roster of great powers changes over time through war and other types of power shifts, and the number of new, smaller states has grown considerably in the post–World War II era. Third, the rulings from international courts and other legal bodies are seen by states as largely unbiased, or at least, not partial to a particular disputant before a decision is made.[20]

Conditions for a Focal Point

Having established international law's potential to provide a focal point for state leaders engaged in territorial disputes, we now turn to identifying the conditions under which we expect it to serve this function. In the

[17] Although we focus on how the many sources of international law can create a focal point, political scientists have long recognized that international institutions under certain conditions can serve a similar role (e.g., Garrett and Weingast 1993; Keohane and Martin 1995; Krasner 1991; Martin and Simmons 1998).

[18] Importantly, as we argued previously, although the laws relevant to a dispute may be clear and in the public domain (i.e., "common knowledge"), this does not imply that states will fully know the ramifications of the law for their particular dispute. When the dispute comes to the political forefront (i.e., when one of the parties either opens the dispute or attempts to revise the status quo in a dispute that is ongoing), states then have incentives to more extensively investigate their legal claims and that of their adversary. Common knowledge also does not imply that states will interpret the law the same way. As Powell and Mitchell (2007) demonstrate, variation in states' systems of domestic law can have consequences for how states read international law and respond to international legal institutions. This lack of a shared starting point can contribute to the developing nature of the focal point because it may take both time and discussion between the two parties before they converge on a shared recognition of the law's implications. Given both these points, it is possible that although the focal point may, in theory, exist before the dispute starts, leaders will only gain a common understanding of how the law applies to their particular case over time.

[19] Typically, governments generate their own legal analyses and assessments of their claims to disputed territory, but they may also seek the services of outside legal experts. This is particularly true of developing states that often turn to western legal firms in the United States or Great Britain for assistance. Indeed, state leaders will have strong incentives to seek legal consultation within or outside their own government regarding their claims. For example, Simmons (1999) notes that Peru and Ecuador, in their dispute over a portion of the Amazon Basin, consulted outside legal experts over the course of the dispute from 1950 to 1998.

[20] Moreover, we find very little correlation between a state's military capabilities (when using either the composite index score from the Correlates of War Project and the dyadic capabilities measure we use in our analysis) and the strength of the state's legal claims. The correlations are −0.11 and −0.06, respectively, for the challenger, and −0.19 and −0.08 for the target, respectively.

existing literature, scholars have not specified when international law will be best equipped to provide a focal point. To address this lacuna, we posit that a focal point will most likely emerge if two conditions hold. First, the relevant legal principles must be clear and well-established. Second, and what is often overlooked, is that the relative strength of the disputant's legal claims must be asymmetric.[21] With regard to the first condition, without clarity, multiple interpretations of the law become possible, making it difficult for a single focal point (i.e., solution) to exist. With regard to the second condition, if neither state can make a superior legal case for their preferred solution, there is no reason to believe that international law will help them overcome the distribution problem. Thus, a compelling focal point is only likely to emerge if *both* conditions hold.[22]

As other scholars have noted (e.g., Chayes and Chayes 1995; Fisher 1981), clarity in the relevant legal principles is often a necessary aspect for establishing a focal point. Although several legal principles may be relevant to a given dispute, there is no reason for us to expect them to be equally clear. Some laws may provide well-established standards for leaders to evaluate legal claims, whereas others might be more vague and therefore incapable of offering common standards for how states should interpret their claims. In addition, changes in the clarity of legal principles, although rare, are possible because a select number of legal issues relevant to territorial disputes have evolved over longer periods of time.[23] This pattern of change is a product of the interaction between the compliance patterns of states, the terms of new international treaties, and the interpretation of legal principles by both legal bodies and experts.

In some cases, consistent and reinforcing patterns develop across these different sources of law, which promote future compliance. Other legal principles, however, may be subject to significant disagreement and different interpretations both by legal bodies and among states. As a result, the interpretations of some legal principles at any given time will vary in both their clarity and consistency. We expect those legal principles that are well developed and interpreted by states and courts in a consistent fashion to play a larger role in promoting dispute resolution. Conversely, legal principles that are subject to considerable debate and conflicting interpretations are unlikely to be helpful in resolving disputes peacefully.

The thalweg provides an example of a clear and well-established legal principle in the context of territorial disputes. The thalweg is the legal notion that a boundary line should lie in the center of the main navigable channel of the river. This general principle is both well known and clearly understood by leaders because customary state practice has used the thalweg as a guideline for establishing river boundaries for hundreds of years. By establishing a clear focal point, the thalweg helps leaders solve the distribution problem. Instead of debating over a large number of possible dividing lines across the entire width of the river, the parties can focus on identifying the main navigation channel and then situating the boundary line accordingly. In contrast, customary state practice is less clear and consistent in relying on the thalweg to determine sovereignty over islands in rivers. Consequently, although the thalweg is helpful in locating boundaries that correspond with rivers, it is less so with respect to settling disputes regarding sovereign rights to river islands.

Clear legal principles, however, although important, cannot resolve the distribution problem entirely. For a focal point to emerge that resolves the distribution problem, the legal principles must also favor one state. Only when the legal principles are clear *and* one state's legal claims are unquestionably stronger than the other's can international law help leaders find the bargaining solution that most accurately reflects the parties' relative legal standing. If neither party has strong legal claims to the territory, then neither side will enjoy the bargaining leverage that comes with legal superiority. A mutual lack of bargaining leverage is consequential because it lessens the probability that the dispute will end in a settlement (and heightens the possibility of a stalemate) because neither leader will be able to muster a compelling reason for his or her opponent to make concessions. Consequently, without the backing of a focal point from international law, leaders will be less confident that they will be able to bring negotiations to a successful conclusion. They may instead be tempted to try to achieve their goals by issuing coercive threats or using force.[24] A focal

[21] The second condition is, of course, conditional on the first. If the relevant principles are not clear, then neither side will be able to marshal a strong legal claim to the territory in question.

[22] Put differently, both conditions are necessary but only jointly sufficient. There are many territorial disputes, for instance, in which only the first condition holds. That is, the relevant legal principles are relatively clear and well established, but neither party has a compelling legal claim to the disputed territory based on those principles. For example, in most of the aforementioned border disputes between Saudi Arabia and its neighbors, the relevant legal principle—effective control of the territory—is well known and understood in the abstract. No focal point exists, however, because neither party can make a strong case for the legal claim that they have exerted effective political and administrative control of the territory in question (for more, see supplementary online Appendix B at www.journals.cambridge.org/psr2011008).

[23] Important areas of evolution in legal principles throughout the twentieth century include title to territory by force and the right to self-determination. As we discuss later in the article, for instance, since World War II, a strong international legal principle has developed that prohibits the title to territory if the land was obtained through conquest (Zacher 2001). The right to self-determination, of course, gained new prominence in the post–World War II world as many former European colonies gained independence. The political pressures for decolonization encouraged legal scholars and courts to clarify the principle.

[24] As we argue in more detail later in the article, states involved in disputes with high levels of legal uncertainty may be more likely to use a form of third-party resolution (e.g., arbitration or adjudication through the ICJ). In instances like this, where a focal point does not exist, international legal institutions may be able to apply their expertise to help the parties determine which state has a relatively stronger claim to the territory in question when the legal issues are complex and neither side can credibly persuade the other that it has distinctly superior legal claims to territory. In such difficult legal cases, courts and arbitration panels face the challenge of determining the

point, therefore, has a large role to play in guiding states down the path of peaceful dispute resolution. A focal point will also prompt states with weak legal claims to act in accordance with the legal-based distribution of territory because they lack the credibility to hold out for a better bargain.[25]

Hypotheses Regarding the Effect of the Focal Point

The preceding logic suggests two hypotheses for leader behavior in the first and second stages. For the first stage, the existence of a focal point should encourage leaders with a legal advantage to press for negotiations. There are at least two reasons for them to choose this option over either revising the status quo by force or leaving it unchallenged. First and foremost, because the terms of settlement suggested by international law align with their preferences for how their respective disputes should be resolved, they will be bargaining from a position of strength. Because a strong legal claim on their part necessarily implies that their opponents have weak legal positions, they should enter negotiations confident that they will be able to secure favorable settlements, via either a bilateral treaty or a formal legal ruling. As a result, once negotiations begin, they will be motivated to push their opponents to either accept agreements that reflect the legal superiority of their claims or consent to a formal process of legal dispute resolution. By a similar logic, they will also resist making significant territorial concessions to their adversaries.

The second reason legally advantaged leaders should prefer negotiations to revising the status quo through violence has to do with the clear legal principle against acquiring title to territory by force (e.g., Jennings 1963, 53–67; Korman 1996; Oppenheim 1955, 570–75; Zacher 2001; but see Hensel, Allison, and Khanani 2009). Since the end of World War II, a cornerstone of international law has been the illegality of changing borders through force. Although international boundaries routinely changed due to war in centuries past, resorting to military means in the post–World War II era would likely be an unproductive move for a challenger state with an otherwise strong legal claim to disputed territory. Not only might his or her aggression be countered by other states with sanctions or even direct military action, but it would also likely undermine the bargaining leverage he or she would have enjoyed had he or she pursued a more peaceful course of action and relied on his or her strong legal claims to the disputed territory in negotiations.[26] The preceding logic implies the following hypothesis:

> **H1**: Leaders of challenger states with relatively strong legal claims are more likely to challenge the status quo by pursuing talks instead of threatening force or maintaining the status quo. These leaders are also less likely to threaten force compared to the status quo.

The existence of a focal point will also inform the behavior of both leaders in the second stage, where they must decide (collectively) to either end the dispute through some type of agreement or allow the dispute to continue. To understand why both leaders will have reason to accept a settlement that is grounded in international law, it is instructive to examine the strategic choices of each leader. For the leader of the state with the legal advantage, settling the dispute is the best option. As we argued previously, any settlements that materialize will likely favor leaders in this position. In light of this, they should have a strong preference to end the disputes rather than let them continue.

The asymmetric distribution of a legal advantage (and the associated focal point) will also affect the leader of the state with a weaker claim to the territory. If a focal point exists that favors the adversary, then the disadvantaged leader will be unable to marshal a compelling legal counter to the terms of settlement implied by international law because his or her claim to the disputed territory is, by definition, weak. He or she will also have a difficult time misrepresenting his or her reservation level regarding the distribution of territory. Although the leader of the weaker state could rebuff the stronger state's claims with military action, doing so is unlikely to further the weaker state's territorial goals. As we argued previously, in addition to the standard costs of conflict, using force could prompt other states to check such aggression with military retaliation or strong economic sanctions, making this a costly choice for the leader of the weaker state.

Moreover, the disadvantaged leader may also have incentives to *accept* the focal point, even if the associated terms of settlement will not favor him or her. As Fearon (1998) points out, the military costs of continued disagreement between states can be substantial. Even if the states do not have a history of military confrontations, discordant relations stemming from an ongoing dispute can entail several other types of costs (e.g., political, economic) that the leader may want to avoid (Simmons 1998).[27] Settling the dispute creates

relevant legal merits of each side's claims with the result that mixed rulings are not uncommon.

[25] This does not imply that states will refrain from bluffing entirely, only that there is more likely to be a convergence about the distribution of territory when a focal point is present. Indeed, there are, on average, fewer rounds of talks per dispute when there are asymmetric legal claims (8.5–5.6). Moreover, as we discuss in footnote 53, since 1945, territorial disputes where one side has a legal advantage are resolved quicker than disputes without asymmetric legal claims.

[26] We therefore disagree with the potentially opposing argument that a strong legal claim may encourage a challenger state to *initiate* the use of force (instead of negotiate), invoking their legal right to territory they currently do not control as a *casus belli* for war. We do think, however, that states with strong legal claims will be highly resolved *to respond* with escalation when force is used against them first given their legal rights to maintain the territorial status quo. In other work, we develop, test, and find support for this argument regarding the relationship between strong legal claims and the escalation of territorial disputes (Huth, Croco, and Appel n.d.).

[27] These costs of continued conflict, of course, apply to both parties. Consequently, we include them as control variables (e.g., enduring rivals, value of territory) in our models.

the possibility of a peaceful future and the associated benefits that come with it. Making peace with an adversary can free up resources that would otherwise be tied up in the dispute, allowing the leader to redistribute them to other domestic sectors (e.g., health care, education). Ending a dispute can also lead to a more collaborative and mutually beneficial relationship with the former adversary.[28] In short, there are multiple reasons why a disadvantaged leader would choose to abide by the terms suggested by the focal point. The previous logic suggests the following hypothesis:

H2: Rounds of talks in which one state has superior legal claims are more likely to end in settlement agreements than talks in which neither side has a clear legal advantage.

Domestic Cover

The preceding logic suggests that when international law can serve as a focal point, it can contribute to the peaceful settlement of territorial disputes through either bilateral negotiations or the formal process of dispute resolution (i.e., international adjudication or arbitration). We recognize, however, that a focal point cannot by itself predict which *settlement venue* disputants will choose for arbitration.[29] In this section, we posit that the decision to pursue formal legal dispute resolution compared to bilateral settlements can be explained by identifying which leaders face higher political costs for making territorial concessions. Because territorial disputes are typically salient for the domestic public, leaders that are more accountable at home must consider the response of domestic actors before they agree to make concessions. Given this, we argue that leaders who require more domestic cover will be more likely to pursue legal dispute resolution. More specifically, we hypothesize that legally disadvantaged leaders of democracies will more often prefer a formal process of legal dispute resolution, whereas their autocratic counterparts will be more likely to accept a settlement brokered in bilateral negotiations.[30]

We believe that democratic leaders with weak legal claims require greater domestic cover because of two domestic political institutions that exist in modern democracies: a viable opposition and an electoral check. The combination of these two factors encourages the executive to distance him- or herself from politically unpopular decisions. Failing to do so will leave him or her open to accusations of policy incompetence that opposition elites will have every incentive to make as part of their effort to weaken the executive's hold on power. Such policy missteps will also trigger a negative reaction from domestic audiences, who prefer leaders who demonstrate political acumen, thereby decreasing the probability of reelection for the incumbent. This potential for domestic punishment is especially high for concessions made in the context of territorial disputes because nationalism is often linked to maintaining state borders, making leaders who agree to concessions vulnerable to charges of sacrificing national interests.

In light of this heightened likelihood of punishment, we expect that a democratic leader facing probable concessions as part of a territorial settlement will attempt to disassociate him- or herself from the terms of settlement as much as possible to insulate against any domestic political fallout.[31] As other scholars have argued (Allee and Huth 2006; Simmons 1999), pursuing a settlement through a formal process of legal dispute resolution is capable of providing a leader with useful political cover for at least three reasons that stem from the nature of the legal institutions involved in the settlement.

First, as many scholars have argued (e.g., Eyffinger 1996; Franck 1990, 1995; Voeten 2008), international legal bodies that would undertake the dispute resolution process are generally able to serve as unbiased third parties.[32] Second, within these legal bodies, it is customary to place a primacy on the importance of following formal procedures and giving both parties an equal chance to state their case. Third, and perhaps most importantly from the executive's perspective, the fact that both parties must agree *in advance* to the arbitrator's or court's terms of settlement helps to absolve the legally disadvantaged leader of any direct responsibility for the final outcome. This advantage is apparent when one considers the more direct and

[28] Possible cooperative relationships might include diplomatic support in other territorial disputes, bilateral trade and investment agreements, and less restrictive policies on the movement of populations across shared borders.

[29] As we discussed, although most disputes in our data set were resolved through bilateral negotiations, a formal process of legal dispute resolution is not uncommon.

[30] This is not to say that a formal process of legal dispute resolution is without costs. Indeed, there are several reasons why leaders who have less of a need for political cover might prefer bilateral negotiations. As Allee and Huth (2006) noted, leaders have far more control over what information is made public in direct negotiations. They also have more influence over the timing of the settlement and the exact terms of the final agreement. Moreover, pursuing a legal settlement from an international third party is often also very costly in financial terms (Guzman and Simmons 2002; Romano 1997). Finally, the fact that negotiations occur between two states also allows for the possibility of disputants to use side payments as a way to provide some face-saving gains to the party that is making greater territorial concessions.

[31] It is important to note that our argument linking democratic leaders to a preference for a formal process of legal dispute resolution is monadic. That is, we expect democratic leaders to have this preference *regardless* of the regime type of the adversary. This differentiates our argument from similar ones in the extant literature that posit that joint democracy within a dyad should lead to a shared preference for using legal institutions (e.g., Dixon 1994; Mitchell 2002; Raymond 1994; Simmons 1998; Slaughter 1995). Our theory only requires a single democratic leader with weak legal claims. Our argument, of course, does not preclude the possibility that a dispute with two democratic adversaries will be more likely to arbitrate than mixed dyads. Testing this claim, however, is not possible given the small number of disputes involving two democracies and weak legal claims that reach a final settlement.

[32] For example, in international judicial bodies such as the ICJ, the judges who will hear the dispute are predetermined because they were elected for a fixed term at some earlier date (Eyffinger 1996; Franck 1995, 319–22). In the case of ad hoc arbitration panels created for territorial disputes, the disputants themselves usually appoint an equal number of their own nationals plus a number of nationals from agreed-on third parties.

obvious role the executive would play if the settlement emerged from bilateral negotiations, where the leader would have had more control over the terms of the agreement.

Taken together, these institutional characteristics imply that domestic opponents of the executive will have a difficult time questioning the agreement on grounds of fairness or neutrality, or attributing the settlement as a failure on the part of the leader.[33] This logic suggests the following hypothesis:

> **H3**: Leaders of democracies with weak legal claims are more likely to reach agreements to settle disputes by a formal process of legal dispute resolution than by direct bilateral negotiations.

Control Variables

In addition to the variables of theoretical interest, we also control for several factors that may also influence leader behavior at the various stages. First, we control for whether both parties to the dispute are democracies. We expect joint democracy to exert a pacifying effect on states in the first stage, and encourage leaders to settle in the second. (e.g., Dixon 1994; Mitchell 2002; Raymond 1994; Russett and Oneal 2001). Second, we control for the challenger's military capabilities relative to the target. We include this variable because we expect that, all else equal, stronger states will be more likely to take action in the first stage, be it thorough opening negotiations (and seeking to secure concessions in the shadow of power) or initiating a militarized dispute. In the second and third stages, because we are interested in behavior at the dispute level, we measure the military imbalance between the states (i.e., how far they are from parity). We expect that disputes characterized by an imbalance of forces are more likely to reach an agreement (on terms favoring the stronger party) and less likely to go to arbitration as the stronger party should prefer bilateral talks as the venue for reaching a settlement.

We also include a variable that captures whether the disputants have an alliance. We expect that, when interacting with an ally, the leader of a challenger state is more likely to pursue talks in the first round and will avoid using force. Likewise, in the second stage, we expect that allied states are more likely to resolve the dispute. We also control for the presence of co-ethnics. In the first stage, if the challenger state has ethnic ties to the population living in the contested territory, then we expect that the leader will challenge the status quo by either opening talks or threatening force. In the second and third stages, if both states lack ethnic ties to the disputed territory, then they will be more likely to reach a resolution and to do so through direct, bilateral negotiations.[34] We also controlled for a history of stalemates between the disputants. When a dispute is marked by a lack of progress, challengers are less likely to pursue negotiations in the first stage. In the event that negotiations materialize and both disputants proceed to the second stage, they are unlikely to reach a final settlement. We also expect that disputes comprised of enduring rivals are more likely to have challengers use force in the first stage, fail to reach agreement in the second and opt for a process of international legal dispute resolution in the third. In the third equation, we also include a variable to highlight disputes in which the merits of each state's legal claims are either uncertain or highly complex. We expect this legal uncertainty to encourage states to favor either arbitration or adjudication over direct negotiations to reach a final agreement. Finally, to account for the possibility of duration dependence, we control for the effects of time by including a cubic polynomial of time (Beck, Katz, and Tucker 1998).

RESEARCH DESIGN AND DATA ANALYSIS

We investigate each stage and test our hypotheses through a series of quantitative tests using our data set on 165 territorial disputes from 1945 to 2000.[35] In this section, we first describe how we operationalized each stage and the estimators we used to test our hypotheses, including those used to determine whether our models were robust to selection effects. Following this, we discuss how we assessed the relative strength of a state's legal claims in greater detail. Finally, we explain how we converted these assessments into the variables we used in each stage of the final analysis.

As we noted, in the challenge the status quo stage, leaders of challenger states have three options available to them: diplomatic initiatives to hold talks, initiation of militarized disputes, and periods of inactivity. Our data consist of 3,840 observations for the challenge the status quo stage. The decision to maintain the status quo is the most common choice, accounting for 2,459 (64%) of the observations. When they choose to attempt to revise the status quo, challenger states call for talks 1,140 times (or 30%) and threaten force in 241 observations (6% of the time).

We identified rounds of talks by looking for instances of executive branch officials and representatives from each state holding meetings in which territorial claims and proposals were discussed. We discovered instances of military action by looking for threats or uses of force that were initiated by the challenger over disputed territory; we coded this on the basis of verbal actions or

[33] Although they could call his or her decision to agree to a formal process of legal dispute resolution into question, challenging the decision to pursue settlement through a legitimate, legal institution may entail political risks of its own in a democratic country where respect for the rule of law is generally high.

[34] Ethnic ties, however, is only one way to measure the value of the disputed territory. As a robustness check, we also include measures of the strategic and economic values of the territory. Neither variable was significant across the three equations, and our other results remained consistent. Given this, we only present the models that include the ethnic ties variable.

[35] The data set of territorial disputes is taken from Huth and Allee (2002) and updated based on their coding rules through 2000 from the original end date of 1995.

direct military actions that were undertaken by the executive leadership. For both courses of action, we relied on the sources listed previously to identify and collect historical data on each territorial dispute. We use a multinomial logit estimator in our analysis because of the nominal nature of our three outcomes.[36]

In the second stage, we model the decision of both parties to end the dispute peacefully, an event that occurs in 96 of the 165 disputes (nearly 59%). Because this stage focuses on the decision to reach an agreement, we test our hypotheses on the 1,140 cases of negotiations during talks in our data set. As noted, it is necessary to examine this phase before considering the choice of settlement venue because the joint decision to end the dispute, through either bilateral negotiations or a process of international legal dispute resolution, can only come about in the course of negotiations. We code the dependent variable as a 1 if the sides reach any type of agreement, and 0 otherwise. Due to the relatively small number of final agreements among the 1,140 rounds of negotiations, we use the rare events logistic regression estimator (King and Zeng 2001; Tomz et al. 1999).[37] Finally, because the unit of analysis is the rounds of talks, selection bias may be an issue because the decision to reach a final agreement may be related to the challenger's decision to initiate talks in the first stage. To test for this possibility, we estimated a Heckman or "censored" probit model.[38] We found no evidence that selection effects biased our results, and our results remained consistent.[39]

In the third stage, we are interested in whether leaders choose to settle the dispute via a bilateral negotiated settlement or pursue a formal process of international legal dispute resolution. Across the 96 final agreements, there are 78 negotiated settlements and 18 decisions to pursue a resolution through either adjudication or arbitration. The dependent variable takes on a value of 1 if the sides chose international legal dispute resolution, and 0 if the disputants decided to solve the dispute through a bilateral agreement. Given the binary nature of the dependent variable, we use a logistic regression model to estimate our results. Finally, because the choice of settlement venue is plausibly related to the decision to settle, we also estimate a Heckman model that incorporates both choices simultaneously. Again, our results remained nearly identical, and we found no evidence of bias in our results.

Measurement

Given both the novelty and importance of the international law variable, it is worth discussing the process we used to construct it in more detail. First, once the disputes were identified using the process described previously, we needed to assess the strength of each state's legal claims. To do so, we first searched systematically for expert legal assessments from scholars, rulings from international legal bodies, and government documents and archival materials for every territorial dispute.[40] Next, we identified multiple expert sources for each territorial dispute and coded the legal judgments presented in the sources for each legal principle raised by the expert source.

We followed several guidelines when determining what constituted the superior legal claims of the state in question. First, we generally did not use public documents or statements by governments that were parties to a dispute to determine the merits of legal claims.[41] These public sources were often useful for understanding the legal claims put forward by states, but we did not use them for assessing the merits of those legal claims. However, when we were able to identify internal government sources that contained legal analyses and conclusions, we included them to determine the majority views among the expert sources.[42]

Second, we had to be aware of the potential for bias in legal assessments by scholars who are citizens of one of the countries in the dispute. When these scholars gave uniformly supportive analyses of their country's legal claims and uniformly negative assessments of the adversary country, we considered that source to be too biased to use in assessing the merits of legal claims. We often used this type of source, however, to identify what legal issues are relevant to the dispute and what kinds of legal arguments the country advanced in the dispute. If a national source is critical in some respects of its own state's legal claims, then we regarded that source

[36] One potential drawback of multinomial logit is the assumption of the independence of irrelevant alternatives (IIA). The IIA assumption is met when an individual's preferences among alternatives remain consistent regardless of choices that are or are not available (e.g., McFadden 1981). We employ the Small-Hsiao test and find no evidence to reject IIA in our model.

[37] In addition to being useful for scholars selecting on the dependent variable, the rare events estimator corrects for bias when the response variable constitutes a small percentage of the observations, as it does in our data (King and Zeng 2001). As a robustness check, we ran our results using logistic regression; our results remained consistent.

[38] As we are unaware of an estimator that allows for the rare events correction in the second stage, we use probit in the outcomes stage of the Heckman.

[39] In the interest of brevity, we only present the results from the rare events model. The Heckman results are available as part of our separate online appendix at http://dvn.iq.harvard.edu/dvn/dv/phuth

[40] Although it is impossible to provide a full list of the nearly 500 sources consulted, a number of sources (Brownlie 1979; Castellino and Allen 2003; Crawford 1979; Cukwurah 1967; Lalonde 2002; McEwen 1971; Sharma 1997; Shaw 1986; Shaw 1997; Sureda 1973; United Nations 1980, 1992) were useful for analyses of multiple disputes within or across regions. In some disputes (less than 30%), expert sources provided useful descriptive and historical analyses that helped us identify the relevant legal principles, but they did not offer any specific judgments on the strength of a state's legal claims. In such cases, we coded the merits of legal claims ourselves.

[41] Importantly, although there are certainly reasons for why leaders may want to inflate the strength of their state's legal claims in public settings or in communications with its territorial adversary, leaders' internal assessments of their own state's legal positions closely matched the legal assessments provided by the outside expert sources on whom we relied. For instance, based on archival documents, internal British assessments of their legal claims and those of their opponent's coincide with our codings based on the writings of legal scholars more than 90% of the time.

[42] We could not rely entirely on internal government documents, however, because they often did not contain analyses of the relevant legal principles.

as sufficiently balanced to include it when drawing conclusions about the majority position as represented in the expert sources.

To ensure intercoder reliability across the entire data set, a sample of 20 territorial disputes was initially examined independently by two coders who then exchanged their codings and discussed any differences and problems that arose in order to increase consistent coding of the cases. After this preliminary round of codings, we updated and clarified the coding rules and definitions. We then randomly assigned the population of territorial disputes to three different coders, while we randomly coded 80 of the cases that the three other coders were working on. Intercoder reliability on these 80 double-coded cases was quite high. The independent coding decisions were identical 84% of the time (67 cases).

Once we collected the necessary information, we aggregated the legal principles to establish state-level legal claims for both disputants. We considered a country's legal claim to be superior relative to its adversary if at least a majority of the following conditions was met[43]: (1) a history of customary state practice supported its legal claim and opposed the adversary's claim; (2) existing legal principles, as deemed by previous court rulings, backed the validity of the state's claim and found the adversary's claim lacking; and (3) the historical evidence and facts of the case clearly and consistently supported the state's claim when compared to the claim of its adversary. Importantly, not all criteria are relevant to every case. For example, in disputes where customary state practice is the key source of law backing legal principles (e.g., river boundaries and the thalweg principle), then past and recent international court rulings are less relevant. In contrast, when a state's legal claims failed to meet a majority of the preceding criteria, we coded the state as having weak legal claims.[44]

We operationalized this variable using a 3-point scale for each state, where 3 represented strong legal claims, 2 mixed legal claims, and 1 weak legal claim. If a state received a 3 on all legal issues relevant to the dispute, this state's position is either (1) strongly supported by existing legal principles according to the legal sources and experts or (2) a majority of the state's legal claims are judged to be strongly backed, whereas any remaining legal claims are judged as no worse than mixed. In short, a coding of strong legal claims requires that expert sources regarded at least a majority of the state's legal claims very favorably and saw none of its claims as weak.

For example, in the dispute between Ecuador and Peru over the Maranon border region, two legal principles are relevant to the dispute—*pacta sunt servanda* and *rebus sic standibus*.[45] Several expert sources all rated Peruvian claims as strong except one source, which assessed the merits of Peru's claims on grounds of *pacta sunta servanda* as mixed (e.g., Barreto 1995). Ecuador sought to challenge the border established by the treaty of 1942 on the grounds that they were forced to sign it under duress. Moreover, new evidence from aerial photography in 1946 during demarcation indicated that the location of the border as presented in the Rio Protocol of 1942 was in error. As a result, Ecuador argued that the Rio Protocol was null and void. Legal sources, however, do not support this claim for two reasons. First, even after invoking the aerial photography evidence in 1946, Ecuador nevertheless recognized the validity of the Rio Protocol in official communications with both Peru and the United Nations. Second, scholars point out that the Ecuadorian Congress ratified the treaty after Peruvian troops left, which indicates that Ecuador accepted it willingly. Given this, *rebus sic standibus* does not apply, and Ecuador is bound by the principle of *pacta sunt servanda* (e.g., Barreto 1995; Puyo 1995).

The dispute between Afghanistan and the Soviet Union provides another example of clear legal principles giving one side a decisive advantage. In this case, the challenger, Afghanistan, had a stronger claim to the disputed territories in the Oxus River, based on the fact that Afghan claims to the location of the land border were based on previously agreed-on terms in the Treaty of Friendship signed by both states in 1921. Thus, the Afghans emphasized that their territorial claims were consistent with prior treaty obligations, whereas the Soviet's were not. In addition, Afghanistan pushed for the location of river boundaries based on the long-established customary principal of the thalweg. These legal advantages served Afghanistan well in negotiations; as our theory would predict, the final terms of the settlement in 1946 favored Afghanistan (Biger 1995; Brownlie 1979; Sharma 1997).

A state has mixed legal claims if, on balance, the expert sources determined that a state's legal claims to the contested territory are strong in some areas and either ambiguous or weak in others. Ambiguous claims are those in which the expert sources deem the relevant evidence to be either incomplete or contradictory, making the state's legal claims subject to qualification and reservations. Furthermore, the expert sources must agree that any strong legal merits of the state's claim do not compensate for the legal principles associated with the weaker legal claims. In the event that a majority of sources agree that a single legal principle outweighs the others, then the coding of the case rests on that legal principle.

[43] Although, in the majority of cases, there was unanimous agreement among the sources, this was not true of all cases. When unanimity was lacking, we only coded a state as having superior legal claims when a majority of the sources viewed the state's claim in light of the preceding criteria very favorably, and the remaining legal claims were judged as no worse than mixed (i.e., no source believed that the adversary had superior legal claims).

[44] Likewise, when a majority of the relevant legal issues were judged unfavorably and any remaining issues were judged no better than uncertain, we coded the state's legal claim as weak.

[45] *Rebus sic standibus* provides for the unilateral right to terminate obligations from past treaties and agreements due to fundamental change in circumstances (e.g., Brownlie 1990; Kaikobad 1984). See supplementary online Appendix B for more information on the legal principles.

Finally, a state received a coding of one if on the majority of the relevant legal issues, the legal sources believed that the state's position was either weak or was based on legal merits that were no better than "uncertain." Put differently, a weak coding implies that legal experts do not judge a state's claims strong on any relevant legal principles. Returning to the Ecuador-Peruvian dispute, all expert sources agreed that Ecuador's legal claims were weak with respect to the principles of *pacta sunt servanda* and *rebus sic standibus*.

To illustrate the coding process more fully, it is useful to consider another example where states' legal claims were either mixed or weak. Between 1934 and 1974, Britain/the United Arab Emirates (UAE) and Saudi Arabia were involved in a territorial dispute over claims to and around the Buraimi Oasis and other bordering territories along what has become the Qatari coastline. The relevant legal principles and issues in the dispute include (1) effective control, (2) the validity of the Blue Line found in the 1913 Anglo-Ottoman Convention and the 1914 Treaty, and (3) *territorium nullius*.[46]

First, legal scholars are divided on whether Saudi Arabia demonstrated continuous and effective control over the Buraimi Oasis and the tribes living in this area. Specifically, from 1800 to 1869, Albaharna (1975) argues that Saudi Arabia exhibited effective control over the disputed area. After 1869, however, the legal scholars note that the Saudis' control was less certain than it had previously been. For instance, Albaharna claims that from 1869 to 1952, Saudi Arabia did not conform to the standards of "peaceful and continuous control," which is necessary to demonstrate effective control. In addition, Wilkinson (1991, 265) argues that Saudi Arabia's application of shari'a law in collecting zakat (taxes) was inconsistent until 1955, when it realized that it needed to conform to effective control to support its legal claim over the disputed territory. With respect to the other issues, scholars agree that Saudi Arabia was not bound by the Blue Line because Saudi Arabia was not party to the original convention between Great Britain and the Ottoman Empire, and the preceding treaties were never formally ratified. In addition, Great Britain did not consistently rely on the boundaries of Blue Line in its dealing with other states until the 1930s, when oil became an issue. As a result, this area was *terra nullius*, leaving Saudi Arabia free to extend its control. Nevertheless, because Saudi Arabia failed to fully comply with the requirements of effective control, we coded their legal claims as mixed.

However, the scholars were unanimous in their assessment of the British/UAE case as weak (Albaharna 1975; Kelly 1956; Leatherdale 1983; Wilkinson 1991). The Blue Line was not a legal and binding boundary and Britian/UAE never demonstrated effective control east of it (Leatherdale 1983, 230). Scholars also determined that Britian/UAE legal claims were weak based on *territorium nullius*. In sum, then, neither state had strong legal claims to the disputed territory. The legal scholars were mixed regarding Saudi Arabia's legal claims and clearly believed that Britian/UAE had weak legal claims.

Once we had collected and coded these state-level data based on the 3-point scale provided the means for coding the final variables used in our statistical analyses. Table 1 presents all possible combinations of our coding scheme, the actor-level codings for the challenger and target's legal claims, and the resulting dispute-level coding for the final variables used in the first two stages.[47] For example, with regard to the distribution of the state-level codings, in the 165 disputes, we code challengers as having strong legal claims 16 times, mixed legal claims 77 times, and weak legal claims 72 times. Targets, however, have strong legal claims in 56 disputes, mixed legal claims 80 times, and weak legal claims 29 times.[48]

In the first equation, we created a dummy variable ("challenger strong legal claims") to capture the *relative* legal merits of the challenger's claims to the territory in question.[49] This variable received a 1 if the challenger had superior legal claims compared to the target and a 0 otherwise (three and one in the state-level coding, see row 7, Table 1). The zero category for this variable, therefore, consists of all cases in which the challenger had weak or mixed legal claims in the state-level codings, irrespective of the target's legal claims. The point of this coding scheme is to create a variable that identifies instances in which a legal-based focal point favoring the challenger is most likely to emerge—that is, cases in which the challenger has a legal claim that is clearly superior to the target. As shown in Table 1, the challenger has strong legal claims in 14 disputes (8.5%).

In the second equation, we used the state-level codings to create a dispute-level variable ("asymmetric legal claims") that identifies cases in which one party has a legal advantage over its adversary. This variable is not only similar to the variable used in the first equation, but it also highlights instances in which the *target*

[46] Effective control establishes that the display of state administrative authority and the exercise of de facto jurisdiction over territory are more important legally than are claims of discovery or title not backed by displays of state authority. *Territorium nullius* permits a state to establish title to territory based on occupation and effective control if no other state has exercised or established control over territory and no prior legal title to the territory exists. Once again, see online Appendix B for more information on the legal principles.

[47] Table 1 does not contain a row in which both parties received a state-level coding of 3. This is because such a situation would be contrary to the general intent of legal principles that establish title to territory; the fundamental purpose of these legal principles is to allocate title to one party or the other. It is not possible, in other words, for both states to have strong claims to title simultaneously. It is possible, however, as Table 1 demonstrates, for both states to have either mixed or weak claims to the territory in question.

[48] We should add that, given that the distribution of strong legal claims between the challenger and target strongly favors the latter, this suggests that legal considerations are not a powerful influence on *dispute onset*. However, without knowing more about the larger population of potential territorial disputes, it is not possible to draw any strong conclusions on this question.

[49] The ICJ and arbitration panels follow a similar approach in that they focus on comparing the legal merits of one party versus the other.

TABLE 1. Coding Scheme and Descriptive Statistics for Legal Claims Variables

	Coding Scheme			
Row	State-level Coding for Challengers	State-level Coding for Targets	"Challenger Strong Legal Claims" (Stage 1)	"Asymmetric Legal Claims" (Stage 2)
1	1	1	0	0
2	1	2	0	0
3	**1**	**3**	**0**	**1**
4	2	1	0	0
5	2	2	0	0
6	2	3	0	0
7	**3**	**1**	**1**	**1**
8	3	2	0	0

Empirical Distribution of State-level Legal Claims across 165 Territorial Disputes		
	Challenger State-level Codings	Target State-level Codings
Weak	72	29
Mixed	77	80
Strong	16	56

Empirical Distribution of Final Dispute-level Variables across 165 Territorial Disputes Used in the Statistical Analysis			
	Challenger Strong Legal Claims	Target Strong Legal Claims	Asymmetric Legal Claims
Total	14	48	62

has a legal superiority, which occurs in 48 disputes in our data set. This variable, therefore, takes on a value of 1 if *either* the challenger or the target has strong legal claims, whereas their opponent has weak or mixed claims in the state-level codings (a condition that holds in 62 disputes, or roughly 38% of the time—see rows 3 and 7 in Table 1). The variable equals zero when both sides have mixed or weak claims (which happens in 103 disputes, or 62% of the time).

For the final equation, we created a variable to integrate a disputant's regime type with the asymmetric legal advantage variable used in the second equation. This variable received a coding of 1 if the dispute had an asymmetry in terms of legal advantage *and* the weaker state (be it the challenger or target) was a democracy. We do not restrict the regime type of the state with strong legal claims because we expect that the leader of such a state will be indifferent to the settlement venue. This is the case because any agreement, regardless of its source, will reflect his or her legal advantage. The zero category of this variable, therefore, includes disputes in which the state with weak legal claims was a nondemocracy and disputes in which both states had mixed or weak legal claims, regardless of their regime type.

Although this variable may strike some as a simple interaction term between the "asymmetric legal claims" variable and a democracy variable, this is not the case; the former describes the dyad, whereas the latter captures a characteristic of an individual party. Because the asymmetric legal claims variable does not tell us *which* party is legally disadvantaged, the product of it and a regime-type dummy variable would not highlight the cases of interest (i.e., where the democratic state was the party with the weaker legal claims). Although one could, theoretically, create the necessary components for a true interaction (i.e., two variables that highlight instances where the challenger and target have weak legal claims, whereas their adversaries have strong claims, which would then be interacted with variables capturing the states' regime types), data limitations prevent us from doing so for both states.[50]

RESULTS

International Law

Overall, we find strong support for our international law hypotheses across the three equations we test. In the first stage (Table 2), we find statistically significant

[50] As a robustness check, we estimated this interaction for challenger states. Our results remained consistent with those presented below. We could not estimate the interaction term for the target due to the small number of cases of democratic target states with weak legal claims.

TABLE 2. Statistical Results for Strong Legal Claims and Territorial Dispute Resolution

	Challenge the Status Quo Stage			Negotiations Stage	Mode of Settlement Stage
	Negotiations vs. Status Quo	Negotiations vs. Threaten Force	Threaten Force vs. Status Quo	Final Settlement Agreement Reached?	Do Parties Pursue Formal Process of Legal Dispute Resolution?
International Law					
Challenger strong legal claims	0.630 (0.237)***	0.710 (0.392)**	0.080 (0.311)	—	—
Asymmetric legal claims	—	—	—	0.535 (0.229)***	—
Democracies with weak legal claims	—	—	—	—	1.643 (0.900)**
Control Variables					
Joint democracy	0.289 (0.127)**	0.617 (0.458)*	−0.328 (0.450)	−0.002 (0.334)	—
Military capabilities[a]	−0.073 (0.201)	−1.077 (0.330)+++	1.005 (0.306)***	−0.884 (0.702)	−5.720 (2.280)***
Alliance	−0.247 (0.126)**	−0.176 (0.218)	−0.071 (0.240)	0.450 (0.248)**	—
Ethnic ties[a]	0.263 (0.111)***	0.039 (0.230)	0.224 (0.226)	−0.270 (0.238)	0.004 (0.814)
Enduring rivals	0.294 (0.128)++	−0.857 (0.229)***	1.151 (0.196)***	−1.148 (0.372)***	1.736 (0.890)**
Past stalemate in negotiations	0.471 (0.119)+++	0.405 (0.229)+	0.065 (0.221)	−1.007 (0.231)***	—
Legal uncertainty	—	—	—	—	1.209 (0.814)**
Constant	0.996 (0.153)+++	1.677 (0.287)+++	2.673 (0.261)+++	−2.012 (0.358)+++	−1.152 (0.620)+

Notes: Clustered standard errors for Equations 1 and 2 and robust standard errors for Equation 3 are in parentheses. $N = 3{,}840$ in stage 1; $N = 1{,}140$ in stage 2; and $N = 96$ in stage 3.

[a]As discussed previously, we operationalize military capabilities and ethnic ties differently for stage 1 and for stages 2 and 3 (see the supplementary online Appendix at www.journals.cambridge.org/psr2011008 for specific coding rules).

*$p < .1$; **$p < .5$; ***$p < .01$ (one tailed); +$p < .1$; ++$p < .05$; +++$p < .01$ (two tailed).

TABLE 3. Impact of Changes in Variables on Predicted Probabilities across Three Stages of Peaceful Dispute Resolution

	Predicted Probability of Each Outcome				
	Maintain Status Quo	Seek Negotiations	Threaten Force	Final Settlement Agreement Reached?	Do Parties Pursue Formal Process of Legal Dispute Resolution?
Challenger Strong Legal Claims					
No	74.5%	22.1%	3.4%		
Yes	62.4%	34.9%	2.8%		
First difference	−12.1	12.8	−0.6		
% Change	**−16.2%**	**57.9%**	**−17.6%**		
Asymmetric Legal Claims					
No				13.7%	
Yes				21.5%	
First difference				7.8	
% Change				**56.9%**	
Democracies with Weak Legal Claims					
No					7.5%
Yes					30.2%
First difference					22.7
% Change					**306.7%**

Notes: To estimate the predicted probabilities, we move the covariate of interest from low to high while holding the other covariates at mean or modal values. To compute the first difference, we subtract the baseline predicted probability (covariate at low values) from the predicted probability following the change in the covariate of interest. We then divide the discrete change by the baseline probability and multiply that by 100 to get the percentage change.

relationships for two of the three pairwise comparisons. Specifically, as expected (H1), challenger states with strong legal claims are more likely to pursue negotiations over maintaining the status quo. These same states are also more likely to open negotiations rather than threaten force. Finally, challenger states with a legal advantage are less likely to threaten force compared to the status quo, although this result is not statistically significant. In Table 3, we see that the differences between challenger states with a legal advantage compared to those without are substantively large as well. Leaders of challenger states with strong legal claims are 58% more likely to seek negotiations than leaders of states that lack a clear legal advantage.

By way of comparison, these leaders are 16% less likely to maintain the status quo and 18% less likely to threaten force. Overall, then, we see how leaders of challenger states with strong legal claims are much more likely to pursue a peaceful route compared to leaders without such claims to the disputed territory. This finding supports our theoretical claim that when a clear legal advantage on the part of the challenger allows for a focal point to emerge, the leader of the challenger state will try to maximize the bargaining leverage this affords him or her by pursuing negotiations and eschewing violence. The finding that legally advantaged challengers are less likely to accept the status quo and pursue talks also aligns with our theoretical predictions. Leaders in this position, recognizing that any settlement should reflect their preferences, have good reasons to pursue a resolution by entering into negotiations.

Indeed, based on an examination of the raw data, challengers with strong legal claims only initiate 8 military confrontations and pursue talks 77 times, whereas challengers with mixed or weak legal claims initiate force 233 times and seek negotiations 1,063 times.[51] Put differently, challengers with strong legal claims are almost 10 times more likely to open negotiations over using force compared to states without such claims, which are only 4.5 times more likely to pursue talks over fighting.

In the second stage (Table 2), we find that leaders are more likely to reach a final agreement when there is an asymmetry in the strength of the disputants' legal claims. Specifically, disputes in which one party has a clear legal advantage over the other are 57% more likely to be resolved than disputes where neither party has a compelling legal claim to the contested territory (Table 3).[52] This finding offers strong support for our hypothesis (H2) that a focal point based in international law helps facilitate the process of reaching a final agreement.[53] Once again, the raw data are consistent

[51] To put this in context, in the 3,840 observations in the first stage, challengers have strong legal claims 169 times compared to 3,671 observations where they have mixed or weak legal claims. See Table 4.

[52] As a robustness check we reestimated the model using only the final settlements that resulted from bilateral negotiations. Our results remained consistent.

[53] To further demonstrate the pacifying role of international law, it is useful to consider how quickly disputants reach a final agreement in the post-1945 era. For example, since 1945, disputes are resolved sooner when there is a legal-based focal point compared to cases with ambiguous legal claims (i.e., approximately 17 years compared to 27 years).

TABLE 4. Descriptive Statistics

Crosstabs of Challenger Strong Legal Claims and Status Quo Stage [Eq. (1)]

Strong Legal Claims	Status Quo Stage			
	Status Quo	Talk	Use/Threaten Force	Total
No	2,375	1,063	233	3,671
Yes	84	77	8	169
Total	2,459	1,140	241	3,840

Crosstabs of Asymmetric Legal Claims and Decision to Reach a Final Agreement [Eq. (2)]

Asymmetric Legal Claims	Final Agreement		
	No	Yes	Total
No	772	59	831
Yes	272	37	309
Total	1,044	96	1,140

Crosstabs of Democracies with Weak Legal Claims and Decision to Pursue Legal Dispute Resolution [Eq. (3)]

Democracies with Weak Legal Claims	Mode of Settlement		
	Bilateral Settlement	Arbitration/ Adjudication	Total
No	73	14	87
Yes	5	4	9
Total	78	18	96

with our findings (Table 4). When at least one state had a legal advantage, the sides reached a final agreement almost 12% (37/309) of the time. In contrast, when both sides lacked strong legal claims, the disputants only reached an agreement 7% (59/831) of the time. As a result, territorial disputes are around 70% more likely to end peacefully when at least one of the sides has strong legal claims.

As we argued previously, leaders with a legal advantage have incentives to bring the dispute to a close because they expect that the terms of settlement will reflect their preferences. Although this is not a focus of our study, data on the terms of bilateral settlement agreements support this logic. For example, across the 78 negotiated settlement agreements, the challenger has strong legal claims in 8 of them. He received favorable terms in 6 of them and mixed terms in the remaining 2. Put differently, there are no cases in which the challenger has strong legal claims and he or she received unfavorable terms of settlement. A similar pattern holds for the cases in which the target enjoyed a legal advantage. In these 20 cases, leaders of target states received favorable terms in 13 settlements. In the remaining 7 cases, they receive mixed terms in 4 of them and unfavorable terms in only 3. In sum, then, the raw data provide strong support for our argument that asymmetric legal claims provide leaders with the necessary incentives to reach a final agreement.

It is instructive to compare this to the relationship between military strength and favorable terms. For example, across the 78 negotiated settlements, the challenger has military superiority over the target (at least 75% of the summed capabilities of both parties) in 11 cases; he or she receives a favorable settlement only one time. When the target state is strong militarily (again, at least 75% of the total capabilities), he or she receives favorable terms 11 out of 33 times. It is clearly better, then, to have a legal advantage than to have a major military advantage in order to secure better terms of settlement. Specifically, legally strong challengers receive favorable terms 75% of the time compared to 9% for militarily powerful challengers, whereas target states with strong legal claims receive favorable terms 65% of the time compared to 33% for targets with a clear military advantage.

In our final equation, we find strong support for our hypothesis (H3) that leaders of democratic states with weak legal claims are significantly more likely to opt for the process of international legal dispute resolution over negotiating with the adversary directly (Table 2).

For example, in Table 3, we see that leaders who have a more pronounced need for domestic cover are 307% more likely to prefer a settlement that resulted from a process of international adjudication or arbitration over settlements that were a product of bilateral negotiations. We find a similar pattern in the raw data. For example, democracies with weak legal claims pursue the formal process of legal dispute resolution 44% (4/9) of the time. However, leaders that require less domestic cover only go to these institutions 16% (14/87) of the time (Table 4). Given this, democratic leaders with weak legal claims are 175% more likely to pursue legal dispute resolution compared to bilateral settlements. Moreover, across the 96 final agreements, democracies with weak legal claims agree to a negotiated settlement in 6% of the cases compared to 22% for decisions to pursue the process of legal dispute resolution.

Finally, and although we focus on and find a strong relationship between asymmetric legal claims and the decision to reach a final agreement, it is also important to note the pacifying effects of international law even when there is no final agreement. To understand this relationship, we considered the 72 territorial disputes where there was no final agreement and looked at how the presence of strong legal claims affected the number of militarized disputes initiated by leaders of challenger states.[54] For example, leaders of challenger states have strong legal claims in only 3 of the 72 unresolved disputes (further supporting our general argument regarding strong legal claims and dispute resolution), and there is only one dispute in which the challenger with strong legal claims threatens or uses force. In contrast, the 69 disputes in which leaders of challenger states lack strong legal claims they initiate at least one militarized dispute in 41 of them. Indeed, there are 11 disputes where the leaders of such challenger states threaten or use force on at least three occasions.

Control Variables

In the first stage, we find strong support for our control variables.[55] First, when both states are democracies, leaders of challenger states are more likely to choose negotiations, and less likely to threaten force and maintain the status quo. In contrast, as leaders of challenger states increase in terms of military strength, they are more likely to initiate a militarized dispute, as well as less likely to pursue negotiations and maintain the status quo, than weaker states. Finally, when the disputants are enduring rivals or the challenger has ethnic ties to the disputed territory, challenger states are more likely to both threaten or use force and choose negotiations, and less likely to do nothing.

With respect to the decision to reach a final agreement of any type, we find mixed support for our control variables. Specifically, parties are less likely to reach an agreement if they either are enduring rivals or had a stalemate in negotiations within the previous 5 years. In contrast, leaders are more likely to reach a final agreement when they are allies. Finally, we find strong support for our control variables in our model of settlement venue choice. Specifically, as the disputants move away from parity with one another, they are less likely to pursue a process of international legal dispute resolution, whereas disputants who are enduring rivals are more likely to do so. Finally, when there is some legal uncertainty about key legal principles in a dispute, the parties are more likely to agree to either adjudication or arbitration over a bilateral settlement agreement.[56]

Finally, it is instructive to compare the substantive effects of our legal claims variables with the control variables that we use in our equations. For the sake of brevity, we focus on the percentage change (Table 5). In the "challenge the status quo" equation, the strong legal claims variable has the largest magnitude of change among the variables with respect to the decision to pursue negotiations (58% to 26% (joint democracy)). Among variables that are associated with a lower probability of using of force, strong legal claims only trails the effect of joint democracy (–26% to –18%). The substantive effect for enduring rivalry is also larger (174%), but it predicts a higher likelihood of using force.

In the second equation, the substantive effect for strong legal claims is greater than the alliance variable (57% to 41%), but it is less than the percent change for the rivalry variable (–65%). Once again, however, rivalry is associated with less peaceful outcomes. In our final equation, the magnitude of democracies with weak legal claims is second only to rivalry for predicting the decision to pursue the formal process of legal dispute resolution (307% to 332%). In sum, then, in our first two equations, strong legal claims is the most consistent variable and has the largest substantive effect of any variable that is associated with talks and the decision to reach a final agreement. In the final equation, the substantive effect, as noted previously, is larger than all variables in the equation except for one. Given this, we can safely conclude that the effect of international law, under the conditions that we specify, is both statistically and substantively related to the peaceful resolution of territorial disputes.

[54] Readers may notice that although there are 165 disputes and 96 final agreements, the number of disputes without an agreement is 72. This is because the dispute between Argentina and Chile experienced two cases of international legal dispute resolution before the disputants agreed to final bilateral settlement. The reason is that two cases of arbitration (one in 1976 over the Beagle Channel and a second in 1994 over Palena/Continental Glaciers) failed to settle the issues under contention despite legal rulings. In both cases, bilateral settlement agreements were eventually reached (1984 and 1998, respectively) that were consistent with the original arbitration rulings.

[55] Due to space constrains, we only discuss the control variables that are statistically significant, although we include summary statistics for all control variables in supplementary online Appendix C.

[56] In addition to the control variables we described previously, we also performed several robustness checks. Following Fravel (2005), we included an indicator variable for civil conflict. Second, drawing on the work of Solingen (1998), we also included a variable that highlighted states that were characterized by direct military rule. We also interacted our legal variables with an indicator variable for the Cold War. We found no support for any of these alternative specifications across all three models, and our results were nearly identical.

TABLE 5. Impact of Changes in Control Variables on Percent Change across Three Stages of Peaceful Dispute Resolution

	Percent Change for Each Outcome				
	Maintain Status Quo	Seek Negotiations	Threaten Force	Final Settlement Agreement Reached?	Do Parties Pursue Formal Process of Legal Dispute Resolution?
Joint Democracy					
% Change	−6.0%	26.1%	−25.6%	—	
Military Strength					
% Change	−13.3%	−4.6%	70.0%	—	−77.8%
Enduring Rivals					
% Change	−13.8%	16.1%	174.4%	−65.4%	332.0%
Common Security Ties					
% Change	4.9%	−18.0%	−0.5%	41.4%	
Ethnic Ties					
% Change	−6.9%	21.3%	15.4%	—	
Legal Uncertainty					
% Change	—	—	—	—	196.0%

Notes: To estimate the predicted probabilities, we move the covariate of interest from low to high while holding the other covariates at mean or modal values. To compute the first difference, we subtract the baseline predicted probability (covariate at low values) from the predicted probability following the change in the covariate of interest. We then divide the discrete change by the baseline probability and multiply that by 100 to get the percentage change.

CONCLUSION

As Morgenthau (1967, 3) claims, "the actions of states are determined not by moral principles and legal commitments but by considerations of interest and power. Moral principles and legal commitments may be invoked to justify a policy arrived at by other grounds, but they do not determine the choice among different courses of action." More recently, other scholars have argued that international law is, at most, epiphenomenal to state interests (e.g., Goldsmith and Posner 2005; Mearsheimer 1994; Waltz 1979). In this article, we attempt to determine whether the critics of international law are right or, in contrast, whether international law can play a central role in peaceful dispute resolution.

Our results are unambiguous. In all three dispute stages, the relative strength of a state's legal claims (conditional on regime type in the third stage) was a strong predictor of a leader's behavior. Leaders with strong legal claims are more likely to push for negotiations and less likely to resort to force when they are dissatisfied with the status quo than are leaders who lack a clear legal advantage. Similarly, disputes that are marked by an asymmetry in the strength of the parties' legal claims are more likely to be resolved than disputes where neither side can marshal a compelling legal case for the contested territory. Furthermore, we also found support for our domestic cover argument in that democratic leaders with *weak* legal claims are significantly more likely to pursue a settlement through a process of formal dispute resolution than are other types of states. Finally, even when asymmetric legal claims did not lead to a final agreement, territorial disputes where one side had a legal advantage were less violent.

The strong and consistent performance of the international law variables, even in the presence of several important controls, such as relative military strength, poses a clear challenge to theoretical approaches that question the impact and importance of international law. That we were able to obtain such results in the context of territorial disputes—which are known for their intractability and high propensity for violence—further bolsters the importance of our findings. Our theoretical framework and findings, therefore, suggest that although the shadow of power is one important consideration for students of world politics to study, the rule of law must not be ignored. Indeed, we would argue that based on our results, a legal advantage is more beneficial to state leaders than is a decisive military advantage in securing territorial interests in the process of peacefully settling such disputes. As such, one can view our findings as suggesting that international law under the right conditions is a more powerful force for order and peaceful change than is military strength.

Our theoretical framework and research design also advance the current state of the literature on the effectiveness of international law. For instance, identifying the circumstances under which a focal point will emerge from international law to help states resolve the problem of how to allocate disputed territory (i.e., when the relevant legal principles are clear *and* unambiguously favor one side) constitutes an important theoretical contribution. Specifying these conditions allows us to move beyond the assumption that international law's effects are uniform. The coding scheme we designed, which allowed us to codify and aggregate several legal principles in a systematic way across all disputes, is complimentary in this regard because it gives

us the ability to highlight cases in which a focal point is most likely to materialize with respect to the specific legal principles in question. In doing so, our article provides the means to evaluate empirically insights from bargaining theory that are underexamined in the literature, such as the importance of distribution problems and the role of focal points in the dispute resolution process.

The theory's ability to explain state behavior in response to a variety of sources of law, instead of simply focusing on treaties, is also significant. As we point out at the beginning of the article, doing so not only helps mitigate any selection issues, but also allows us to move beyond questions that are limited to compliance with only one source of international law. Instead, as the preceding analyses demonstrate, taking other forms of law under consideration (e.g., customary international law) in addition to our research design based on the three stages of dispute resolution can help us explain a leader's decisions at several points throughout the process of attaining international cooperation—not just whether states will comply with the final agreement. Consequently, our findings avoid problems of selection bias that have hampered the empirical literature on international law.

In general, this article is one of the first to demonstrate empirically that international law, broadly speaking (i.e., not just treaty law), has the ability to shape leader behavior, even in the realm of security where many would expect law's influence to be minimal. Our findings also suggest several avenues for future research. First, because the conditions for our legal-based focal point theory are not specific to territorial disputes, we believe that other scholars should apply our logic to other contentious issues in world politics. Second, comparisons across the different sources of international law are also possible. Although we aggregated the sources of international law into one variable, it might be useful to disaggregate them to compare, for example, the effectiveness of customary international law compared to treaty law. Third, using large *N* empirical methods, we find that the need for domestic cover helped predict the decision to pursue international legal dispute resolution. Scholars should now confirm this finding using survey research and other related methodologies such as experiments, in which domestic audiences can explicitly be queried about the role of arbitration and adjudication in providing domestic cover. Finally, as our study focused on how international law can lead to a final agreement, scholars should study whether final settlements grounded in international law can provide the basis for bringing about closer economic, political, and military ties between former disputants compared to settlement without the backing of international law.

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