



Why Belize Is Likely to Prevail in Its Territorial Dispute With Guatemala

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Since gaining independence in 1821, Guatemala has refused to recognize all or part of Belize, its small English-speaking neighbor. But under the terms of a 2008 agreement, this long-running territorial dispute will soon head to the International Court of Justice in The Hague. That agreement required each country to hold a referendum on going to the ICJ, which Belizeans approved (<https://www.reuters.com/article/us-belize-referendum-guatemala-border/belizeans-vote-to-ask-u-n-court-to-settle-guatemala-border-dispute-idUSKCNISFIQT>) earlier this month; Guatemalans did so in April 2018. In an email interview with WPR, Victor Bulmer-Thomas, an honorary professor at University College London's Institute of the Americas, explains the historical roots of the dispute and why Belize will have the stronger case at the ICJ.



An electoral worker shows a ballot marked "yes" during a referendum concerning a border dispute with Belize, in Guatemala City, April 15, 2018 (AP photo by Moises Castillo).

World Politics Review: Why have Belize and Guatemala been unable to reach agreement on a shared border, and how has the dispute affected bilateral relations since Belize's independence in 1981?

Victor Bulmer-Thomas: The territorial and maritime dispute between Belize and Guatemala was inherited by both countries from their previous colonial powers, the United Kingdom and Spain. Following its conquest of the region, Spain claimed sovereignty over all of Central America. The British settlers and their slaves first arrived in present-day Belize in the 17th century, but they were considered outlaws by Spain. The Spanish crown signed several treaties with Great Britain during the 18th century, granting certain rights to the settlers but retaining sovereignty.

By the time Guatemala gained independence in 1821, however, the settlers had pushed the boundaries of what would become the state of Belize southward, and the British government persuaded the new Guatemalan government to sign a border treaty in 1859. Three years later, the British government officially established the colony of British Honduras; it changed its name to Belize in 1973.

This Anglo-Guatemalan Treaty was ratified by both sides, but it was unilaterally abrogated by Guatemala

in 1939 on the grounds that the British side had not fulfilled one of the articles. Guatemala now claimed the whole territory and refused to recognize Belize when it became independent in 1981, with a defense guarantee provided by the United Kingdom.

Guatemala finally recognized Belize a decade later, and the British defense guarantee ended. But it soon became clear that Guatemala still did not accept the boundaries, claiming roughly half of Belize's territory. Fruitless bilateral negotiations continued until 2008, when a special agreement was signed committing both sides to take the dispute to the International Court of Justice, subject to a referendum in each country approving the decision.

WPR: What are the domestic political implications of the decision to seek ICJ arbitration, for both Belize and Guatemala?

Bulmer-Thomas: The decision to go to the ICJ is much more controversial in Belize than in Guatemala. This is understandable, as Belize faces the possibility of losing a large chunk of territory that it already occupies, while Guatemala only stands to lose a claim to territory that it does not actually possess.

The asymmetry in public opinion between the two countries was borne out by the two referendum campaigns. In Guatemala, the government played virtually no part. The "yes" campaign in favor of ICJ arbitration was led by civil society, especially nongovernmental organizations, and it prevailed with an astonishing 95 percent of the vote. The turnout rate was only 25 percent, and while this is not unusual in Guatemala, it indicates that the issue was not seen as especially important.

By contrast, the campaign in Belize was fraught with difficulties and contentious politics. The vote was originally supposed to have been held on the same day as Guatemala's, but Belize's government delayed it for a year, partly due to fear that the "yes" campaign would lose. The special agreement reached with Guatemala in 2008 was a bipartisan effort between the country's two main parties, but the People's United Party (PUP) lost an election that year to the United Democratic Party (UDP), causing this comity to break down. The PUP, still in opposition, announced at the beginning of 2019 that it would campaign for a "no" vote, forcing the UDP to throw all its weight behind the "yes" vote.

The PUP also appealed to the judicial system to postpone or even cancel the referendum on the grounds that it was unconstitutional. This led to a further month-long delay before the vote was finally held on May 8, in an atmosphere of intense political rivalry. Despite opinion polls in the months and weeks before the referendum indicating a win for the "no" campaign, the final result was 55 to 45 percent in favor of going to the ICJ, with turnout of 65 percent.

With general elections due next year, both major parties now recognize that they must resume a bipartisan approach to the ICJ case. This is helped by the fact that several leading figures in the PUP

actually voted “yes.” The PUP also recognizes that it could return to government in the 2020 election, and would then be responsible for implementing the decision of the Belizean people to go to the ICJ.

WPR: How is the ICJ likely to rule on the matter? What international legal principles will it apply in reaching a decision?

Bulmer-Thomas: Article 2 of the 2008 agreement limits the kinds of arguments that the judges can consider. They will only be able to apply international conventions and well-established principles of international law, as well as legal precedent. That means the judges will not be able to consider the case on the basis of *ex aequo et bono*, a legal principle allowing for a case to be arbitrated based on fairness rather than the letter of the law. It would have allowed Guatemala to argue, for example, that its unequal relationship with the U.K. in 1859 put it at a disadvantage when negotiating the Anglo-Guatemalan Treaty.

The judges, therefore, will first look at the relevant international treaties, of which the most important is the one signed in 1859. It specifies the boundaries of Belize in some detail and, if the court finds the treaty valid, will largely settle the case. Given that the 1859 treaty was ratified by both sides and implemented by Guatemala for 80 years; that Guatemala has never occupied any part of Belize; and that Belize’s boundaries have been recognized by virtually all independent states, it can almost certainly be assumed that the court’s final ruling will confirm the current territorial boundaries of Belize. However, the southern maritime boundaries of Belize overlap not only with those of Guatemala but also those of Honduras, so the ICJ is expected to apply the United Nations Convention on the Law of the Sea to settle the matter.