Resolution of Border Disputes in the Arabian Gulf

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Abstract

In a region inundated with armed conflict and critical natural resources, it is interesting to observe that with a few minor exceptions, the Arab Gulf states have sought peaceful dispute resolution methods to resolve their border and territorial disputes and have effectively done so for the most part. Many of these disputes involved boundaries with Saudi Arabia and former British colonies due to poorly delimited boundaries or a lack of demarcation. Saudi Arabia has effectively resolved the majority of its territorial disputes through bilateral negotiations, a peaceful resolution method. What explains Saudi Arabia's choice of bilateral negotiations, much less legally binding compared to other resolution methods of arbitration, and adjudication? This paper provides a review of Saudi Arabia's border and island disputes and the peaceful resolution of most of these disputes. An assessment of these border disputes demonstrates that in addition to realist power politics, Islamic law has heavily influenced the dispute strategies of Saudi Arabia and the successful resolution of the disputes.

Keywords

territorial disputes, dispute resolution, negotiations, Islamic law, Saudi Arabia

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In a region inundated with armed conflict and critical natural resources, it is interesting to observe that with a few minor exceptions, the Arab Gulf states have effectively used peaceful dispute resolution methods to resolve their territorial disputes. Of all the Gulf states, Saudi Arabia has been literally and figuratively at the center of these border and island disputes. Saudi Arabia has not only played a role as mediator in other disputes, but it has had boundary disputes with all of its neighbors. Fortunately for Saudi Arabia and its neighbors, eight out of its nine territorial disputes initiated since 1922 have been successfully and peacefully resolved. The means of resolution sought by Saudi Arabia in all its boundary disputes has been bilateral negotiations, the least legalized and formalized form of dispute resolution. Unlike other regions of the world where mediation, arbitration, and adjudication are fairly common in interstate dispute resolution, the states in the Gulf region, particularly Saudi Arabia, have shunned attempts at resolution through third parties, particularly legally binding methods.

What explains the choice of bilateral negotiations, and more interestingly, the avoidance of legally binding resolution methods of arbitration and adjudication? This research examines border disputes in the Gulf region involving Saudi Arabia, and attempts to provide an explanation for its dispute strategies. An analysis of Saudi Arabia's border disputes shows that realism and power politics can help to explain some disputes, but the major factor that seems to have influenced the choice of Saudi Arabia's dispute strategies is the strict adherence of Islamic law and distrust of Western legal traditions practiced by legally binding arbitration panels and international courts.

Saudi Arabia's Border Disputes

Borders in the Middle East, particularly in the Gulf region, are often referred to as lines drawn in the sand. In the Gulf region, European colonizers literally drew lines the sand, but not always clearly and not always to the satisfaction of the Gulf states, particularly Saudi Arabia. In a region where oil and natural gas resources are the predominant source of revenue for states, it is critical to know exactly where one state's oil field starts and another ends. Most of the border disputes, as well as maritime boundaries and island disputes in the Gulf region have been due to the potential of oil and natural gas resources or strategic location. Sovereignty in the Gulf region is not just about territorial integrity and jurisdiction, but about billions of dollars of oil and gas revenue. Where the line is drawn in the sand is extremely important to these states. Ambiguous or disputed borders are problematic; without clearly delimited and demarcated borders, the Gulf states would not be able to se-

curely and ethically access oil and natural gas resources without potentially hurting their neighbors' economies.

Since the collapse of the Ottoman Empire and the start of European colonization in the Middle East in 1922, the Gulf region—which includes Kuwait, Saudi Arabia, Bahrain, Qatar, Oman, the United Arab Emirates (U.A.E.), and Yemen—has experienced 15 territorial and maritime disputes, most involving only Gulf states, and a handful involving Iraq, Iran, and Egypt. Of these 15 disputes, only two are still outstanding, both over islands and territorial waters: a dispute between Iran and the U.A.E. regarding the Abu Musa islands, and a dispute between Saudi Arabia and Egypt over the Tiran and Sanifar Islands at the narrowest part of the Straits of Tiran, the opening of the Gulf of Aqaba into the Red Sea. As the largest, most central, and most powerful state in the Gulf, it should not be surprising that nine of the 15 Gulf disputes since 1922 have involved Saudi Arabia. Despite the fact that Saudi Arabia was never colonized by the British or French, all of Saudi Arabia's neighbors were colonized by the British, who delineated their boundaries with Saudi Arabia, leading to disagreements about delimitation and demarcation that were not resolved until the latter 20th century.

Saudi Arabia – Jordan/Iraq/Kuwait Boundaries

In the northern part of the country, Saudi Arabia contested territory with Jordan, Iraq, and Kuwait and these border disputes were not resolved until 1965, 1981, and 2000 respectively. In 1922, even before the creation of the new state, Ibn Saud, the leader of the territory of Najd (the bulk of what makes up Saudi Arabia today), issued a claim against the British along the borders of what is now Iraq, Kuwait, and Jordan after the British took over territory in that area formerly controlled by the Ottoman Empire. In the northwest region of Najd, the boundary with Transjordan, a British mandate territory later to become Jordan, was poorly delimited and areas including Wadi-i-Sirhan, Maan, and the port of Aqaba were disputed and claimed by both Najd and Transjordan. Although the Hadda Agreement of November 1925 delimited the central and northern parts of the boundary, the two states continued to dispute the southern part of the boundary, particularly around Aqaba, until August 1965 when a final agreement delimited the territory. After a series of bilateral negotiations, the outcome of the 1965 agreement was concessions by both states, and full Jordanian control of Aqaba (Schofield, 1992).

In May 1922, the British high commissioner for Iraq signed a treaty with Ibn Saud assigning certain tribes to Iraq and others to Najd, but the treaty did not actually define any boundary. The boundary of Iraq and Najd was delimited in a treaty, the Uqair Convention, signed in December 1922. Yet a neutral zone along the eastern border established in the treaty was never delimited and the entire border was

not demarcated until December 1981. The neutral zone, about 2,500 square miles, was to "remain neutral and common to the two governments of Iraq and Najd who will enjoy equal rights to it for all purposes," so that wells in the area would be accessible to tribesmen from both sides (Calvert, 2004). Not only did this neutral zone leave territorial boundaries between Iraq and the future state of Saudi Arabia ambiguous, but Ibn Saud then conquered and annexed the Hijaz region, nestled between Najd and Transjordan, which was ruled by King Abdullah, brother of King Faisal of Iraq. As the protectorate of the Hijaz region, the British conceded to Ibn Saud and recognized his rule of Hijaz through the Treaty of Jeddah in May 1927. Besides a 1938 agreement about the administration of the neutral zone, no discussions or actions were taken by either Saudi Arabia or Iraq regarding the zone until 1975, when the two states agreed to divide the neutral zone equally by drawing a straight line through the zone (Day, 1987).

However, despite the apparently equal distribution of the territory to each state, the agreement was not ratified and several years passed before action was taken regarding the delimitation of the neutral zone (Abu-Dawood & Karan, 1990). Motivated by the mutual concern regarding the threat of Iran after the Islamic Revolution in Iran in 1979 and the invasion of Iraq by Iran in 1980, Saudi Arabia and Iraq finally sought to delimit the neutral zone. Bilateral negotiations were held and the result was a treaty signed in December 1981 between Saudi Arabia and Iraq, delimiting the neutral zone in an equal division, with ratifications exchanged in February 1982.

Similar to the neutral zone created between Iraq and Najd, the Uqair Convention of 1922 also established a neutral zone along the border of Najd and the British ruled area that would become Kuwait. As with the zone between Iraq and Najd, the Kuwait-Najd zone was also about 2,500 square miles of desert. It was decided that "until through the good offices of the government of Great Britain a further agreement is made between Najd and Kuwait," both states would have equal access to the neutral zone, including any future resources found there, particularly oil (Calvert, 2004). After oil was discovered in the neutral zone in 1938, both states granted concessions to foreign oil companies, but it was not until the late 1950s that Saudi Arabia and Kuwait started bilateral negotiations on sovereignty rights to the zone, as well as maritime rights in the offshore area (about 40 miles). In late 1960, the two states came to an agreement to equally divide the neutral zone and a committee of boundary experts pursued delimitation for a number of years. In July 1965 Saudi Arabia and Kuwait signed a Partition Agreement in which the neutral zone was equally divided, extending out to six miles of each annexed section with regard to maritime rights. Demarcation formally occurred in December 1968, with the land boundary dispute resolved, but the maritime dispute unresolved.

The maritime boundary dispute not only included water rights, but also sovereignty over two islands, Qaru and umm al-Maradim, located respectively about 23 and 16 miles away from the former neutral zone. Neither state took any actions with regard to their maritime boundary or rights to the islands until in January 2000 when Iran began to drill in an offshore gas field that was claimed by both Saudi Arabia and Kuwait. This mutual threat motivated Saudi Arabia and Kuwait to sign an agreement in July 2000 to delimit their maritime boundaries, giving Kuwait sovereignty of the two disputed islands, with natural gas reserves in the area to be shared equally by the two states.

Saudi Arabia – Qatar, UAE, Oman, Yemen

In the southern part of Arabia, the British and Ottoman governments delimited their mutual borders in 1913-1914, known as the "Blue Line" and "Violet Line," which partially determined the borders of the new state of Saudi Arabia when it was officially founded in 1926. Saudi Arabia was unwilling to accept the Blue Line and Violet Line, insisting in 1935 on an additional 200,000 square miles in parts of today's Qatar, Abu Dhabi, Oman, and Yemen. In response to this demand, in 1935 the British conceded territory they thought was merely empty desert, giving Saudi Arabia some of this land by moving the boundaries slightly. This border, which became known as the "Riyadh Line," became part of the de facto border of Saudi Arabia and though it was slightly changed in 1937 and 1955, it was never fully accepted by Saudi Arabia (Downing, 1980). As a result of this rejection of the boundaries, a number of border disputes in the southern Gulf were created.

Though the border between Saudi Arabia and Qatar was somewhat demarcated in 1965, tensions between the two states led to a border clash in September 1992, resulting in the deaths of one Saudi soldier and two Qatari soldiers. The border clashes continued on and off for some time, and even after Qatari Crown Prince Shaikh Hamad bin Khalifah al Thani seized power from his father in June 1995, tensions between the two states continued (Heard-Bey, 2006). Full demarcation of the Saudi Arabia-Qatar boundary was finally agreed upon in April 1996, and completed in March 2001, though maritime boundaries were not delimited until 2008 (Kingdom of Saudi Arabia, 2008).

Further south, Saudi Arabia maintained territorial claims against Oman from 1934 to 1990, Abu Dhabi from 1952 to 1974, and Yemen from 1934 to 2000. The Oman v. Saudi Arabia dispute dated back to 1933 when Saudi Arabia granted oil concessions to oil companies in an area bordering Oman and there was uncertainty about where the border lay. The British claimed the boundaries were delimited according to the Violet Line and the Blue Line, but Saudi Arabia disagreed, laying claim in 1949 to the al-Buraimi oasis, containing nine villages and five tribes, an oil

rich area nestled between Saudi Arabia, Oman, and Abu Dhabi (Kechichian, 1995; Wilkinson, 1991). The British maintained rights to the oasis villages on behalf of Oman until Oman's independence in 1971, when Oman issued a counter claim against Saudi Arabia. Initially, no talks occurred between Saudi Arabia and Britain since Ibn Saud "did not want to negotiate with Britain over its borders with Oman," but eventually between 1949 and 1952, Saudi Arabia agreed to talks with the British, but without success (Kechichian, 1995, p. 40). Bilateral negotiations between Saudi Arabia and Oman began in the 1970s, with several rounds of talks held and little progress. The two states signed a final agreement in March 1990 in which Saudi Arabia withdrew its claim to the oasis villages while they agreed on mutual concessions along other sections of the Saudi-Omani border.

The dispute between Abu Dhabi, later part of U.A.E., and Saudi Arabia also regarding the Buraimi oasis villages, differentiated itself from the dispute with Oman when Saudi Arabian troops occupied the oasis in August 1952. In 1954, Saudi Arabia initially agreed to arbitration of the dispute after a meeting between the British and Saudi Arabia in Geneva, but then talks collapsed in 1955 and arbitration was thrown out as a resolution option. Though the Saudi forces were evicted by the British and local forces in 1955, Saudi Arabia continued to maintain its claim of ownership for the oasis, mainly because Saudi Arabia sought a land corridor to the waters of the Persian Gulf southeast of Qatar. Though Saudi Arabia did consider issuing a formal protest against Britain at the United Nations Security Council, the idea was dropped after only a short period of consideration (Kechichian, 1995). Further talks occurred in 1963 between Saudi Arabia and Britain on behalf of Oman and Abu Dhabi, but to no avail (al-Bahama, 1975). In 1974, Saudi Arabia agreed through secret bilateral negotiations with U.A.E. to concede its claim to six of nine villages in the oasis in exchange for a land corridor to the coastline and for Saudi Arabia to control all revenue from another oil field that straddled the Saudi-U.A.E. boundary (Seddiq, 2001).

In the southwest part of the Gulf, Saudi Arabia and Yemen disputed their border as well as three small islands in the Red Sea. The dispute dated back to 1926 when Saudi Arabia annexed territory long claimed by Yemen, leading to an armed conflict that ended with the Taif Treaty of May 1934. This agreement delimited the 1,800 mile long boundary of the two states, but as with many other Gulf disputes, the border was never demarcated and was fairly ambiguous in many areas of the desert boundary. The two states battled over the border in a number of armed clashes, most recently in 1995, 1997, and 1998, finally resolving the border and island dispute in June 2000 through bilateral negotiations. In the Jeddah Treaty, the border was clearly delimited and plans for demarcation were established, Yemen dropped its claims to the regions annexed by Saudi Arabia in 1926, and the mari-

time boundary was clearly delimited (Dzurek, 2001).

In sum, Saudi Arabia has been able to effectively resolve eight of its nine territorial disputes, and all the disputes with neighboring Gulf states. Though Saudi Arabia briefly considered arbitration in one case and mediation in another, the Saudi government decided to pursue only bilateral negotiations and not involve any third parties in the resolution process, meaning that all of these disputes were resolved through the use of bilateral negotiations. Despite the availability of several other dispute resolution methods, Saudi Arabia has demonstrated a preference for bilateral negotiations and avoidance of nonbinding and binding third party interventions, discussed in the next section.

Methods of Dispute Resolution

States involved in territorial disputes have several options regarding dispute strategies. For the challenger state, the objective is to acquire the claimed territory, whether through peaceful methods or through conquering the territory by force. For the target state, the objective is to maintain the status quo and retain sovereign rights to the disputed territory. Both states in a dispute can choose to actively or passively maintain a territorial dispute, the challenger by making official claims and protests, the target state by rejecting such claims or denying a dispute even exists. Disputes can go on for decades in this manner, with one state claiming the territory, the other state rejecting the claim, and nothing really happening except maintaining the status quo of the dispute. If one of the states wants to change the status quo and attempt to end the territorial dispute, one or both states can attempt peaceful dispute resolution or use force or defend the territory using force (Wiegand, 2011).

Fortunately for international relations, when states involved in territorial disputes have attempted to change the status quo, it has been mainly through peaceful attempts, which include bilateral negotiations, nonbinding third party good offices or mediation, and binding third party arbitration or adjudication by an international court, mainly the International Court of Justice (ICJ). Bilateral negotiations, direct talks between the disputing states, are the most common method of peaceful dispute resolution (Powell & Wiegand, 2010). They are the least formalized, least legalized, and most flexible method of dispute resolution. Negotiations can take place over a long time period, in a series of rounds of talks, some procedural, some directly involving discussion of sovereignty. Through bilateral negotiations, disputing states attempt to resolve their grievances without involving any third parties (Shaw, 2003). An advantage of bilateral negotiations is that disputing states are able to have direct control of the proceedings and not have to rely on potentially

biased third parties or previously established legal guidelines that arbitration or adjudication would involve (Powell & Wiegand, 2010). The major disadvantage of bilateral negotiations is that they are not legally binding, making it difficult not only for resolution to be achieved, but also for enforcement of any agreement to occur. Another disadvantage is that because there are no third parties involved to help with procedures, communications, and building common ground, it often takes many rounds of negotiations for adversarial states to agree to anything and many negotiations are merely procedural to decide the content of the next round of talks, for example.

Nonbinding third party methods, which include good offices, inquiry, conciliation, and mediation, are the next level of resolution methods states can pursue. These methods, of which mediation is most common in territorial disputes, are somewhat more formalized and involve third parties who set up rules and procedures about the resolution process (Kratochwil, 1985). In mediation, the disputing states invite a third party to become involved in the resolution method, intervening with a more objective view. The intention is generally that the mediator will help to influence perceptions or behavior regarding the dispute so that the disputants can move toward an agreement and resolution (Bercovitch & Rubin, 1992). The benefit of mediation is that an unbiased third party is able to help the adversarial states with confidence building, procedural details, and reducing tensions between the two states. The disadvantage is that mediation is not legally binding, so at any time, one or both of the disputants can withdraw from the resolution proceedings or reject the findings of the mediator.

More formalized and legally binding dispute resolution methods include arbitration and adjudication, which both apply international law. In both methods, by submitting the dispute to an arbitration panel or the ICJ, the disputants agree in advance to accept the award (arbitration) or judgment (adjudication). The rules of arbitration are more flexible than rules of adjudication (Simmons, 2002; Shaw, 2003); this is mainly because the ICJ is a permanent court with procedures and judges are mainly fixed, though on a rotating basis. In arbitration, the disputants select the third parties that will serve as an arbitrator or panel of arbitration judges. In some cases, the arbitrator is one person, such as the Pope, or a regional organization like the Organization of American States (OAS). In other cases, a panel of judges or lawyers from states not involved in the dispute or from outside the region agrees to review the merits of each state's case. Both types of resolution methods involve international law and principles accepted by both disputants, yet the ICJ specifically follows the rules set out in Article 38 of its Statute regarding treaties, custom, and general principles of law (Shaw, 2003). An important point about international law used by the ICJ and other international courts is that the principles,

customs, and procedures are based on Western legal traditions, common law and civil law.

The benefit of arbitration and adjudication is that they are legally binding and widely respected since rulings are based on international law. Unlike bilateral negotiations or nonbinding third party mediation, where disputants can back out of agreements easily, legally binding resolution places more pressure on states to agree to the rulings. Even though there is no practical enforcement of international law and rulings of arbitration and adjudication in the international system, states generally comply with rulings mainly due to reputation and respect for international law. In the 15 territorial disputes examined by the ICJ, the disputants have complied with all but two of the rulings (Nigeria and El Salvador later requested the Court to revisit the cases, which the Court rejected). The overall implication of legally binding resolution methods is that states that are willing to pursue arbitration or adjudication have a respect for international law and are willing to allow unbiased third parties to make binding decisions regarding the outcome of territorial disputes.

Explaining Saudi Arabia's Dispute Resolution Attempts

Saudi Arabia has never sought the legally binding methods of arbitration or adjudication for resolution over disputed sovereignty, nor has it sought mediation. As discussed in the cases above, Saudi Arabia has resolved eight of its nine territorial disputes through bilateral negotiations. Overall, with the exception of Qatar and Bahrain, which resolved its territorial dispute with a ruling from the ICJ (Wiegand, 2012), Gulf states including Saudi Arabia have shied away from third party intervention from states or institutions outside of the Arab region. When third party intervention did occur, it was by another Arab state, leader, or institution, not by an arbitration panel of neutral judges or an international court. What explains Saudi Arabia's lack of third party involvement in dispute resolution and preference for bilateral negotiations? Two potential explanations stand out: realism and Islamic law.

Realism

The realist explanation is based on the concept of power politics in the Gulf region. In international relations, realism asserts that states always prioritize their self interest, whether it is protection of sovereign territory, increased relative economic or military capabilities, or maintaining power preponderance. With regard to territorial dispute resolution, realism would predict first of all that peaceful resolution is difficult, but if it does occur states seek to maximize relative gains, meaning that they would seek higher levels of material and economic concessions than their

opponent (Waltz, 1979). Realism can explain to some degree Saudi Arabia's preference for bilateral negotiations. As the major power in the Gulf region and the state with the highest level of economic and military capabilities, Saudi Arabia seeks to maintain its power position, and will seek strategies that benefit the state in this way. This theory helps to explain the relatively equal concessions that Saudi Arabia received in all of its resolved disputes. In other words, Saudi Arabia either never lost territory or gained non-territorial concessions, such as the access to the sea through a land corridor provided by Abu Dhabi.

Realism can also partly explain why Saudi Arabia never engaged a third party actor as a mediator for its own border disputes. Though Egypt acted briefly as a mediator in the Saudi Arabia v. Qatar dispute, it was only to diffuse the 1992 border clash, not to resolve the sovereignty question. Islamic law is compatible with mediation, so there is no basis in Islamic law for Saudi Arabia not to pursue mediation. In fact, Saudi Arabia acted as a mediator for the Qatar v. Bahrain dispute for 10 years. Yet, when third parties have been brought in to help mediate territorial disputes in the Islamic world, they have almost always been other Islamic state mediators. In a study of territorial disputes in the latter 20th century, Powell and Wiegand (2010) found that when Islamic law states sought third party intervention in their territorial disputes, 78 percent of the time they sought Islamic third parties, including leaders, envoys, and institutions such as the Arab League, the Islamic Conference Organization, and the Gulf Cooperation Council (GCC).

As the major power in the region, it is highly unlikely that Saudi Arabia would turn to another Arab or Islamic state or actor such as the GCC. The GCC certainly did not have the institutional capability to act as an effective third party mediator in Gulf boundary disputes, particularly since Saudi Arabia has politically dominated the GCC for decades (Okruhlik & Conge, 1999). Therefore, the choice to avoid mediation for its own disputes is mostly due to power politics, but Islamic law has played a role as well.

At least two territorial disputes were resolved through bilateral negotiations because of the looming relative threat of Iran and the Islamic revolution. Dispute resolution with Iraq and Kuwait was apparently viewed in the self interest of Saudi Arabia, mainly because Saudi Arabia wanted to prevent Iranian claims or threats to the neutral zone with Iraq and the maritime zone bordering Kuwait. Realism can provide a strong explanation for why Saudi Arabia sought resolution with its Arab Gulf neighbors in these two disputes since relative capabilities were influential. The explanation may explain the bilateral negotiations in the other disputes given that weaker states in the Gulf felt pressured by Saudi Arabia's preferences based on its relative power and influence in the region, but it cannot sufficiently explain Saudi Arabia's avoidance of legally binding methods.

Islamic Law

Building on realism by examining Saudi Arabia's reliance on various aspects of Islamic law helps to explain Saudi Arabia's avoidance of legally binding methods, providing a fuller picture. In the Gulf region specifically, where Islamic legal traditions are practiced more widely than elsewhere in the Arab and Islamic world, particularly in Saudi Arabia, Islamic law has influenced the predominance of bilateral negotiations as a dispute resolution method. This pattern has occurred mainly because of 1) Saudi Arabia's distrust of international law used in legally binding methods and 2) its preference for informal negotiating procedures.

As an Islamic law state, from Saudi Arabia's perspective, it is best to avoid international arbitration panels and courts that use Western influenced legal traditions of common and civil law. In an examination of all 83 contentious cases at the ICJ from its inception to 2006, only two judgments even mentioned Islamic law and only seven involved dissenting opinions (often from a judge from the Islamic world) discussing Islamic law (Lombardi, 2007). With such a poor record of Islamic law being used at the ICJ, it is no wonder that states that adhere strictly to Islamic law would be cautious of the Court and its rulings. A study of Islamic law states and the ICJ found that states practicing Islamic law based systems, as Saudi Arabia does, are 15 times less likely to use the compulsory jurisdiction of the ICJ (Powell, 2013). Similarly, in states where holy oath is required in the constitution, as is certainly the case with Saudi Arabia, Islamic law states were 21 times less likely to agree to compulsory jurisdiction of the ICJ (Powell, 2013). What these findings suggests is that states that use Islamic law like Saudi Arabia have not only been hesitant to take border disputes to the ICJ or any other international courts or arbitration, but it was actually very unlikely that the these states would choose a binding dispute resolution strategy at all, choosing instead to resolve disputes through bilateral negotiations.

Not only is Saudi Arabia not a member of the Court's compulsory jurisdiction clause, but the only time that Saudi Arabia has ever participated in any aspect of the Court's business was in 2004 when a Saudi ambassador made an oral presentation to the court, along with many other Arab states, on behalf of the Palestinians regarding the building of a security wall by Israel. In the presentation, the Ambassador noted that this was the first time Saudi Arabia had ever spoken at an ICJ hearing (Burgis, 2009). As a further indicator of Saudi Arabia's concern that Islamic law is not used or well known in the Court, in a 2013 meeting with the president of the Court, Prince Bandar bin Salman noted that training courses for judges about Islamic law was available if the Court were interested.

In all of Saudi Arabia's attempts to resolve its border disputes, in only one case did the Saudi government consider arbitration—in 1954 in its case against Abu

Dhabi (with Britain representing Abu Dhabi), but Saudi Arabia quickly changed its mind and arbitration never occurred. In putting together the arbitration panel of five agents who would delimit the boundary, Saudi Arabia and Britain each chose their own respective representatives, then requested that of the remaining three neutral arbitrators, one be a "Moslem" and one be a "European" respectively, with the fifth arbitrator not decided (Arbitration agreement, 1954). This was of concern to Saudi Arabia, who clearly had a preference for Islamic arbitrators. The only other border dispute that potentially involved arbitration was the Saudi Arabia v. Yemen dispute, when Yemen periodically called for an international arbitrator, which Saudi Arabia "outright rejected" (Okruhlik & Conge, 1999).

There are a number of specific aspects of Islamic law that differ from Western international law, which likely influence states like Saudi Arabia to prefer not to seek the assistance of international legal institutions in territorial dispute resolution. These particular components of Islamic law include: a different approach to adjudication clauses, a different relationship between law and religion, and the religious affiliation of judges in the international courts (Powell, 2013). In contrast to Western law, which is mainly secular, Islamic law is based on Islamic faith, traditions, and infallible religious sources like the Quran and Sunna (Cravens, 1998; Glenn, 2007; Powell, 2013). This distinction is critical for Islamic law states like Saudi Arabia because Islamic law is considered to be divine and no other legal order can be recognized, particularly Western secular law that has no reference to Islamic law.

Another major component of Islamic law has to do with the respective treatment of territoriality and sovereignty. Unlike Western law, which places significant value on specified territory as a determinant of sovereignty, in Islamic legal traditions, sovereignty was traditionally based on people rather than territory, similar to the East Asian tributary system and the medieval Papal system. To demonstrate sovereignty, Muslims paid zakat, religious taxes, and performed the hajj, the pilgrimage to Mecca, so that regardless of where they lived, Muslims were always under the sovereign rule of the Muslim ruler. As a result, sovereignty focused on tribal allegiance rather than specific territory, particularly applicable to Bedouin tribes common in Arabia (Bidwell, 1987; Cravens, 1998). As a result, the focus on territoriality was minimal, especially since the priority was access to water wells and freedom for tribal movement. The fact that Islamic law traditions developed separately over one thousand years and that sovereignty is more personal than about territory, Islamic law is "inapplicable in a world comprised of independent nation-states and governed by concepts of territorial rather than personal sovereignty" (Cravens, 1998, p. 530). Though the idea of territorial sovereignty became important in the 20th century with the discovery of oil, and Western imperial powers, Britain in the

case of the Gulf states, emphasized the "international concept of precise territorial boundaries" (Okruhlik & Conge, 1999, p. 233), this legal tradition of focusing on people rather than territoriality influenced Saudi Arabia in how it viewed its border disputes, particularly in the case of the Buraimi Oasis disputes with Abu Dhabi and Oman, as well as with tribes along the Saudi-Iraqi earlier in the 20th century.

Another component of Islamic law is the preference for informal resolution procedures, which can also help to explain Saudi Arabia's use of bilateral negotiations. According to Islamic beliefs, formalized and legal adjudication used by the Western courts can "breed hatred between parties while reconciliation brings them together" (Iqbal, 2001, p. 1040). This attitude suggests why Saudi Arabia would avoid Western influenced courts like the ICJ. One way to think of Islamic and Western legal traditions is to consider them as different ways of ordering the international system: "Islam provides the sole coherent, non-liberal world view of any political significance, and consequently the only vital external perspective on the liberal project of public international law" (Westbrook, 1993, pp. 820-821). In fact, states like Saudi Arabia using Islamic law have fairly negative views toward international courts (Brower & Sharpe, 2003).

Saudi Arabia has significant influence on its neighboring states; especially since Qatar turned to the ICJ after 10 years of Saudi mediation had failed, the last thing Saudi Arabia wanted to do was encourage the other Gulf states to seek dispute resolution through formalized methods: "As the big sister to which the other Gulf states defer to various extents, Saudi Arabia does not want to see itself defending its borders at the ICJ, and would rather reach solutions by mutual consent through direct and candid negotiations" (Mideast Mirror, 2000). Not only does Saudi Arabia prefer the use of Islamic law, but it disapproves of the Western formality of dispute resolution, instead replacing it with an emphasis on acknowledgment, apology, and forgiveness (Irani & Funk, 1998). This emphasis is demonstrated by Saudi Arabia in bilateral treaties about its boundaries signed with its neighbors. In these agreements, the focus is on brotherly cooperation by Islamic states that are ready to move forward in their bilateral relations. In dispute resolution using Islamic law, very little procedural law is applied, while instead, the achievement of consensus or reconciliation between the disputants is emphasized (Glenn, 2007). In fact, dispute resolution in Islamic law usually involves simple proceedings without much formal documentation, formal procedures, or rules of evidence (Iqbal, 2001). This approach to dispute resolution based on Islamic law helps explain why Saudi Arabia has avoided legally binding methods in its boundary disputes and instead used bilateral negotiations.

Conclusions

With such distinctions between Islamic law and Western influenced international law, leading to Saudi Arabia's skepticism of Western legal traditions inherent in arbitration and adjudication, and the state's preference for informal procedures as outlined in Islamic law, it is no surprise that Saudi Arabia has shunned legally binding dispute resolution methods in favor of bilateral negotiations with its neighbors. Even though bilateral negotiations and mediation are not legally binding dispute resolution methods, in the case of Gulf boundary and island disputes including Saudi Arabia's approach, the influence of Islamic law has taken precedence over the significance of "legally binding." Not only have all the boundary agreements been enforced by the former disputants, but regional cooperation in the Gulf has increased as a result of the resolved disputes.

This research addressed the question of why Saudi Arabia has used only bilateral negotiations and not mediation to resolve its boundary disputes with its Gulf neighbors, and stayed away from any legally binding methods of arbitration and adjudication. Though realism can somewhat explain Saudi Arabia's dispute strategies and lack of mediation, Saudi Arabia's strong adherence to Islamic law can more fully explain its avoidance of legally binding methods, its unwillingness to seek mediation from a non-Islamic law state, and, the use of bilateral negotiations. The lack of use of Islamic law in the ICJ and the application of Western, secular law, which places more emphasis on the division of territorial sovereignty compared to traditional Islamic law have influenced Saudi Arabia to shy away from international arbitration and adjudication. Without an effective mediator in the region and Saudi Arabia's relative power status, the only option that Saudi Arabia has really had has been to use bilateral negotiations. Because of the inherent principles of Islamic law applied in Saudi Arabia, the Saudi government has demonstratively preferred more informal resolution methods with its neighbors using principles, customs, and traditions from Islamic law.

Fortunately for Saudi Arabia and its Gulf neighbors, negotiations have resulted in positive outcomes, with agreements made between Saudi Arabia and all its Gulf neighbors, as well as Iraq and Jordan. As the major power in the region, Saudi Arabia's strategies in dispute resolution influence smaller Gulf states. In future disputes, whether territorial or over other issues, it is very likely that Saudi Arabia and other states that strongly practice Islamic law will avoid legally binding dispute resolution and instead pursue bilateral negotiations that are influenced by Islamic law.

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