I. Title of the Case:

Nicaragua v. Colombia (Territorial and Maritime Dispute) International Court of Justice 2007 #GL124

II. Facts of the Case:

a. On March 24, 1928, Nicaragua and Colombia signed a treaty in order to resolve the territorial issues in a long standing dispute between the two nations. Colombia agreed to grant sovereignty over certain territories to Nicaragua and sovereignty over other specific territories were given to Colombia within the same treaty. Within this same treaty certain lands were deemed to still be in dispute between Colombia and the United States.

b. In 1930 the treaty was ratified by both nations and the “1930 Protocol” stated specifically that the lands mentioned in the treaty did not extend west past the 82nd degree of longitude west of Greenwich.

c. On June 4, 1969, Colombia wrote a diplomatic note complaining of oil exploration and reconnaissance permits granted by Nicaragua which covered Quitasueno, a territory under dispute between Colombia and the United States mentioned in the treaty, and waters surrounding it including those past the 82nd parallel. Within the note Colombia made a “formal reservation” of its sovereignty over these particular areas, except those past the 82nd parallel.

d. In response, Nicaragua, on the 12th of June, wrote their own diplomatic note that stated the areas were part of their own continental shelf and they had sovereignty over the area based on the norms of international law. Also Nicaragua claimed that the 82nd parallel was not delineated as a limiter of the sovereignty they had in that area simply a way of setting a specific boundary for certain territories.

e. Another note was sent by Colombia claiming sovereignty of these areas and pointing out again that certain territories were in dispute between them and the United States not Nicaragua. In response Nicaragua sent a memorandum to the United States claiming sovereignty between the areas on their continental shelf and refusing to allow Colombia to use the 82nd parallel as the boundary.

f. In 1972 the United States signed a treaty that renounced any claims to the areas mentioned in the 1928 treaty and stated that they legally felt no sovereignty could be exercised over these area. Colombia stated that at this time they could not exercise sovereignty, but under international law, the 1928 treaty, and the 1930 Protocol Colombia was the only nation who had any claim to these areas.

g. Nicaragua then claimed sovereignty over the same areas and sent notes to the United States and Colombia protesting the signing of a treaty between the two nations. Nicaragua, in 1979, also claimed that the treaty of 1928 was considered null in their eyes because it incapacitated the rulers of their
country. Colombia responded by saying that this declaration was a historical breach and a violation of international law.

h. In bringing the case to court Nicaragua claimed that the court should examine the validity of the 1928 treaty and the 1930 Protocol regarding the 82\textsuperscript{nd} parallel. Nicaragua especially questioned whether or not the 1928 treaty even addressed the issues that are the substance of the main dispute between the two nations. Colombia claimed that the court had no jurisdiction over the case due to the validity of the 1928 treaty

III. Questions:
1. Did the treaty of 1928 “settle” the dispute between the two nations according to the law?
2. Which nation has sovereignty over Roncador, Quitasueno, and Serrana?
3. Does the court have jurisdiction over this case under either the Pact of Bogota or the optional clause?

IV. Decisions:
1. According to the Pact of Bogota issues are to be considered settled in cases where a treaty or other similar means were used to end a dispute. The governing of a certain area based upon a treaty is essentially the same in legal terms as using the word settled. Therefore, the courts conclude that stating that the treaty settled the dispute is in accordance with the Pact of Bogota.
2. The courts decided that based upon the treaty of 1928 Nicaragua gave over any rights to dispute the sovereignty of these particular areas. The treaty clearly stated that these areas were only open for discussion between Colombia and the United States. As such, the treaty signed in 1972 in which the United States relinquished any claim to these areas stands. Colombia has sovereignty over these areas as granted by the treaty in 1972.
3. In order to examine whether or not the court has jurisdiction over this case the court allowed the issue to be heard during preliminary objections. Nicaragua stated that at the time of the 1928 treaty their government was under the control of the United States and they were in no position to sign a treaty contrary to the interests of the United States. This inability rendered the state incapable of legally signing and ratifying a treaty. Colombia claimed that under Article XXXI of the Pact of Bogota the dispute had been settled between the nations with the signing of the 1928 treaty. Colombia also pointed out that after the United States surrendered power of Nicaragua the government did not object to the treaty. Even when the Nicaraguan government was given an opportunity to do so, they instead let the treaty stand and did not raise an objection claiming the treaty to be invalid until 50 years later. Nicaragua allowed the treaty to stand for this long and had agreed to its validity and during the Pact of Bogota in 1948 there is no evidence that Nicaragua considered the treaty to be invalid. The ICJ agrees with Colombia on this issue and states that according to the stipulations of the Pact of Bogota the dispute between the two nations was settled by the 1928 treaty and the court has no jurisdiction to hear this case. Regarding the possible jurisdiction
given by the optional clause the court found that it is not inappropriate for Nicaragua to pursue two different bases for jurisdiction. However, even under the optional clause the courts found that there exists no legal dispute between the two nations because this dispute was settled by the 1928 treaty.

V. Principle:

In this particular case the court held to the conviction that they should not hear a case which has been shown to fall outside of their jurisdiction. However, this case also illustrated that one source of jurisdiction does not necessarily hold primacy over another source of jurisdiction.

VI: Conclusion:

The above case seems to show that although there are means to examine the validity of certain treaties, international courts are hesitant to declare invalid long standing treaties. Due to the fact that Nicaragua allowed the treaty to stand without objection for a long period of time showed their acceptance of the validity of the contract. This indication lead to the conclusion that international law does not allow the courts to declare null and void contracts between nations that were mutually agreed upon, ratified, and allowed to stand as valid.

VII. Bibliography:

International Court of Justice, *Nicaragua v. Colombia*

International Law Reporter, *ICJ: Territorial and Maritime Dispute*