

The peaceful resolution of territorial and maritime disputes

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Auteur(s) : Powell, Emilia Justyna

Autre(s) auteur(s) : Wiegand, Krista E. (1971-....)

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Note sur le contenu : Introduction Peaceful Settlement of Disputes in International Law A Theory of Strategic Selection: Choice-of-Venue A Theory of Strategic Selection: Within-Venue Research Design and Trends in Territorial and Maritime Disputes Testing Choice-of-Venue Strategic Selection Application of Within-Venue Strategic Selection Conclusions

Résumé ou extrait : "The Peaceful Resolution of Territorial & Maritime Disputes examines states' strategic behavior in pursuing methods of peaceful resolution, ranging from negotiations through mediation to international courts. The book investigates how the high stakes associated with settlement of territorial and maritime disputes and the unpredictability of outcomes push states to pursue "strategic selection" and forum shopping. The process of strategic selection occurs at two interrelated stages: the initial pursuit of a particular method and venue - choice-of-venue, and decision-making in the context of the chosen venue - within-venue. The driving force behind strategizing is the hope of reducing

uncertainty and of increasing the chances of winning. As the disputants progress through the settlement process, states reconsider and refine these strategies. Several mechanisms influence states' strategies: past experience with resolution methods (winning/losing), the relationship between domestic law and international law, framing legal claims, and shaping the resolution procedures. This book embraces a multi-method approach and combines statistical analyses and in-depth qualitative interviews with states' legal counsel, judges, arbitrators, government officials, and other experts from multiple countries. The book also highlights numerous real-world instances of territorial and maritime disputes including the Philippines v. China arbitration case in the South China dispute." (éd.)

When governments of countries involved in territorial or maritime disputes choose to pursue peaceful resolution, there is great uncertainty about whether they can resolve the disputes in their favor. Governments need to decide which path to take in peaceful resolution—bilateral negotiations, mediation, arbitration, or adjudication. The authors argue that two major factors can influence this decision—past experience with specific resolution methods and the relationship between domestic and international law for the countries involved in the disputes. Governments also need to reduce uncertainty about winning and losing by framing their claims in certain ways and shaping the procedures of the resolution process to garner more control with the process.

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