



## Territorial and Maritime Dispute (Nicaragua v. Colombia; Honduras and Costa Rica)

**ARGUED: 24 November 2024**

**DECIDED: 24 November 2024**

1 The Majority opinion was signed and agreed to by President Lercher of the Republic of Austria,  
2 Justice Barness of the Federative Republic of Brazil, Justice Crutcher of the Kingdom of Belgium, Justice  
3 Deinek of the Republic of Mozambique, Justice Evans of the Kingdom of Sweden, Justice Lambert of the  
4 Islamic Republic of Pakistan, Justice Lenart of the French Republic, Justice Shannon of the Republic of  
5 the Republic of Costa Rica, Justice Thom of the Republic of Trinidad and Tobago, and Justice Truax of  
6 the Republic of Kenya.

7 The Court was asked to examine the validity of the 1928 Treaty of Esguerra-Barcenas and the  
8 1930 Protocol of the Esguerra-Barcenas Treaty. Within regards to the credibility of the treaty which the  
9 Republic of Nicaragua, herein referred to as Nicaragua, claims to have lacked authority and sovereignty  
10 due to outside influence. In addition the Court was asked to examine the 1982 United Nations Conven-  
11 tion on the Law of the Sea (UNCLOS) with precedence on the 200 nautical mile economic exclusion  
12 zone. As well as interpret and/or analyze UNCLOS and the 1948 Pact of Bogota to establish whether or  
13 not examining the validity of the 1928 Treaty of Esguerra-Barcenas was within the ICJ's jurisdiction.

14 The 1928 Treaty of Esguerra-Barcenas was signed by the Heads of State of Nicaragua and the  
15 Republic of Colombia, herein referred to as Colombia, establishing jurisdiction over the islands of the  
16 San Andrs Archipelago, Mosquito Coast, and Corn Islands. The 1930 Protocol established the 82W  
17 Meridian, which established the division of authority over the Western Caribbean. The United Nations  
18 Convention on the Law of the Sea was adopted in 1982 and enforced in 1994 and established a 200 nau-  
19 tical mile economic exclusion zone of a country.. In 1948, both states were also party to the 1948 Pact of  
20 Bogota and agreed to settle disagreements through peaceful regional mechanisms before bringing  
21 the disagreements before another body, including the International Court of Justice. In addition, Arti-  
22 cle 287 of the UNCLOS states the International Court of Justice shall have jurisdiction over any dispute  
23 concerning the interpretation of application of an international agreement related to this Convention

### 24 JURISDICTION

25 The Court finds that this case falls within its jurisdiction and affirms its authority based on mul-  
26 tiple legal sources. First, under Article 287 of the United Nations Convention on the Law of the Sea (UN-  
27 CLOS), a State is free to choose the means for settling disputes, listing the International Court of Justice  
28 (ICJ) as a valid avenue for resolution. Nicaragua's application to the ICJ is validated by this clause.  
29 Second, Article 288 of UNCLOS establishes that any court referred to in Article 287 has jurisdiction over  
30 disputes concerning the interpretation or application of international agreements related to the Con-  
31 vention. The Court establishes additional jurisdictional grounds under this clause because the dispute  
32 arises from the 1928 Esguerra-Barcenas Treaty. Third, the Court cites Article 36 of the Statute of the  
33 International Court of Justice, which gives the ICJ jurisdiction over all cases referred to it by the parties  
34 and over matters specifically provided for in the Charter of the United Nations or treaties and con-  
35 ventions in force. Lastly, both parties have reached an agreement on the 1948 Pact of Bogota, which  
36 the Court acknowledges is significant. Article V of the Pact explicitly states: "If the parties are not in  
37 agreement as to whether the controversy concerns a matter of domestic jurisdiction, this preliminary

38 question shall be submitted to the decision by the International Court of Justice, at the request of any  
39 of the parties.”

40 ARGUMENTS

41 The applicant, the Republic of Nicaragua, seeks affirmation of its sovereign rights over certain  
42 maritime zones in accordance with international law, recognition of its entitlement to an extended con-  
43 tinental shelf beyond 200 nautical miles, and measures to address any violations of its maritime rights.  
44 In its arguments, Nicaragua contended that during the period of United States occupation from 1912  
45 to 1933, the 1928 Esguerra-Barcenas Treaty and the 1930 Protocol were signed under duress. Due to  
46 this occupation, they claimed that the treaties were invalid, as it did not represent a sovereign deci-  
47 sion by Nicaragua because the United States coerced them into signing the treaty. They claimed that  
48 the United States occupied them for purely economic benefit, harming Nicaragua’s economic status.  
49 They advocated for the Court to declare the Esguerra-Barcenas and its Protocol invalid, and there-  
50 fore have the Court rely on the United Nations Convention on the Law of the Sea’s provisions creating  
51 the economic exclusion zone that should not extend 200 nautical miles from the baselines from which  
52 the territorial sea is measured. They claimed the 1928 Treaty was invalid to begin with, as well as the  
53 fact that the treaty only addressed the sovereignty of specific islands, instead of the delimitation of  
54 maritime boundaries. In doing this, the Court would guarantee Nicaragua the rights to the San Andres  
55 Archipelago. The advocates argued for the Court to find the Esguerra-Barcenas Treaty invalid, and to  
56 request that Colombia cease all unauthorized activities within Nicaragua’s exclusive economic zone  
57 and respect maritime boundaries.

58 The respondent of this case, the Republic of Colombia, sought for the Court to deny the Repub-  
59 lic of Nicaragua’s application due to lack of jurisdiction, and to allow the continuation of the Esguerra-  
60 Barcenas Treaty due to its continued validity and the enduring sovereignty of the Republic of Colombia  
61 over the San Andres Archipelago. The advocates claimed that the Court had no jurisdiction to decide  
62 this case as the situation was previously solved and agreed upon by both parties in the 1928 Esguerra-  
63 Barcenas Treaty. They claimed that up to this point, Nicaragua had many different options in mov-  
64 ing toward invalidating the 1928 Treaty, especially through the 1969 Vienna Convention on the Law of  
65 Treaties, which opens the possibility of declaring a treaty void “if the conclusion [was] procured by the  
66 threat of use of force in violation of the principles of international law embodied in the Charter of the  
67 United Nations.” As Nicaragua failed to move toward declaring the Treaty invalid when they had the  
68 chance, Colombia claims that this case is not the proper venue to do so. They claimed that through the  
69 principle of *Uti Possidetis Juris*, which asserts that states who emerge from colonization or external in-  
70 fluence inherit the administrative borders they hold at the time of independence, they would retain the  
71 borders previously established. Colombia sought for the Court to acknowledge the continued validity  
72 of the 1928 Treaty and to dismiss this case because of lack of jurisdiction.

73 The Republic of Costa Rica submitted a memorial to advocate for their consideration in the  
74 case, as depending on the Court’s decision, their territories could be affected. They argued that they  
75 share a maritime border with Nicaragua, and have been involved in patrolling the areas in this case.  
76 They asked that when considering the outcome of the case, the Court should respect their current mar-  
77 itime borders as determined by the Facio-Fernandez Treaty of 1977, and adhere to the United Nations  
78 Convention on the Law of the Sea.

79 The Republic of Honduras submitted a memorial largely in support of the ideals brought forward  
80 by Colombia, arguing that the Esguerra-Barcenas Treaty of 1928 is valid and binding, and that Colom-  
81 bia holds the territories at issue in this case. They claimed that Nicaragua’s argument was entirely  
82 speculative and invalid, and that the claims should be dismissed on the ground that the International  
83 Court of Justice does not have jurisdiction as a regional solution has not been properly sought through  
84 the Pact of Bogota.

85 OPINION

86 1. ) Nicaragua argued in its memorial and argument that the 1928 Esguerra-Barcenas Treaty  
87 between Nicaragua and Colombia was signed by an illegitimate state representative, rendering it in-  
88 valid. However, this claim is widely refuted. The 1928 Esguerra-Barcenas Treaty was signed by His  
89 Excellency, the President of the Republic of Nicaragua, who is recognized under Article(2)(a) of the Vi-  
90 enna Convention on the Law of Treaties as a legitimate representative of the stat for the purpose of

91 concluding treaties. This established the president's authority to act on behalf of Nicaragua in such  
92 matters. Additionally, under Article 11(a) of the Vienna Convention, a state may consent to be bound  
93 by a treaty through its signature. The 1928 Esguerra-Barcenas Treaty was duly ratified through the ap-  
94 propriate process, including the signature of Nicaragua's valid representative, affirming its legal effect.

95 There was no coercion in signing the Esguerra-Barcenas Treaty of 1928. Some concepts sur-  
96 rounded the idea, but nothing substantial came about. At the time of the treaty (1928), there were  
97 United States military troops in Nicaragua for the main purpose of protection of the land rather than  
98 an overhaul. Overall, the United States showed complex systems of oppression, but whether or not  
99 that Persuaded Nicaragua to sign the treaty is hearsay. The main basis for coercion is threats of harm,  
100 imbalance of power, lack of consent, and legal implications. No international laws were broken in the  
101 evidence presented to the courts. The international court of justices has no jurisdiction to rule over  
102 concepts of morality or immorality.

103 If Nicaragua was coerced at the time in which the treaty was signed, Article 52 of the Vienna  
104 Convention on the Law of Treaties does not provide standing to invalidate this treaty. Within the same  
105 Convention under Article 4, it is stated "The convention applies only to treaties which are concluded  
106 after the entry of force of the present convention with regards to such states.". This treaty was signed  
107 by both parties in 1928, and the adoption of the Vienna Convention on the Law of Treaties was in 1969  
108 therefore, this treaty does not fall within its governance, upholding the principle of non-retroactivity.

109 2.) The Court has placed consideration on the arguments to 200 Nautical Miles and continental  
110 shelf. UNCLOS Article 76 does specifically notate that "the coastal State shall delineate the outer limits  
111 of its continental shelf, where that shelf extends beyond 200 nautical miles from the baselines from  
112 which the breadth of the territorial sea is measured, by straight lines not exceeding 60 nautical miles in  
113 length, connecting fixed points, defined by coordinates of latitude and longitude." This would not apply  
114 in this case because the coastal shelf covers all of the caribbean. The claim to the continental shelf  
115 would not be applicable, as no one country can claim all of the Caribbean as their economic exclusion  
116 zone. Next it is worth noting that the only way these claims would even be up for debate is if the treaty  
117 is deemed as null and void, because the oldest treaty is the one that remains in effect. As the court  
118 has ruled that this is not the case there is no need to argue the continental shelf.

119 Continuing on to the point of the 200 Nautical miles boundary set in UNCLOS, the court does  
120 recognize that San Andrs is within that zone, however per the 1928 Treaty the 82nd West Meridian the  
121 area east of this line belongs to Colombia and the area to the west belongs to Nicaragua. This invali-  
122 dates the claim to the 200 Nautical Miles. While the court does acknowledge that the distance from San  
123 Andrs to Nicaragua is much shorter than it is to Colombia (43 N. Miles vs 350 N. Miles). The 1928 Treaty  
124 does not weigh the physical distance between the areas. It is also worth noting that extending the area  
125 to the full 200 N. Miles would take the majority of the area that is between Nicaragua and Colombia  
126 opening the dispute of the overlap of the economic zones for both Costa Rica, Honduras, and Panama.  
127 Neither the 200 N. Miles or the continental shelf hold enough sustenance to pose any significant issue  
128 to the 1928 Treaty or any of those following it.

129 3. The court will now consider the economical and cultural aspects of both parties. The Archipelago  
130 of San Andrs and other surrounding islands have recently become tourist hubs for the Western Caribbean  
131 and surrounding nations. Boasting a lush and diverse ecosystem, rich in biodiversity while sporting  
132 large amounts of saltwater fishing and economic activity. The archipelago is also home to an esti-  
133 mated 80,000 citizens of Colombia. The Archipelago is home to a large and diverse culture made up  
134 of multiple different languages, ethnicities and backgrounds. During oral argument, the advocates  
135 of Nicaragua disputed Colombia's claim of fair and equal treatment of residents, citing that Colom-  
136 bia had harmed the local culture and economy, a claim the Court finds unfounded. It is also noted  
137 that Nicaragua claimed that the people located on the Archipelago claim themselves as Nicaragua,  
138 a claim we find unfounded and blatantly incorrect. Nicaragua has not cited any compelling evidence  
139 to support their claims to establish their economic exclusion zone further in the Western Caribbean.

140 4.) Per Chapter 3, Article 62 of the Statute of the International Court of Justice states:

141 Should a state consider that it has an interest of a legal nature which may be affected by the  
142 decision in the case, it may submit a request to the court to be permitted to intervene.

143 It shall be for the court to decide upon this request.

144 Due to Costa Rica and Honduras' close proximity to the islands and maritime borders in ques-  
145 tion, this Court holds that each country's opinion should be acknowledged in this case. Considering  
146 this Court has reaffirmed the validity of the 1928 Esguerra-Barcenas Treaty and the 1930 Protocol that  
147 followed, the Court has decided to uphold the validity of the 1977 Facio - Fernandez Treaty as well. The  
148 Court finds that the 1977 Facio - Fernandez Treaty rests upon the 1928 Esguerra-Barcenas Treaty, lead-  
149 ing the Court to place consideration upon Nicaragua to sign the 1977 Facio - Fernandez Treaty thus far  
150 signed by Colombia and Costa Rica.

151 CONCLUSION

152 In conclusion, the Majority Opinion of the International Court of Justice holds that the 1928 Treaty  
153 of Esguerra-Barcenas and the 1930 Protocol of the Esguerra-Barcenas Treaty are valid and should be  
154 applied to the nationality of the San Andreas Archipelago.

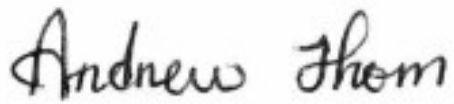
155 Therefore, the Court recommends the following:

156 First, the San Andreas Archipelago should remain under the jurisdiction of the Republic of Colom-  
157 bia.

158 Second, the 1928 Treaty of Esguerra-Barcenas and the 1930 Protocol of the Esguerra-Barcenas  
159 shall remain valid and respected by the Republics of Nicaragua and Colombia.

160 Lastly, the court recommends the Republic of Nicaragua to respect the 1977 Facio - Fernan-  
161 dez Treaty that defines the maritime borders between the Republic of Costa Rica and the Republic of  
162 Colombia.

Signed By



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Justice Andrew Thom



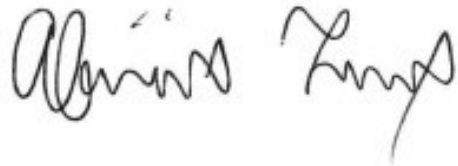
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Justice Henry Crutcher



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Justice Kaylin Evans



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Justice Abigail Truax



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Justice Zachary Lenart



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Justice Jacqueline Deinek



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Justice Emma Lercher



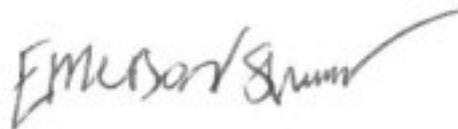
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Justice Leandro Lambert



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Justice Emma Barnes



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Justice Emerson Shannon

