

**Prestige versus Pressure over the International Criminal
Court: Response of the Caribbean States**

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Paper Presented to the Annual Meeting of the
Canadian Political Science Association
University of Manitoba
Winnipeg, Manitoba
June 2-5, 2004

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“Trinidad and Tobago really has no flexibility in this matter and I think that is understood by all of those involved, including the U.S. authority... We were the ones pushing the court. The court was re-established at our instance. How on the face of that could we seek an exemption?”¹

- *Prime Minister Patrick Manning, Trinidad and Tobago*

Introduction

Why do some states act in ways that seem to go against their interests? When small weak states challenge the will of large powerful states, they generally lose. This paper examines just such a case and finds that even though these states often realize that certain actions will cost them either economically or in terms of their immediate security they still pursue that course of action. Contrary to what the major theories of International Relations and Comparative Politics would tell us to expect, these states make these choices because they are seeking more abstract goals. Prestige is one of those goals and, in the case of the International Criminal Court (ICC) examined in this paper, explains why some small Caribbean states were willing to sacrifice some immediate economic and security objectives for a measure of international prestige.

The Caribbean region, located at the gateway to North America, has often been the object of American attention. On issues of importance to the United States, their leeway is often short. In most cases, the risks of incurring Washington’s wrath is considered to be too costly and the states in the region typically acquiesce. Thus, the decision by the majority of small Caribbean states to refuse to sign a bilateral immunity agreement (BIA) with the United States and thus not exempt American nationals from the International Criminal Court in the face of intense opposition from the United States is

remarkable. In particular, the refusal of Barbados, Dominica, St. Vincent and the Grenadines, and Trinidad and Tobago to capitulate in the face of economic and diplomatic pressure by the U.S. presents an interesting case for the study of foreign policy and reveals that issues of international prestige can outweigh more immediate economic and security considerations.

Background

In 1998, officials from 160 states negotiated the creation of a permanent International Criminal Court (ICC). The outcome of these intense negotiations was the Rome Statute. When put to a vote, 120 of the states in attendance voted in favor of adopting the statute that would create the court. The United States was one of the seven states that voted against the court. Despite American opposition, the court entered into force on July 1, 2002.

However, arguing that the court would enable politically motivated charges and prosecution of American citizens, the United States has attempted to undermine the court and obtain agreements to exempt Americans from the jurisdiction of the ICC. In 2002 the US Congress passed the American Servicemembers' Protection Act (ASPA). The ASPA severely restricts American cooperation with the ICC including provisions that tie American involvement in peacekeeping missions to exemption from ICC prosecution and provisions that allow the President to authorize "any means necessary" to secure the release of Americans that have been held by the court. The ASPA also prohibits the US from granting military aid to the state members of the Court, excluding key allies.

¹ Peter Richards, "Politics: U.S. ICC Request Again Tests United Caribbean Front," *IPS-Inter Press Service* (May 30, 2003)

However, the act allows the President to grant waivers to member states, and thus, allows for the resumption of US military aid to those countries. The US has used the promise of a waiver to pressure other countries into signing agreements to exempt Americans from prosecution by the Court. The United States argues that these bilateral immunity agreements (BIAs) or non-surrender agreements are legal and are based upon Article 98 of the Rome Statute. By signing a BIA states agree not to surrender Americans within their jurisdiction to the Court.²

This paper examines the response of states to American pressure to sign a Bilateral Immunity Agreement. In particular, it asks why the small Caribbean states that have lost considerable aid continue to stand fast against the United States on this issue.

The Pressure

The United States has used a variety of means to encourage states to sign non-surrender agreements. Most significantly, Washington has used the threat and actual withdrawal of aid to coerce compliance. Both FMF (Foreign Military Financing) and IMET (International Military Education and Training) funds have been tied to the bilateral immunity agreements.

In addition to traditional military aid, monies for hurricane disaster relief, aid to build airports, and some medical aid have also been threatened. For example, the Bahamas has been told that they will lose the American aid slated for improving their airport runways.³ Washington has also used a variety of diplomatic means to encourage

² The BIAs do not contain any provision to ensure that these individuals are tried in the United States or elsewhere.

³ Irune Aguirrezábal Quijera, "The United States' Isolated Struggle Against the ICC," *ICC Monitor* Issue 25 (September 25, 2003).

or coerce agreement. American diplomatic representatives have not only discussed the ramifications of not signing a BIA with their Caribbean counterparts but attempted to influence public opinion in the states concerned.⁴ Reportedly, the United States' decision to invite a select group of Caribbean countries to a meeting with President Bush, and contrary to tradition, leave out others in the region, was linked to how states had responded to Washington's request for bilateral agreements.⁵ The pressure has been intense.

Realism and Dependency Theory: Some Similar Conclusions

Both dependency theory and realism would predict that these states would acquiesce to American demands. Though largely discredited as a model to explain underdevelopment, the underlying assumptions of dependency theory still carry considerable weight in international relations and comparative politics. The theory maintains that the interests of elites in the developing countries are dependent on support from the core countries. The elites will develop policies in line with the wishes of the core country since what they most fear is withdrawal of the economic and political support of the core states.⁶ This is similar to arguments made by dependent foreign policy studies. Scholars in this field conclude: "the foreign policy behavior the dependent state manifests pronounced deference and compliance toward those powers on which it is

⁴ For example, the US Ambassador to Croatia published a letter warning that Croatia stood to lose 19 million if it did not sign an agreement with the US. See: Irune Aguirrezábal Quijera, "The United States' Isolated Struggle Against the ICC," *ICC Monitor* Issue 25(September 25, 2003).

⁵ "Varied Views on US President's Meeting with Four Heads of Caribbean Governments," *BBC Monitoring International Reports* (September 27, 2003).

⁶ Tony Smith, "The Underdevelopment of the Development Literature: The Case of Dependency Theory," *World Politics* Vol. 31, No. 2. (January, 1979), 247-288.

dependent.”⁷ Likewise, realist theory arrives at similar conclusions. By focusing on power as the explanatory variable, realists argue that every state’s top priorities are to increase their power and further their national interests. Economic and political security needs are paramount for all states. Weaker states will comply with the wishes of more powerful states because if they refused they would be exposed to economic and military penalties.

The Response

Consistent with realism and dependency theory, the American pressure over the ICC has produced compliance in many cases. As of April 2004, the US State Department reported that the United States had reached an agreement with 75 countries to exempt American nationals from the jurisdiction of the Court.⁸ In the Americas, the US has obtained an agreement from Antigua and Barbuda, Belize, Bolivia, Colombia, Dominican Republic, El Salvador, Guyana, Honduras, Nicaragua, and Panama.

However, not all of these countries initially agreed to sign immunity deals. It took the withdrawal of military aid from Antigua and Barbuda, Belize, and Colombia for these states to acquiesce. Colombia stood to lose the most aid. On July 1, 2003 Washington suspended military aid to Colombia. Though they only had \$5 million at risk for the remainder of 2003, they stood to lose an estimated \$130 million in 2004. Thus, President Alvaro Uribe signed an agreement with the US on September 16, 2003. Belize

⁷ K. Menkhaus and C. Kegley, “The compliant foreign policy of the dependent state revisited: Empirical linkages and lessons from the case of Somalia,” *Comparative Political Studies* 21, 315-346.

⁸ Forty-five other countries have publicly refused to sign an agreement.

also withheld signing a BIA until after they were sanctioned. Belize stood to lose \$400,000 in 2004. Belize signed an agreement at the end of 2003.⁹

Sanctions have remained in force on those states that did not capitulate. The State Department reports that of those states that have signed the Rome Statute, 23 states have lost military aid because they have refused to exempt Americans from the Court. The ICC member states in Latin America that have remained defiant are Brazil, Costa Rica, Ecuador, Paraguay, Peru, Uruguay and Venezuela. In the Caribbean, Barbados, Dominica, St. Vincent and the Grenadines, and Trinidad and Tobago remain opposed to signing an American immunity agreement. Other countries in the region that have not lost aid because they have not yet ratified the ICC, have stated that when they do become parties to the ICC they will not bow to American pressure. For example, St Lucia's Prime Minister, Dr Kenny Anthony, stated that St Lucia will ratify their membership in the International Criminal Court and refuse to sign a bilateral agreement even though they will likely then face economic and diplomatic pressure from the United States. He stated: "We would not flinch in the face of a decision by the US to withhold assistance."¹⁰

Interestingly, the amount or relative significance of potential aid lost, in many cases, does not correspond with whether a state signs a BIA. See Table 1 below for a summary of the aid at stake in these countries. The resistance of the very small Caribbean countries is particularly notable since they are much more vulnerable to economic and diplomatic pressure from the United States. The refusal of Barbados, Dominica, St. Vincent and the Grenadines, and Trinidad and Tobago to capitulate in the face of

⁹ ICCNow, "Summary of Information on Bilateral Immunity Agreements (BIAs) or so-Called "Article 98" Agreements as of April 26, 2004," <http://www.iccnw.org/documents/USandICC/BIAs.html> (May 10, 2004).

economic and diplomatic pressure by the U.S. presents an interesting case for the study of foreign policy.

Table 1

Latin America and the Caribbean: ICC Member States and BIAs

Country	Signed/Not Signed a BIA	Potential Aid Lost	Publicly Refused to Sign	Exempted as a Major Ally
Antigua & Barbuda	Signed	Shared* \$2.7 million (2004)		
Argentina	Not Signed	\$1 million (2004)	Yes	Exempt
Barbados	Not Signed	\$4.5 million (2004)		
Belize	Signed	\$400,000 (2004)		
Bolivia	Not Signed but obtained a partial waiver	\$4.5 million (2004)		
Brazil	Not Signed	\$500,000 (2004)	Yes	
Colombia	Signed	\$110 million + (2004)		
Costa Rica	Not Signed	\$400,000 (2004)	Yes	
Dominica	Not Signed	Shared* \$2.7 million (2004)		
Ecuador	Not Signed	\$15.65 million (2004)		
Honduras	Signed	\$650,000 (2004)		
Panama	Signed	\$2.7 million (2004)		
Paraguay	Not Signed	\$300,000 (2004)	Yes	
Peru	Not Signed	\$2.7 million (2004)		
St. Vincent and the Grenadines	Not Signed	Shared* \$2.7 million (2004)		
Trinidad & Tobago	Not Signed	\$450,000 (2004)	Yes	
Uruguay	Not Signed	\$1.45 million (2004)		
Venezuela	Not Signed	\$700,000 (2004)	Yes	

Source: United States, Bureau of Resource Management, *Summary and Highlights International Affairs Function 150: Fiscal Year 2004 Budget Highlights* and Washington Working Group on the International Criminal Court, *Bilateral Immunity Agreements: Breakdown of Countries* (<http://www.wfa.org/issues/wicc/article98/biatable.doc>)

*US aid to the countries of the Eastern Caribbean (Antigua and Barbuda, Barbados, Dominica, Grenada, St. Kitts and Nevis, St. Lucia, and St. Vincent and the Grenadines) security assistance was reported jointly.

¹⁰ “St Lucia will not change its decision on ICC, despite US pressure says premier,” *British Broadcasting Corporation* (July 10, 2003).

The Caribbean

These four states are part of the island states of the English-speaking Caribbean which also include Antigua and Barbuda, the Bahamas, Grenada, Jamaica, St. Kitts/Nevis, and St. Lucia. These are extremely small nations in terms of population and physical size. For example, tiny St. Kitts/Nevis has under 40,000 people and has a total of a mere 261 sq kilometers of territory. Other than Antigua and Barbuda, none of the other island states in the region have signed a BIA. However, only Barbados, Dominica, St. Vincent and the Grenadines, and Trinidad and Tobago have thus far had their American aid suspended for declining an article 98 agreement.

Small, Vulnerable, and Dependent

The key feature of these states is their vulnerability. Like other small states, they are highly vulnerable to slight waves in the international system or to the actions of larger international actors. Most research on small state foreign policy stresses the importance of the international system and the disproportionate influence of more powerful neighbors. Caribbean states' foreign policy is considered to be highly reliant on international factors. In particular, research has shown that these: "states' close proximity to the USA, strong economic dependence, small size and relatively low levels of development combine to give the region few power capabilities and therefore a heavily dependent foreign policy process."¹¹ The literature argues both "the higher degree of dependence, the more likely US pressure will succeed" and that the Caribbean countries

¹¹ Hey, "Three building blocks of a theory of Latin American Foreign Policy," *Third World Quarterly* (December 1997) Vol. 18, 4, 631

in comparison with the rest of the hemisphere are “more subject to core pressure specifically because of their relatively high state of dependence.”¹² However, refusal by these countries to sign these agreements not only questions the dependency argument but the strength of traditional system level explanations for Caribbean foreign policy.

This paper will examine the decision to reject a non-surrender agreement in relation to the various forces that shape Caribbean foreign policy and ask whether any of these factors can explain why Barbados, Dominica, St Vincent and the Grenadines, and Trinidad & Tobago have refused to sign bilateral immunity agreements.

The Caribbean and the Court

We would expect the states of the Caribbean to be generally in favor, if not very supportive, of the idea of an international criminal court. As some of the smallest states with little power, they have considerably more to gain from strong and effective international organizations and laws. History has shown us that Caribbean states tend to be very supportive of international organizations, multilateral institutions, and international law.¹³ This was the case with the ICC. The impetus for the creation of the international criminal court first arose in the Caribbean. With the support of the leaders of CARICOM, Trinidad and Tobago took the idea of establishing an international criminal court to the United Nations in 1989.¹⁴ Support for the Court has been widely expressed

¹² Jeanne Hey, “Three building blocks of a theory of Latin American Foreign Policy,” *Third World Quarterly* (December 1997) Vol. 18, 4, 631.

¹³ Jeanne A.K. Hey, “Introducing Small State Foreign Policy,” in Jeanne A.K. Hey ed. *Small States in World Politics: Explaining Foreign Policy Behavior* (Boulder: Co: Lynne Rienner Publishers, Inc., 2003), 1-11.

¹⁴ “United Nations: CARICOM Foreign Ministers Seek Unified Position,” *IPS-Inter Press Service* (October 3, 1989).

throughout the region.¹⁵ Thus, barring US opposition to the Court, we would expect these states to all be extremely supportive of the idea of an international criminal court.

However, we would also expect that given their vulnerability to international pressure, the intensity of the American opposition to the Court, and the U.S. effort to obtain BIAs, that these states would acquiesce to American demands over this issue.

Caribbean Foreign Policy

According to research on Caribbean foreign policy, Caribbean states base most of their foreign policy decisions on economic and security issues. Jacqueline Anne Braveboy-Wagner argues that Caribbean states use their foreign policy for three basic goals. The most important goal is economic and social development, then territorial and political security, and lastly global and regional prestige.¹⁶ Furthermore, research has demonstrated that individual leaders have disproportionate influence on foreign policy decisions in Caribbean states. Thus, the next section will examine each of these factors to determine what best explains the decision not to sign a bilateral immunity agreement with the United States.

The Individual and Caribbean Foreign Policy

In comparison to other countries, within the constraints imposed by the international system, leaders of the Caribbean countries and their immediate advisors have extensive control over foreign policy decisions. According to Braveboy-Wagner

¹⁵“Patterson Hails Int L Court,” *The Gleaner* (May 31, 2001).

¹⁶ Jacqueline Anne Braveboy-Wagner, “The English-Speaking Caribbean States: A Triad of Foreign Policies,” in Jeanne A.K. Hey ed. *Small States in World Politics: Explaining Foreign Policy Behavior* (Boulder: Co: Lynne Rienner Publishers, Inc., 2003), 31-52.

“the determining factor [of Caribbean foreign policy] is *elite choice* (emphasis in original).¹⁷ From the time that most of these countries achieved independence, they have been dominated by personalist rule. Eric Williams, the Prime Minister of Trinidad and Tobago from 1962 to 1981 and John Compton who ruled St. Lucia from 1982 to 1996 are only two of the many examples of strong personalistic leaders in the region’s history.

Individual factors influenced the decision to reject bilateral immunity agreements in the Caribbean countries. The personal influence of Arthur N.R. Robinson in Trinidad and Tobago was especially apparent. Robinson has been credited with introducing the proposal for the International Criminal Court at the UN and for championing the campaign that led to its creation. He has won personal recognition for these efforts from organizations including the NGO, No Peace Without Justice (NPWJ), the United Nations, and CARICOM. The Programme Director of NPWJ, Niccolo Figa-Talamanca, told an audience at the UN that: "Merit goes to individuals like President Robinson, ... who by the sheer strength of their character and commitment are able to nudge the course of history in the right direction and to show the way for others ahead."¹⁸ In recognition of his role in initiating the Court, Robison received the Order of the Caribbean Community (OCC).¹⁹

However, the importance of the ICC to Trinidad and Tobago goes beyond Robinson’s personal commitment to the Court. Other leaders of Trinidad and Tobago, such as Prime Minister Patrick Manning, have indicated that the ICC is important for the

¹⁷ Jacqueline Anne Braveboy-Wagner, “The English-Speaking Caribbean States: A Triad of Foreign Policies,” in Jeanne A.K. Hey ed. *Small States in World Politics: Explaining Foreign Policy Behavior* (Boulder: Co: Lynne Rienner Publishers, Inc., 2003), 31-52.

¹⁸ Trinidad and Tobago, “Happiest Day of my Life”, Says President Robinson” (April 23, 2002) <http://www.gov.tt/news/presidentshappiestday.asp> (May 9, 2004).

whole country. Trinidad and Tobago has remained a staunch supporter of the Court even after President Robinson was replaced by George Maxwell Richards. Richards has not personally championed the ICC to the same extent but has remained supportive and steadfast against the signing of a bilateral immunity agreement. Discussions in newspaper articles and editorials indicate that the public has also become invested in the Court.²⁰ Thus, though individual factors are clearly important it appears that support for the court and opposition to the immunity agreement is more widespread.

Economic Factors

Caribbean countries are unquestionably focused on economic issues and development. The economic impetus behind Caribbean foreign policy has increased since the end of the Cold War. These countries have supplemented their reliance on traditional trading partners and investment sources with greater emphasis on regional strategies and partners. This strategy has been necessary to combat the decline of trading preferences for the region in the wake of the end of the Cold War and the rise of the North American Free Trade Agreement (NAFTA). The CARICOM states have attempted to improve intraregional trading and to negotiate with outside trading partners as a block. However, the region remains heavily dependent on the United States for trade and aid.²¹

Both economic and social development issues continue to be top priorities of the region. Recently, many of these issues are also seen as security issues, in particular,

¹⁹Wesley Gibbings, "Rights-Caribbean: High Hopes For International Criminal Court," *BBC Monitoring International Reports* (July 6, 2003).

²⁰ For example, see editorials and articles in *Trinidad and Tobago Express* (<http://www.trinidadexpress.com>) and *The Gleaner* (<http://www.jamaica-gleaner.com>).

²¹ For example, 39% of Trinidad and Tobago's exports and 52% of their imports are with the United States. US Department of Commerce, International Trade Administration, *Caribbean Basin Initiative*

narcotics trafficking, migration, environmental problems, and AIDS.²² Economic aid directed at any one of these issues is highly valued.

By most accounts, the use of aid as a bargaining chip by the United States should be successful. Hey argues “core pressure may be most effective in changing political policy in Latin America when it is accompanied by financial carrots.”²³ For example, she argues Colombia, Peru and Ecuador agreed to US drug policy because it was tied to aid that would be used to fight narcotics traffickers.

Washington’s use of aid to coerce compliance creates significant economic incentives to sign a bilateral immunity agreement. This factor has caused some states in the region to acquiesce. For example, “President Bharrat Jadgeo of Guyana plainly stated, “The US has made it clear that they will cut off the aid. I need the military cooperation with the US to continue. It is as clear as that. I can 't be more clear,”²⁴ Further, reports indicate that Jamaica will most likely sign an agreement this year because of the economic loss associated with refusal. Professor of international law at the University of the West Indies, Stephen Vasciannie, argues that if Jamaica agreed to a BIA it would be because economic self- interest triumphed over ideals.²⁵

In addition, the divisiveness created over this issue has economic repercussions beyond the immediate loss of aid. For example, the 2003 trade talks between the

U.S.-Caribbean Basin Trade Partnership Act of 2000
<http://www.mac.doc.gov/CBI/CountryFacts/trinidad1.htm> (May 18, 2004).

²² Braveboy-Wagner, 38.

²³ Hey, “Three Building blocks.”

²⁴ “Guyana to Grant US Citizens ICC Exemption,” *BBC Monitoring International Reports* (July 18, 2003)

²⁵ “Ja may have to bow to US pressure on ICC,” *Jamaica Observer* (February 20, 2004)

http://www.jamaicaobserver.com/news/html/20040219t200000-0500_55999_obs_ja_may_have_to_bow_to_us_pressure_on_icc.asp

Caribbean and the United States were hampered by the tension created over the ICC.²⁶ Hence, though some states have clearly decided to sign an agreement because of economic issues, this factor cannot explain why other states have steadfastly refused in the face of economic reprisal. This is a clear case of the failure of a dependency model that maintains that the weaker, economically dependent states are forced to continually submit to the more economically powerful core.

Security

Security is considered to be the other top foreign policy goal of Caribbean countries. In the post Cold War world, Caribbean security issues have become dominated by social development concerns. Most significantly, drug trafficking is considered to be one of, if not the, most pressing security issue in the Caribbean. Though the Caribbean is not a large source of narcotics, the region plays a key role in the transshipment of illegal drugs. Much of the cocaine produced in South America to be sold in the United States passes through the region. According to US figures, over 30 percent of the cocaine entering the United States is shipped via the Caribbean.²⁷ Furthermore, the area attracts drug money since the Caribbean's banking systems and financial secrecy laws facilitate money laundering. Estimates indicate that each year US\$60 billion in drug and organized crime monies are laundered in the Caribbean banks and companies.²⁸

²⁶ "Caribbean trade ministers' talks with Zoellick overshadowed by US action on ICC," *BBC Worldwide Monitoring* (July 3, 2003).

²⁷ DEA, "DEA Congressional Testimony, Donnie R. Marshall, Administrator, Drug Enforcement Administration Before the Senate Caucus on International Narcotics Control," (May 15, 2001) <http://www.usdoj.gov/dea/pubs/cngrtest/ct051501.htm> (May 5, 2004).

²⁸ DEA, "The Drug Trade in the Caribbean: A Threat Assessment," <http://www.usdoj.gov/dea/pubs/intel/01019/index.html#es> (May 5, 2004)

The drug trade has had drastic consequences for the region. Crime rates have climbed. For example, in Curacao the murder rate doubled from 20 murders in 2001 to 45 murders in 2002, of which 40 were reportedly drug-related.²⁹ Crime destabilizes the economic and social fabric of these societies. For example, rising crime rates negatively affect the region's major source of income- tourism.

Not only have these states suffered from the domestic economic, medical, and social problems associated with drug abuse among their populations but the trade has posed a significant challenge to the viability of their judicial, security, and political systems. The infiltration of the business of narcotics has created corruption at some of the highest levels in all three systems.³⁰ Drug gangs wield extensive power in the region.³¹ For instance, the Colombian Medellin cartel used the Antigua and Barbuda Defense Force to purchase Israeli weapons. When governments cannot be bought, these gangs attempt to use their money to destabilize the governments.³² According to some scholars there is a very real danger that these states might become "narco-democracies".³³ The West Indian Commission, an organization of the English-speaking Caribbean countries, declared: "Nothing poses greater threats to civil society in CARICOM countries than the drug problem; and nothing exemplifies the powerlessness of regional governments more."³⁴ This fact initially motivated the region to advocate for the creation of an

²⁹ Katy Daigle, "Drug Trade Damages A Caribbean Paradise; Cocaine Trafficking Fuels Violence in Curacao," *The Washington Post* (August 3, 2003)

³⁰ Braveboy- Wagner, 38-39.

³¹ Ivelaw L. Griffith, "Caribbean security: retrospect and prospect," *Latin American Research Review*, 1995 v30 n2 p3(30).

³² Conaway, Janelle, "Caribbean Winds: Threats to National Security," *Americas*, May/June 2001, Vol. 53 Issue 3, p52.

³³ Anthony Bryan, "The New Clinton Administration and the Caribbean: Trade, Security and Regional Politics," *Journal of Interamerican Studies & World Affairs*, (Spring 1997), Vol. 39, Issue 1.

³⁴ West Indian Commission 1992, Quoted in Ivelaw L. Griffith, "Caribbean security: retrospect and prospect," *Latin American Research Review*, 1995 v30 n2 p3(30).

international criminal court because they thought it would be fashioned to try drug crimes, adding another weapon to the fight against the narcotics business in the region.³⁵

Though Caribbean nations do not always agree with the United States about how best to fight the drug trade in the region, they have relied heavily on assistance from the U.S. to combat this security problem. The loss of the reportedly three million dollars suspended by the United States over the ICC in the fight against the Caribbean drug trade will hamper efforts to combat the drug trade in the region.³⁶ The few Caribbean countries that have signed an agreement have stated that they did so, in large measure, because of the loss of US aid in their fight against drug trafficking. For example, Antigua and Barbuda Prime Minister, Lester Bird said his government signed because the loss of the aid resulted in “a significant increase in the amount of cocaine entering our territory” which had increased crime. He stated: "This agreement was important to Antigua and Barbuda because the US Congress passed a law which prohibited the US government from providing military assistance to countries which did not sign Article 98 agreements...Consequently, since 1 July, we have lost all US support to our coast guard which is crucial both to search and rescue operations and to the interdiction of drug trafficking,"³⁷ The other Caribbean states affected have decried the loss of aid to fight narcotics. For example, Dominica’s ambassador to the UN, Crispin Gregoire, stressed the impact of the suspensions on the drug trade and questioned whether the United States was

³⁵ These crimes were excluded from the jurisdiction of the Court during the negotiation phase.

³⁶ ICCNow, “The U.S. Government Position on the ICC: How Sanctions Will Affect U.S. Allies,” <http://www.iccnw.org/pressroom/factsheets/FS-WICC-BIAanecdotes.pdf> (May 12, 2004) and Ian James, “U.S. decision to cut military aid to Caribbean countries could handicap war on drugs, critics say,” Associated Press (August 22, 2003).

³⁷ BBC Worldwide Monitoring, “Antigua: Bilateral "non-surrender" agreement concluded with USA,” BBC Monitoring Latin America- Political (October 3, 2003)

at all committed to the war on drugs.³⁸ Refusing to sign a BIA negatively influences the ability of Caribbean states to defend themselves against the drug trade.

Underscoring the importance of the aid in the fight against the drug cartels, governments in the region have tried to regain some of this lost aid while still maintaining their stance on the ICC. Though realizing that military aid was prohibited by the American Servicemembers' Protection Act, they have attempted to convince US diplomats that Washington should continue to help these countries combat the drug trade in the region because it is in the US interest. Prime Minister Patrick Manning offered to give the US more natural gas (a Trinidad export) in return for assistance in what was termed "the greatest threat to his government." The *Trinidad Express* reported that Manning "has a major national security problem and he hopes to receive assistance from the United States in dealing with that issue... Manning was not seeking a return of US military assistance but major help in securing Trinidad and Tobago borders including dealing with the drug scourge."³⁹ Though the threat posed by the drug trade is serious, these governments do not appear to be willing to relinquish their stand on the ICC for a resumption of American military assistance.

The decision has additional security considerations. There is some concern that the tension created by this issue will infringe upon the extensive co-operation fostered between the United States and the Caribbean in security matters. The *Trinidad and Tobago Express* reports that "the recent decision to cancel a high level regional security conference to be held with the US shows how far the relationship has been damaged by a

³⁸ ICCNow, "The U.S. Government Position on the ICC: How Sanctions Will Affect U.S. Allies," <http://www.iccnw.org/pressroom/factsheets/FS-WICC-BIAanecdotes.pdf> (May 12, 2004).

³⁹ "Caribbean Rim: Press review 16-17 Dec 03," *BBC Worldwide Monitoring* (December 17, 2003).

belief in Washington that only its will should prevail.”⁴⁰ Thus, the refusal to sign a non-surrender agreement has negative consequences for Caribbean security. Most importantly, the drug trade puts the fabric of Caribbean society at risk, and threatens the legitimacy of their governments and the very survival of their democracies.

Though research tells us that foreign policies of the small weak developing states are heavily constrained by economic and security considerations, the decision by these Caribbean countries to oppose the U.S. over the ICC is an exception. The loss of aid has immediate, and potentially, very serious economic and security repercussions, the most significant of which is their ability to combat the drug trade in the region. In addition, the disagreement over the ICC adds to the deteriorating relationship with the United States, jeopardizing their future economic and security objectives.

The next section examines the relationship between prestige and the decision by these countries to resist the United States over the ICC.

Prestige

Jacqueline Braveboy-Wagner defines prestige as “a catchall term referring to “status” activities intended to increase a state’s visibility and influence in the international system.”⁴¹ Prestige is achieved by both being a visible participant international forums and hosting international events. It involves increasing your country’s visibility and input in world affairs. Small states, due primarily to lack of power and related lack of financial resources, are often ignored by other international actors. They, thus, often play very little role in shaping the international system. Consequently,

⁴⁰ David Jessop, “US-Caribbean dialogue at new low,” *Trinidad and Tobago Express* (May 10, 2004) http://www.trinidadexpress.com/index.pl/article_opinion?id=22962295 (May 10, 2004).

the system is often formed in ways that reinforce their lack of power. This lack of respect further diminishes their relative power. One way to moderate this problem is for these states to concentrate their meager resources on a single international issue. This can increase their visibility and give them some measure of influence in the outcome and thus possibly translate into more international respect and wider influence in international relations. Prestige can, thus, be an important foreign policy goal but, according to Braveboy-Wagner, it ranks well below economic and security considerations.

The initial impetus in the Caribbean for the establishment of the Court came from security concerns related to the narcotics trade and transnational crime in the region.⁴² However, even after these crimes were removed from the purview of the ICC, the region, and especially Trinidad and Tobago, continued to champion the cause. As one of the main advocates for the establishment of the ICC, the Caribbean has received considerable international attention and prestige from this role. Anselm Francis, of the Institute of International Relations at the University of the West Indies (UWI), argues the ICC is an opportunity for the Caribbean countries to make their mark on global politics.⁴³

The Caribbean countries are proud of their role in establishing the Court and frequently seek to remind the international community that they were important players in this arena. In 2003, the leaders of the CARICOM states issued a joint statement recalling “the vanguard role played by Caricom, particularly Trinidad and Tobago, in the establishment of the Court and noted with satisfaction that those Caricom member states

⁴¹ Ibid, -Hey 40.

⁴² During the negotiations these crimes were excluded from the jurisdiction of the ICC.

⁴³ “CARICOM Differs with US Position on International Criminal Court,” *BBC Monitoring International Reports* (June 9, 2003).

that had not yet ratified or acceded to the Rome Statute establishing the court would do so expeditiously.”⁴⁴

Trinidad and Tobago have taken many opportunities to make public statements at the UN and other IGOs in support of the ICC, both bringing attention to the issue and to Trinidad and Tobago’s contribution to the Court. For example, The Attorney General of Trinidad, Ramesh Lawrence Maharaj, spoke at a UN conference. He told the audience:

We are poised to establish an institution which we in the Republic of Trinidad and Tobago believe can contribute to the maintenance of peace and security and achieve justice for the victims of violations of international law... Humanity is depending on us. The world community is following closely our deliberations [concerning] the International Criminal Court...⁴⁵

Even after the Court was established, Trinidad and Tobago continued to raise the issue in international forums. When Saddam Hussein was captured by the United States, President Arthur Robinson called for him to be tried by the International Criminal Court.⁴⁶ These statements raise awareness of the important role played by this small state, thus contributing to its prestige and international influence.

The government has also sought and received domestic support for their contribution to the Court. For example, they have released three postage stamps to celebrate Trinidad and Tobago’s contribution to the creation of the ICC.⁴⁷ The editorial pages of the country’s newspapers voice consistent support for the Court, for the role

⁴⁴ “Caribbean Leaders Continue to Oppose US Request for ICC Immunity,” *BBC Monitoring International Reports*, (July 6, 2003).

⁴⁵ United Nations, “Statement by the Honourable Ramesh Lawrence Maharaj, Attorney General of the Republic of Trinidad and Tobago,” (June 15 1998) (<http://www.un.org/icc/speeches/615tri.htm>) (May 13, 2004).

⁴⁶ Richard Lord, “Give Saddam a Fair Trial: Robbie wants ICC hearing for ex-Iraqi dictator,” *Trinidad and Tobago Express* (December 16th 2003) <http://www.trinidadexpress.com/index.pl/article?id=187428> (May 6, 2004).

⁴⁷ Rickey Singh , “T&T Presidency: Robinson goes, Richards in,” *Guyana Chronicle* March 17, 2003 <http://www.landofsixpeoples.com/gynewsjs.htm> (May 9, 2004).

played by their government, and for their refusal to sign a non-surrender agreement. For example, the *Trinidad and Tobago News* argued: “Today we appear to have returned to the days of slavery... The United States under President Bush takes us back to those days by the demand for sovereign nations to sign an agreement that would exempt US government officials and military personnel from prosecution by the International Criminal Court (ICC)...”⁴⁸ Similarly, the *Trinidad and Tobago Express* reports the U.S. “attempts to exempt itself from the International Criminal Court and the subsequent cut in military aid to our country have not been popular with the locals.”⁴⁹

Trinidad and Tobago have received the greatest amount of prestige from their work on establishing the Court and have been the most defiant to the American position. Trinidad and Tobago is proud of the international accolades the country has received for their work in establishing the ICC. The Trinidad and Tobago government website recounts the praise heaped upon President Robinson. They proudly state that their President: “was invited to make the first address. The Chairman of the Preparatory Commission, in introducing President Robinson, gave recognition to the role he played in 1989 initiating the process that led to the establishment of the Court... His Excellency received tumultuous applause at the end of his contribution.... Many countries present paid tribute to Trinidad and Tobago for its role in bringing the Court into being.”⁵⁰ The government’s website also cites a Member of the European Parliament who said “had it

⁴⁸ David Subran, “Slave masters enjoyed immunity too,” *Trinidad and Tobago News* (July 10, 2003) www.trinidadandtobagonews.com (May 6, 2004).

⁴⁹ “Undiplomatic behaviour,” *Trinidad and Tobago Express* (May 6th 2004) <http://www.trinidadexpress.com/index.pl/article?id=22961567> (May 6, 2004).

⁵⁰ Trinidad and Tobago, “News: UN Honours President Robinson,” (April 12, 2002) <http://www.gov.tt/tgov/news/unhonourspresident.asp> (May 4, 2004).

not been for President Robinson in 1989 none of us would have had the courage to continue. I thank you on behalf of all of us. I thank you on behalf of the world."⁵¹

These efforts have paid off in terms of influence. Trinidad and Tobago has used their extensive involvement in the creation of the Court to garner more influence. For example, H.E. Ambassador Philip Sealy, Head of the Delegation of the Republic of Trinidad and Tobago told the UN General Assembly:

Mr. President, Trinidad and Tobago remains committed to the international rule of law and to justice for all. Our role in the re-introduction onto the international agenda of the idea of the creation of a permanent international criminal court in 1989 is well known and, since that time, Trinidad and Tobago has not ceased to promote support for this Court, both regionally and internationally... In the election of judges to that Court, Trinidad and Tobago would, as a small State, consider it an honour to have one of its nationals so elected, in order to continue its contribution to the cause of international criminal justice.⁵²

Trinidad and Tobago have been given important positions on the relevant bodies including one of the first judgeships.⁵³ In addition, a representative of Trinidad, Mr. George Winston McKenzie, was selected as one of the three Vice Chairmen of the Preparatory Commission for the International Criminal Court.

Lastly, the government of Trinidad and Tobago has explicitly said that international reputation and prestige prevents them from signing a bilateral immunity agreement. Prime Minister Patrick Manning stated that they could not sign the agreement for these reasons. He explains: "We don't see how we can. Trinidad and Tobago really has no flexibility in this matter and I think that is understood by all of those involved,

⁵¹ Trinidad and Tobago, "News: UN Honours President Robinson," (April 12, 2002) <http://www.gov.tt/ttgov/news/unhonourspresident.asp> (May 4, 2004).

⁵² United Nations, "Statement by H.E. Ambassador Philip Sealy, Head of the Delegation of the Republic of Trinidad and Tobago," United Nations General Assembly, September 15, 2002, New York.

⁵³ In recognition of their work on the Court, one of the first judges elected to the Court was a Trinidadian, Mr. Karl Hudson-Phillips.

including the U.S. authority... We were the ones pushing the court. The court was re-established at our instance. How on the face of that could we seek an exemption?"⁵⁴ For Trinidad and Tobago to acquiesce to these American demands would damage their reputation and erode the considerable prestige they have obtained from this role.

Though most of the benefits in terms of prestige have been gained by Trinidad, other Caribbean states have also made explicit references to international reputation. For example, St Lucia's Prime Minister, Dr Kenny Anthony, said St Lucia would not back down over the ICC, despite withdrawal of US military aid. He stated: "We would not flinch in the face of a decision by the US to withhold assistance.... We have a commitment we have to honour, the eyes of the world will be on us. If we decide to back out we would be displaying the kind of cowardice which is not in the character of the administration that I lead."⁵⁵

Conclusion

In Caribbean – U.S. relations, the states of the Caribbean are at a clear disadvantage. Both dependency theorists and Realists would expect these states to succumb to American pressure, especially when the economic and security costs were high. Similarly, much of the Caribbean foreign policy literature emphasizes the significance of Caribbean dependence on the US for their foreign policy decisions. Yet, as this paper reveals the answer is more complex, that in certain circumstances the economic and security risks of not falling in line with American demands are considered

⁵⁴ Peter Richards, "Politics: U.S. ICC Request Again Tests United Caribbean Front," *IPS-Inter Press Service* (May 30, 2003)

⁵⁵ No Peace Without Justice Committee for the International Criminal Court, <http://www.npwj.org/modules.php?name=News&file=article&sid=1329> (May 4, 2004)

less important than other foreign policy objectives. Though not all states in the region came to the same conclusion, several of these states decided that the International Criminal Court was worth significant economic and security reprisals.

The international prestige gained, especially for Trinidad and Tobago, was substantial. The rewards in terms of immediate influence were significant as Trinidadians were selected for important positions. Increasing a state's international prestige is an important goal that can trump more immediate economic and security objectives. To conclude, in the short to medium term, the drive for prestige can produce foreign policies that challenge the international hierarchy in terms of both goals and states, as prestige becomes more important than immediate material interest and small states refuse to relent to pressure from the more powerful.

That said, prestige is not unrelated to the other foreign policy goals. Prestige can contribute to international influence and reap eventual economic and security based rewards. In fact, Realists have made the connection between prestige and power.⁵⁶ Robert Gilpin writes: "prestige refers primarily to the perception of other states with respect to a state's capacities and its ability and willingness to exercise its power. ...Prestige, rather than power, is the everyday currency of international relations, much as authority is the central ordering feature of domestic society."⁵⁷ Dean Acheson, described prestige as "the shadow cast by power."⁵⁸ Though the results are not immediate, I believe states also attempt to increase their prestige in order to garner power. The question remains whether

⁵⁶ Thanks is due to Lilach Gilady of Yale University for bringing my attention to the use of prestige in Realist writings. The following quotations from Gilpin and Acheson were cited in this context, first by her in her Ph.D. dissertation.

⁵⁷ Robert Gilpin, *War and Change* (Cambridge: Cambridge University Press, 1981)

⁵⁸ Acheson, Dean. *Present at the Creation: My Years in the State Department*. (New York: W.W. Norton and Co., 1969), 218.

states consciously make the decision to sacrifice short-term material goals for the chance at increased prestige, longer-term material rewards and power, or whether prestige is an instinctive choice seen as an end in itself.⁵⁹

⁵⁹ I am currently examining this question for a related paper.