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Bargaining for peace? Strategic forum selection in interstate conflict management

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**BARGAINING FOR PEACE? STRATEGIC FORUM SELECTION IN
INTERSTATE CONFLICT MANAGEMENT**

by

Vanessa Ann Lefler

An Abstract

Of a thesis submitted in partial fulfillment of the
requirements for the Doctor of Philosophy degree
in Political Science in
the Graduate College of
The University of Iowa

July 2012

Thesis Supervisor: Associate Professor Kelly M. Kadera

ABSTRACT

This project investigates states' strategies in the management of contentious interstate disputes asking why disputants select a particular approach, or forum, to serve as the stage for negotiations. The conflict bargaining process reveals incentives to reach peaceful solutions to war, but peace may be elusive due to bilateral bargaining problems (Fearon 1995; Schelling 1960). In general, third parties provide a useful service in interstate conflict management. However, not all third parties equally benefit the bargaining process. Recent research especially points to the efficacy of legal dispute resolution, such as arbitration and adjudication. The robustness of these results over different types of conflicts and disputants provides a clear prescription for substantive dispute resolution: If states are sincere about peacefully resolving conflicts, then the best way to achieve that – in terms of probability of reaching a settlement and ensuring compliance – is to submit to legal management fora.

Despite the strength of this prescription, states rarely submit to legal dispute resolution. A majority of the time states, instead, negotiate bilaterally. Alternatively, they turn to one of the other, useful, but less effective forms of third party management, such as mediation. Drawing on these observations, the specific puzzle this dissertation addresses is why states avoid the types of conflict management that have been demonstrated empirically to be highly effective at resolving conflicts.

In response to this puzzle, this dissertation defines a conflict management forum as as a venue for the substantive settlement of interstate conflicts, which is characterized by three different features: transparency, decision control, and expectations about

distributional outcomes. This definition then serves as the basis for two formal bargaining models that explain forum selection in interstate conflict management. Empirical implications from these models were tested through a set of three laboratory experiments conducted at the University of Iowa.

Through this series of theoretical models and experimental analyses, this project suggests that states select management fora that best balance their capabilities and interests. The features of a conflict management forum, which include decision control, transparency, and distributional biases, directly affect the outcome and long-term viability of negotiated settlements. States' ability to manipulate these features is an important part of the conflict bargaining process. In conclusion, the dissertation provides three answers to the motivating puzzle: States select management fora in order to balance power asymmetries and to enhance commitment to settlement, to identify focal points for settlement negotiations, and to break stalemates that could lead to violent breakdowns.

Abstract Approved: _____
Thesis Supervisor

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Date

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CERTIFICATE OF APPROVAL

PH.D. THESIS

This is to certify that the Ph.D. thesis of

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LIST OF ABBREVIATIONS

Abbreviation

3PCM	Third Party Conflict Management
ANOVA	Analysis of Variance
ASEAN	Association of Southeast Asian Nations
BP	British Petroleum
ECHR	European Court of Human Rights
EEZ	Exclusive Economic Zone
GATT	General Agreement on Tariffs and Trade
IAEA	International Atomic Energy Agency
ICJ	International Court of Justice
IGO	Intergovernmental Organization
IO	International Organization
ITLOS	International Tribunal for the Law of the Sea
MNL	Multinomial Logit
NATO	North Atlantic Treaty Organization
NEAFC	North-East Atlantic Fisheries Convention
NGO	Non-governmental Organization
OAS	Organization of American States
OAU	Organization of African Unity
PLO	Palestine Liberation Organization
RMSE	Root Mean Square Error
SPE	Subgame Perfect Equilibrium

UK	United Kingdom
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
UNSC	United Nations Security Council
US	United States
WTO	World Trade Organization

CHAPTER 1

INTRODUCTION

The main theoretical task facing students of war is not to add to the already long list of arguments and conjectures but instead to take apart and reassemble these diverse arguments into a coherent theory fit for guiding empirical research.

James D. Fearon, "Rationalist Explanations for War"¹

This project investigates states' strategies in the management of contentious interstate disputes asking why disputants select a particular approach, or forum, to serve as the stage for negotiations. The conflict bargaining process reveals incentives to reach peaceful solutions to war, but peace may be elusive due to bilateral bargaining problems (Fearon 1995; Schelling 1960). Attempting to provide solutions to these bargaining problems, a number of international organizations (IGOs) and other countries have begun to offer disputing states negotiation assistance, with some staking reputations as peace-makers (Bercovitch and Schneider 2000; Greig 2005). With burgeoning growth in the supply of peaceful settlement fora, states have a veritable catalog of options from which to select. Yet, rivals often fail to reach an agreement that resolves the underlying conflict. While the immediate consequences of conflict prevention failures are apparent, unsuccessful bilateral and third-party attempts may also fuel distrust, making disputes more likely to re-ignite and less likely to be resolved (Diehl, Reifschneider, and Hensel 1996; Hensel 2001; Hensel et al. 2008). Though scholars have hypothesized about the positive effects of various peaceful conflict management alternatives to resolving contentious disputes, in reality, the consequences of forum shopping and other strategic incentives on interstate conflict are not fully understood as the extant literature has

1 Fearon 1995, 382.

primarily focused on the results of conflict management strategies, rather than their selection.

Broadly, there are three ways that states can resolve conflicts. The first option is by military force. The second option is through direct negotiations. And the third option is to broker a deal with the assistance of an outside intermediary. There are obvious and subtle benefits and drawbacks to each of these options. The appeal of war as a management tactic is its promise of a decisive outcome, albeit at a high cost. Military force also conveys the message that an actor is resolved. The reputation generated by this message may deter future challenges and make bargaining over other issues easier (Crescenzi, Kathman, and Long 2007; R. Powell 1996). Bilateral negotiations, alternatively, save the costs of war. As such, they are an efficient means of conflict resolution in which the parties enjoy a great deal of control. The central drawbacks are that they are often difficult to initiate when states are at odds with one another over perceived issue indivisibilities, there are incentives to misrepresent private information about resolve, and commitment problems exist that make it difficult for either party to bind itself to an agreement (Fearon 1995; Schelling 1960).

The outstanding security concern is not that states will lapse into impasse, simply delaying a crisis; it is that states will fall into war as a result of bargaining failures. To alleviate these concerns, international organizations and other states attempt to supply disputing countries with alternatives to war and impasse. These third party alternatives encompass a wide range of political and legal solutions to conflict, including consultation, mediation, arbitration, and adjudication. The purported benefits of these approaches are that they provide solutions to the problems inherent to the bargaining

process that have the potential to lead states to war. They also make some negotiation processes more efficient and they help ensure long-term commitment to peaceful settlements.

In general, third parties provide a useful service in interstate conflict management. However, not all third parties equally benefit the bargaining process. Recent research especially points to the efficacy of legal dispute resolution, such as arbitration and adjudication. These approaches to conflict management practically² assure a settlement and are more likely than any other management approach to observe compliance with settlement terms and to foster lasting peace (e.g., Allee and Huth 2006; Fisher 1969; Gent and Shannon 2010, 2011; Guzman 2002; Simmons 2002). The robustness of these results over different types of conflicts and disputants provides a clear prescription for substantive dispute resolution: If states are sincere about peacefully resolving conflicts, then the best way to achieve that – in terms of probability of reaching a settlement and ensuring compliance – is to submit to legal management fora.

The Puzzle: States Rarely Submit to Third Parties

Despite the strength of this prescription, states rarely submit to legal dispute resolution. A majority of the time states, instead, negotiate bilaterally. Alternatively, they turn to one of the other, useful, but less effective forms of third party management, such as mediation. For example the Issue Correlates of War Project (Hensel 2001; Hensel et al. 2008; Hensel, Mitchell, and Sowers 2006; Nemeth et al. 2006) which documents territorial, maritime and river disputes, between 1816 and 2001, reports that 68.5% of all

² Indeed, of the 70 legal dispute resolution attempts in the Issue Correlates of War Project, only seven fail to end with a decision or award.

disputes in the Western Hemisphere were managed through bilateral negotiations. Meanwhile, only 4.1% of all disputants submitted to binding arbitration or adjudication. What is perhaps more puzzling is that the rate of submission to binding third party management has declined over the last 50 years while the number of international institutions that provide legal dispute resolution has grown. Figure 1.1 illustrates these trends.

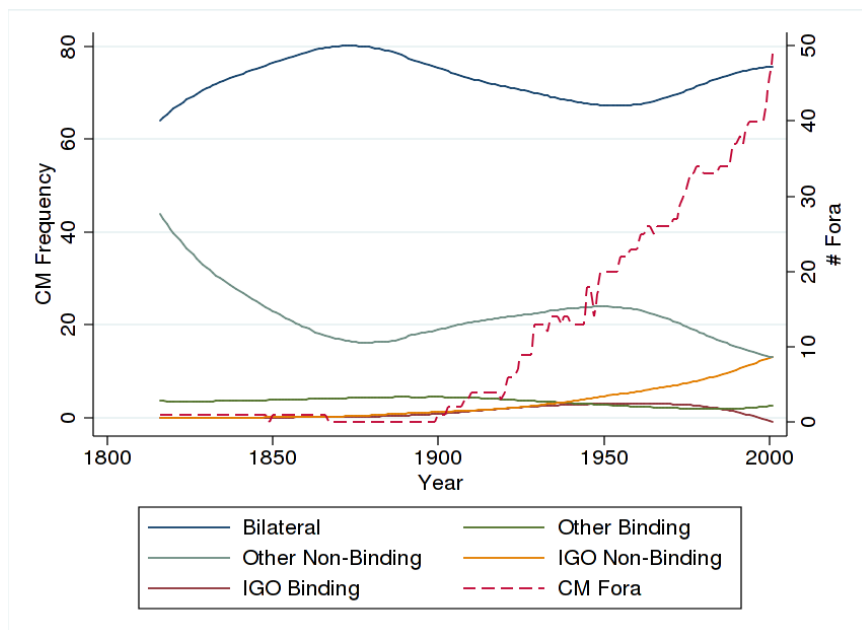


Figure 1.1. Peaceful Settlement Attempts and Forum Supply

The figure plots the percent of peaceful settlements that were managed by bilateral negotiations, binding (legal) arbitration and adjudication by international organizations (IGOs) and other, non-institutional actors, and the proportion that were mediated by international organizations or other non-institutional actors in a non-binding capacity. The blue line plots the proportion of peaceful attempts that were bilateral. The

lighter, green line below that, labeled “Other Non-Binding,” represents the proportion of cases that were mediated by an actor other than an IGO. At the bottom of the figure, there are three lines that are closely aligned: Other Binding, IO Non-Binding, and IO Binding. The dark, green line graphs the proportion of peaceful settlements that were managed through legal fora, like arbitral panels, that are not also formal IGOs. The orange line indicated by the label “IGO Non-binding” demonstrates that mediation by international organizations has increased since the 1950s. The last, “IGO Binding,” is represented by purple line marking the proportion of peaceful settlement efforts that were submitted to international courts. The dashed, red line in the figure shows, on the right-hand axis, the number of multilateral treaties and organizations with formal dispute resolution provisions.

It is clear from the figure that bilateral negotiations have always been the most preferred method of conflict management. Over time the number of multilateral treaties and organizations with specific provisions and mechanisms for dispute resolution have also grown. Taking advantage of this growth, disputants in contentious interstate disputes have increasingly turned to institutional fora. The line labeled “IO Non-binding” indicates growth in the rate by which states selected international organizations for mediation. Against these trends, however, states submit to binding institutions, such as international courts, at a lower rate.

Drawing on these observations, the specific puzzle this dissertation addresses is why states avoid the types of conflict management that have been demonstrated empirically to be highly effective at resolving conflicts. Using a combination of game theoretic bargaining models and experimental analyses designed to elicit subjects'

incentives to seek peaceful solutions while also maximizing distributional outcomes, this project reaches the central conclusion that states avoid legal dispute resolution and other third party fora because there are less costly, bilateral options to arbitration and adjudication that approximate the features of third-party alternatives, but that are less effective because bilateral agreements lack external enforcement.

Apart from implementing bilateral procedures that indirectly respond to third party management principles, there are also trade-offs inherent to forum selection which reduce the probability that arbitration and adjudication will occur. Despite the wide availability of legal dispute resolution fora, demand for these institutions is low, in part, because the forum features that increase the probability of settlement – such as the amount of decision control that an intermediary has – can be supplemented by other features that alternatively increase the probability of enforcement. Implicit to the assumptions regularly advanced in the literature that delegating authority to third parties and increasing the secrecy of negotiations both reduce audience costs is the observation that third party authority and settlement publicity are negatively correlated. In other words, as a result of explicitly linking the assumptions of the existing literature on conflict management, it can be shown that arbitration and adjudication are rarely implemented because the combination of substantial third party authority and high levels of publicity do not correspond with the conditions that also make a forum acceptable to both parties. This is because third party authority can be traded for publicity to achieve the same outcome of reduced audience costs.

The major implication of both of these observations is that, though they are not always the optimal response to interstate conflict, third parties are indirectly influential in

shaping the alternatives to violence that lead to peace. Third-party-induced bilateral settlements are only possible, for instance, when third parties are otherwise acceptable and credible, meaning that they provide guidance for balancing distributional outcomes with concerns about compliance. Such effects are unlikely to be observed through naturally-occurring data generation processes. Therefore, an additional contribution of this project is that it uses laboratory experiments to verify the theory's causal logic and uncover the third party processes that underlay a number of bilateral settlement attempts.

Disassembling Components of the Causal Story

Before expanding on these new theories and analyses, it is important to consider alternative arguments. The intent of this exercise is not to set up straw-men for later demolition, but to disassemble components of existing theories in order to extract pieces of truth and identify myths to dispel through the development of new evidence.

One reason why states might avoid legal dispute resolution is because they are not sincere about seeking peace. Alternatively the infrequent use of third party management could reflect a scarcity of management options. Third, it may be that the empirical evidence on conflict management is mistaken: The conditions for successful dispute resolution are rare; thus, third parties are essentially irrelevant to the process of dispute resolution. Last, it may be the case that forum selection in interstate conflict management reflects a sincere interest in dispute resolution but other strategic characteristics of conflict bargaining make it possible for states to respond to the presence of third parties in less directly observable ways. The following section addresses each of these different arguments and concludes with a presentation of the argument this project advances.

States Are Insincere About Peace

One plausible explanation for states' avoidance of effective peaceful management options is that states are insincere in their motivations to find peaceful solutions to conflict. The notion that disputes should be resolved amicably comes in part from economic bargaining models that illustrate the efficiency of negotiated settlements to conflict and from international norms that support the use of peaceful dispute resolution tactics over coercive force. However, it may be the case that disputants' value for impasse or an attempt at a later military victory exceeds their value for a settlement in the present.

Richmond (1998) terms such an incentive structure “devious objectives.” States with such devious objectives or insincere motivations, rather than triggering a crisis through military tactics, suggest weak forms of dispute resolution in order to delay settlements. The hope is that they can take advantage of an adversary's impatience and gain a larger share of the issue than they might obtain through bargaining.

Empirical research in international conflict management finds support for this plausible explanation for the avoidance of legal dispute resolution. Richmond (1998), for example, explains that the failure of the United Nation's 1964 mediation in Cyprus was due to the disputants' desire to use the forum as a place to internationalize the conflict and ossify their positions before domestic audiences. Ghosn (2010) adds that negotiations may “serve foreign policy objectives or military moves other than reaching agreements” and that states use mediation as a short-term break in the crisis to regroup. Last, Beardsley (2009) finds that the use of weak mediators, like minor power states (e.g., Norway) or international organizations with limited powers (e.g., UN Secretariat) signals insincere motives on the part of states to reach a settlement. Indeed, some scholars argue

that if states were sincere about peaceful dispute resolution, they would not need third parties at all; thus, the use of third parties serves as a signal of some other intention (Wolford and Yuen 2009).

The problem with this argument is that when it is extended to its full set of implications, it does not provide a rational explanation for the avoidance of third parties. The main impetus behind the logic of insincere motivations is that a disputant prefers a settlement or a military advantage tomorrow to an agreement today. However, this ignores the costs of prolonged conflict. Though third parties alleviate some of the transaction costs associated with bilateral bargaining, they are not an entirely costless enterprise. Thus, the disputant's expected outcome from a future settlement must at least match its expected value for the present settlement (including negotiation costs) to one that is discounted due to costly delays. Unless continued conflict is completely costless, there always exists a range of settlements that the “insincere” disputant would prefer today to a settlement reached in the future (Muthoo 1999). In sum, where there are costs with alternative tactics, there are opportunities for peace.

Forum Availability is Low

A second response to this empirical puzzle is that there are simply not enough international courts or arbiters that can satisfy their demand. Undoubtedly, domestic courts experience such logjams that judges regularly recommend claimants to alternative dispute resolution. However, in international dispute resolution, this does not appear to be the case. Indeed, the number of international fora designed to accommodate legal dispute resolution has grown exponentially over the last 60 years. Additionally, arbitral panels can

be created on a temporary, *ad hoc*, basis, such that there is virtually an infinite supply of legal dispute resolution (Bilder 2007; Malintoppi 2006).

But, to consider the point seriously, there are some concerns about the supply of legal management fora. First, though they are not uncommon, they are busy. It takes years for a case on the docket of the International Court of Justice to proceed to oral arguments. Within this time frame, disputants occasionally reach out-of-court settlements (Pellet 2006; Posner 2006). Additionally, international courts like the ICJ often require a significant commitment of monetary and intellectual resources that makes entry into some of these institutions prohibitive. To counteract this problem, international courts have funds to help small states, in particular, pay for the resources necessary to try a case before their bench (Bekker 1993).

A third problem is that is the wealth of legal management options actually makes it more difficult for states to identify one that will provide the most helpful assistance. Cogan (2008) argues that the proliferation of international courts creates competition. Though he is ultimately an advocate of the change because it should eventually help consolidate international law, he cautions that in the meantime, the diverse and overlapping jurisdictions create opportunities for forum shopping. This potentially dilutes the value of international courts and makes them *seem* less accessible. Nonetheless, each of these arguments fails to provide a satisfying response to the puzzle. The reality is that international courts and arbitral fora are plentiful enough for states to take advantage of them more regularly.

Conditions for Successful Dispute Resolution Are Rare

The last argument addresses two skeptical views on the observation that international legal dispute resolution is an influential institution in conflict bargaining. The first is that the conditions of anarchy and security dilemmas weaken the conditions for negotiated settlements because there is nothing that keeps actors from otherwise using force. The second is that, even if these arguments do not hold, it does not mean that international law provides sufficient basis on which to build peace agreements. International organizations are, instead, epiphenomenal and, on their own, irrelevant to the success of conflict management efforts.

The first set of arguments recall an early argument by Waltz (1954) that violence was a natural response to the absence of a “supreme authority” in the international system. In other words, the conditions for peace are rare because there is nothing to stop states from fighting. Since then, scholars have attached the failure of conflict management to disputants' inability to trust one another, reveal their true preferences, and remain committed to an agreement. Alternatively, a dispute may simply be unresolvable, as may be the case if the issue at stake were truly zero-sum. However, a large and well-regarded literature in international relations provides evidence against each of these arguments. Information asymmetries and commitment problems *do* pose real barriers to peaceful settlement, which often cannot be readily overcome through bilateral negotiations. Yet, there are ways for state to credibly signal their intentions and to demonstrate commitment. A democracy, for example, may be able to credibly signal its resolve by making a public statement (Fearon 1994; Tarar and Leventoglu 2009). Such

public commitment tactics, Schelling (1960) observes, clarify negotiations (though they might simultaneously made the conflict more difficult to resolve bilaterally).

The alternative barrier, that conflicts are truly zero-sum, are the exception, rather than the rule of conflict. Both Fearon and Schelling acknowledge that there exist powerful incentives for rivals to find mutually-acceptable negotiated alternatives to war: “Pure conflict, in which the interest of two antagonists are completely opposed, is a special case; it would arise in a war of complete extermination, otherwise not even in war” (Schelling 1960, 4). Thus, the first portion of this argument, that the conditions for successful dispute resolution are rare, fails to recognize many of the established realities of conflict bargaining.

The second portion of this skepticism, however, has preoccupied much of the debate within international relations scholarship over the last 30 years. The crux of this argument is that international organizations, conceived by states, are also the tools of states' interests (Mearsheimer 1994; Kenneth N. Waltz 1986). Therefore, any observed effect of international institutions is an artifact of states' individual willingness to comply, rather than evidence of the influence of the organization itself (Downs, Rocke, and Barsoom 1996). Applied to the issue at hand, the conditions for successful dispute resolution by international fora are rare because international organizations lack the independence to effect settlements absent states' interests in their execution and enforcement. The level of compliance currently observed is the product of self-interest: disputants enter into legal dispute resolution and other types of third party management with the intention to comply with the settlements reached because it is what they would choose independent of the forum's existence.

A significant amount of empirical and theoretical research has sought to tease out the incidence and consequences of states selecting into institutions that they would already find acceptable. Much of it finds convincing evidence of the independent effect that international organizations have on states' behavior (A. Chayes and A. H. Chayes 1993; Gent and Shannon 2010; Simmons 2002). This research paves a way for emerging projects, like this and several others, that extend the links between cooperation through IGOs and respect for international treaties and norms to the ways that states strategically navigate the increasing number of institutional options. The aim will then be to contribute to the debate on international cooperation and compliance by demonstrating how international organizations and other non-state actors influence states' choices at earlier points in the bargaining process.

Toward A Theory of Forum Selection in Interstate Conflict Management

This dissertation embarks on this path which seeks to link knowledge about states' responsiveness to institutions in treaty compliance to new questions about conflict processes and international cooperation in an environment characterized by choices. Specifically, this project addresses the question of forum selection in interstate conflict management by developing a theory of conflict bargaining with the option to pursue peaceful dispute resolution. The theory explores the strategic incentives that disputants consider when trying to choose a settlement mechanism. Most importantly, two contestants face a coordination problem: neither can unilaterally compel negotiations. This produces trade-offs between bargaining efficiency and conflict management success as states try to agree on key features of a management forum: transparency, decision

control, and expectations about settlement outcomes. Strategies that are more attractive on one dimension may be less attractive on other dimensions; the strategies that may be most likely to lead to peace may not be acceptable to both parties.

Aversion to international courts and other public fora is influenced by the features of a management forum that directly affect negotiation outcomes: forum transparency, decision control, and disputants' expectations about settlement outcomes. Research that prescribes legal or institutional solutions to bargaining problems relies on the assumption that there is some set of actors attentive to the forum's activities and that are able to access enough information to determine whether commitments have been violated. But, the same feature that makes information transmission and monitoring easier also increases the possibility that sensitive information about capabilities or resolve could be discovered by other adversaries. Thus, the trade-off for ensuring an opponent's compliance is decreased security in other interactions.

These arguments are incorporated into a formal bargaining model with the options of third party management and war. Propositions from the models support this intuition and demonstrate that the presence of alternative dispute resolution mechanisms affects the bargaining process and the types of tactics available to overcome bargaining problems. However, many of the ways in which third parties are influential are also indirect. Rather than pursuing legal dispute resolution directly, states negotiate. In other words, the presence of credible third-party options leads states to bargain shop for bilateral alternatives that are more efficient, but potentially less dependable.

Implications from this research reinforce the argument that implementation of commitment-enhancing mechanisms in conflict management helps to resolve disputes

and emphasize the importance of transparency to achieve monitoring and enforcement of settlement agreements. However, a general prescription for more legalized and institutionalized procedures misdiagnoses states' strategies to pursue third-party conflict management. If disputants cannot consent to the authority of an international body, there may appear to be few other alternatives to continued conflict. They also explain why third party management is rare which contrast with the above alternative explanations that favor insincere motives or anarchy.

Competing Theories of Mediation: A Brief Discussion

The contribution of this project to study of conflict management more generally is that it streamlines the extant literature's list of causal variables into a general definition of conflict management. Recognition of this particular empirical puzzle is not, by itself, novel in the study of conflict management. Given the breadth of the extant literature, it might seem as though another theory of conflict bargaining is unnecessary. Yet, currently, the literature provides only two answers to why states use third party mediation, generally, and specific types of management (binding/non-binding; IGO-led) more expressly. These two models disagree on the conceptualization of a management forum and apply their theories to different types of interests or actors. This dissertation gathers components from each of these theories about conflict management success and forum acceptability and rearranges them into a straightforward set of assumptions that establish a causal logic of forum selection.

The first canon in mediation argues that preferences over conflict management fora are shaped by states' needs to satisfy multiple constituencies. This two-level game

perspective suggests that leaders simultaneously attempt to satisfy the interests of their domestic populations while also attempting to appease an opponent (Iida 1993; Putnam 1988). In essence, leaders must act strategically to avoid making concessions that would be unpopular with their domestic audience because doing otherwise could result in removal from office. These maneuvers are made simultaneously while leaders work to negotiate a resolution of their conflict with other governments. Allee and Huth (2006) argue that these concerns are especially important for democracies and demonstrate that disputes between democracies are more likely to be submitted to management by an IGO in order to assure political cover for potentially unpopular settlements. Gent and Shannon (2010) similarly find that binding conflict management approaches, such as arbitration and adjudication, are desirable to states seeking to avoid domestic reprisals. Thus, forum selection in conflict management might be usefully constructed as a two-level game.

The second general approach to explaining conflict management preferences coincides with models that, in contrast, assume that the state is a unitary actor. This approach minimizes the influence of domestic audiences and, instead, focuses on disputants' interactions and expectations, and draws extensively from rationalist explanations for war and conflict management. It explains third-party conflict management as a less costly method of settlement compared to war when information asymmetries and commitment problems keeps states from otherwise agreeing bilaterally (Bercovitch and Jackson 2001; Hensel 2001). Intervening third parties, whether they are states or intergovernmental organizations, foster successful conflict resolution by providing reliable, new information (Crescenzi et al. 2011; Kydd 2003, 2006; Rauchhaus 2006) and external enforcement of agreements (Boehmer, Gartzke, and Nordstrom 2004;

Mitchell and Hensel 2007). Third-party enforcement is especially important because disputants have unilateral incentives to defect from bilateral settlements reached in peaceful negotiations when there are few consequences for reneging (Hansen, Mitchell, and Nemeth 2008). As a result, states base their preferences over conflict management fora on the mediator's ability to resolve these problems.

A critical difference between the two approaches is that the two-level game approach assumes that disputants can identify acceptable bilateral agreements, but they simply cannot commit to them due to domestic constraints. That is, a government and its constituents may have different preferences over settlement outcomes and governments, as a result, can only commit to settlements that allow them to avoid audience costs. Third-party management, and legalized dispute resolution in particular, solve this commitment problem (Allee and Huth 2006). The unitary actor approach generalizes from the two-level game approach and assumes that states have a single set of preferences over settlement outcomes. This approach does not directly dispute the argument that governments are motivated by their constituents' preferences. Rather, it places the factors that influence preference formation into a "black box" in order to focus on the inter-disputant aspects of the bargaining problem. In this view, then, third-party management becomes necessary when bilaterally negotiated alternatives are unavailable due to information asymmetries and commitment problems (Fearon 1995). Efficiency concerns lead adversaries to seek out agreements that would make them both better off than if they had selected another path. Because third-party conflict management imposes costs (e.g., sovereignty costs, time, coordination), disputants would do better to reach an agreement bilaterally than to come to the same conclusion multilaterally.

Working from the second, rationalist perspective, Bercovitch and Jackson (2001) argue that preferences over conflict management mechanisms are contingent upon the nature of the dispute and the disputants' relationship. This "contingency framework" suggests that disputants in especially intense conflicts over seemingly indivisible issues will be more likely to employ third-party mediation because the intensity of the conflict prevents peaceful bilateral negotiations from even being initiated. Additionally, disputants will prefer third-party mediation when both expect that mediation will deliver a more favorable settlement than what they can achieve on their own. States may come to this conclusion when previous efforts to settle have reached an impasse or if other dynamics (e.g., power balances) between the states preclude peaceful settlement (Bercovitch 1986). Hensel's (2001) recent work within the context of issue-based disputes also argues that disputants attempt to coordinate their value for the issue at stake with the benefits of conflict management. States with more in common, such as trade or IGO memberships, are more likely to find third-party management unnecessary. Concurrently, Hensel describes binding conflict management as a costly gamble, where the commitment to the third party's award in advance of negotiations potentially puts disputants in a disadvantageous position. Submitting to binding arbitration or adjudication is especially risky because reputational costs for reneging against these types of settlements are especially high (Gent and Shannon 2010; Keohane, Moravcsik, and Slaughter 2000; Simmons 2002). Thus, Hensel (2001) and Bercovitch and Jackson (2001) agree that highly salient disputes are more likely to be managed through non-binding mediation, as opposed to binding arbitration or adjudication because mediation opens bargaining options to the disputants without a risk of reprisal. As Raymond (1994, 29) argues, "The

benefit of nonbinding third-party procedures ... is that a mediator's suggested solution can be rejected without prejudice to one's reputation.”

The contingency-based explanation for conflict management preferences adds that disputants are strategically motivated. In the case of bargaining over which type of conflict management forum to employ, states consider their opponent's value for a settlement and the relative costs of third-party management. They then negotiate to locate a forum that is mutually acceptable (Bercovitch 2007; Bercovitch and Jackson 2001). This process, in some ways, mirrors bargaining models that incorporate outside options, where actors may “quit” the bargaining game to pursue other options for settlement. In international relations this “outside option” is usually war (Fearon 1995; R. Powell 1996), however, the possibility of having multiple outside options to a negotiated settlement is theoretically feasible (Fudenberg, Levine, and Tirole 1987). Many of these formal treatments that relate to conflict management, however, study domestic alternative dispute resolution, where legal scholars have adapted economic bargaining models to explain preferences over alternatives to trial (Cooter and Rubinfeld 1989; Shavell 1995). While some scholars make connections made between these two literatures and compare war to the costs of going to trial, few do so more than anecdotally. As a result, conjectures about states' strategic motivations in conflict management forum selection are informal and circumstantial.

Rather than disagreements between these different theories, the most significant barrier to the development of a causal theory of third party influence has been the tendency for scholars to build theories around comparisons within individual, bimodal dimensions. Allee and Huth (2006) and Weigand and Powell (2010), for example,

examine forum selection in the context of binding and non-binding types of conflict management. Hansen, Mitchell, and Nemeth (2008) and Boehmer, Gartzke, and Nordstrom (2004), in contrast, emphasize the differences between mediation led by international organizations and those managed bilaterally. Similarly, Savun (2008) finds that biased mediators are effective at quieting hostilities, highlighting the difference between biased and unbiased third-party conflict management. Each of these contributions to the literature extends our understanding of the mechanisms that improve states' chances for peace through conflict management. However, the sheer number of single-dimension characterizations betrays a more complex reality that management fora are simultaneously binding/non-binding, institutionalized/non-institutionalized, and biased/impartial. These divisions, furthermore, create competition and isolation among research agendas when, in reality, the different mechanisms work in concert.

This dissertation hopes to unify these divisions by developing a general definition of a management forum and applying that definition to a theory that models disputants' incentives to use coercion alongside the aspects of conflict management that require disputants to find cooperative solutions to continued hostilities.

This is not the first project to study multidimensional management fora. More recent research considers the interaction of some of these characteristics to improve the depth of our knowledge. For example, Gent and Shannon (2011) begin with the observation that binding methods of conflict management are the most successful at fostering peace and challenge the claim that biased mediators are more effective. They observe that biased mediators—those who share allegiance with one of the disputants—are more likely to be used in less intrusive approaches (e.g., mediation, good offices,

consultation). Alternatively, when states submit to arbitration and adjudication they are more likely to turn to unbiased or impartial mediators. Thus, for the most effective types of conflict management, states rely on unbiased mediators, suggesting that biased mediators are not necessarily more successful. Hansen, Mitchell and Nemeth (2008), who focus exclusively on conflict management by international organizations, also contrast the management approach (binding vs. non-binding management) with a conceptualization of bias based on member states' homogeneity of preferences and the IGO's institutionalization and level of democracy. The authors suggest that regional IGOs, like the Organization of American States, are more likely to be perceived as biased, whereas global IGOs, like the UN, are thought to be neutral. The perception of neutrality assigned to global IGOs makes them more effective as conflict managers when they use binding conflict management methods (though the authors find that binding conflict management attempts are more likely to foster peaceful settlement, independent from the mediator's characteristics). The difference between these examples and the approach of this dissertation is that this dissertation 1) develops a conceptualization of management fora that encompasses features from each of the major dispute resolution theories and 2) studies the influence of third party management fora on dispute resolution outcomes from the initiation of the dispute – a point in the conflict at which it may not be apparent to the disputants themselves that mediation or legal dispute resolution could facilitate an acceptable settlement.

Outline of the Dissertation

The analytical framework followed in this project achieves these goals by, first, constructing a definition of a conflict management forum, drawing from the existing literature to identify its central features. Therefore, this project proceeds in Chapter 2 with a brief overview of the literature on interstate conflict management. The discussion focuses on the implications of the rationalist bargaining model of war for peaceful dispute resolution. Conflict management scholars, in particular, point to the three barriers to bilateral settlement (information asymmetries, commitment problems, issue indivisibilities) identified by these theories as benchmarks for third party success. The benefit of this work is that there is a consistent metric against which to measure the various conclusions reached by international relations, law, and conflict resolution scholars. The challenge is in finding a clear center for these multifaceted approaches to interstate dispute resolution. The purpose of the chapter is to synthesize the literature and provide a definition of a conflict management forum that will serve as the basis for explaining why states in conflict select any specific forum at all. Chapter 2 defines a conflict management forum as a venue for the substantive settlement of interstate conflicts, which is characterized by three different features: transparency, decision control, and expectations about distributional outcomes. The chapter concludes with a discussion of how this definition aligns with extant research and provides a baseline for theory development.

Chapter 3 revisits the puzzle regarding states' avoidance of legal dispute resolution. Using Chapter 2's definition of a conflict management forum as a guide, the

chapter explains how a forum's distributional bias and transparency with respect to settlement enforcement affect the conflict bargaining process. Given these effects, the chapter then outlines a formal bargaining model of forum selection in interstate conflict management. The deductions from the model imply that states avoid formal dispute resolution because they can design and implement bilateral settlements that replicate many of the features of third party management. Accordingly, this chapter provides the first answer to the question posed by the research project.

Chapter 4 evaluates the central claims drawn from the forum selection model presented in Chapter 3. The research design is a laboratory experiment in which human subjects participate in the same bargaining game described in the theory. The analysis explores the incidence and direction of concessions that actors make in conflict bargaining when there are different types of third party alternatives available to help parties resolve conflicts. The results of the analysis support the theory's empirical implications – notably the observation that, while both biased and impartial third parties provide acceptable and credible alternatives to conflict, impartial third parties elicit the greatest response from belligerent states. Together, the experimental analysis and the theoretical model convey story about third party intermediaries as focal points for bilateral conflict bargaining.

Chapter 5 expands on the theory presented in Chapter 3 by fully defining the forum selection problem according to issue division, transparency, and decision control. The model represents a multidimensional bargaining space within which actors negotiate over the level of decision control and transparency. The forum design model illuminates five lessons about forum selection in conflict bargaining that have been less-well explored

in the extant literature. The first lesson is that transparency is necessary for acceptable conflict management. Despite the need for transparency to ensure compliance, states, second, rarely delegate complete decision control. This result recalls the argument from Chapter 3 that states rarely turn to arbitration and adjudication because there exist bilateral alternatives to third party management. However, Chapter 5 improves upon this earlier implication in its third lesson – disputants delegate decision control to manage power and commitment. In particular, delegating to a third party is a useful tool for stronger challengers that want to ensure its weaker adversary's satisfaction with the distributional outcome of negotiations. Fourth, Chapter 5 contributes to the debate on third party bias by observing that impartial third parties are generally more acceptable than biased third parties in conflict management. Last, the chapter explains that not all acceptable fora are effective fora, indicating that states regularly consent to dispute resolution procedures that have little chance of succeeding. The chapter concludes with a discussion of the theory's empirical implications.

Chapter 5's discussion directly informs Chapter 6, which evaluates the expanded theory through two separate experimental analysis. The first analysis focuses on the selection of decision control in a bargaining game in which subjects delegate a level of control to a third party. The results of the analysis provide support for the theory's conclusions about the relationship between third party bias and forum design. In particular, it demonstrates how strong challengers can use third parties biased in their favor to facilitate conflict management. Additionally, the experimental analysis shows that impartial third parties are generally more acceptable than biased intermediaries, in part because they can help balance power asymmetries between weak challengers and strong

targets. The second part of this chapter discusses the design and analysis of an experiment on the selection of forum transparency. This analysis builds on the earlier research designs and provides additional support for the theory's implication that disputants are less likely to enhance the transparency of biased fora. They are, however, open to expanding the authority and transparency of impartial third parties in order to effect efficient and enforceable settlements.

The last chapter of this dissertation summarizes the overall findings of this project, noting where the theory and analyses support the extant literature and where there is room for continued work. Notably, this project analyzes just a portion of the data collected through the three experimental analyses; more remains to be explored on the factors that link forum acceptability with compliance and the use of force. These extensions aside, this project also reveals other avenues which warrant advanced investigation, including the selection of biased third parties, the role of conflict management in balancing asymmetric disputes, and, most significantly, the timing of forum selection negotiations in the overall conflict bargaining process.

CHAPTER 2

THE RATIONALIST CONFLICT BARGAINING MODEL AND FINDING ACCEPTABLE FORA

In all social systems, however simple or complex and irrespective of their location in time and space, there are three basic methods of conflict management. These are (a) violence and coercion (both physical and psychological), (b) various forms of bargaining and negotiation, and (c) the involvement of a third party

Jacob Bercovitch, “International Mediation”¹

If conflict strategies are best situated within bargaining dynamics, as Schelling (1960) asserts, then the management of conflict – any attempt to use negotiation or other peaceful method to reach a settlement agreement – should also be appropriately studied within this context. Disagreements about the demarcation of territory, maritime boundaries, or other interests initiate exchanges between states that may either be violent or diplomatic in means. Of particular interest to this dissertation are those instances in which states attempt to settle their disputes peacefully, rather than by force, and understanding not only which diplomatic strategies are most likely to lead to a resolution of the conflict, but why some strategies are employed over others. Conflict bargaining models reveal that disputes may sometimes be impossible to derail because disputants have incentives to misrepresent information about capabilities or resolve (Fearon 1995; Kydd 2003; Schelling 1960). Further, the possibility that concessions may be used against an adversary in the future reduces the motivation to negotiate because there can be no guarantees that the belligerents will be committed to the terms of a peaceful settlement (R. Powell 2002). Therefore, conflict management strategies that can effectively circumvent these barriers to settlement will be more likely to bring belligerents to the

¹ Bercovitch 1986.

table and effect peace through the construction of agreements that resolve the major centers of conflict. Taking inspiration from the conflict bargaining approach to understand interstate dispute resolution, scholars have recently provided abundant empirical evidence in support of the belief that some methods of conflict management are more effective than others at producing settlement agreements that promote long-term peace (Gent and Shannon 2011; Hensel 2001; Hensel et al. 2008; Savun 2008). The corollary to these conclusions is that other methods of conflict management are not as effective in settling interstate disputes. But, why do states elect to approach negotiations through one forum over another?

This chapter will outline some of the existing explanations for forum selection in conflict management, noting their close relationship with research that focuses on settlement outcomes. It will then conclude by presenting an alternative way of looking at the forum selection problem. The intent is to highlight how models of forum selection in conflict management tend to focus on conflict management as a set of single-dimensional concepts. The result of all of these single-dimension studies is a disjointed set of explanations for settlement outcomes.

These explanations may be more usefully streamlined into a conceptualization of the conflict management market around three different characteristics of the decision to delegate authority to a third-party intermediary: transparency, control, and beliefs about the division of goods at stake. Transparency, control, and disputants' expectations about settlement outcomes produce fora that provide the mechanisms sufficient for peace, and the degree to which disputants seek out fora with any of these characteristics is dependent upon their relationship and the nature of the conflict. These observations provide the

basis for a theory of forum selection, presented in the chapters that follow, which takes into account a larger context of forum selection than is typically considered by studies of a single settlement approach (e.g., mediation vs. bilateral talks, binding vs. non-binding management) or of specific types of third-party intermediaries (e.g., democracies, IGOs and NGOs, major powers).

Schelling (1960) plainly establishes precedent for understanding peaceful conflict management within the context of more traditional conflict bargaining models: Given that all-out, pure conflict is extremely rare and that, instead, disputes tend to arise over more modest objectives, there is a value to both parties to reach an outcome that is mutually advantageous. The most efficient way of achieving such an outcome is through negotiation. Fearon (1995) formalizes this classic theory and demonstrates that war between two rational actors is induced by bargaining obstacles, such as incentives to misrepresent one's reservation point and commitment problems. Thus, even though there may be peaceful settlements that would result in distributional outcomes preferable – and more efficient – to war, violence ensues as a result of actors' inability to hurdle negotiation barriers and reach an agreement. In theory, disputants ought to negotiate dispute settlements much more readily than they may be capable of in practice.

Responding to the dilemma that there may exist missed opportunities for peaceful settlement of interstate conflict, conflict management scholars and practitioners have responded with a number of prescriptions for how adversaries might overcome such obstacles. First among these are methods to reduce uncertainty between the disputants by improving lines of trust through issue linkages or opened communication (Hopmann 1998). The U.S.-Soviet Union “hot line” of the Cold War era serves as a bilateral adoption

of this idea. The purpose of these efforts is to make the exchange of information less costly, both in practical and security-related terms. This reduces incentives to withhold private information in the negotiation process and builds trust. Such bilateral efforts to compel negotiations, however, may be arguably better served by the presence of third-party conflict managers. Thus, others add that outside actors may be able to bring parties to the negotiation table by offering additional incentives to settlement (e.g., side-payments and concessions [Bercovitch and Schneider 2000]), delivering new information that may cause one or more actors to capitulate (Fisher 2007; Kydd 2006), reducing uncertainty about the negotiation process (Abbott and Snidal 1998; Boehmer, Gartzke, and Nordstrom 2004; S. M. Mitchell and Hensel 2007), or by providing a larger audience to whom the parties (outside party, included) are responsible (Beardsley and Greig 2009; Busch 2007; Greig 2005).² In sum, the key to resolving the bargaining dilemmas that deter peaceful settlement is to increase information, solve commitment problems, and provide additional resources to overcome issue indivisibilities.

These imperatives directly reflect the links between research in conflict and peace studies that, together, appear to form a cogent set of guidelines for understanding conflict management processes. Instead of one prescription, however, the literature provides

2 In reference to international audiences, such as members of an international organization or allies. However, third-party management may also open the possibility that disputants will use outside fora as a means of manipulating domestic support for dispute settlement. Disputants may use third-party management as a method of political cover for potentially unfavorable agreements (Allee and Huth 2006), or as a way to increase the visibility of talks in order to use domestic audiences as a commitment mechanism (Ramsay 2004).

several. The discussion below will elaborate, but as Figure 2.1³ shows, there are a number of different explanations for the occurrence and success of conflict management.

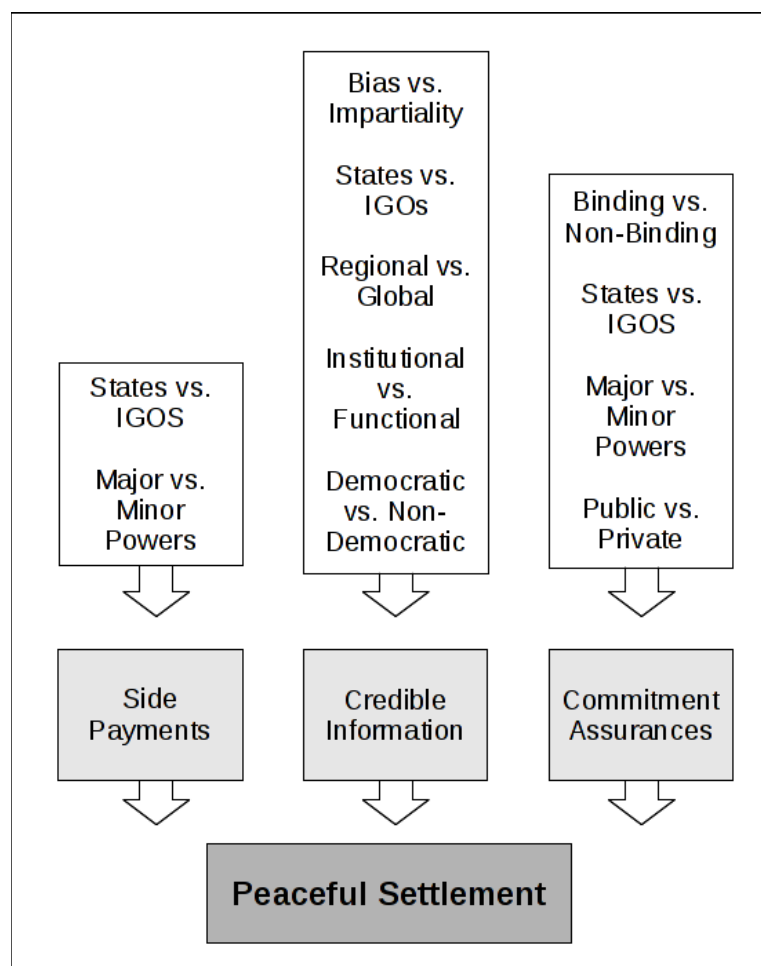


Figure 2.1. Summary of Conflict Management Literature

Information and Conflict Management

Outside efforts to facilitate dispute resolution by supplying information have been observed to impact both a forum's acceptability and its success in producing settlement agreements. Third-party insight into the nature of the dispute and the disputants'

³ This chapter will not touch upon all of these dichotomies. Instead, it presents some of the central debates and the empirical evidence supporting its conclusions.

relationship is argued to make a conflict management forum more attractive because having better and more reliable access to private information makes a potential third-party appear more credible. As Arnold (2000, 320) argues, the insight that a mediator has into the dispute improves disputants' evaluations of the mediator's legitimacy and ability to facilitate negotiations. In talking with practitioners, he finds "mediators report that disputants' perceptions of how much they know about the dispute, the issues involved, and the disputants themselves affect both the disputants' motivation to engage in mediation and their confidence in the process." Given the facilitative role that mediators play in bringing about peaceful settlements, it is easy to see why their ability to exercise leverage through supplying and transferring information is important for their acceptability and effectiveness.

Having insight into conflict processes is not important solely for political approaches like mediation. Legal institutions' understanding of dispute dynamics is also important for their selection as conflict managers. As Fischer (1982) explains, disputants may be uncertain about the applicable standards for evaluating the strength and validity of their claims. Thus, some disputants turn to international courts or other legal fora in order to rely on their expertise to interpret international law, as was the case in one of the earlier disputes submitted to the ICJ to decide the demarcation of the North Sea continental shelf between Germany, Denmark, and the Netherlands in 1958.

Bias vs. Impartiality

In sum, the ability to access and deliver credible, private information while acting as an outside intermediary is an important part of a forum's acceptability. However, the literature is torn as to which third-party actors and which conflict management

approaches are the most appropriate—or most effective—for delivering such information. Frequently, third-party conflict management approaches are associated with impartiality and objectivity. Having no direct interest in the outcome of the dispute—or at least acting as though they have no interest—makes third-party fora capable of delivering trustworthy information because their rewards from successfully refereeing settlement agreements are not affected by either belligerent's concessions. Bercovitch (2007) notes that scholars often define mediation in terms of a third-party's neutrality in part because it is assumed that the necessity of neutrality in acting as intermediary impels third parties to act accordingly. Mediation is variously defined as the “assistance of a ‘*neutral*’ third party”; the “process by which the participants, together with the assistance of a *neutral* person or persons ... consider alternatives and reach a consensual settlement”; and “the assistance of a third party ... perhaps an outsider who may be regarded by them [the disputants] as a suitably *neutral* go-between” (Bingham 1985, 5; Folberg and Taylor 1984, 7; and Spencer and Yang 1993, 195 qtd. in Bercovitch 2007, 166, emphasis added).

Beyond definitions, neutrality and impartiality are deemed to be imperative qualities of both the conflict management process and the actors who carry it out. Young (1967) posits that third parties may provide useful and believable information and meaningfully facilitate peaceful settlements only when they impartial. Expanding the range of conflict management to include other approaches besides mediation, the implication of neutrality or impartiality by potential third-party intermediaries becomes even more apparent. The International Court of Justice requires each member to “make a solemn declaration in open court that he will exercise his powers impartially and conscientiously” (“Statute of the International Court of Justice” n.d., Article 20). In

addition, arbitral panels are often designed to “provide some ‘fallback’ impartial appointment mechanism” to ensure that there is at least one pivotal member of an arbitral panel that is not an accomplice to either party (Bilder 2007, 199). Institutional designs and other forum characteristics that create an impartial environment ensure that information may be credibly shared and disseminated.

The perception that a forum will not be impartial could result in its rejection or make post-settlement compliance elusive. Schuller and Hastings (1996) find disputants’ perceptions of the fairness and favorableness of a dispute resolution procedure (i.e., consultation, mediation, arbitration, adjudication) impacted the approach’s desirability, with participants more likely to select fair procedures.⁴ A significant motivation for disputants to avoid biased fora is that the third parties trusted to supply and transfer information between them may be willing to use their superior information to manipulate either of the parties into making disadvantageous concessions. Given that issues related to power and sovereignty are at stake in contentious conflicts, partial intermediaries are rejected because their influence and decision-making power could alter settlement outcomes. For example, territorial claims by Morocco against Mauritania after 1981 were submitted to the United Nations for mediation, rather than the Organization of African Unity (OAU) that was previously active in managing the dispute, because a 1976 decision by the OAU Executive Council to recognize Saharan rights to self-determination led Morocco to believe that the organization was not impartial (Alagappa 1995).

4 Where fairness is defined as “the perception of ... having a meaningful opportunity to tell one's story, to feeling that the mediator considers the story, and to being treated with dignity and in an even-handed manner” (Hyman and Love 2002, 172). Procedural fairness is similarly shown elsewhere to improve disputants’ reception of various conflict management approaches and is an important variable in explaining interpersonal and organizational conflict (Arnold and Carnevale 1997; Heuer and Penrod 1986; LaTour et al. 1976; Lewicki, Weiss, and Lewin 1992; Thibaut and Walker 1975).

Shannon and Gent (2011a) demonstrate the damage that a biased third-party intermediary can cause in instances of binding conflict management. Observing that (quasi-)legal management approaches are generally held to be legitimate and authoritative in the international community, a biased arbiter or judge has the power to impose undesirable concessions. Thus, the authors find that when states employ binding conflict management approaches, they are more likely to go through unbiased third parties. Thus, fora perceived to be biased against either of the adversaries are more likely to be rejected; those biased managers not rejected may only advance disputants' frustration – a condition that increases incentives to renegotiate and heightens the risk of recurrent conflict (Werner 1999).

Kydd (2003) unravels the confusion created by these different findings by focusing on the most useful role that bias – preferences that favor one disputant over another – may play in facilitating negotiations: the transmission of information. Kydd distinguishes between two ways in which an outside actor may alter the course of a conflict. The first is through using threats or side-payments to coerce one side to capitulate. Such “sunk cost” strategies are effective because they change the parties' pay-offs, either raising the costs of war or increasing the benefits of settlement. However, not all potential intermediaries will have the ability to employ such tactics, and thus mediators may reveal private information about an adversary's capabilities or resolve in order to convince a party to back down (Savun 2008). These “cheap talk” tactics are only persuasive if the advisor is believed. Kydd demonstrates that when mediators are motivated by either an ambition to shape settlements in favor of their political interests or a desire to successfully bring a resolution to the conflict, those intermediaries that are

solely motivated by the goal of reaching a settlement, or unbiased, are more likely to lie.

A biased mediator, on the other hand, is trustworthy when he or she signals to an ally that an adversary intends to fight because the outside party would be adversely affected if the conflict escalated, in addition to costs assumed for failing to bring about peace.

Arbitration, Adjudication, Mediation and Information

It is not clear whether the inferences about mediation and information apply equally to arbitration or adjudication. Drawing from the rationalist conflict literature, Savun (2008) argues that only information about an opponent's resolve or capabilities will be useful in bringing about a settlement. The possibility that an international court or arbiter may be able to provide helpful information about legal procedures or interpretations that result in settlements or judgments, but the functions of such fora do not include consensus-seeking. Instead, a third party in binding conflict management imposes an independent decision and, thus, communication between the parties over potential divisions of the goods at stake is moot and no information needs to be shared in order to elicit concessions. Therefore, it may be of little surprise that Gent and Shannon (2011a) find that disputants in territorial conflicts were less likely to select biased third parties if they also sought binding conflict management such as arbitration or adjudication. Likewise, if intermediaries were present to provide good offices or facilitate negotiations, disputants were more likely to find biased fora to be acceptable.

States, Intergovernmental Organizations, and Other Non-State Actors

Coinciding with the debate over third-party bias, another set of literature considers whether some conflict management providers are more capable of collecting

and disseminating information than others. Though, for the most part, the scholars investigating the role of bias in information provision generally assess their arguments in the context of state-led mediation attempts (Favretto 2009; Kydd 2003, 2006; Rauchhaus 2006; Savun 2008; Touval and Zartman 1989), it is evident that other actors, such as intergovernmental and non-governmental organizations, may also serve an information-providing role. Nonetheless, the literature disagrees upon which type of actors disputants seek out when they need more information in order to break bargaining stalemates.

Traditionally, states are set apart from other actors in their ability to gather information because they may use domestic intelligence agencies to regularly collect data on other states' military, regime, and policy-related activities. Other common sources of information, such as observations from diplomatic representatives in other countries and power-sharing agreements through alliances, are also primarily reserved to states; Savun (2008) finds that states that are more capable of gathering independent information on other states' capabilities and resolve are more likely to be persuasive as mediators in conflict situations.

Non-state actors, such as intergovernmental organizations and nongovernmental organizations, typically lack the resources to independently conduct such reconnaissance and are, therefore, argued to be dependent upon the political resources and will of their member states – powerful member states, in particular. Thus, it would seem that there is little to no role for IGOs or NGOs in serving as information arbitrageurs independent of their member states' capabilities and willingness to share that information with the institution. Fisher (1969) argues, in contrast, that international organizations may actually be more influential than their nation-state counterparts in persuading disputants to make

concessions (see also Merrills 2005). This ability is improved when a non-state actor has pre-established province to manage disputes through their institutional design; a number of international organizations expressly include conflict management provisions within their charters. For example, the UN Charter explicitly proscribes the proper course of action in the event of an interstate dispute: “The parties to any dispute, the continuance of which is likely to engender the maintenance of international peace and security, shall, first of all, seek a solution by ... peaceful means of their own choice” (“Charter of the United Nations: Chapter VI: Pacific Settlement of Disputes” n.d.).⁵

Mandates to carry out conflict management consequently enable peace-promoting international organizations to improve the flow of information between disputants because they can employ specialists and initiate fact-finding missions. When a conflict among its members arises and is submitted to its jurisdiction, an IGO “typically collect[s] independent information about [the] dispute” (S. M. Mitchell and Hensel 2007, 724), sometimes setting up subsidiary bodies to conduct an “on-the-spot” investigation (Merrills 2005). Professional diplomatic corps and specialized groups, such as the informal groups of states the UN Secretariat frequently establishes, also give international organizations long-term ability to gather information (Cortell and Peterson 2006; Prantl 2005; Skjelsbæk 1991). Indeed, some scholars argue that IGOs may have an advantage over states in gathering independent, impartial information that is important for addressing uncertainties about disputants’ capabilities or resolve, suggesting that “these actors (states) do not have the machinery and resources to ... help the parties” (S. M.

⁵ Article 33(1) of the UN Charter elaborates on the number of acceptable methods by which disputants may attempt to reach a peaceful settlement: “The parties to any dispute ... shall, first of all, seek a solution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.”

Mitchell and Hensel 2007, 724) and that “[f]ormal IOs ... are uniquely capable of providing credible information regarding a coercing state’s intentions and the consequences of its policy” (Thompson 2006, 72).

More generally, international organizations that are highly institutionalized, meaning that they have sophisticated bureaucratic structures, executive and administrative capabilities to implement directives, are more likely to affect disputants through negotiations and facilitate peaceful settlement. Boehmer, Gartzke and Nordstrom (2004) test this proposition on IGO management attempts of militarized interstate disputes and find that the more institutionalized an organization is, the more likely the management effort led to a settlement agreement. Under similar logic, Mitchell and Hensel (2007) and Hansen, Mitchell, and Nemeth (2008) examine the influence of multilateral treaties and organizations that have specific provisions for managing contentious disputes on states’ ability to reach a settlement and resolve substantial areas of disagreement. Both find that international organizations with centralized operations for mediating conflicts are more successful at effecting peace. Furthermore, disputants in especially hostile, territorial disputes are more likely to find these types of fora attractive (Shannon 2009).

Still, other transnational actors without the official reach of IGOs are active and effective in managing interstate disputes. Non-governmental organizations that have an international scope have often been observed to be important actors in conflict management, parlaying their specialized information into bargaining power. Prominent examples include the activities of the Carter Center, and especially Jimmy Carter, and the mediation and arbitration by the Vatican. But other non-governmental organizations have been active in conflict management, as well, such as the Quakers and World Vision

(Dunn and Kriesberg 2002). The factors that arguably make NGOs effective information providers are their long-term presence in a conflict area and their moral authority and neutrality. Dunn and Kriesberg observe that transnational organizations that have had an on-going presence in an area of conflict, such as the Quakers in Nigeria or within disputed regions in India and Pakistan (see also Merrills 2005), are more likely to notice the early signs of a violent outbreak and may conduct fact-finding missions or warn the opposition. Additionally, an established presence fosters familiarity and grants NGO representatives more direct access to the disputants (Wehr and Lederach 1991). This allows NGOs to be more efficient, if not more effective, in providing information in the conflict management process.

Linking Information and Actors

Two conclusions from this discussion on information and third party conflict management are evident: First, there is sufficient evidence to support the contention that *any* type of third party provides reliable information that might lead to the resolution of a conflict. In the same vein as this first observation, it is also the case that there is no generally superior or optimal source for information among third party fora. Consequently, states are invited to forum shop across third parties for information. Again, because most third parties will be able to effectively address bargaining problems related to information asymmetries, states might consider other trade-offs associated with a forum. Notably, different types of third party actors will materially impact other aspects of the settlement process. Biased intermediaries, for instance, might be more likely to make recommendations for disproportionate concessions, or an IGO might also be able to impose larger penalties for noncompliance. Thus, a third conclusion about forum

acceptability that this section highlights is that third parties introduce more than one management mechanism. The selection of a forum with the right combination of features is, subsequent, of even greater importance.

Commitment Assurances

Another disadvantage of the tendency to restrict evaluation of conflict management theories to one feature or mechanism is that, in an effort to produce a general explanation, scholars attribute the effects of one forum characteristic – such as its approach (e.g., binding vs. non-binding) – to the forum features that are responsible for supplying other deescalation mechanisms. Binding conflict management, for instance, is consistently found to be more successful at bringing about peace than non-binding attempts. Binding conflict management efforts led by international organizations are noted to be especially effective at producing agreements and inducing compliance (Gent and Shannon 2010; B. A. Simmons 2002; B. A. Simmons and Hopkins 2005). However, biased third parties are often not selected to decide arbitration or adjudication cases. Despite the involvement, then, of impartial and often highly institutionalized IGOs, it may be more significant that the most successful management efforts are those that are binding. The third party's identity matters less. Thus, the credit given to IGOs for credibly delivering impartial information may be more accurately assigned to their ability to enhance commitments through the use of legal decision-making mechanisms.⁶

6 Additionally, this line of reasoning assumes away the idea that international organizations may also be biased. In several instances, scholars directly characterize IGOs as impartial, however, other research demonstrates that international organizations and courts may be agenda-driven and favorably disposed to one disputant over another. For example, the United Nations Security Council (UNSC) rarely takes up cases where one of the parties is a Permanent Member or is of interest to a Permanent Member, unless that Member State authorizes the Council's involvement – a consequence of the P-5's significant voting power in the body (Voeten 2001, 2004). Similarly, Gent and Shannon (Gent and Shannon 2011a) suggest that an international organization may be biased according to the combined preferences of its members. Gent and Shannon's research, along with the activities of the Security Council, highlight how

The central bargaining problem that legally binding dispute resolution resolves is the incentive for states to renege on settlement agreements once the crisis is over. Fearon (1995) terms this incentive a commitment problem in which parties cannot credibly bind themselves to a single course of action. In the case of peaceful conflict management, commitment problems are particularly concerning when explaining compliance with settlement agreements. The primary issue is that when disputants engage in negotiations of substantive and strategic interest, such as territory, the outcomes of those negotiations alter the balance of power (Fearon 1995, 1998; R. Powell 1996). Therefore, the state that makes a pledge to a peace agreement that awards it a larger share of the issue will not be the same state that is asked to follow through with that commitment. The particular problem that Fearon identifies in this scenario is that the newly preponderant actor may use the additional resources created by the settlement to leverage further concessions from its adversary.

A second type of commitment problem is the one that a *dissatisfied* actor experiences at the end of a conflict. In disputes characterized by issue indivisibilities, such as control of the government in civil conflict, there may be few alternatives that

voting rules and member composition shape an institution's preferences. If an institution employs bureaucratic professionals to determine and implement policy, then that institution is more likely to deviate away from Member States' interests than an organization managed by state representatives. Likewise, voting rules that advantage some states over others, such as the veto rule in the UNSC, are more likely to result in divergent outcomes (Cortell and Peterson 2006). Concerns about such agency slack are especially salient for international courts, which maintain relative autonomy due to a lack of effective checks (Alter 2008). Cogan (2008) argues that international judges take advantage of this limited oversight and engage in activism in an attempt to increase their influence and relevance. Voeten (2007) finds little support for Cogan's anecdotal observations in his analysis of judicial activism in the European Court of Human Rights (ECHR), but the ECHR, unlike other international courts, such as the ICJ, allows cases to be brought by individuals, and therefore states may attempt to employ greater diligence in their judicial appointments to the ECHR than for other courts. Further, judges, because they face greater pressure from their appointing states, may actually act in line with states' preferences, rather than against them.

quell a disputant's resolve over its claim (Walter 1997). The disputant is said to be dissatisfied because it does not prefer the new status quo to continued conflict. Actors in this situation often engage in negotiations in order to temporarily stem the fighting, to weaken its adversary's resolve, or in compliance with the request of an outside actor. Nonetheless, because of the actor's dissatisfaction, there are few assurances that any settlement to result from negotiations will be implemented.

A third type of commitment problem is that identified by Putnam (1988) where states with multiple audiences cannot credibly commit to compromises. The typical example in this literature is the case of democratic governments in international negotiations. Because leaders must be responsive to the concerns of domestic audiences, they cannot make drastic concessions or implementation of agreements.

Commitment problems present significant hurdles for states to overcome alone because it is rarely credible for either state to signal its sincere intent to follow through with its obligations. Hence, the question about commitment is often a question about compliance with settlements. Third parties alleviate commitment problems in conflict bargaining by providing monitoring, external enforcement, and invoking norms of compliance. In particular, the literature has identified a specific set of actors and approaches that are especially effective in supplying each of these mechanisms of dispute resolution.

IGOs vs. States

First, international organizations arguably provide better monitoring and enforcement because they are independent actors interested in preserving cooperative relations among member-states (Abbott and Snidal 1998; Haftel and Thompson 2006).

Additionally, the larger and more permanent membership of international organizations makes it easier for these institutions to create long-term incentives for former rivals to remain committed to peace. For example, network effects resulting from international organization membership have been demonstrated to have a general, pacifying effect on state behavior (Hafner-Burton and Montgomery 2006; Russett and Oneal 2001). But, when international organizations become involved as intermediaries, states gain more direct access to these resources (Boehmer, Gartzke, and Nordstrom 2004; S. M. Mitchell and Hensel 2007). These benefits provide a counter-balance to potential losses in conflict bargaining in addition to the more direct sanctions applied by international organizations acting as intermediaries.

In contrast, other scholars argue that states have the potential to provide better material incentives for commitment as well as more meaningful penalties for non-compliance. Specifically, international organizations often do not have the material or economic capabilities to directly impose sanctions for settlement abrogations. Instead, they must rely on states. Major powers, as in the case of the United States' intervention in the 1974 conflict between Greece and Turkey over Cyprus in which the US threatened to withdraw its defense commitments should the two NATO allies not reach an agreement, have the ability to leverage significant resources to help disputants overcome commitment problems (Favretto 2009; Quinn et al. 2006). Alternatively, minor power states, such as Norway, that do not have the military or economic leverage as major power mediators, can still provide political cover for concessions, addressing the third type of commitment problem (Beardsley 2009; Bercovitch 1997).

Preferences over states and IGOs with respect to commitment assurances is ultimately conditional on the supply of third party fora. In some cases, states are unwilling to commit to monitoring and enforcement without having a clear stake in the outcome of the conflict. Sometimes, the motivation to foster peace, itself, is encouragement enough (S. M. Mitchell, Kadera, and Crescenzi 2009), but in other cases, states' interest in providing enforcement wanes over time (Melin 2010). International organizations, on the other hand, are rarely unwilling to respond to requests by disputants to mediate a conflict. Therefore, international organizations provide a more reliable source for solutions to commitment problems while states acting as intermediaries can leverage more effective responses.

Legal vs. Political Dispute Resolution

A second literature that addresses third parties' abilities to provide commitment assurances examines the role of legal dispute resolution. Legal dispute resolution procedures, such as arbitration and adjudication, differ from political approaches to conflict management in that they explicitly rely on international law when deciding the merits of a claim (Charney 1998; Malintoppi 2006). States are also argued to have stronger obligations to follow through with settlements reached through legal fora than through bilateral negotiations or mediation (Guzman 2002; B. A. Simmons 1998). Therefore, international courts and arbitral panels help states overcome commitment problems by rendering what are considered to be “binding” statements that address the resolution of the issue at stake.⁷

⁷ Some scholars associate the “binding” part of “binding conflict management” with disputants submission to a third party for judgment. Others emphasize the importance of international norms that encourage compliance; thus, the “binding” part of binding conflict management corresponds with the belief that states cannot renege on settlements reached through binding fora. This project assumes the

Detractors to this point of view argue that international law does is not yet coherent enough to establish a clear precedent for compliance. Furthermore, without having the leverage of states to monitor and enforce, legal decisions are only as binding as the disputants themselves believe them to be (Mearsheimer 1994).

The empirical record of compliance with international treaties and settlement agreements brokered through legal dispute resolution and the importance that states place on these decisions belie the typical criticism. For example, a recent decision by the International Court of Justice dismissed the validity of Thailand's latest claim in its long-standing territorial dispute with Cambodia ("Thailand, Cambodia claim 'victory' at UN Security Council" 2011). Despite having political incentives to reject the decision's validity, Thai leaders announced that they would commit to the implementation of the Court's decision and to easing tensions with their rival. Simmons (2002) finds that, over time, states in territorial disputes such as this were more likely to comply with settlements decided by international courts than with agreements reached through mediation or negotiation. Mitchell and Hensel (2007) and Hansen, Mitchell, and Nemeth (2008) come to a similar conclusion.

There are limitations to the power of international courts and arbitral panels in the provision of commitment assurances, however. Malintoppi (2006) notes that international arbitration can be especially difficult to implement, given the number of accepted practices and the costs of establishing an acceptable panel of arbiters and procedures. Initiating legal dispute resolution is made more challenging because there are other international legal fora, including bilateral arbitration commitments, that vie for attention

second definition.

(Cogan 2008; Davis 2009; Guzman 2002). Setting aside the costs of pursuing legal management, legal dispute resolution also pose political risks. When states submit to an international court, they risk the possibility that the court will decide against them (Gent and Shannon 2011b). Therefore, despite providing demonstrably important tools in the resolution of interstate conflicts, not all disputes are amenable to the use of legal fora. The Cod Wars between Iceland and Great Britain over fishing rights in the northern Atlantic are instructive of the complex nature of forum selection. At the end of the First Cod War (1958) the two disputants agreed that, in the event of future conflict, the International Court of Justice (ICJ) would adjudicate. However, for the settlement of the Second Cod War (1972), the North Atlantic Treaty Organization (NATO) was selected over the ICJ. This change of venue was based on the concerns of several parties to the conflict over the market of potential third-party intermediaries. Iceland rejected the authority of the ICJ in the second incident, arguing, “In our opinion disputes of this nature cannot be properly judged by the International Court of the [sic] Justice. This is first and foremost a political rather than a legal issue” (B. Mitchell 1976, 192).

Implied in this statement was Iceland's belief that management from the ICJ would have upheld the settlement from the First Cod War – a decision that would have reversed Iceland's claim. Britain, on the other hand, feared reprisal from the international community if it failed to resolve a dispute with a NATO ally in the midst of the Cold War. Nonetheless, in terms of possible settlement outcomes, Britain could have fared better had the European Economic Community intervened because the government held leverage against the organization's trade policies. However, the potential costs of further conflict with Iceland—which was increasingly communicating with the Soviet Union—

were greater than the value of insisting on a friendlier forum. Therefore, rather than selecting the ICJ, whose decision would very likely have reestablished precedent, the disputants settled on NATO, whose jurisdiction over conflict among member-states gave Britain and Iceland the international political cover and enforcement incentives necessary to reach a temporary settlement (B. Mitchell 1976).

Actors or Methods of Assurance?

Just as the literature examining information transmission in conflict bargaining did, the literature on commitment enhancement through third party management at times draws a clear line between actors and approaches: States have more coercive leverage than international organizations, but international organizations have broader acceptability. Binding conflict management ensures commitment, but non-binding mediation allows flexibility. There are also links between these distinctions because many of the actors that supply legal dispute resolution are international institutions. Nonetheless, most scholars do not distinguish the efforts by states and *ad hoc* arbitral tribunals from adjudication because both fora obtain compliance from disputants' respect for the rule of law.

In this instance, there appear to be differences over management fora that disputants can rank. One ranking method would order management fora according to their ability to ensure adversaries' commitment to peace. However, the forum that would rank the highest on this list, legal dispute resolution, also entails the greatest risks because the third parties in these cases decide the issue independently. In sum, the trade-offs over different management fora when commitment problems are of concern are clearer than when information asymmetries deter agreement. The common denominators in these trade-offs are the strong commitment mechanisms imposed by binding management and

the amount of control that a third party has in the settlement process. Considered with the implications of the section on information, there are also conditions that would support trade-offs between a forum's ability to disseminate information and its ability to fulfill these other roles.

Side Payments

A third way by which third parties improve the chance that conflict bargaining efforts reach a settlement is by making side payments that off-set concessions. States acting as intermediaries can particularly use side payments to facilitate solutions to issue indivisibilities by finding ways to increase the issue space through positive inducements or by punitive sanctions (Manzini and Mariotti 2002; Zartman 2007). Side payments and issue linkages, such as tying the successful implementation of a peace agreement to development aid or alliance protection, open a wider range of agreements and make a negotiated settlement possible (Fearon 1995). This improvement is often something that the disputants cannot contract around bilaterally because they cannot create new resources themselves that will be sufficient to shift the incentives structure. Therefore, third parties provide a valuable service in providing additional incentives for peaceful dispute resolution.

Major vs. Minor Powers

The most common distinction made within the literature related to side payments is that between major and minor power mediators. As discussed above, major power mediators have a number of economic and political tools to use in mediation that can substantively shift the trajectory of a crisis. Minor power mediators, on the other hand,

are more puzzling because they have neither the political nor economic resources to make a difference when issue indivisibilities stand in the way of a resolution. Neither do they have the capacity to impose severe enough penalties for non-compliance that would make them attractive intermediaries when disputants are concerned about compliance (Beardsley 2009). Last, while there is evidence that suggests that minor powers are more credible information arbitrageurs, there are also a number of other conflict management suppliers that can provide reliable information. Instead, some suggest that minor powers, despite their limited economic or military resources, shift the balance of a dispute in other ways (Bercovitch 1997; Slim 1992). Principally, their participation in a conflict can confer legitimacy on the proceedings, which may then attract support from other actors. Norway's involvement as a mediator to civil disputes in Colombia and Sri Lanka had the added benefit of making belligerents more accepting of concessions because the small state mediator was perceived as more of a peer than an imposing intermediary (Moolakkattu 2005).

Another interesting example of this type of influence is in the UN Secretary General's role in conflict management. The Secretary General has a few, limited diplomatic powers, many of which are overseen by the Security Council. Nonetheless, the Secretary General has proved to be an instrumental mediator in several conflicts. The explanation for these successes is that the prestige of the Secretary General brings international attention to the settlement effort. This often leads to other states providing positive inducements to the belligerents on the condition they reach a deal (Merrills 2005; Skjelsbæk 1991). Though the ability of minor powers to make side payments in order to expedite a settlement is limited, it is not limited to major powers. And, as the above

example illustrates, it is also not a tool limited to states. International organizations can participate equally.

Deciding on the Merits or the Peace?

Disputes characterized by issue indivisibilities may have access to fewer credible multilateral alternatives than other types of conflicts because arbitration and adjudication are often not effective tools as legal institutions can only decide on the merits of the case (Bilder 2007; Malintoppi 2006). In other words, international courts can rarely make side payments. Though there is some flexibility to this rule as applied to international arbitration, since the Jay Treaty of 1794, which initiated the modern era of international arbitration, arbitral panels have made concerted efforts to apply international law *more* consistently rather than less consistently (Charney 1998). When comparing actors and approaches for the provision of side payments, then, there are few alternatives besides mediation. The most significant trade-off is between fora that resolve issue indivisibilities and those that provide the best external enforcement of treaty commitments. There are some actors, such as the United States, that have provided arbitration and also have the material ability to produce side payments. However, these two methods of management are rarely used together.

Synthesizing a New Conception of Conflict Management

In sum, the literature on conflict management identifies the incentives and the mechanisms through which states seek peaceful settlements: Assuming that war is a costly gamble and that there are negotiated agreements that would be preferable, states employ peaceful, diplomatic strategies when they have the means to overcome incentives

to misrepresent their reservation value and to avoid commitment problems. Often times, overcoming these barriers to negotiation will require the participation of outside parties to assist with the negotiation process.

This summation provides a tidy prescription for how international conflict might generally be resolved. But, that is the problem with it. The simplicity of the prescription belies the complexity of the international system with respect to conflict management. Several different tactics ranging from negotiation and non-binding mediation to legal arbitration and adjudication may be employed to resolve information asymmetries and commitment problems. Additionally, when one considers the participation of third-party managers in a conflict's settlement, the prescription becomes even less specific. Since the 1950s, the number of international institutions – including those specifically equipped to settle interstate disputes – has grown exponentially. At the same time, more states, NGOs, and private individuals are serving as intermediaries. Instead of more distinctions, what this field of research needs is a conception of conflict management that synthesizes these varied branches. The value of such a definition is that general theories of conflict management, beginning with selection and extending through negotiation and compliance, can be constructed from a common understanding and terminology.

This project defines a *conflict management forum as a venue in which claimants seek a substantive settlement*. The forum, more specifically, is *characterized by three features: transparency, decision control, and a distributional bias*. *These features shape the nature of the settlement, its immediate consequences, and its probability of being enforced*.

This definition generalizes across the different actors that supply third party dispute resolution. Actors in conflict management include international organizations, state intermediaries, private individuals, NGOs, *ad hoc* multilateral groups, and the disputants themselves. It also generalizes across the many types of approaches, including mediation, arbitration, adjudication, bilateral negotiation, and a range of low-level consultations. Pairing these two factors determines the level of *control* that external actors have over the process and outcome of negotiations and the level of *transparency*, defined as the amount of information created by the resolution process. Corresponding to these two features, every forum represents a focal point for negotiation through well-known, pre-existing beliefs about the potential distributional outcome of negotiations.

Decision Control

Decision control refers to two different ways that actors outside the conflict intervene in dispute resolution. Researchers studying interpersonal conflict and organizational behavior frequently label these two aspects of control as “process control” and “outcome control” (LaTour et al. 1976; Lewicki and Sheppard 1985; Thibaut and Walker 1975). *Process control* refers to the amount of control that disputants have with respect to setting the agenda, introducing evidence and making arguments, and establishing interaction rules. *Outcome control*, or decision control, describes that amount of authority that actors have over decision-making and the structure of the the final result of the conflict management effort. As a concept, control models the authoritative capacity of a third party forum. Typically, interest on this dimension is given to legal dispute resolution, where court or arbitral panel independently decides the issue. Some scholars associate this decision-making authority with the forum's ability to bind belligerents to an

agreement, however the mechanism behind this function of legal dispute resolution is different. Instead, control better captures the authority of the legal dispute resolution body on the matter of issue division.

The concept of control, subsequently, generalizes across the different types of management approaches into a single choice variable: Disputants select higher or lower levels of control, rather than one of several similar, but disjointed, approaches. In arbitration and adjudication, the third party entirely controls the outcome of the settlement effort by delivering a legally binding award or decision. Various forms of mediation, alternatively, create an intermediate form of power-sharing among the disputants and the mediator to forge a solution. In bilateral negotiations, the disputants, themselves, *share* the control over the outcome of negotiations.

Transparency

Transparency describes the features of a forum that correspond with information transmission, credible commitment, and monitoring and enforcement and is defined according the ability of outside audiences to observe how actors, such as elected representatives or diplomatic officials, behave (Finel and Lord 2002; Prat 2005; Strasavage 2004). By making meetings open to the public, publishing transcripts, or detailing the processes by which decisions are made, a forum increases its transparency. In high transparency fora, actions and outcomes are easily observed; in low transparency fora, privacy is protected and negotiations may be conducted in secret. In the context of this project, the concept of transparency consolidates the several mechanisms into one dimension that picks up on the most salient aspects of each.

Solutions to information asymmetries, for instance, implement one of two general types of tactics: In the first, disputants engage in secret diplomacy; in the second, they increase publicity. The hope of either tactic is to improve a disputant's credibility by altering outside actors' awareness of the negotiations. Secrecy achieves this by conveying trust and circumventing domestic or international audiences that could thwart the settlement effort (Ramirez 2010). Publicity, instead, uses these audiences as witnesses to ensure that opposing leaders cannot back out of commitments. The logic behind publicity is that parties that negotiate through fora with transparent processes increase the risks of sanctions from domestic groups or international allies because it is easier to detect whether the agent representing the government follows through with expected actions (Hale 2008). So, transparency is a forum characteristic that, first, picks up on two-level explanations of conflict management.

Third parties will be able to assist with these tactics, but, the decision to include a third party also increases forum transparency out of necessity. Transparency, therefore, may also be associated with management suppliers. Accordingly, transparency subsumes the various debates regarding the comparative advantages of IGOs, states, and other non-state actors. Fora that have larger, more attentive audiences, such as international organizations are more transparent than mediation by an individual state or bilateral negotiations, all else equal. Democracies, whether involved as disputants or acting as intermediaries, also enhance a management forum's transparency. This is because democracies support other types of institutions, such as electoral competition and media freedom, that allow for better information transmission (Dixon 1993; Finel and Lord 2002; S. M. Mitchell, Kadera, and Crescenzi 2009). Therefore, transparency is a feature

that disputants can implement bilaterally or through a third party; one trade-off is that many third party fora automatically increase forum transparency by virtue of their institutional designs.

Transparency also pairs with the mechanisms that produce external enforcement and commitment assurances. As the discussion on assurance highlighted, there are obvious trade-offs across management fora over features that ensure belligerents' compliance. These trade-offs primarily focus on the features that make binding conflict management effective but risky. Distinguishing between a forum's decision control and its transparency solves part of the theoretical dilemma: One feature of legal dispute resolution is disputants' delegation of decision control to a third party. Another dimensions is the transparency of the forum that enhances compliance. Specifically, legal dispute resolution raises concerns about reputational consequences for treaty abrogation and respect for the *pacta sunt servanda* norm (Crescenzi, Kathman, and Long 2007; B. Simmons 1999; B. A. Simmons 1998). Legal decisions are followed because defections could be detected by other actors who also observe the decision and penalize abrogators.

This principle is also more generally applied by management fora that can increase the potential costs for non-compliance by increasing the forum's transparency. Transparency is often ascribed to international institutions as a feature of their working methods, for instance. There, scholars study whether interactions within IGOs are transparent to other member-states and domestic audiences and the ensuing consequences for policy. Grigorescu (2007) argues that IGOs, in particular, can increase their legitimacy by improving their decision-making and operating transparency. Legitimate institutions promote compliance because more international actors are attentive to

legitimate institutions, which expands the forum's reputational sphere. Democracies additionally increase the reputational consequences of settlement abrogation by virtue of their transparent institutions.

In sum, transparency captures the mechanisms that improve information transmission and provide external enforcement of commitments in a single dimension. The unifying theme across these various debates is that some actor outside the conflict must be present, either to verify and lend credibility to the process or to provide monitoring and enforcement after the fact. Transparency characterizes these effects directly rather than indirectly through the various institutional and norms-based arguments that describe, essentially, the same mechanisms.

Expectations about Distributional Outcomes

The final dimension across which management fora vary relates to distributional outcomes. The objective of conflict management is to lead states to make decisions that deescalate hostilities and result in mutually-satisfactory terms. Even if a settlement treaty only addresses a portion of the issues under conflict or if the process is simply intended to facilitate more basic forms of communication, negotiation implies a distributional outcome (Ginsburg and McAdams 2004). More often, though, belligerents explicitly select third parties according to the degree to which they favor either of the parties – their distributional bias. Wiegand and Powell (2010) find that disputants draw on previous experience with a forum to inform their expectations about distributional outcomes. Claimants weigh their decision to reemploy certain conflict management processes (binding/non-binding) against concessions made in the settlement of earlier conflicts. States who “win” with a particular method tend to prefer using similar approaches when

settling future disputes. Davis (2005) also finds that states in trade disputes favor settlement strategies that advantage their position over their adversary's, and will attempt to employ tactics that are most responsive to domestic interest groups' expectations. At best, though, states may only be able to make well-informed estimations about a third party's bias. This is because a third party makes a surprise decision, there is little precedent on the issue, or, simply, because an area of agreement may not be obvious without continued negotiation.

The concept of third party bias used here, termed distributional bias, should not be confused with the extant literature's debate on the topic. Various scholars define a third party's bias according to its preferences over the issue at stake (Kydd 2003; Touval 1975), its preferences for a peaceful settlement relative to war (Moore 1986; Smith and Stam 2003; Young 1967), or some combination of the two (Rauchhaus 2006; Wehr and Lederach 1991). The definition of bias applied in this context most closely aligns with that of Kydd and Touval where the third party has an independent preference ordering over different distributional outcomes of the conflict, however, there is no explicit relationship between the third party and the disputants (e.g., a military alliance, economic links, cultural similarity) that would confer additional benefits upon the biased third party or a disputant if the conflict is successfully resolved. For simplicity, bias according to this project is defined solely in terms of its preferences over distributional outcomes. The third party decision is truly independent and is not motivated by any other concern related to the conflict bargaining process; meaning that an "impartial" third party may attempt to divide the issue unevenly. Nonetheless, the concept of distributional bias keys in on the

way that bias, traditionally conceived, directly and materially affects conflict outcomes and forum acceptability – through the creation of a settlement partition.

Like the other two features, this dimension generalizes across types of conflict management, providing a description of how distributional bias is informed in each. In bilateral negotiations, expectations about distributional outcomes are shaped by the distribution of power or by the disputants' past record of conflict (Crescenzi, Kathman, and Long 2007; R. Powell 2002). Across third party fora, though some parties attempt to recuse themselves, parties are often familiar enough with the intermediary to be able to anticipate its biases and motivations (Favretto 2009; Touval 1975).

To reiterate, a management forum is a venue through which disputants seek substantive, peaceful settlements to conflict which is characterized by its transparency, decision control, and distributional bias. These features form a complete definition of a conflict management forum that generalizes across approaches and actors, including bilateral negotiations. And, as Figure 2.2 illustrates, it supports a wide range of combinations and differentiates management by various approaches and actors.

This is not to say that this conceptualization accounts for all of the ways that third parties are hypothesized to influence settlement outcomes. For example, there is no dimension that captures a third party's ability to alter the salience of the issue at stake by making side payments or imposing sanctions. Modeling these more manipulative strategies would be better suited a theory about third parties' motivations, which are often independent of the disputants' incentives when selecting a management forum. Instead, the concept developed here focuses on the features that directly correspond with the actors, approaches, and ideas that scholars have found substantively foster successful

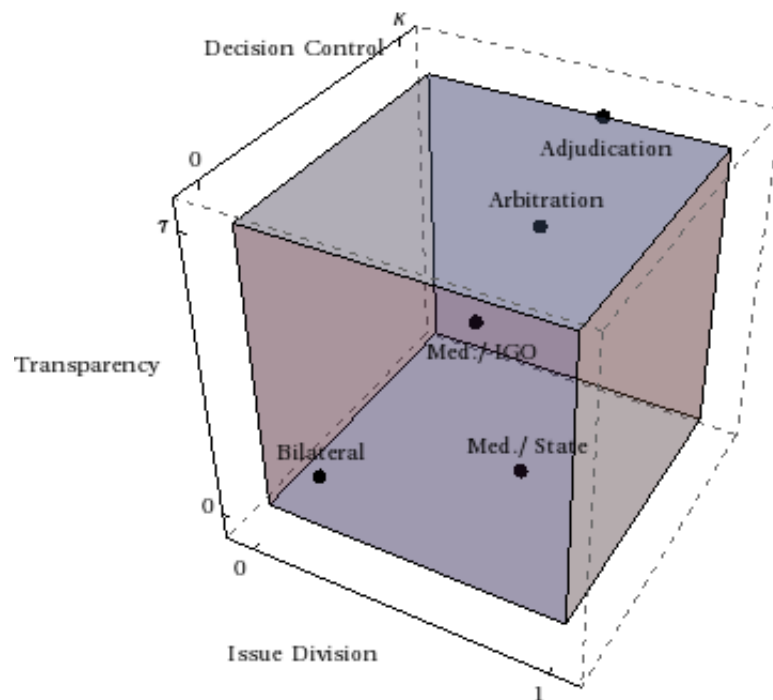


Figure 2.2. Multiple Dimensions of Conflict Management Fora

dispute resolution in a wide range of cases and that disputants can shape through strategic selection and bargaining. Specifically, these forum dimensions the following effects of conflict management:

- By delegating decision control, disputants improve bargaining efficiency, create political cover for concessions, balance against an adversary's coercive force, and incorporate outside points-of-view that create focal points for negotiation.
- Opening these processes to international and domestic audiences by increasing transparency enhances commitment because it allows external

actors to invoke norms of compliance and to hold governments accountable.

- Last, distributional bias informs disputants' trust in the management process and their satisfaction.

To reinforce the applicability of this conceptualization of conflict management fora, consider again the negotiation process that preceded NATO's settlement of the Second Cod War in 1972 (B. Mitchell 1976). Figure 2.3 helps illustrate the selection environment. The conflict in this case centered on Iceland's claim to a larger maritime zone, which Great Britain did not recognize. Thus, the disputants' distributional preferences might best be represented in the figure by the red and blue dots along the *Issue Division* dimension, where the red dot at the origin represents Great Britain's ideal partition to Iceland. The blue dot at the opposite end of the dimension represents the partition of the issue that Iceland would establish if it could implement its ideal point. Between these two points, several third parties, NATO, the USSR, the EEC, and the ICJ, were available to facilitate an agreement.

As the previous discussion detailed, the Soviet Union, NATO, and the EEC were each considered as potential mediators, with NATO eventually selected. Mediation falls between bilateral negotiation and legal dispute resolution, so these options are lower on the *Decision Control* scale than ICJ adjudication. Each of these options also differed according to their transparency and expected influence on the division of the issue. NATO and the European Economic Community, as institutions comprised primarily of democracies, were more transparent than the Soviet Union. However, applying the *pacta*

sunt servanda norm to the ICJ, these options are less transparent than adjudication. Last, compared the expected outcome of a bilateral negotiation, in which Great Britain had an advantage, NATO provided the best combination of distributional bias, decision control, and transparency. Therefore, it follows that NATO was selected to mediate.

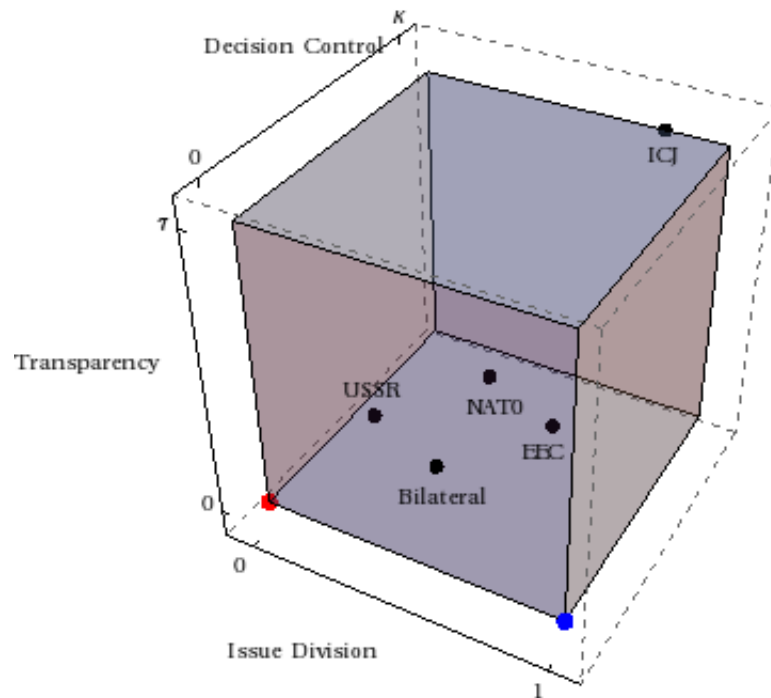


Figure 2.3. Forum Selection in the Second Cod War

Note: The red dot at the origin represents Great Britain's ideal point, defined as the share of the issue it would give Iceland if it could impose its most preferred outcome. The blue dot at *Issue Division* = 1 represents Iceland's ideal point, defined as the share of the issue it would give itself if it could impose its most preferred outcome.

Conclusion

The purpose of this chapter was to identify the central themes in the literature and to synthesize them into a central concept of conflict management. The primary concept

that results from this exercise is the definition of conflict management according to three features that directly impact upon the negotiation process: transparency, control, and distributional bias.

As the discussion of the three major branches of research in conflict management, information, commitment, and issue division, demonstrated, there is a great diversity of knowledge about the mechanisms and actors that are influential in dispute resolution. This extant work provides substantial evidence that demonstrates the efficacy of international institutions and formal management process more generally in dispute resolution. This project takes the next important step in understanding third parties' influence in dispute resolution by examining the bargaining processes through which states choose to pursue third party management in the first place. The rest of this dissertation applies the definition of conflict management introduced in this chapter to the standard conflict bargaining model, theorizes about the effects of each of these dimensions in the settlement process, and explores the motivations that disputants may have to select within them. These steps will ultimately help explain the types of management that disputants pursue, when they delegate to third parties, and whether those efforts, in the end, are successful in resolving international conflict.

CHAPTER 3

BARGAINING FOR PEACE? FORUM SELECTION IN INTERSTATE CONFLICT MANAGEMENT

...[B]argaining is most likely to be effective in the presence of third-party mediators; yet, ironically, when bargaining processes are utilized in international disputes, more often than not there is little or no third-party involvement.

P. Terrence Hopmann, *Bargaining and Problem Solving*¹

Mediation involves the intervention of an *acceptable*, impartial, and neutral third party...

Christopher W. Moore, *The Mediation Process*²

The purpose of this chapter is to explain how third party conflict management informs conflict bargaining strategies. The chapter approaches the topic by combining two existing models on conflict bargaining and third party management into a single, theoretical bargaining model that analyzes belligerents' decisions over management fora. A management forum, in this case, is characterized by two dimensions, transparency and issue division. Focusing on these two features establishes a baseline model of bargaining decision-making that includes the possibility of two alternative tactics to direct settlement, war and third party management. Chapter 5 builds on this logic by incorporating the third dimension, decision control, into a peaceful forum bargaining game.

The aims of any peaceful conflict management effort are to overcome negotiation barriers and prevent violent conflict. Along with the expanding range of empirical research that demonstrates the efficacy of third-party intermediaries, extant theory

1 Hopmann 2001, 454

2 Moore 1986, 6

demonstrates many of the incentives states have to settle multilaterally. Intuition suggests, then, that third parties intervene whenever bilateral barriers slow progress toward peaceful settlement.

The intuitive appeal of such a solution is immediately lost, however, in light of several factors: First, apart from being more effective than violence or negotiation, different third parties direct conflict bargaining processes and outcomes differently. Lack of uniformity across management fora encourages states to be *selective*. Second, international conflicts, almost by definition, are riddled by bargaining problems that would seem to necessitate the use of third parties in peaceful settlement. But outside actors are often excluded and states more often negotiate with each other *directly*. Third, peaceful conflict management is a *voluntary* process. The puzzle underlying this last point is that in order for peaceful conflict management mechanisms – especially third-party management options – to be implemented, opposing actors that otherwise cannot find bilateral solutions to their disagreement must agree and submit to a third-party actor, the characteristics of which may directly and materially affect settlement terms and the prospect for peace. Perhaps counterintuitively then, third parties influence conflict bargaining strategies is by not directly resolving conflicts through mediation or legal procedures.

A theory of conflict bargaining that includes third-party management must account for both direct and indirect ways that settlement fora affect dispute resolution. This chapter achieves this goal by presenting a model of conflict bargaining with third party management in which concerns about an adversary's commitment to maintaining the peace are salient. The theory assumes that third party management is voluntary,

meaning that both parties must consent to the inclusion of a third party before the intermediary can broker a decision. Last, the model generalizes over a range of third party fora by allowing for the possibility that states may abrogate a third party decision. In other words, it is not taken as given that third-party-facilitated settlements are binding in and of themselves.

The theory focuses on two features of a management forum that affect whether an intermediary provides an acceptable alternative to prolonged conflict: issue division and transparency. Issue division, associated with a third party's distributional bias, describes the substantive advantage that a belligerent has by submitting to a management forum. Though there is some disagreement among scholars whether biased or impartial intermediaries are acceptable, by virtue of their trustworthiness (Gent and Shannon 2011a; Kydd 2003, 2006; Rauchhaus 2006; Savun 2008), the importance the literature places on issue division as a focal point cohere with the view presented here that distributional outcomes are of paramount interest to substantive dispute resolution. Any facilitated outcome, however, is only a viable alternative when states expect that there will be protections against non-compliance. In order for enforcement to work, a conflict management forum must be transparent, allowing outside audiences to observe and subsequently punish settlement violators.

Equilibria from the model provide three explanations for dispute resolution. First, states settle bilaterally when they face substantially large consequences for delaying a peaceful settlement. For instance, if an on-going, contentious conflict threatens the successful negotiation of an oil or natural gas development contract, the economic costs of delaying a resolution of the original conflict are great enough to forge a settlement.

Third parties are often credited with off-setting transaction costs (Keohane 1984), but there are instances in which states prefer less enforceable bilateral settlements because they are more expedient than third party alternatives. Second, revisionist states that enjoy a military advantage can coerce weaker adversaries. Last, when there are credible and acceptable third party fora available, states rely on information about these third-parties to broker bilateral agreements that reflect the features of a third-party-facilitated settlement, but avoid the direct costs of third party management. This last conclusion obtains even when one of the disputants has veto power over a forum's selection.

These conclusions imply several things about how third parties affect conflict bargaining and the trade-offs that are important when determining forum acceptability. Even when third parties are not directly employed to manage a conflict, their presence is felt in the design of bilateral negotiation fora. In an international environment characterized by an abundance of intermediaries, third parties remain relevant to the process of peaceful conflict management. However, their relevance is sometimes difficult to directly observe. Third party influence hinges on the enforcement of peace agreements that *would be* created through these outside options. Therefore, it should not be discouraging that international courts and organizations serve largely as *symbolic* chambers of international dispute resolution. Instead, it is important that they remain stalwarts of peaceful dispute resolution and treaty compliance in order to improve the success of management efforts in which they are not directly involved. When states are unwilling to submit to international institutions, the precedent established by credible management fora can still provide a pathway to peace. Alternatively, the absence of

acceptable and credible third party alternatives directs states to more adversarial solutions.

This chapter proceeds with a discussion about the two processes of conflict bargaining on which issue division and forum transparency most directly impinge: consent and compliance. These processes are then incorporated into a model of conflict bargaining in which third party management exists as a mutual-consent alternative to bilateral negotiation and war. Next, the model's equilibria are presented alongside brief applications to the management of three maritime disputes: delimitation of the Caspian Sea, fishing rights in the Barents Sea, and territorial and maritime possession in the South China Sea. The chapter concludes with a discussion of the theoretical model's implications for conflict bargaining behavior and avenues of future research.

The Bargaining Process and Third Parties

Substantive, peaceful conflict management requires a forum that is acceptable to all of the disputants. The question this necessitates is what makes a forum acceptable to parties whose interests are largely opposed. One answer is that negotiations – and possible agreement – over management fora represent an important part of the conflict bargaining process in which strategies are “concerned not just with the division of gains and losses between two claimants, but with the possibility that particular outcomes are worse (better) for both claimants than certain other outcomes” (Schelling 1960, 5). When the selection of a management forum is considered part of the bargaining process, a forum gains acceptability when it balances two important concerns: the distributional outcome of the settlement and the provisions for long-term commitment to peace.

On these two points, extant research establishes a compelling – if at times, conflicting – narrative of strategic forum selection that describes the effects that third party fora have in conflict management. Across various disciplines, scholars describe the primary justifications for the strategic use of third-party management fora, the intricate series of negotiations that take place even before the formal proceedings begin, and the links between a forum's selection and the prospects for conflict management success. In sum, the decision to include third parties is a strategic tactic employed by one or both of the disputants to overcome aspects of the conflict and the disputants' relationship that neither can hurdle alone (Bercovitch and Jackson 2001). Such barriers to peace may include common bargaining problems, such as issue division in which a disputant appeals to a third party in order to gain a substantive advantage (Wiegand and E. J. Powell 2010) or information asymmetries where third parties play an important role in transmitting information about resolve (Kydd 2003, 2006). Other barriers involve domestic populations that seek to constrain a foreign policy leader from making concessions to a rival (Allee and Huth 2006; Iida 1993; Putnam 1988).

Once it is agreed that a third party forum is an acceptable alternative to prolonged conflict, states face the difficult task of identifying a specific third party to intervene, the role that actor will play, and the agenda that the management effort will address. The proliferation of international conflict management fora allows states to compare across available international courts and other intermediaries in order to seek out distributional advantages (Fang 2010; Malintoppi 2006; D. L. Morgan 2002). Alternatively, they also use cooperation with international organizations as signals of peaceful intent that are aimed to encourage an adversary to withdraw (Chapman and Wolford 2010; Wolford and

Yuen 2009). Fisher (1982), for instance, demonstrates how submission to certain management fora constrains *both* the dispute's trajectory and disputants' expectations surrounding distributional outcomes. He observes that when an international court, particularly the International Court of Justice, is suggested as a management forum, states shift their attention to the “legal” aspects of the conflict, as opposed to “political” factors, which is accompanied by similar adjustments in the tactics employed and the issues considered central to their bargaining positions.³

Agreement on an intermediary, whether another state or an international organization, does not necessarily resolve all the particular features of a management forum. In arbitration, in particular, belligerents are highly selective about who serves on the arbitral panel and which set of procedures are followed (Bilder 2007; Malintoppi 2006). Such attentiveness applies more generally: Pillar (1983) details how decisions about these forum characteristics are part of a critical pre-negotiation process that also reveal aspects of disputants' resolve and willingness to settle on various issues (Zartman 1989).

The objective of these tactics is to reach a settlement that resolves the motivating dispute and that provides the tools for the disputants to maintain the peace in the long term because forum features, such as institutional design and the capacity to render legal

3 The difference between legal and political disputes centers on the ways in which issues are presented for negotiation and the approaches used to resolve conflicts. Importantly, legal disputes restrict themselves to the aspects of the conflict that have connections to precedents established by international courts, arbitral tribunals, and other international legal fora such as treaties and organizations (Alter 2008). Political disputes are different in that they also encompass more intrinsic, or intangible, issues related to a conflict, such as the cultural significance of a disputed territory, the domestic interests at stake, or potential military or security stakes that link the conflict to other issues (Hensel 2001). Given the loose hierarchy of international law (Cogan 2008), however, the separation between these two types of issues appears to be largely a rhetorical device used to restrict the agenda of a management effort to particular legal issues and to exclude intangible, political issues from the discussion.

decisions, are strongly linked to successful conflict management. What is left unresolved, then, is not how two states manage to find agreement in the midst of conflict, but why rivals engage each other diplomatically and participate in sometimes lengthy negotiations⁴ in order to agree on a forum that will help reach a settlement to their disagreement, rather than simply resolve the conflict directly. Exchanges made in bargaining are often informative in that they help indicate potential regions of agreement (Fearon 1995; R. Powell 2002). Agreement to end hostilities, that a third party intermediary is necessary, and that a particular set of forum features are optimal for dispute resolution would seem to provide enough common ground for states to reach a direct settlement that saves the costs of multilateral conflict management. As Wolford and Yuen note, “[B]elligerents who are truly ready to settle do not suffer from a security dilemma at all, and presumably do not need an intervention” (2009, 8).⁵

Nonetheless, states are highly motivated to pursue peaceful conflict management through third-party fora because there are strong international norms that encourage their use (S. M. Mitchell, Kadera, and Crescenzi 2009; Shannon 2009) and grant states other benefits for pursuing multilateral dispute resolution. Perhaps third parties facilitate other conflict management goals as well, such as information transmission or injecting side-payments. Significantly, information transmission may not be the primary purpose behind

4 Sometimes, these procedures go beyond face-to-face discussions about forum acceptability: In 2005, Guatemala and Belize signed an agreement that stipulated that the two states would submit to ICJ adjudication of their on-going territorial dispute once a referendum was passed in each country that supported the application (“Belize and Guatemala Discuss Submitting Their Territorial Dispute to ICJ” 2011; Williams 2010).

5 Wolford and Yuen (2009) refer to belligerents' consent for peacekeeping intervention in civil conflicts, yet their observation resonates with that here: Rivals that agree to a third party forum may already have found enough common ground to seek a peaceful resolution without the intermediary.

the use of third parties and their influence on interstate conflict management more generally as Kydd (2003, 2006) and others contend. Though referring specifically to security intervention by the UN, Wolford and Yuen, again, lend insight about the role of third parties:

If peacekeepers are truly necessary, then they are needed to provide an enforcement role, or at least a role that increases the incentives of the combatants to negotiate or implement an existing settlement relative to their incentives to fight for a better deal (2009, 8).

The purpose of bargaining over peaceful settlement fora, then, is to balance distributional outcomes with treaty enforcement.

Expectations about Distributional Outcomes

The first step in seeking where the balance between distributional outcomes and treaty enforcement lays is to understand why distributional outcomes are important to the conflict bargaining process and how third parties modify this component of dispute resolution. The first point in this list seems obvious: Distributional outcomes resulting from bargaining are important to disputants because they determine the share of the issue at stake that each receives at the end of a management attempt, whether that attempt is peaceful or combative. Of significance is the fact that “a better bargain for one means less for the other” (Schelling 1960, 21), such that there are concerns with issues that represent zero-sum games of competing interests. In the midst of this contention is a certainty that there exist mutually acceptable alternatives to continued conflict or impasse such that actors with opposing interests find agreements and make concessions.

Fearon (1995) and Powell (1996) observe that a credible threat to use military force serves as one way for states to identify such regions for agreement. Another, third

party management, has only recently been demonstrated to have a similar effect. Manzini and Mariotti (2001) and Fang (2010) both conclude that third party alternatives open the range of mutually acceptable alternatives to constant disagreement in much the same way that the threat of war has on conflict bargaining. Third parties increase bargaining alternatives by directing the distributional outcome of settlement agreements (Bercovitch 2007), either by strategically providing information in order to encourage concessions (Kydd 2003, 2006; Savun 2008), or by directly making recommendations to the disputants. Thus, a third party may be thought of as a mechanism through which states seek an agreeable resolution of the conflict that divides the issue at stake.

Critical to this influence is the degree to which the third party's preferences favor one party over another – its distributional bias. It should be unsurprising that peaceful management suppliers have a diverse array of preferences over distributional outcomes. Noting both this and the influence that third parties have on settlement outcomes, countries have been noted to research previous rulings and intermediaries' dispositions to determine whether a management forum will lead to a settlement in their favor (Fischer 1982; D. L. Morgan 2002; Voeten 2007; Wiegand and E. J. Powell 2010). For instance, Mitchell (1976) observes that Iceland's decision to reject the authority of the ICJ in the settlement of the 1972 Second Cod War with Great Britain was motivated, in part, by Iceland's belief that the ICJ would decide in Great Britain's favor; so NATO mediated. More recently, the Philippines used a similar explanation to push for mediation of its dispute with China over possession of the Spratly Islands through a US-backed Association of Southeast Asian Nations (ASEAN). US interests in limiting Chinese

military growth and territorial expansion led the Philippines to believe that a multilateral coalition could balance against Chinese power (Dacanay 2011).

In sum, issue division is of paramount interest to states in contentious conflicts because it identifies a resolution of the present conflict and helps determine disputants' long-term satisfaction with the peace (Hartzell 1999; Quackenbush and Venteicher 2008; Senese and Quackenbush 2003). Third parties improve the chances that disputants will be able to find these solutions because they act as a focal point for negotiations, introducing new information, expediting proposals, and shaping (directly and indirectly) the settlement division. Differences across third parties, however, create opportunities for disputants to strategically select which third party influences the distributional outcome – an observation that provides the first key to understanding third party involvement in peaceful dispute resolution.

Conflict Management and Compliance

Alone, expectations about distributional outcomes do not explain whether a forum will be acceptable. The most obvious discrepancy is that an adversary consents to a process that would produce a settlement against its interests. “One must seek,” Schelling (1960, 35) notes, “... a rationalization by which to deny oneself too great a reward from the opponent's concession, otherwise the concession will not be made.” In other words, there must be some beneficial trade-off associated with agreeing to a management forum in which an actor expects to make a concession to its adversary. One useful trade may be to increase the chances that each actor remains committed to the peace agreement (should

one result) by submitting to a forum that encourages treaty compliance by threatening severe punishments for abrogation.

Justifications for this assertion are found throughout the conflict management literature that addresses settlement compliance. Conflict management mechanisms that increase disputant's commitment to the settlement have the greatest impact on conflict resolution outcomes. Notably, much attention has been paid to the differences that various approaches to dispute resolution have on settlement compliance with emphasis placed on the efficacy of binding, or legal, management efforts. Mitchell and Hensel (2007) argue that the accountability implied by membership in IGOs and the focal nature of legalized dispute resolution processes mitigate commitment problems in interstate conflict by increasing the costs of non-compliance. They observe that international organizations acting as binding arbiters or judges in dispute settlement are more likely than any other forum to peacefully resolve interstate conflicts. Hansen, Mitchell, and Nemeth (2008) similarly find that international organizations acting in a binding capacity are effective in garnering compliance with their decisions, especially when those organizations are equipped to manage contentious conflicts. Having specialized institutions for managing interstate disputes, the authors argue, gives an intermediary credibility to enforce agreements and potentially provide a venue for remedying defections. Gent and Shannon (2011b) associate such observation of legal dispute resolution decisions with three motivations: a desire to circumvent domestic objections, avoidance of international reputation costs connected with treaty violations, and widespread acceptance of international legal principles.

The last motivation Gent and Shannon cite draws from other research on international legal norms, especially *pacta sunt servanda*. For example, the social pressure against violations of sovereignty and treaty obligations created by certain fora – legal or institutional – increases the consequences of reneging to the degree that states may even be compelled to comply with unfair or unbalanced settlements: Lord (1892, 482) documented that in the Halifax Fisheries Commission of 1871 the United States *complied* with the arbitral decision despite its belief that the outcome was “excessive and exorbitant” and the doubt held by many others that it was “lawful and honorably due.” When international law is invoked in the settlement of a dispute, non-compliance may discredit a state’s respect for the rule of law because “[t]reaties enhance the reputational effects that may inhere in general policy declarations, precisely because they link performance to a broader principle that ... treaties are to be observed” (Simmons and Hopkins 2005, 623).

Despite the range of empirical evidence supporting the efficacy of binding management, there is not yet consensus between political science scholars and other conflict management experts about the causal mechanism linking legal principles to treaty compliance. For instance, the assertion the states comply with widespread legal norms is not consistent with some legal scholars' view that the international legal system lacks a hierarchical structure and consistent interpretation of legal obligations (Charney 1998; Cogan 2008; Gross 1971), which would make norm acceptance less fully attained. Furthermore, the term “binding” implies a level of obligation that is not realistic within the scope of international relations. Without a hierarchical structure that compels compliance through direct sanctions, like incarceration in the domestic law context,

observation of legal dispute resolution decisions is largely voluntary, which opens the door to potential non-compliance.

A more general view of the mechanism that links legal dispute resolution to the trade-offs between distributional outcomes and settlement enforcement should focus on states' opportunities to defy a third party settlement and the consequences (if any) that deter abrogation. Indeed, though extant research considers each motivation (norms and reputation) separately, there is evidence to suggest, that compliance norms and concerns about external enforcement work hand-in-hand.⁶ For example, after the ICJ decided the case between Cameroon and Nigeria over possession of the Bakassi peninsula in, Nigeria faced tremendous pressure from other members of the international community, who pressed the nation to comply with the judgment. Notably, the British High Commission to Nigeria stated, “[ICJ] judgments are binding and not subject to appeal. Nigeria has an obligation under the United Nations Charter to comply with the judgment” (qtd. in Paulson 2004, 451). Recognition of this similarity has the advantage of generalizing the theory of forum selection across a broad range of management approaches, as the factor that leads to the type of external treaty monitoring and enforcement observed in the Nigeria/Cameroon case may exist in other, non-legal fora.

⁶ It may be the case that the reason why the norm to comply with international legal treaties, *pacta sunt servanda*, is bolstered by external enforcement rather than bearing upon compliance behavior by itself is because the norm is not yet internalized (See Finnemore and Sikkink 1998). For some states, such as the United States in the Halifax Fisheries Case, it may be natural to conform with international law, but for others, such as Nigeria in the Bakassi peninsula case, external enforcement is necessary for compliance. Therefore, the observation is not intended as a denunciation of norms generally. Rather, it suggests that the norm, by itself, is not sufficient to produce the claimed effect.

Obtaining Compliance through Transparency

“Enforcement,” Schelling (1960, 131) explains, “depends on at least two things – some authority to punish or coerce and an ability to discern whether punishment or coercion is called for.” Thus the primary mechanism through which the commitment-enhancing characteristics of a management forum works is the imposition of non-compliance costs. These costs, as will be discussed below, are, in part, a function of the transparency of the management forum. When abrogations are easier to detect because there is a larger or more clearly informed audience, then the likelihood that a belligerent reneges on the terms of a settlement treaty are reduced.

The threat of punishment with economic or political sanctions or other retaliatory measures directly deters states from breaking their commitments to third-party guarantors (Fang 2010). Powerful states may withdraw aid and international organizations, such as the UN Security Council, have the capacity to condemn violations. Although long-term monitoring and enforcement of settlement treaties are never perfect, mediators have the ability to provide some guarantees for states that face commitment problems (Beardsley 2008). When disputants manage their conflicts in a public forum, though, the consequences for non-compliance increase if domestic or international audiences, besides the intermediary, apply additional punishment (Fearon 1994; Lohmann 2003). As Simmons (2002) explains, unresolved conflicts are costly for states that wish to increase trade with neighboring states or other IGO members. The lost trade and other benefits as a result of continued conflict reduces public support for the government (Carrubba 2009;

Davis 2007).⁷ Such opportunity costs further extend to members of international organizations that defy institutional rulings: “if a state cheats its [IGO] partner on one agreement, this could have ripple effects on its relations with that state in other organizations” or with other states in that organization (S. M. Mitchell and Hensel 2007, 726). The long-term consequences of a damaged reputation thus encourage states to be more cooperative and follow through with their commitments (Crescenzi, Kathman, and Long 2007; Guzman 2002, 2005; Sartori 2002).

In order for reputational consequences to have any force to effectively resolve commitment problems, there must be a set of actors that is attentive to disputants’ actions and willing to provide enforcement. In other words, a forum must be transparent. Ideally, third party conflict managers fulfill the role of guarantor, but, many intermediaries – both international organizations and states – lack the capabilities or wherewithal to monitor and enforce. To bolster a forum's enforcement capacity and to extend the reach of reputational consequences, disputants may agree to negotiate publicly and open the doors to domestic and international audiences to observe the agreement. Nigeria's compliance with the ICJ's decision on its dispute with Cameroon over the Bakassi peninsula illustrates this effect. Similarly, India and Pakistan frequently make joint public statements about the progress of talks intended to settle many of their long-standing contentious disagreements (“S Asia rivals ‘to rebuild trust’” 2010). Indeed, recently, the rivals pledged to improve relations in advance of renewed talks (George 2012; “S Asia

⁷ Alternatively, domestic constituents and interest groups might prefer the consequences of non-compliance to concessions necessary for settlement (Allee and Huth 2006; Partell and Palmer 1999); thus, sanctions from third-party guarantors or other members of the international community may not be a deterrent to treaty violations. This appears to have been the case in Guatemala where a leader was purportedly voted out of office because he acknowledged in a legal forum the existence of Belize – a state whose sovereignty is generally unrecognized in the country (Wiegand 2005).

rivals hold peace talks” 2012). Thus, a forum's reputational sphere, defined as its transparency, informs disputants' expectations about the nature of non-compliance costs and, as a result, shapes a forum's acceptability.

The inherent trade-off in selecting a more transparent forum is that the intention to bind an adversary to an agreement through strong, external enforcement mechanisms also has the effect of committing oneself to the terms of the settlement. High transparency fora pose the risk of chaining disputants to an unfavorable distributional outcome, while less transparent fora open the possibility for virtually costless abrogation. For example, during the early stages of deliberation, Muammar Qaddafi was confident that the ICJ would decide in its favor in Libya's dispute with Chad over the Aouzou Strip. Thus, Libya was unconcerned about potential non-compliance costs and alternative courses for settlement were not seriously entertained. When the Court awarded the entire territory to Chad, however, Libya was faced with the decision to accept or defy the decision. Citing potential regional and international backlash, Qaddafi reached an agreement with Chad on the implementation of the ICJ decision, despite the unfavorable position in which it put Libya (Paulson 2004). Alternatively, settlements reached through low transparency fora lack sufficient external enforcement to leverage either disputant to comply with the decision – even if the decision fairly divides the issue between the disputants. Mediation without the leverage of external enforcement may be a signal of insincere intentions to resolve the conflict (Beardsley 2009).

One way for states to alleviate this dilemma is by shopping among alternatives to transparent fora in the conflict management market, as they do within the issue-division dimension. While IGOs and legal fora tend to generate the largest non-compliance costs,

Allain Pellet suggests that states do not see them as the unique vendors of transparency and enforcement and are willing to seek out fora that are less costly, materially and politically: “[p]arties have the impression that the political, financial and human efforts involved in their consent to bring a case to the World Court are not compensated and they therefore turn toward other fora, which are perhaps less prestigious, but just as effective” (qtd. in Cogan 2008, 443). Small states have sold their neutral positions and lack of coercive political tools in order to gain reputations as fair and reliable brokers (Slim 1992). Such tactics worked to the advantage of Norway in bringing representatives from Israel and the PLO to Oslo to negotiate a new peace accord (Bercovitch 1997).

Others argue that the risks of delegating complete decision control to an international organization or, in particular, an international court or arbitral panel, are intolerable to disputants in especially contentious conflicts and, instead, they seek less high-profile management venues (Gent and Shannon 2011a, 2011b). Finally, states may forego third-party fora entirely and use public statements to generate domestic audience costs as a means of ensuring commitment (Fearon 1994; Slantchev 2006). Tarar and Leventoğlu (2009) suggest that democracies can use public threats or promises to communicate commitment and garner concessions, finding such pledges to be especially credible when audiences punish leaders for backing down. Together, what the research on these alternative management strategies shows is that transparency can be purchased from other third-party fora or by drawing from domestic institutions.

Acceptability and Consent

An important accompaniment to balancing expectations about issue division with commitment-enhancing transparency is understanding the consent mechanism that determines when a management forum may be implemented. Consent is defined as a party's expressed willingness to submit to the authority of an outside actor or to voluntarily participate in a diplomatic process. Legal and customary requirements for consent condition when and how third parties influence conflict bargaining tactics and outcomes. This section outlines the different requirements for consent that are relevant to international dispute resolution and explains the consequences of two of these models: *unilateral consent* and *mutual consent*.

Sovereign autonomy is a guiding principal for all external interference. In the most extreme cases, a third party may attempt to intervene without any of the belligerents' expressed consent. For example, members of NATO used military force, without UN Security Council authorization, to intervene in what they viewed as a humanitarian crisis in Kosovo in 1999. Yet, such interventions need not be so heavy-handed. "Coercive mediation," Touval defines (1996, 568), occupies a middle ground between disputants' consent and a mediator compelling belligerents to bargaining table by "employ[ing] limited force to persuade the other to change its terms." Such tactics characterize the United States' management of the Bosnian conflict at Dayton (Touval 1996). In general, though, third parties may only intervene with disputants' authorization: in some cases one actor's consent is sufficient, in others, negotiations can only proceed when all parties agree.

Unilateral Consent

International adjudication may be initiated unilaterally, by any disputant. For instance, in economic disputes states may individually submit to the World Trade Organization (WTO). The General Agreement on Tariffs and Trade (GATT) had similar dispute resolution procedures in which a plaintiff state could unilaterally appeal for a decision from an *ad hoc* arbitral panel (Busch and Reinhardt 2000). For the management of contentious disputes, the ICJ accepts unilateral submissions from states in cases in which both parties have granted the court compulsory jurisdiction (E. J. Powell and S. M. Mitchell 2007) or if the court has precedent to re-interpret a case in the event that hostilities recur. This last example is illustrated in a recent decision by the ICJ to revisit its earlier ruling in the case between Thailand and Cambodia over the possession of the territory surrounding the Preah Vihear temple. Despite objections from Thailand, Cambodia independently approached the Court to resolve the current dispute through a decision it rendered in the 1960s.⁸

Fang (2010) introduced the most explicit model of this type of forum in which the option to pursue an institutional settlement is implemented as a unilateral outside option, much like scholars have treated war in other models of conflict bargaining. This “bargaining in the shadow of the court” mechanism demonstrates that, even though a plaintiff state has a tremendous advantage by having the first opportunity to call in a decision from an outside arbiter, it is sometimes unable to exercise that advantage when it anticipates compliance problems.

8 “Cambodia Seeks UN Border Ruling.” (2011) *BBC News*. For the ICJ decision, see: *Request for the Interpretation of the Judgment of 15 June 1963 in the Case Concerning the Temple of Preah Vihear (Cambodia v. Thailand)*. (2011) The Hague: International Court of Justice.

Mutual Consent

Most other types of peaceful dispute resolution, in contrast, require the consent of all disputants. International arbitral tribunals, notably, are created by the adversaries when they agree to an arbitration process (Bilder 2007; Malintoppi 2006). And, though they have many tools of persuasion at their disposal, many state and institutional mediators will be challenged to facilitate the peaceful settlement of a dispute when only one side is willing to communicate. The UN Secretary General, for instance, has a long-standing reputation as a facilitator and mediator in international conflict and is called upon by both disputants and other outside actors. However, he has traditionally waited for an invitation from both parties before committing to the process (Merrills 2005). Last, even within international adjudication, “[it] is well established in international law that no State can, without its consent, be compelled to submit to its disputes with other States either to mediation or to arbitration, *or to any other kind of pacific settlement*” (Scharf 2001, 233, emphasis added).⁹ Therefore, it should be unsurprising that most states that submit to the International Court and other adjudicatory institutions do so upon mutual agreement (e.g., Guatemala and Belize [Williams 2010], Libya and Chad, Cameroon and Nigeria [Paulson 2004]) (Merrills 2005).

A second consent mechanism, then, requires all disputants to agree to the use of a third party forum before negotiations proceed. The first advantage of this model is that it captures many of the empirical realities of conflict management forum selection discussed above. Thus, it is a more general assumption about third-party management

⁹ Statement from the Permanent Court of International Justice, *Eastern Carelia*, ser. B, No. 5 at 27 (1923).

than the unilateral consent mechanisms, which is specific to certain types of adjudication. A second advantage is that it focuses on the cooperative nature of peaceful dispute resolution. When third party management is modeled as unilaterally determined alternative to bilateral bargaining, the disputant with a strategic advantage from appealing to third-party management uses that advantage as bargaining leverage (Fang 2010) and the process is more adversarial. In contrast, Manzini and Mariotti (2001), who explicitly model third party management (arbitration) as a mutual-consent strategic option in bargaining, observe first, that mutual-consent assumptions do not prevent unbiased arbiters from convincing disputants to agree to an unbalanced division of the issue. However, given the second player's veto power over the selection of the third party forum, “the fact that arbitration is preferred by at least one of the players is not enough to ensure that” actors will converge on the arbiter's suggestion (Manzini and Mariotti 2001, 193). Instead, there exist multiple equilibria where actors either agree to the third party division or settle on their Rubinstein share when the third party option is unsatisfactory. The authors distinguish the two models of consent as follows:

[T]he reasons for this contrast between the [mutual-consent] arbitration model of this paper and [unilateral] outside option models are to be found in the crucial difference between the two structures, namely the fact that the exploitation of one's outside option is a *unilateral* decision, whereas for the arbitrated outcome to be implemented preference of *both* bargainers for arbitration is needed (Manzini and Mariotti 2001, 193).

In sum, it is both a pragmatic reality and a generalizable theoretical assumption that peaceful conflict management is a voluntary process that requires all belligerents' consent. Trade-offs regarding a forum's acceptability result, in part, from the bargaining process itself: the mutual-consent requirement reduces an actor's ability to use a third

party outside option as bargaining leverage. There are further trade-offs, though, within the specific design of a management forum. As discussed above, third party conflict management involves costs that are endogenous to the selection of a management forum. The benefit of accepting such costs is that it helps to bind an adversary to an agreement and deter the use of mediated outcomes as a “salami tactic” for future gains. The risk, of course, is that binding an adversary through a transparent forum also binds oneself – potentially to an unfavorable distributional outcome. Therefore, the selection of peaceful conflict management tactics strike a careful balance between expectations about distributional outcomes and external enforcement of agreements in order to gain an adversary's cooperation.

A Bargaining Model of Forum Selection in Interstate Conflict Management

To navigate the trade-offs between these two forum dimensions, the theory combines elements from two existing models on conflict bargaining model and third-party management. Manzini and Mariotti (2001) model the implementation of arbitration-type approaches as cooperative alternatives to bilateral negotiations. Fang (2010), alternatively, models third-party management as a unilateral, outside option, but relaxes Manzini and Mariotti's assumptions regarding disputants' prior knowledge about third-party decisions and the bindingness of settlement outcomes. The theory presented here draws on Manzini and Mariotti's assumption that third-party solutions are voluntary, requiring each disputant's consent. It then incorporates, from Fang, the possibility that disputants have only a probabilistic expectation of how an issue would be divided through a settlement forum, as well as the option for a state to renege on its settlement

commitment. Last, the option for either disputant to unilaterally terminate negotiations and initiate war is added.

The model, illustrated in Figure 3.1, begins with two actors, a *Challenger* and a *Target*, negotiating the division of an issue of mutual interest.¹⁰ Let this common interest issue, $X = [0,1]$, represent an infinitely divisible good where each actor would most prefer to possess the entire value of X ($= 1$) if it could unilaterally impose this division of the issue. In the opening stage of the model, the *Challenger* proposes a division of X ,

$x_t \in [0, 1]$, and bargaining proceeds according to an alternating-offers protocol with a common discount factor, $\delta^t \in [0, 1]$ where t indicates the t^{th} stage of negotiation.

Standard to alternating-offer bargaining models (Rubinstein 1982), each player proposes a distribution of the issue and, in response, its adversary may accept the proposal, resulting in a negotiated solution that ends the dispute, or reject the proposal and make a counter-offer. If after the opening stage of the game where the *Challenger* proposes x , the *Target* rejects, the *Target* counters with an alternative distribution of the issue $y_t \in [0, 1]$.

In addition to the option to negotiate, both players may unilaterally exercise an outside option to fight, which initiates war and ends the bargaining game. If war occurs, the *Challenger* has a common-knowledge probability, $p \in [0,1]$, of winning the contest and the *Challenger* and the *Target* incur costs, w_C and w_T , respectively. The actor that wins the conflict imposes its ideal division of the issue, $x, y = 1$. Accordingly, the

¹⁰ The actors are best understood as government representatives for a state, though they may be referred to as either states or countries. Domestic politics are not directly modeled, but it is assumed throughout the model that the actors have concerns about reputation that may be derived, at least in part, from domestic punishments.

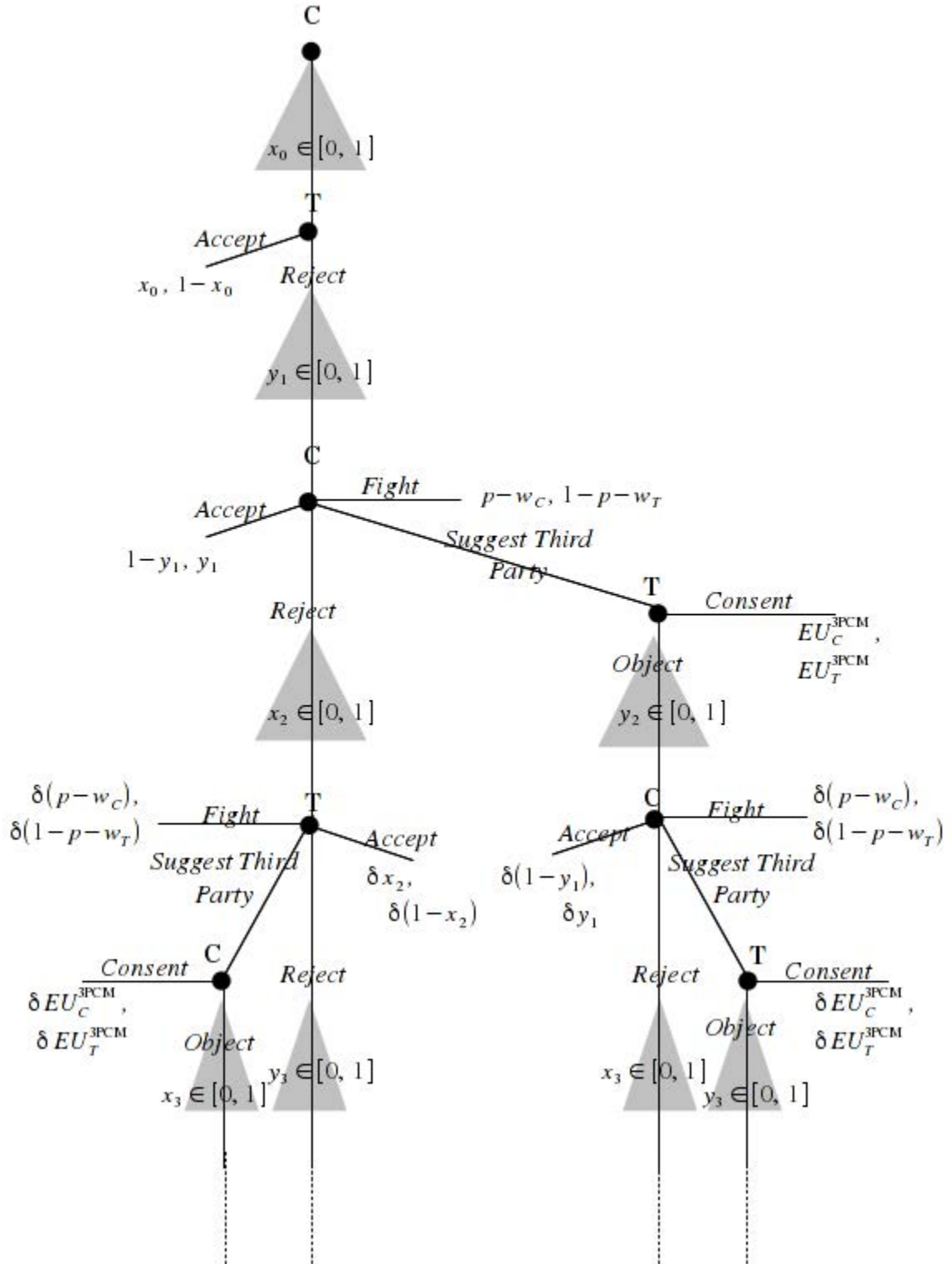


Figure 3.1. Extensive Form of Conflict Bargaining Model with Third Party Management

expected values of war for each actor in the game, excluding discounting from bargaining delays, are as follows:

$$EU_C^{War} = p - w_C \quad (3.1)$$

$$EU_T^{War} = 1 - p - w_T \quad (3.2)$$

If after an initial period of negotiating the *Challenger* and the *Target* cannot come to an agreement, the *Challenger* may alternatively suggest the use of third-party conflict management. Upon the *Challenger's* suggestion to pursue third-party conflict management, the *Target* may either consent to the mediated process or reject third-party management. If the *Target* does not consent to outside management, then play continues in an alternating fashion. Following this set of actions, third party management may be implemented without additional delay: The disputant in the position to propose third party management may do so without first rejecting the opponent's previous offer and the responding party may consent or object to the proposed third party solution without incurring further delays. This follows the logic that third-party intermediaries – especially international organizations – are able to relieve some of the transaction costs of bilateral negotiations in conflict bargaining (Abbott and Snidal 1998; Manzini and Mariotti 2001).

In addition to providing solutions to some of the costs of bilateral negotiations and militarized conflict, third party intermediaries serve as important issue-dividing and transparency-enhancing mechanisms in the settlement process. Thus, a third-party intermediary may be thought of as a mechanism through which states seek an agreeable resolution of the conflict that divides the issue at stake. The model assumes that third-party conflict management results in the division of the issue, $s \in [0, 1]$. When s is closer

to 1, the third party is distributionally biased in favor of the *Challenger*; when s is close to 0, the *Target* is favored.

In addition, this division of the issue is assumed to be efficient, where the third party distributes the points to the *Challenger* and the *Target* accordingly: s , $1-s$. Prior to both parties' consent to third party management, the disputants only have a probabilistic set of beliefs about the actual value of s . Specifically, the model assumes that states' expectations about settlement outcomes are informed by a common-knowledge probability distribution, $f(s)$, and that these expectations are consistent.¹¹

A Note About Third Party Management, Issue Division, and Efficiency

This last assumption contrasts with research that suggests that the primary way to resolve issue indivisibilities is to add to the bargaining space through side payments and issue linkages (Fearon 1995; Manzini and Mariotti 2002). For example, another state acting as a mediator could offer to compensate a losing party's losses, or an international organization with a large mandate could tie concessions on the contentious issue to favorable terms on other issues of interest (e.g., foreign aid) to similarly improve a disputant's willingness to back down. These tactics have proved to be especially effective in the management of river disputes where there are distinct disadvantages among states

¹¹ An alternative assumption could be that disputants may have inconsistent beliefs about the third party decision, such that both may believe the third party is biased in their favor. Such “mutual optimism” could lead states to agree to fora that they would otherwise reject with more information – not unlike the potentially dangerous consequences of mutual optimism about military victory (Slantchev and Tarar 2011). Examples include in the North Sea continental shelf case between Denmark, Germany, and the Netherlands (Fischer 1982) and, more recently, the belief by both Thailand and Cambodia that United Nations precedent supported each of their positions in a recent, violent border dispute (“Thailand, Cambodia claim ‘victory’ at UN Security Council” 2011). More commonly, states are able to gauge their chances of winning through any forum within standard bounds, using information from past experiences and research on intermediaries' positions to guide their decisions (D. L. Morgan 2002; Wiegand and E. J. Powell 2010). Consideration of mutual optimism is left to future work.

based on their geographic location along the river basin (Ostrom 1990). For example, Dinar (2006) notes that one component of the successful 1944 negotiation of the dispute between the United States and Mexico over the use of waters from the Colorado River was Mexico's introduction of management of the Rio Grande to the agenda. Because Mexico controls the territory from which the tributaries to the Rio Grande run, it was able to use this greater bargaining position to obtain a better deal from the United States on the Colorado River. This type of strategy has proved useful in other instances where disputants shared multiple rivers. Just and Netanyahu (1998) study issue linkages over river disputes in the Middle East, finding that efforts to abate pollution provide additional opportunities to address other aspects of water rights in the region.

The focus of this project, however, is on efficient distributional outcomes, which are another important aspect of issue division in conflict bargaining.¹² The ability of third-party fora to help states identify divisions of the issue at stake that will resolve the underlying conflict is an important service, which states face barriers to finding on their own.

The Forum Selection Model, Resumed

If both disputants agree to the use of a third party management mechanism, then the third party decision, $\{s, 1-s\}$, is revealed and the disputants then have the option to comply with the settlement, or defy it. In other words, the model assumes that third party

¹² Undoubtedly, there are costs associated with the use of certain management fora that may be a deterrent to their use. Notably, the ICJ has a trust fund to help states “overcome financial impediments to the judicial settlement of disputes” by providing states resources and monetary grants to bring their cases to the international court – a service created because many less developed states lacked the ability to compensate legal and technical experts that are necessary for proceedings before the Court (Merrills 2005). In contrast to the value of the issue at stake and the costs that are often sunk in the delegation to international organizations prior to the conflict, these costs are nominal and perceived by some policy experts to be unimportant to the decision to pursue third-party management.

decisions, though automatic as in arbitration or adjudication, are not binding in the sense that they are susceptible to abrogation. The decision to defy the settlement is costly, however. As discussed above, one benefit of third party management is that it reduces actors' vulnerability to cheating (Beardsley 2008), and a forum's transparency is one design feature that enhances disputants' ability to contract around the uncertainty of commitment problems. As a forum's transparency increases, disputants pay larger costs for non-compliance because there are more monitors to punish defections. In the event that a disputant fails to fulfill its settlement commitments, it incurs a cost, $c > 0$. The theory assumes that these costs are the same for both players.

The disputants simultaneously decide whether to comply or defy the third party decision and the game ends in one of four ways: Both parties comply, both defy, the *Challenger* defies while the *Target* complies, and the *Target* defies while the *Challenger* complies. If both parties comply, then they receive $(s, 1-s)$. If both of the parties renege on the commitment, then both lose the value of the issue, instead receiving the disagreement payoff $(0, 0)$, minus non-compliance costs. If one disputant defies the third party decision while the other complies, the defiant actor captures the entire issue space, but faces consequences for non-compliance. Non-compliance costs are not imposed on a compliant disputant, even if its adversary reneges on the commitment. The actions and payoffs of this simultaneous compliance subgame are presented in Table 3.1.

Table 3.1. Simultaneous Compliance Subgame			
		<i>Target</i>	
		Comply	Defy
<i>Challenger</i>	Comply	$s, 1-s$	$0, 1-c$
	Defy	$1-c, 0$	$-c, -c$

Depending on the values of c and s , there are two different types of outcomes in the compliance subgame. If $1-c < s \leq c$, the *Challenger* defies whenever $0 \leq s < 1-c$ and complies when $1-c \leq s \leq 1$. Alternatively, the *Target* complies when $0 \leq s \leq c$ and defies when $c < s \leq 1$. In this case, there is a mutual compliance equilibrium whenever $1-c \leq s \leq c$. If $0 \leq s < 1-c$, then the *Challenger* abrogates the settlement, whereas the *Target* unilaterally reneges whenever $c < s \leq 1$. In no case do both disputants defy the third party settlement in equilibrium. Figure 3.2 illustrates the range of values for s and c that produce each of these pure strategy equilibria. The blue region represents the *Target's* area of compliance and the light purple region indicates the *Challenger's*. The top, darker shaded portion of the figure shows the combinations of transparency and issue division that result in mutual compliance. The dashed, gray line separates the space at $c = 1/2$. Two features are notable about this space: First, assuming that an actor complies whenever it is indifferent between complying and defying, virtually any division of the issue produces mutual compliance. Second, non-compliance costs resulting from the forum's transparency have to be sufficiently large ($c \geq 1/2$) to make this result possible.

Assuming an arbitrary probability distribution over which the third party selects s , the actors' expected utilities for third party conflict management are as follow:

$$EU_c^{3PCM}(c \geq 1/2) = (1-c) \int_0^{1-c} f(s) ds + \int_{1-c}^c s f(s) ds + 0 \int_c^1 f(s) ds \quad (3.3)$$

$$EU_T^{3PCM}(c \geq 1/2) = 0 \int_0^{1-c} f(s) ds + \int_{1-c}^c (1-s) f(s) ds + (1-c) \int_c^1 f(s) ds \quad (3.4)$$

Prior to the mutual decision to pursue third party management, the disputants only have beliefs about the outcomes of third party dispute resolution informed by these utility functions.

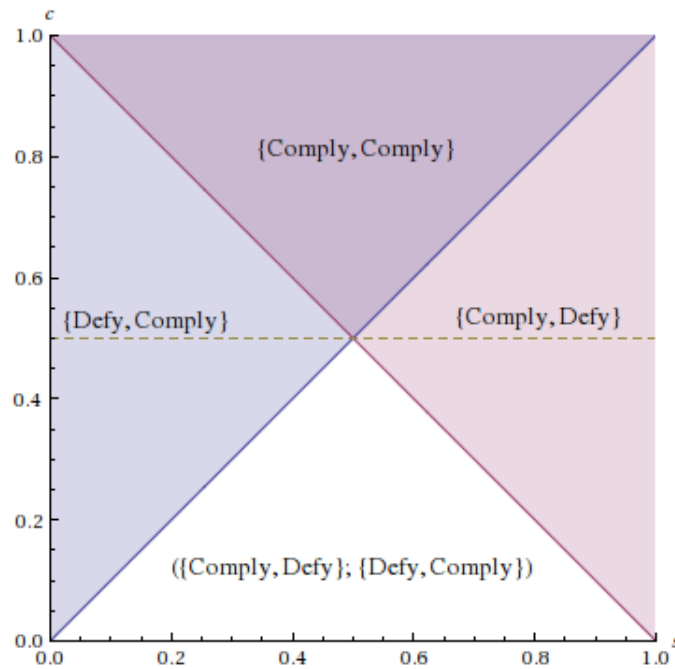


Figure 3.2. Compliance and Non-Compliance in Third Party Management

When $c < 1/2$, the region below the dashed line in Figure 3.2, then $c < 1-c$ and there are two pure strategy equilibrium outcomes in the compliance subgame. If $s < c$, then the *Target* complies and the *Challenger* defies, as the blue region indicates. When $s > 1-c$, the *Challenger* complies and the *Target* defies, indicated the light purple region.

However, when $c \leq s \leq 1 - c$, then both {Comply, Defy} and {Defy, Comply} are equilibrium strategies, as in a *Battle-of-the-Sexes*-type game (Osborne 2004). Games of this type pose coordination problems. Each actor would prefer to defy if its adversary complies and comply if its adversary defies. Sharing such preferences may lead to the adverse consequence, in practice, of actors choosing the worst outcome, {Defy, Defy}. One solution to this coordination problem is for each actor to randomize over strategies. In this case, it is optimal for the *Challenger* to comply with probability $q = c/s$ and for the *Target* to comply with probability $r = c / 1 - s$. Given that the disputants randomize between defy and comply whenever $c \leq s \leq 1 - c$, the expected payoffs from this tactic are $\left[\frac{cs}{1-s}, \frac{c(1-s)}{s} \right]$.

When forum transparency is low, meaning that the costs of non-compliance are less than 1/2, the expected utility of third party management for the *Challenger* and the *Target* are as follows:

$$EU_c^{3PCM}(c < 1/2) = (1-c) \int_0^c f(s) ds + \int_c^{1-c} \frac{cs}{1-s} f(s) ds + 0 \int_{1-c}^1 f(s) ds \quad (3.5)$$

$$EU_T^{3PCM}(c < 1/2) = 0 \int_0^c f(s) ds + \int_c^{1-c} \frac{c(1-s)}{s} f(s) ds + (1-c) \int_{1-c}^1 f(s) ds \quad (3.6)$$

Comparing Forum Selection Theories

Table 3.2 summarizes the central components of the above described model and compares them with the two other models of third party dispute resolution that were discussed (Manzini and Mariott; Fang). All three models are bargaining games of complete information, over an infinite horizon with common discount rates. The one important contribution of this model is that it generalizes to a broad range of third party

options by requiring mutual consent for the introduction of an intermediary, yet assumes that intermediary's decision is non-binding. Manzini and Mariotti (2001) conceptualize the mutual consent assumption for arbitration decisions that are incontrovertible. Fang (2010) allows her arbiter to broker a non-binding decision, but excludes the option for either party to veto the third party institution in the first place. The unilateral consent condition is specific to international adjudication, whereas mediation, arbitration, and bilateral negotiation require each disputant's agreement. However, the mutual consent condition does not exclude international adjudication – as noted above, many countries reach cooperative agreements to submit to an international court prior to either actor appealing individually.

And, unlike in the domestic legal context in which Manzini and Mariotti imagine their theory, treaties are not similarly binding in the international environment. Instead, there must be external pressure on states to comply (Lohmann 2003), which only comes when third parties can directly impose sanctions or when the profile, or transparency, of the forum raises the stakes for noncompliance. This makes the costs of third party management endogenous to the disputants' strategies; alternatively, Manzini and Mariotti introduce management costs exogenously.

The second contribution of this model is that it includes the option for either actor to terminate negotiations unilaterally and use military force to resolve the dispute. This increases the strain on disputants' incentives to cooperate through third party fora because, if either has a military advantage, it may use the threat of force to coerce a settlement. Neither of the other two models includes war as a unilateral strategic alternative to negotiation and third party management – though Fang does consider an

extension of her theory that allows actors to initiate war when defying an institutional decision, rather than the original alternative of simple non-compliance.

Table 3.2. Comparing Models of Conflict Bargaining with Third Party Management

<i>Assumption</i>	<i>Model</i>		
	Manzini & Mariotti (2001)	Fang (2010)	Lefler (2012)
Bargaining Protocol	Alternating, Infinite Horizon	Alternating, Infinite Horizon	Alternating, Infinite Horizon
Bargaining Alternatives	Third Party Arbitration	Third Party Adjudication; War	Third Party Management; War
Third Party Consent Condition	Mutual Consent	Unilateral Consent	Mutual Consent
Costs of Third Party Management	Exogenous	Endogenous	Endogenous
Binding Third Party Management?	Yes	No	No
Strategic Third Party?	No	No	No
Incomplete Information?	No	About third party decision	About third party decision

Equilibrium Analysis

This section presents the equilibrium outcomes of the model and provides some initial logic for empirical testing. The bargaining model is a game of complete information, so the equilibrium concept applied is subgame perfect (SPE). Propositions from the model indicate three different types of outcomes: the Rubinstein bargaining division, a third-party-induced agreement, and coercion. In the third-party-induced agreement, the presence of peaceful alternative dispute resolution mechanisms affects the baseline, Rubinstein bargaining behavior: Disputants use expected third party divisions as

a basis for reaching an early agreement that saves the potential costs of third party management. If either party, especially the *Challenger*, has a military advantage, however, then the stronger party will be able to use the threat of military force to coerce its adversary into conceding. Neither of the outside options, third party management or war, are directly implemented. Instead, disputants reach no-delay, bilateral agreements that are informed by their preferences over their bargaining alternatives.

Rubinstein Bargaining Outcome

The Rubinstein outcome serves as a baseline prediction against which the other propositions are explained. In this outcome, the disputants perceive no credible alternative to direct bargaining and are motivated to come to a bilateral agreement when it is expedient.

Proposition 3.1. If and only if $EU_i^{War} < \frac{1}{1+\delta}$ and $EU_i^{3PCM} > \frac{\delta}{1+\delta}$ for $i = \{C, T\}$,

then there exists a no-delay SPE in which the disputants agree to the partition,

$$\left(\frac{1}{1+\delta}, \frac{\delta}{1+\delta} \right).$$

Let $x^* = \frac{1}{1+\delta}$ ($y^* = \frac{1}{1+\delta}$). The following strategies for player i (j) are supported by subgame perfect equilibrium:

1. Propose the partition, $(x^*, 1-x^*) [(1-y^*, y^*)]$;
2. reject any partition $y > 1-x^*$ ($x > 1-y^*$) and accept any $y \leq 1-x^*$ ($x < 1-y^*$);
3. if $EU_i^{3PCM} \leq \frac{1}{1+\delta}$ do not propose third party management when rejecting a proposal, or if $EU_i^{3PCM} > \frac{1}{1+\delta}$ propose third party management;

4. if $EU_i^{3PCM} \leq \frac{1}{1+\delta}$ object to third party management when player j (i)

proposes it, or consent if $EU_i^{3PCM} > \frac{1}{1+\delta}$;

5. do not initiate war when rejecting a proposal.

Proof. Suppose a no-delay, stationary bargaining equilibrium exists, allowing the *Challenger's* best payoff from a proposal, given the *Target's* equilibrium strategy, to be v_C . Additionally, let v_T be the *Target's* best payoff from its proposal. The *Target* accepts any $1 - v_C \geq \delta v_T$, and rejects $1 - v_C < \delta v_T$. The *Challenger* cannot profitably deviate by proposing $v'_C > v_C$ because then $1 - v_C > 1 - v'_C > \delta v_T$. Thus, $1 - v_C$ cannot be strictly greater than δv_T . Applying the same logic to the *Target's* equilibrium proposal results in the following conditions:

$$v_C = 1 - \delta v_T \quad (3.5)$$

$$v_T = 1 - \delta v_C \quad (3.6)$$

The solution to these conditions is:

$$x^* = v_C = \frac{1}{1+\delta} \quad (3.7)$$

$$y^* = v_T = \frac{1}{1+\delta} \quad (3.8)$$

Acknowledging the *Target's* strategy, suppose the *Challenger* offers

$1 - x = \frac{\delta}{1+\delta}$. The *Target* accepts this offer, resulting in the partition, $\left(\frac{1}{1+\delta}, \frac{\delta}{1+\delta}\right)$. The

Challenger will not offer any $1 - x$ greater than this value, and it cannot offer anything less

because the *Target* would reject, leaving $\frac{\delta^2}{1+\delta}$ the best that the *Challenger* can expect.

Because both disputants prefer a bilateral agreement on the partition $\left(\frac{1}{1+\delta}, \frac{\delta}{1+\delta}\right)$ it must be the case that EU_i^{3PCM} and $EU_i^{War} \leq \frac{1}{1+\delta}$. Thus, there is no profitable deviation that either player can make by pursuing third party management or war. An added condition is that it may be the case that one of the players prefers the expected third party management outcome to its Rubinstein share. In such a case, the player is willing to suggest third party management or to consent to it if it is suggested, however, its opponent will either object to the suggestion or never suggest third party management in the first place. By similar logic, the *Target's* strategy – if it were to move first in the game – also holds in equilibrium.

Proposition 3.1 follows from Rubinstein's (1982) alternating-offer model, where time sensitivities induce parties to come to an early agreement. The nature of this agreement depends on the disputants' patience. As Figure 3.3 shows, as the disputants' patience increases, dispute settlements converge on 50-50 divisions of the issue. In the case where the *Challenger* expects to do worse through third-party management than through bilateral agreement, as may be the case if the third-party is sufficiently biased against the *Challenger*, the *Challenger* has no incentive to pursue third-party management. Relatedly, because the *Challenger* is disadvantaged by the third-party forum, it does not consent to the *Target's* suggestion to submit to outside management and, thus, the *Target* has no credible option to threaten the use of third-party management. Also important to this conclusion is that neither party has the ability to use coercive force to compel the other to concede. In sum, disputes characterized by a relative balance of capabilities and resolve and a lack of credible third party alternatives will vacillate

between quick, bilateral settlements and prolonged impasse as the costs of delaying an agreement fluctuates.

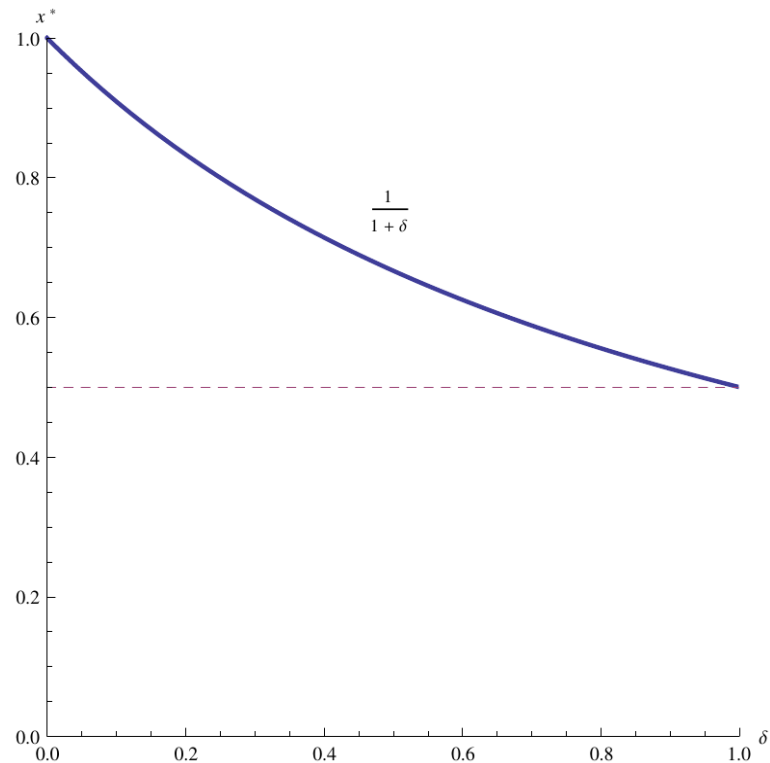


Figure 3.3. Challenger's Rubinstein Bargaining Share

Rubinstein Agreement and Impasse – An Example from the Caspian Sea

A useful illustration of how the costs of delay compels disputants to agreement in a bargaining environment in which there appear to be few, credible outside alternatives to direct negotiation is in the management of the Caspian Sea since 1992. The dissolution of the Soviet Union brought about the rise of a number of new states, and along with it a number of new international security dilemmas. Among the various domestic and interstate conflicts, disagreement over the demarcation of the Caspian Sea has emerged as

“one of the most contentious international problems facing the region” (Mehdiyoum 2000, 179). Azerbaijan, Iran, Kazakhstan, Russia, and Turkmenistan are at odds over the potential wealth to be gained from exploiting the Sea's oil, natural gas, and fisheries. Multinational energy corporation, BP, reports that the Caspian ranks ahead of North and South American in total natural gas reserves and ahead of Asia in oil reserves (Klare 2012). Further, the body is home to important sturgeon stocks, another important source of revenue for Russia and other surrounding states. Last, the sea has geo-strategic importance as host to one of Russia's naval fleets (Blair 2007).

The disagreement centers on the share that each of the states that border the resource-rich sea should possess: Some parties advocate dividing the body according to maritime law principles that would establish a 12-mile perimeter from each state's border and grant an additional 200-mile exclusive economic zone. Alternatively, the countries may refer to international law that divides land-locked bodies of water, such as the Caspian Sea, according to a median line which is drawn from an equidistant point to each of the littoral states (Folger 2002; Sheikhmohammady, Kilgour, and Hipel 2010). Last, Iran – the country with the second smallest amount of territory bordering the Sea – has proposed dividing access to the Caspian evenly, with each state receiving 20 percent (Blair 2007).¹³

The sources for each of these points of view originate in historical precedent and different interpretations of international law. Demarcation of the Caspian Sea dates to 1723 with the Treaty of St. Petersburg between Russia and Persia. Over time, the actual division between these two parties changed, but agreements in 1921 and 1940 established

13 Iran Says Won't Retreat on Caspian Sea Share Demand. 2007. *Reuters*.

guidelines for joint decision-making between Russia and Persia over any issue related to the Caspian. Since the break up of the Soviet Union, Russia still recognizes these treaties with Persia (now Iran). Thus, one management problem is that these treaties require all five parties' agreement on the issue of demarcation (Folger 2002). Yet, after dozens of meetings among the heads of each state, progress toward a five-party settlement has been modest (Blair 2007; Sheikhmohammady, Kilgour, and Hipel 2010). Instead, some of the rivals intent on capitalizing from the Caspian's resource wealth have sought bilateral, side-agreements. Consistent with the theory, a great deal of these peripheral efforts are motivated by immediate development interests. For example, Azerbaijan and Turkmenistan met with European Union officials in March 2012 in order to come to an agreement that would advance the Nabucco Trans-Caspian gas pipeline (Cutler 2012).¹⁴ Nonetheless, these separate efforts are of questionable legitimacy (Cutler 2007).¹⁵

A second management problem emanates from the unique features of the Caspian Sea itself. Specifically, the Caspian Sea has been designated as both a lake and a land-locked sea, and international law has established different rules for the demarcation of each type of body (Folger 2002; Sheikhmohammady, Kilgour, and Hipel 2010). This means that, rather than acting as a focal point for negotiations, the legal designation of the Caspian Sea is part of the bargaining agenda. Other actors who have expressed interest in assisting with the management of the issue, including the United States and Turkey, have antagonistic relations with several of the parties to the dispute and appear to be involved

14 Trans-Caspian pipeline talks progressing. 2012. *United Press International*.

15 Trans-Caspian Pipeline Remains Distant Prospect. 2012. *Asia Times Online*; Turkmenistan to Bring Up Caspian Dispute with Iran. 2006. *Radio Free Europe/Radio Liberty*.

for their own interests in the region's resources (Pannier 2008). Thus, there are few, if any, credible third party alternatives to manage the dispute.

Furthermore, none of the disputants has had a compelling interest in using military force as a means of coercing an agreement. First, the multilateral nature of the dispute adds complexity to this option (Quackenbush 2006). Second, Russia and Iran, the parties with the greatest ability to use coercive force to forge an agreement, are opposed, with Iran demanding equal access and Russia supporting its former Soviet colonies in creating new economic opportunities through a Trans-Caspian pipeline (Cutler 2007). Militarized events have typically been limited to isolated, minor clashes among Turkmen fishing vessels and Iranian patrol boats (Pannier 2008). This essentially eliminates any state's credible use of force as bargaining leverage.

In sum, the competing claims over the Caspian Sea illustrate many of the critical features of the Rubinstein proposition. A resolution of the issue among the five parties has remained elusive because international law does not provide a clear focal point for negotiations, and third parties tend to ignite rather than temper hostilities. Apart from skirmishes among fishing vessels, none of the parties has a credible threat or interest to use military force to compel a settlement. Instead, the management of the dispute has been characterized by prolonged disagreement punctuated by brief periods of cooperation when important economic interests, such as the creation of a Trans-Caspian Pipeline, demand immediate attention. In the end, Iranian persistence may have its rewards: As Iran prefers to divide access to the Sea evenly among the littoral states, the longer it can force the other parties to be patient, the more likely it will be to gain consensus on an even division. One inconsistency between this example and the theory, though, is that the

theory predicts that even small transaction costs ought to lead disputants to settle early. Meanwhile the disputants in this case have failed to make any substantive breakthrough in settling their conflict. Other factors, such as coordination problems among the large number of actors or unaddressed commitment problems might explain why delimitation of the Caspian Sea remains problematic.

Third-Party-Induced Agreement

When continued bargaining is costly, disputants are compelled to strike an early deal. The Rubinstein outcome demonstrates that such concerns leads actors to agree to a

$\left(\frac{1}{1+\delta}, \frac{\delta}{1+\delta} \right)$ partition of the issue that reflects how impending the costly delays are.

However, as Manzini and Mariotti (2001) and Fang (2010) demonstrate, third parties affect this process by allowing disputants to gain larger concessions based on their expectations about this alternative to negotiation. Proposition 3.2 of this model lends support for these conclusions by demonstrating that the presence of acceptable and credible third party alternatives to bargaining and war lead states to adopt bilateral agreements that reflect their anticipated third-party-induced agreement. This conclusion provides one answer to the question of why disputants rarely turn to third parties for conflict management. Additionally, it addresses why third parties might appear to be unimportant to peaceful dispute resolution. For some disputes, there is a large supply of acceptable third party alternatives that are, nonetheless, unnecessary for disputants to reach an agreement. For other disputes, acceptable third parties are scarce, despite observations that their presence could improve the chances for a successful settlement.

For these two types of conflict, the absence of acceptable and credible third parties also explains the frequency with which states turn to less effective management solutions.

Proposition 3.2. For all values of $\delta \in [0,1]$ there exists a non-compliance cost,

c_δ , such that whenever $\epsilon(c) \leq \epsilon(c_\delta)$ there exists a subgame perfect

equilibrium in which the players reach a no-delay agreement on the partition,

$$(1 - EU_T^{3PCM}, EU_T^{3PCM}).$$

Let $(x^*, 1 - x^*) = (1 - EU_T^{3PCM}, EU_T^{3PCM})$ and $(1 - y^*, y^*) = (EU_C^{3PCM}, 1 - EU_C^{3PCM})$. The

following then is the subgame perfect equilibrium strategy of player i (j), if and only if

$$EU_i^{3PCM} < \frac{\delta}{1+\delta} \text{ and } EU_i^{War} \leq EU_i^{3PCM}.$$

1. Propose the partition, $(x^*, 1 - x^*) [(1 - y^*, y^*)]$;
2. accept any partition $y \geq y^* (x \geq x^*)$ and reject any offer $y < y^* (x < x^*)$;
3. always suggest third party management when rejecting a proposal;
4. always consent to third party management when an opponent suggests it;
5. never initiate war when rejecting a proposal.

Proof: Third-Party-Induced Equilibrium

Proof. Subgame perfection for conditions 1 and 2 is straightforward and is, thus, omitted.

Additionally, because war is a unilateral outside option, it is an intuitive conclusion that whenever a player's expected value for war is less than its expected value for third party management, it never initiates war given the first two conditions of the equilibrium strategy. Instead, this section will focus on verifying conditions 3 and 4 of the equilibrium strategy. There are two parts to this proof. The first part describes the equilibrium

conditions when $c \geq 1/2$ and the second part demonstrates the equilibrium conditions when $c < 1/2$. The proof closely follows that by Manzini and Marriotti (2001).

For the purposes of discussing the conclusions from the equilibrium proofs, let a third party forum be *acceptable* when a disputant prefers to suggest third party management and consents to it whenever it is suggested. Define forum as *credible* if the forum results in an alternative agreement that is preferred to the disputants' Rubinstein shares.

When $c \geq 1/2$, assuming a uniform probability density function, the *Challenger's* and the *Target's* expected utilities for third party management simplify to:

$$EU_C^{3PCM}(c \geq 1/2) = 1/2 - c(1 - c) \quad (3.9)$$

$$EU_T^{3PCM}(c \geq 1/2) = 1/2 - c(1 - c) \quad (3.10)$$

Let the expected value for third party management be defined according to a partition of the issue, s_i , and a cost component, $\epsilon(c)$, such that $s_i = 1/2$ and $\epsilon(c) = c(1 - c)$.

Allowing $EU_i^{3PCM} = 1/2 - c(1 - c) = s_i - \epsilon(c)$, $i = \{C, T\}$, in order for condition 4 to be optimal, it must be the case that player prefers consenting to third party management to objecting and receiving its equilibrium share one period later. Formally,

$$s_i - \epsilon(c) \geq \delta(s_i + \epsilon(c)). \quad (3.11)$$

This simplifies to

$$\min[s_C, s_T] \geq \frac{1 + \delta}{1 - \delta} \epsilon(c) \quad (3.12)$$

and

$$\epsilon(c) \leq \frac{1 - \delta}{1 + \delta} \min[s_C, s_T]. \quad (3.13)$$

Letting $\epsilon(c_\delta) = \frac{1-\delta}{1+\delta} \min[s_C, s_T]$ an actor consents to third party management whenever $\epsilon(c) \leq \epsilon(c_\delta)$.

In order for condition 3 to also be optimal, it must be the case that a player prefers to suggest third party management, knowing that it will be implemented, to rejecting and making a counter-offer. Following the equilibrium strategy in conditions 1 and 2, it must therefore be the case that

$$s_i - \epsilon(c) \geq \delta(s_i + \epsilon(c)) \quad (3.14)$$

which results in the same set of inequalities identified for condition 4. Therefore, whenever $\epsilon(c) \leq \epsilon(c_\delta)$ an actor prefers to suggest third party management to continued negotiation and the forum is *acceptable* to both disputants. For the values of s_i and $\epsilon(c)$ defined above, this is when

$$\delta \leq \frac{1-2c(1-c)}{1+2c(1-c)}.^{16} \quad (3.15)$$

When $c < 1/2$, support for conditions 3 and 4 subtly change. Assuming, again, a uniform p.d.f., both players' expected utilities for third party management simplify to

$$EU_i^{3PCM}(c < 1/2) = c(c + \ln(1-c) - \ln(c)), \quad (3.16)$$

$i = \{C, T\}$. In this case, let $s_i = 1/2$ and $\epsilon(c) = 1/2 - c(c + \ln(1-c) - \ln(c))$ such that

$$s_i - \epsilon(c) = c(c + \ln(1-c) - \ln(c)) = EU_i^{3PCM} \forall i. \text{ Following the equilibrium condition}$$

described at equations 3.11 and 3.14, in order for a low transparency forum to be

acceptable, it must be the case that $\epsilon(c) \leq \epsilon(c_\delta)$. Therefore, it follows that when $c <$

$1/2$, a forum is acceptable when

16 Defined in terms of δ for simplicity of presentation and for illustrative purposes in Figure 3.4. The inequality could have been expressed in terms of c as $c \leq \frac{1+\delta \pm \sqrt{2\delta+3\delta^2-1}}{2(1+\delta)}$.

$$\delta \leq \frac{c(c + \ln(1-c) - \ln(c))}{1 - c(c + \ln(1-c) - \ln(c))}. \quad (3.17)$$

The above proofs demonstrate when a third party forum is an acceptable solution to the disputants. The result is that the disputants will reach an immediate, bilateral agreement that implements the expected third party outcome, but that saves the management costs. An important requirement for this equilibrium to hold, however, is that the disputants prefer the equilibrium partition to their Rubinstein share, $\left(\frac{1}{1+\delta}, \frac{\delta}{1+\delta}\right)$. Unless the third party solution is preferred to the Rubinstein partition, the forum does not provide a *credible* alternative to direct, bilateral bargaining. Formally, this relationship is expressed,

$$s_i + \epsilon(c) > \frac{1}{1+\delta} \quad (3.18)$$

$i = \{C, T\}$, which simplifies to $\delta > \frac{1 - s_i + \epsilon(c)}{s_i - \epsilon(c)}$.¹⁷

Together, these two sets of conditions, *acceptability* and *credibility*, identify when a third party forum affects bilateral conflict bargaining. Figure 3.4 graphs these conditions with respect to c and δ . The region below the blue line in the figure represents the instances in which the third party forum is acceptable to both disputants. The region above the red line indicates where the third party forum provides a credible alternative to Rubinstein bargaining.

17 Per the equilibrium condition, this is equivalent to $EU_i^{3PCM} < \frac{\delta}{1+\delta}$. For the values of s_i and $\epsilon(c)$ defined, this inequality is a function of c such that $\delta > \frac{1 - 2c(1-c)}{1 + 2c(1-c)}$.

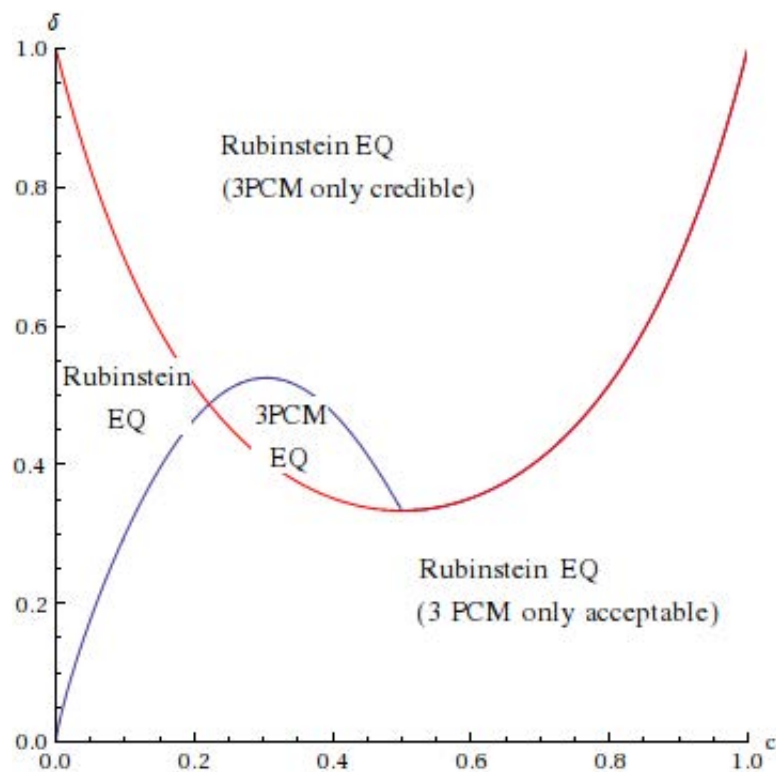


Figure 3.4: Third Party Conflict Management Acceptability and Credibility

Implications of Third Party Acceptability and Credibility

Figure 3.4 shows that the relationship between a forum's acceptability and credibility results in two different bilateral settlements, the third-party-induced outcome and the Rubinstein partition. In the center of the figure, where the regions of acceptability and credibility overlap, is the set of cases in which the third-party-induced equilibrium obtains. Rather than appealing directly to the third party, the disputants reach an immediate, bilateral agreement that implements a partition that reflects the disputants' expected payoffs from third party management. Thus, one explanation for the infrequent use of third party intermediaries in interstate conflict management is that states use potential third party decisions to inform their own bargaining. In this way, third parties –

especially those whose distributional outcomes are more easily perceived, such as IGOs – have an indirect effect on peaceful settlement. The difference between this conclusion and that advanced by Mitchell and Hensel (2007) is that the theory presented here speaks to the *selection* of management fora, as opposed to intermediaries' passive influence on *compliance* with settlement treaties.

The center region and the coincident lines to its right region demonstrate that dispute characteristics and a forum's influence are non-linear. If management fora are highly transparent, as the disputants' patience for a settlement increases, the necessary level of transparency in a forum that would influence bilateral bargaining also increases. As δ converges to 1, the disputants implement the exact third party decision, $(s, 1-s) = \left(\frac{1}{1+\delta}, \frac{\delta}{1+\delta}\right) = (1/2, 1/2)$. If management fora are generally private ($c < 1/2$), then as the disputants' patience increases, the level of transparency that results in a third-party-induced partition is generally decreasing (though there are an infinite number of options).

What is especially notable about this last set of observations is that disputants bilaterally contract around third party fora that create coordination problems. Recall that when $c < 1/2$ that the compliance subgame has two pure strategy Nash equilibria, $\{\text{Comply, Defy}\}$ and $\{\text{Defy, Comply}\}$. If disputants randomize across strategies in the compliance subgame, there is a small probability that they will both comply with the third party decision, however, each also expects to pay some cost. In these cases, the third party forum acts as a focal point for negotiations, but it does not anchor the disputants to an agreement based on the expectation of mutual compliance. Rather, the direct agreement

leads disputants to a more profitable and efficient agreement than might be reached through third party management.

The remaining regions result in the Rubinstein equilibrium outcome; each for different reasons. In the region at the far left of Figure 3.4, disputants agree to their Rubinstein shares because they have no credible alternatives to direct bargaining and, if they did, they would not be preferred to continued negotiation. In these instances, disputants agree to their Rubinstein share because there is simply no need for a third party to mediate. Conflicts in the bottom region of the figure also result in Rubinstein bargaining because disputants have no credible third party alternative.¹⁸ Nonetheless, a wide range of third party options would be acceptable to disputants in these types of conflicts, however, these agreements are not preferred to the bilateral solutions. Disputants in such conflicts tend to be less patient than disputants for which third parties are credible and influential. This means that the greater losses associated with a delayed resolution create fewer opportunities for credible, third party intervention and facilitate more expedient bilateral solutions.

The conclusion that disputes characterized by urgent time pressures end directly despite the presence of acceptable third party alternatives also has some empirical appeal: Scholars who have investigated the supply of third parties in mediation and conflict management observe that the easiest to resolve dispute tend to attract the greatest interest from outside actors (Bercovitch and Schneider 2000; Fortna 2004). Broad interest from intermediaries in these types of disputes is often explained as a function of supply-side

¹⁸ This is based on the assumption that in order for a third party solution to have any influence on the equilibrium partition, the third party induced partition must be strictly preferred to the player's Rubinstein share.

interests. Third parties gain prestige and intrinsic benefits from (successfully) resolving conflicts, therefore, less contentious conflicts are desirable targets for intervention (Crescenzi et al. 2011; Melin 2010). Another explanation that the model reveals is that these conflicts appear to be “ripe” for intervention because disputants would normally find third party management acceptable. However, because delaying a settlement is costly, regardless of the third party's presence, disputants are eager for a more expedient solution than mediation.

The last region, at the top of Figure 3.4, also ends with disputants agreeing to their Rubinstein share. In these cases, though, the disputants would prefer a third party solution to direct negotiation, but there are no acceptable third party fora. In contrast to the previous cases that result in a Rubinstein partition, these conflicts are generally characterized by a greater discount rate. These conflicts have the potential to become intractable because disputants do not face great losses for delaying agreement to a later stage. Even though any costly delay ought to compel states to settle immediately, belligerents have been shown to take hard-line stances when transaction costs are small (Fearon 1998). Likewise, returning to the literature cited above, these types of conflicts are less likely to attract attention from third parties because of the management challenges they present (Bercovitch and Schneider 2000; Fortna 2004; Melin 2010). Scholars, instead, advise mediators to intervene immediately or to wait until these recalcitrant states have reached a hurting stalemate (Greig 2001; Regan 2002; Regan and A. C. Stam 2000). Once disputants have reached a hurting stalemate, they have, essentially increased the urgency of a resolution, shifting their dispute to a region where third party management is acceptable. Together, these arguments cohere with implication found here that disputants

in these situations are likely view third party management favorably, but are unlikely to find a mutually-acceptable forum. These last two implications reveal that the *absence* of credible and acceptable fora – as much as their presence – explains conflict management outcomes.

Proposition 3.2 reveals another noteworthy factor about the influence of third parties on conflict bargaining: the presence of credible third-party alternatives has a general pacifying effect. Even when the *Target* has a military advantage over the *Challenger*, it cannot use this advantage to coerce a larger share. This is due to a feature of the model that prevents a rival from responding to an offer of third party management with military force. When objecting to the suggestion to use third party management, the best a strong *Target* can do is to implement a division of the issue that reflects its preponderance, $1 - p - w_T$. But, in order for the *Challenger* to concede, the *Challenger's* expected value for rejecting the *Target's* coercive attempt and proposing its equilibrium partition must be less than $p + w_T$, which cannot be the case. This means that acceptable and credible third parties can off-set the coercive force of some belligerents.

The literature provides some justifications for the assumption that leads to this conclusion. First, states are often under pressure to exhaust all diplomatic options before using military force. Thus, it would be imprudent with respect to international norms to respond to an olive branch with violence (Lacey 2000; Malone 2003). Second, negotiations intended to determine whether third party management is acceptable often alter the trajectory of a conflict. The Caspian Sea dispute discussed above is one example of this: The parties' focus on the legal designation of the Caspian Sea has both delayed a substantive agreement and reduced the stakes of the conflict to a legal issue (Blair 2007).

More generally, though, the shift from negotiations over a settlement to negotiations over third party fora often signal a lack of resolve among the belligerents to fight (Pillar 1983), which would coincide with a lack of credible coercive tools. Last, disputants may initiate negotiations over third party options in order to stall a stronger rival from swiftly responding with force (Beardsley 2008). Thus, the structural logic of the model may capture twin motivations for appealing to third parties: an intention to delay military attack and respect for international norms. The result is that credible third party alternatives render coercive force by a stronger *Target* unpersuasive.

The Pacifying Effect of Credible Third Parties – An Example from the Barents Sea

Perhaps the most counterintuitive implication of this equilibrium result is that expected third party decisions encourage disputing states to settle “out of forum,” even when there exists an imbalance of power among the disputants that would otherwise lead to the expectation that the stronger adversary prevails in conflict management. It is much easier to find evidence of a third party intermediary balancing power between disputants when it is directly involved in settlement negotiations. For example, in 2000 the Organization of American States (OAS) mediated a settlement between Guatemala and Belize regarding their long-standing territorial dispute. The substance of the agreement was merely provisional, establishing a *pactum de contrahendo/pactum de negotiando*, but the OAS's success represented a demonstrable change in the balance of resolve each state had previously displayed (Gorina-Ysern 2000). Importantly, the OAS reversed Guatemala's pattern of non-recognition of Belizean sovereignty and facilitated a

framework in which both states make significant concessions toward the resolution of their dispute (Wiegand 2005).

Nonetheless, there are also clear instances in which disputants used anticipated third party intervention as an impetus to reach a direct settlement. In the creation of the Barents Sea Loophole Agreement in 1999, Norway, Russia, and Iceland made direct reference to several established principles of international law regarding management of high seas fisheries, including the then yet-to-be-ratified UN Convention on the Law of the Sea (UNCLOS) Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Stocks and the Convention on Future Multilateral Cooperation in North-East Atlantic Fisheries (hereafter Fish Stocks Agreement) (Churchill 1999). The disputants' motivations to settle directly, rather than through the Fish Stocks Agreement, appear to have been motivated by a number of factors, including the unconventional tactics by Iceland that led to the dispute in the first place, concerns about the fishery's health, the general acceptability of anticipated terms of the Fish Stocks Agreement and their alignment with a previously existing agreement between Norway and Russia, and a desire by all of the disputants to resolve the conflict before UNCLOS would have jurisdiction to intervene (Churchill 1999; Stokke 2001, 2009).

This dispute originated in 1994 when Iceland began fishing in the high seas region between Norway and Russia's EEZ, otherwise known as the Loophole. This interrupted the Russian and Norwegian cooperative management of the various straddling and migrating fish stocks within the Barents Sea (Churchill 1999). Though Iceland was technically fishing within an unregulated high seas region, Russia and Norway responded by restricting passage of Icelandic vessels within their EEZs and to their ports. Given the

economic and coercive advantage of the Russian-Norwegian alliance in this situation, this dispute could have ended with Iceland conceding and calling its commercial fishing vessels out of the Loophole. Instead, Icelandic fishing vessels changed tactics and began operating under flags of convenience – that is, under the identity of other countries – which made it more difficult for Norway and Russia to monitor Iceland's activities. This escalation of maneuvers made apparent the need for an agreement to manage the dispute (Stokke 2001).

At this time, each of the parties to the dispute was also active in crafting the UNCLOS Fish Stocks Agreement. This meant that the parties were well-informed of the conflict management mechanisms that might be triggered had an agreement not been reached prior to its ratification. Of particular concern were the consequences for the region given the jurisdiction of the Fish Stocks Agreement. Had a regional, rather than dispute-level agreement been forged, or had the agreement directly addressed high seas fish stocks, then UNCLOS and another, regional organization, the North-East Atlantic Fisheries Convention (NEAFC), could have commanded compulsory jurisdiction over future disputes (Stokke 2001). This meant that the transparency of management forum would increase and allow other states to have input. Finding these consequences – but not the general management strategy – of third party alternatives unacceptable, the three parties reached a direct agreement that aligned many of the features of the Fish Stocks Agreement with NEAFC and prevailing expert opinion on the regulation of straddling fish stocks. Indeed, the similarity between the Loophole Agreement between Iceland, Russia, and Norway and the Fish Stocks Agreement is quite striking. As Churchill (1999, 477) summarizes:

[I]ndeed, in the preamble to the Loophole Agreement it is stated that the parties have “regard to the relevant provisions” of the Fish Stocks Agreement. First, the Loophole Agreement echoes some of the management principles found in the Fish Stocks Agreement. Thus, its preamble contains almost identical wording to the preamble of the Fish Stocks Agreement where the parties express their determination “to ensure the long-term conservation and sustainable utilisation of the fish stocks concerned in their entire area of distribution” and their commitment to the principle of responsible fishing. ... Thirdly, Article 7 of the Loophole Agreement, which deals with prohibiting landing of catches taken in a manner which undermines the effectiveness of the Agreement, is very similar to Article 23(3) of the Fish Stocks Agreement.

This example is illustrative of the implications of the equilibrium result under discussion because it involves a dispute between a weaker *Challenger* and two stronger *Target* states who were unable to use coercive force to compel a settlement. In particular, when Iceland changed tactics and began operating under flags of convenience, many direct diplomatic channels were closed. Once each of the three states ratified the UNCLOS Fish Stocks Agreement and it became increasingly likely that a full adoption of the treaty would have serious consequences for the future management of the issue, the parties to the dispute became focused on reaching a settlement. The emergence of UNCLOS as a potentially credible third party alternative to prolonged conflict in this situation, then, provided the impetus for agreement. Consistent with the implications of the model, this alternative also served as a strong focal point for negotiations. In fact, the only ways in which the Loophole Agreement deviates from the Fish Stocks Agreement are in the instances in which the disputants sought to contract around the potential compulsory jurisdiction of UNCLOS in future management issues.

Coercion

The last equilibrium condition demonstrates that when third parties do not supply a pacifying environment, states leverage military advantages against one another in order

to extract concessions. In these cases, where the balance of capabilities and resolve is asymmetric, the weaker side immediately concedes to the stronger party. Though this result appears to be quite intuitive, it recalls a central debate in the conflict bargaining literature regarding the role of capabilities and peaceful settlement. Citing disagreements over the distribution of power as an impetus to war, some scholars suggest that power balances are more dangerous than power imbalances (Blainey 1988; Kugler and Lemke 1996). In contrast, the prospect of a conflict “to the pain,” involving equally matched adversaries may make the use of military force incredible. Thus, balances of power have been argued to be more pacifying than power imbalances (Mesquita, Morrow, and Zorick 1997; T. C. Morgan 1990). In reality, the relationship between the distribution of power and conflict is more nuanced: Dyads transitioning from parity to an imbalance of power, such that one party has a decisive advantage, are most likely to lead to violence (Kadera 2001).

Consistent with other unilateral, outside option models, the implications of this theory suggest that disputants are more likely to reach peaceful settlements when capabilities and resolve are asymmetrically distributed. This is due to the underlying threat that a stronger adversary will switch from soft power to hard power tactics of coercion. Thus, asymmetric disputes are more pacific because of their inherent danger. Proposition 3.3 states this observation formally:

Proposition 3.3. If $EU_i^{War} > \frac{1}{1+\delta}$ and $EU_i^{War} > EU_i^{3PCM}$, for $i = \{C, T\}$, then

there exists a no-delay SPE in which the actors agree to the partition

$$(p - w_C, 1 - p + w_C) \text{ when } EU_C^{War} > \frac{1}{1+\delta} > EU_T^{War}, \text{ and}$$

$$(\delta(p + w_T), \delta(1 - p - w_T)) \text{ when } EU_C^{War} < \frac{1}{1+\delta} < EU_T^{War}.$$

Allowing $(x^*, 1 - x^*)[(1 - y^*, y^*)] = (p - w_C, 1 - p + w_C)$ when $EU_C^{War} > EU_T^{War}$,

and $(\delta(p + w_T), \delta(1 - p - w_T))$ when $EU_C^{War} < EU_T^{War}$, the following is the subgame perfect equilibrium strategy:

1. Propose the partition, $(x^*, 1 - x^*)[(1 - y^*, y^*)]$;
2. accept any partition $y \geq y^* (x \geq x^*)$ and reject any offer $y < y^*$
 $(x < x^*)$;
3. never suggest third party management when rejecting an offer;
4. never consent to third party management when responding to a suggestion
 to use third party conflict management (or consent to third party
 management when $EU_i^{3PCM} > \frac{1}{1+\delta}$);
5. initiate war when $EU_i^{War} > EU_j^{War}$ whenever player i is rejecting an offer
 from player j .

Following from the proof of Proposition 3.2, which establishes the conditions under which a third party provides a credible settlement alternative, the proof for Proposition 3.3 is fairly straightforward and is presented in Appendix A.

Absent credible third party alternatives, then, Proposition 3.3 implies that disputants will reach bilateral agreements that disproportionately divide the issue according to their relative power. A military advantage benefits *Challengers* more than *Targets*. Within the context of this model, this is entirely the result of the bargaining

protocol that gives the first proposer the ability to threaten war before its adversary. This allows a stronger *Challenger* to demand a larger concession from the *Target* and to dampen the coercive ability of a stronger *Target* through various stall tactics. These advantages are in addition, of course, to that described above where a credible third party has a pacifying effect. Nonetheless, a strong *Target* should still be able to extract a (small) concession from its weaker adversary.

A Coercive Peace? Power Asymmetry and Management of the South China Sea

Empirical research on interstate conflict management lends a great deal of support to the implications of Proposition 3.3. Hensel (2001) finds that power asymmetries strongly influence which management tactics are selected in contentious, issue-based conflicts. Disputes characterized by power imbalances are more likely to be managed bilaterally than conflicts between evenly matched states. As recent efforts to resolve conflicting territorial and maritime claims in the South China Sea demonstrate, the result of such efforts is often to the advantage of the preponderant power. Bilateral and multilateral agreements between China, the five other littoral states with claims in the region (the Philippines, Vietnam, Taiwan, Brunei, and Malaysia), and representatives of ASEAN have failed to produce a resolution. A principle explanation for this failure has been China's ability to use its political and economic influence along with subtle forms of coercion to steer the agenda.

The primary source of conflict in the South China Sea centers on the possession of a large chain of islands, the Spratly Islands, and the delimitation of maritime boundaries. Though the islands are little more than a string of small atolls, they hold great

historical and geostrategic importance to China, who has been identified as the primary antagonist in the on-going conflict. First, territorial and maritime claims in the South China Sea are regarded by China as part of their historical heritage, dating to the 1800s (Buszynski and Sazlan 2007). In addition to the intrinsic value of the region, China also regards open access to the South China Sea as an inherent right. To this end, China has not only made explicit claims, but has subversively expanded its territorial holdings by secretly building strategic bases in the Mischief Reef (Storey 1999). Throughout the 1970s and 1980s, hostilities escalated, but since the 1990s violent confrontations have largely ceased. This is in part because of multilateral efforts by ASEAN to coordinate the efforts of other southeast Asian states (Guan 2000; Odgaard 2003), but also because the discovery of oil and natural gas deposits in the region has made military options less tenable (Buszynski and Sazlan 2007). Most recently, China and the Philippines have been in a face-off over possession of the Scarborough Shoal and fishing rights in the surrounding area.¹⁹

When the conflict was at its violent apex, the distribution of capabilities and resolve was relatively even, so none of the parties to the dispute could command authority over the issue. As China's economic and political influence has grown relative to these other actors, management of the various claims has shifted. First, China has been able to avoid heavy-handed military tactics to increase its claims in the region because several of its rivals are intimidated by the potential for Chinese force that they, instead, either acquiesce or concede to bilateral diplomatic overtures (Gallagher 1994; Guan 2000).

¹⁹ Beijing wields small stick in disputed waters. 2012. *Business World.*; China denies preparing for war over South China Sea. 2012. *ABS-CBN News.*

Though some experts suggest that a Chinese military threat – especially by a naval force – is not credible (Wu and Mesquita 1994), other littoral states in the region recall the violence of the 1970s and 80s as evidence of China's willingness to escalate the conflict: “Don't forget, they [the Chinese] have a track record of using force in that part of the world,” a Malaysian Head of Strategic Security warned (qtd. in Guan 2000, 202). China also appears to have replaced overt threats with “creeping assertiveness,” in which it extends its claims through subtle occupation maneuvers (Storey 1999), deployment of surveillance vessels (“Beijing wields small stick in disputed waters” 2012), and selling the resource rights to disputed territories (Buszynski and Sazlan 2007).

These passive-aggressive tactics reflect China's ability to use its superior capabilities to deter defiance from the other littoral states, ASEAN, or the United States. They do not reflect, however, a convincing ability to coerce the other states to give up their claims in the region to China. A series of bilateral and multilateral talks, many of which have been led by ASEAN, have failed to resolve the conflict. At each stage, China asserts its commitment to peaceful cooperation and lawful conduct. Indeed, some point to the recent Declaration on the Conduct of Parties in the South China Sea as a promising sign for a binding, *multilateral* solution to the conflict (Odgaard 2003). Yet, with each stage, China has also been instrumental in using bilateral agreements to fracture ASEAN coalitions. Additionally, they have remained resolved on their territorial claims, which has assured that multilateral statements on the management of the South China Sea are unenforceable and silent on the issues that make up the core of the dispute, such as the agreement's specific geographic scope (Emmers 2002).

In sum, China has been successful in signaling cooperative intentions while not making any concessions. Its military and economic tools of coercion have primarily been useful in deterring serious challenges to its claims and subtle maneuvers to occupy larger regions of the South China Sea. The implications of the model suggest that China would be able to exert significantly more influence in the region and that a settlement over the delimitation of the South China Sea would be realized. Instead, resolution of the conflict does not seem attainable in the near future. As with the Caspian Sea case, these inconsistencies might be because of the multilateral nature of the issue and the strategic oil reserves that alter disputants' incentives. Though ASEAN members are not perfectly united, they have aligned at critical points to lead China to retreat from some of its claims (Odgaard 2003). Furthermore, external factors complicate the management of this dispute: United States presence in the region shifts the balance of power to the other littoral states, especially the Philippines (though US commitment remains uncertain as it has backed down from opportunities to aid to southeast Asian allies in the past [Gallagher 1994]). Potential open engagement with the United States increases China's reluctance to use coercive measures against its regional rivals (Labita 2012). Nonetheless, China has been instrumental in shaping the agenda of bilateral and multilateral negotiations intending to resolve the conflict – most recently refusing Filipino efforts to submit their current dispute to ITLOS. Flexing subversive, rather than overt, muscles: “China urges the Philippines to earnestly respect China’s sovereignty and do nothing to expand or complicate matters.”²⁰

20 China Up in PH-US Talks. 2012. *Reuters*.

Conclusions

Two different puzzles motivated this chapter: First, third party management, especially legal management by an international court or arbitral panel, is widely observed to improve the chances that states resolve their conflict and experience long-term peace. Yet, states rarely employ third party management of any kind, and submission to legal fora is the least frequently employed dispute resolution tactic. If states are sincerely motivated to find peaceful solutions to contentious conflicts, why do they avoid strategies that are most likely to produce them? Second, given that peaceful dispute resolution is voluntary, why is it that disputants that can identify a mutually-acceptable third party forum cannot otherwise reach a mutually-acceptable bilateral agreement? A skeptical answer to both of these questions is that formal dispute resolution mechanisms are not important to successful conflict management. Sincere adversaries will be able to agree without third party influence, while insincere disputants use third party fora as stall tactics in the bargaining process.

This chapter developed a theory of forum selection in conflict bargaining to address these questions. The bargaining model included third party management and war as alternatives to direct settlement. It also conceptualizes a generalizable management forum that emphasizes the trade-offs between issue division and transparency. The goal of substantive conflict management is to reach a resolution. This requires that the settlement prescribe a division of the issue at stake. When selecting a third party management forum, belligerents also consider whether the settlement will be enforced, the probability

of which was explained in terms of the forum's transparency to international and domestic audiences that monitor and detect treaty abrogations.

Implications derived from the theoretical model demonstrate that third party conflict management mechanisms are important for successful dispute resolution. The presence or absence of acceptable and credible third parties explains why many conflicts appear to be unmoved by third party alternatives. First, third parties indirectly contribute to conflict management success when they provide acceptable *and* credible alternatives to threats of violence and prolonged conflict. Disputants express this influence by drafting bilateral agreements that reflect the characteristics of third party settlements, rather than appealing to third parties directly. The effect of these agreements is to save disputants the costs of third party management. When management fora are highly transparent, the acceptable and credible level of forum transparency increases with disputants' patience for continued conflict. In these cases, states implement third party partitions in order to expedite settlement. When management fora are less transparent, this relationship between acceptability, credibility, and patience reverses. States sometimes, counterintuitively, implement anticipated third party settlements in order to avoid coordination problems that would ensue as a result of third party intervention. Together, this first set of implications demonstrates, as Fisher (1969, 135) once noted: "They (third parties) can exert independent influence, and even if they take no action, their views will make a difference." These implications shed new light on previous intuition about third parties' indirect impact on conflict management.

The implications from this portion of the theory also show that international institutions that provide dispute resolution are not epiphenomenal. The conclusion of the

Barents Sea fishing dispute between Iceland, Norway, and Russia, which borrowed large passages of text from another maritime treaty, provides evidence that third parties reach beyond their direct involvement as mediators. Their previous decisions and reputations for ensuring external enforcement of treaties encourage peaceful settlement outside their jurisdictions. Thus, disputants that are sincere about resolving interstate conflicts *are* influenced by third parties – the impact is simply more difficult to observe than when states directly appeal to third parties.

The theory also reveals where there are gaps in the supply and demand for third party management. For many easily resolved disputes, belligerents reach bilateral agreements that follow from the characteristics of their conflict (i.e., patience) despite the presence of a wide range of acceptable third party alternatives. Because these conflicts are easily resolved, third parties do provide not an added benefit. Nonetheless, these conflicts may attract more attention from intermediaries. The consequence is that third parties appear to be ineffective in dispute resolution when, instead, they are simply unnecessary. In contrast, there are potentially dangerous conflicts that lack a supply of acceptable management options. For such intractable disputes, third party management is a credible alternative to direct negotiation, however, it is difficult for belligerents in these types of conflicts to agree to on an intermediary. These conflicts challenge the contention that, because highly effective management fora are in abundance, disputants should be able to easily find third parties to facilitate settlement. In order for a management forum to guide disputants toward peaceful settlement, it must be both credible and acceptable. The consequence of these types of conflicts is that third parties appear to be ineffective, when there simply are not the right types of fora available.

Apart from the influence of third parties on the conflict management process, the theory identifies two other explanations for the prevalence of bilateral negotiations: coercion and impasse. In the first case, when third parties do not provide a credible alternative to war, states use military advantages to extract concessions from weaker rivals. In the second case, if neither state enjoys a military advantage and there are no credible third party alternatives, then states reach bilateral agreements that reflect their intolerance to prolonged conflict. Thus, the model provides competing explanations for the occurrence and outcomes of bilateral negotiations. Because the extant literature has primarily focused on the use of the third parties, and not on the selection of various peaceful settlement approaches more generally, these alternative explanations have not received as much attention. The consequence is that empirical research may underestimate the effectiveness of bilateral negotiations in dispute resolution. Questions for future research include whether settlement agreements are more likely to be reached bilaterally because there exist supportive dispute resolution mechanisms and whether these third party induced agreements are more likely to lead to long-term peace. Chapter 4 delves into these questions by investigating the impact of third party conflict management on bilateral concessions in bargaining.

In seeking a better understanding of the processes that produce international peace, the conclusions of the theory presented in this chapter and the new avenues for research that it introduces reveal a compelling narrative on the conflict bargaining process. However, this is just a first step. As demonstrated by the vast literature on third party management, dispute resolution fora are quite complex and there is an abundant supply of options from which states can select. This means that there are other

dimensions about third parties that are worth exploring, such as the amount of control that a third party exercises over the procedures and outcomes of dispute resolution and other aspects of forum transparency that make third party management a less-obvious choice to private, bilateral negotiations. Chapter 5 takes up this challenge by presenting a theory of forum design that introduces these additional dimensions to this baseline conflict bargaining model. The expanded theory investigates how states select across the three third party forum dimensions.

A second concern is that the explanations about forum selection in this chapter cannot account for the actual use of third parties or war as management tactics. Indeed, because the theory presented in this chapter demonstrates that disputants can improve bargaining efficiency by settling “out of forum,” it is puzzling that *any* disputes are settled multilaterally. Chapter 5 also addresses some of these concerns by allowing disputants to determine a level of control or a level of transparency that is optimal to their conflict. However, a complete theory of forum selection ought to deliberately consider whether information asymmetries or commitment problems beyond the third party forum affect the decision to submit to third parties and the sincerity of these efforts. A complete information bargaining model – though useful for comparison with the other two existing models of conflict bargaining with third party management – cannot account for these alternative explanations, and future work should extend the model to include these assumptions. Nonetheless this exercise is useful for guiding further work on conflict management forum selection.

CHAPTER 4

SETTING UP SHOP: AN EXPERIMENTAL ANALYSIS OF THIRD PARTY INFLUENCE ON BARGAINING AND CONCESSIONS

In most cases a government increases its chances of getting something by asking for less. Since it will be easier to take the first step, there is greater likelihood of getting something rather than nothing. This is the strategy of the camel who concentrated first on getting his nose inside the tent.

Roger Fisher, *International Conflict For Beginners*¹

The purpose of this chapter to evaluate the propositions of the theory on forum selection in interstate conflict management presented in the previous chapter. A central puzzle that the use of third parties of international conflict raises is why their presence is necessary for states that are sincere about resolving their dispute. An obvious solution to bilateral bargaining problems, it seems, is for third parties to intervene in interstate conflicts in order to bring about a resolution. However, the mutual acknowledgment that peace is preferable to war, itself, ought to create opportunities for agreement that do not require input – direct or indirect – from outside actors.

Based on the assertion that disputants can find settlements they would prefer to prolonged conflict on their own, third parties would appear irrelevant to dispute resolution. But, as Chapter 3 demonstrates, bargaining problems are often not so easily resolved. Though third parties are not necessary in all conflicts, where they provide an acceptable and credible alternative to direct bargaining, they help states reach agreements that would be unattainable in their absence because of mutual unwillingness to concede. To recall Schelling (1960, 34): “If one reaches the point where a concession is available, he has to recognize two effects: it puts him closer to his opponent's position, and it affects

¹ Fisher 1969, 94.

his opponent's estimate of his firmness.” Other scholars have identified this “bargainer's dilemma” as a situation that necessitates intervention in order to help disputants identify a range of acceptable alternatives and to provide political cover (Greig 2005). The theory presented in Chapter 3 provides additional evidence to these assertions. Third parties are influential in conflict bargaining because they provide a referent for making concessions.

These concessions, however, are the product of several trade-offs. First, disputants must be willing to trade the value of third party input for the spoils of war. In many cases, such trade-offs are apparent, as when neither state has a military advantage to seize the issue. In other cases, third parties moderate power asymmetries and provide the impetus for more equitable compromises. Second, third parties are increasingly influential when they provide external enforcement of settlement treaties and disputes are characterized by intractable issues. This means that states must be willing to bind themselves in order to gain the benefit of binding their opponent to a set of compromises. Alternatively, third parties indirectly direct bilateral negotiations when the states anticipate that mediation will require tough choices. For instance, low transparency fora indirectly effect bilateral settlements because their interventions increase the probability that a belligerent will return from the dispute empty-handed due to coordination problems that arise from weaker enforcement mechanisms.

In sum, Chapter 3 reveals that disputants can also rely on third parties as focal points for *bilateral* concessions. Rather than submitting to third parties directly – where the literature suggests third parties are most successful at encouraging compromise – disputants essentially settle out of court because it is a more cost-effective way of reaching an agreement.

Though extant work in international conflict management has explored the effect of the bargainer's dilemma on the decision to pursue third party management directly and the general notion of concession acceptability (Beardsley 2010; Greig 2005; Ott 1972), it has focused less explicitly on the types of concessions that disputants are willing to make given the indirect, focal nature of third parties. Elsewhere, bargaining theory scholars have used experimental analyses to examine how transaction costs, third party mediation, and unilateral termination alter decision-makers' willingness to accept concessions (Arnold and Carnevale 1997; Ashenfelter et al. 1992; Binmore, Shaked, and Sutton 1985; Birkeland 2010; Dreu 1995; Ochs and Roth 1989). However, much of this experimental economics work focuses on bargaining outside the international context, where procedural rules and expectations about enforceability of contracts are less applicable. This project links these various fields of inquiry by evaluating the propositions of the theoretical model presented in Chapter 3 in an experimental setting.

The value of this approach is that it provides a straightforward test of the theory's propositions. Subjects participate in a bargaining game that replicates the structural logic of the theoretical model, responding to varying information about the distribution of capabilities and resolve and expectations about third party management. The experimental research design also makes it possible to detect the generally unobservable influence of third parties in conflict management that the theory identifies. Because the international system has an abundant supply of management fora – the availability and acceptability of which are, in reality, strategically interdependent – it would be challenging to elicit the indirect effects of mediation on bilateral bargaining using naturally-occurring, observational data. The experimental design lends itself well to these

problems by giving the experimenter tremendous control over the presence of third parties and the conditions for their acceptability and credibility.

The experiment is structured as a 3x3x2 factorial design that tests the effects of relative power, third party distributional bias, and noncompliance costs on the types of agreements that participant-pairs reached. The analysis of these agreements proceeds in two parts. First, point predictions from the theoretical model are evaluated using the share of the issue that each subject in a pair received through bargaining. Factorial analyses demonstrate that third parties help mitigate power asymmetries and support the conclusion that outside actors indirectly steer negotiations. As is common to experimental research on bargaining, however, subjects generally favored solutions that divided the issue at stake evenly and did not deviate as greatly from this default position as greatly as the theory predicts. Instead, deviations from an even division of the issue tended to be smaller. Thus, the second set of analyses investigate whether these more modest deviations and their direction are explained by trends in the theory's point predictions. Using logistic and multinomial logistic regression, results from these analyses support the central propositions of the theoretical model regarding the indirect influence of third parties in conflict bargaining. Subjects were more likely to compromise when a third party established a referent for issue division. Also consistent with the theory, both transparent and more private third parties informed bargaining, but low-cost third parties tended to increase the probability that a player garnered a larger share of the issue.

This work contributes to this larger project on interstate conflict bargaining strategies by validating several of the central propositions of the baseline theoretical model. It also provides insight into some of the questions that the theoretical model

cannot answer, such as the specific ways in which relative power and third party fora interact in decision-making. The experimental analysis shows, for instance, that third parties, but not relative power, predicted subjects' willingness to make concessions. The direction of these concessions, however, are explained by challenger strength and third party bias. In other words, third parties provide a useful frame for establishing a range of settlement outcomes. Within this range, adversaries use all the political tools at their disposal – including coercion – to effect a settlement.

This chapter proceeds with a brief discussion of the implications of the theoretical model presented in Chapter 3. The propositions are then translated into hypotheses that are tested through an experimental research design. The results of the experimental analysis are then presented and the chapter concludes with a discussion of the major findings and avenues for future research.

Setting Up Shop: Implications of Strategic Forum Selection for Analysis

States engaged in conflict management face a large number of choices, yet many of their options can be reduced to a handful of influential variables. First, disputes have a substantial risk of violent conflict where disputants disagree over the distribution of capabilities and resolve or when a disputant attempts to use its preponderant power to gain the entire issue at stake (Dreu 1995; Fearon 1995; Kugler and Lemke 1996; Powell 1996). Second, third-party intermediaries provide a wide range of peaceful alternatives to bilateral negotiations and war, but when disputants submit to third-party mediation or legal dispute resolution they accept potential risks that result from the structure and influence on distributional outcomes of third-party fora (Bercovitch 2007; Gent and

Shannon 2011; Greig 2005). Last, peace talks may occur at an intermission in the violence but the longer that belligerents delay agreement, the value of peace diminishes (Wagner 2000). Conflict bargaining is, therefore, characterized by a tension between the need to make expedient decisions in order to avoid exogenous breakdowns and lost value of the issue at stake and the desire to bargain hard to coerce an adversary to capitulate. Together, these factors bear directly on the decisions that states make in dispute resolution and the types of tactics employed to reach agreement. In particular, four general propositions can be derived from this scenario of interstate conflict:

1. Outside options, such as war and third party management, create opportunities to reach immediate, bilateral agreements that efficiently divide the issue at stake.
2. When disputants do not have a credible threat to use violence or to bring in third-party intermediaries to solve bargaining problems, they reach an agreement that reflects their desire to avoid impasse and exogenous breakdowns.
3. When acceptable and credible, third-party options are available, a third-party indirectly influences peaceful settlement and disputants design agreements to reflect anticipated decisions from third-party management.
4. If either party has a unilateral advantage to use military force, it uses that advantage to coerce its adversary to concede to a less favorable division of the issue.

Each of the propositions, essentially, describes the conditions under which adversaries are willing to make *concessions* in order to avoid prolonged conflict. The literature on conflict bargaining and dispute resolution widely acknowledges that concessions are necessary in dispute resolution (Bercovitch 2007; Gent and Shannon

2010; Kleiboer 1998; Ott 1972; Walter 1997). If neither side is willing or able to compromise its original position, then a settlement will not be forthcoming.

As the theory demonstrates, an important force driving bilateral concession-making is the presence of third parties that provide an acceptable and credible alternative to impasse and coercion. One contribution of this implication is that it provides a potential explanation for much of the variance observed empirically in interstate dispute settlement. The Issue Correlates of War Project (Hensel 2001; Hensel et al. 2008; Hensel, Mitchell, and Sowers 2006), for example, identifies 2,005 attempts to peacefully resolve territorial, maritime, and river disputes in the Americas, Western Europe, and the Middle East between 1816 and 2001. Of these efforts, 655 resulted in bilaterally negotiated agreements; 68% of which ended with both parties reaching an equitable compromise, while only 32% ended with one of the disputants making disproportionate concessions. In contrast, across cases where a third party directly facilitated an agreement, 57% ended with both parties making fairly equitable concessions, and 43% resulted in one of the parties making a larger concession of the issue. Interestingly, almost half of the bilaterally settled claims were between asymmetrically powered claimants.² Given the contention that preponderant capabilities allow a belligerent to make stronger demands and obtain larger concessions (Dreu 1995), it is puzzling that more bilateral settlement efforts result in equitable compromises than do third party efforts. The explanation that this work supports is that disputants look to the conflict management market for guidance and reach

2 Power asymmetry was measured as the challenger's share of the dyad's total capabilities, based on the Correlates of War Composite Index of National Capabilities (Singer, Bremer, and Stuckey 1972). When this proportion was less than 0.3 or greater than 0.7, indicating either that the challenger was substantially weaker than its opponent or substantially stronger than its opponent, the dispute was counted as an asymmetric conflict. In total, 926 of 1327 dyadic claims were between asymmetrically powered states.

equitable agreements more often because they implement expected third party decisions on their own.

Experimental Analysis of Bargaining and Concessions

Though it has not been widely applied to research in international relations, experimental economics work on bargaining provides additional evidence of the affect of outside options on bilateral agreements – noting in particular the direct and indirect ways in which third party tactics modifies negotiation strategies. Analysis of three different approaches to third party arbitration and mediation reveals that subjects' willingness to compromise and reach agreement adjust according to the consequences of third party decision mechanisms and perceptions of procedural fairness. Ashenfelter, Currie, Farber, and Spiegel (1992) compare the effects of final offer arbitration and conventional arbitration on the incidence of conflict. Disputes were more likely to breakdown under conventional arbitration rules – in which the disputants had no input in the arbiter's decision – than final offer arbitration, where the arbiter selects from a set of proposals advanced by the disputants themselves. As some scholars explain, outside options and the risk of exogenous breakdown tend to ossify disputants' bargaining positions, making them less likely to compromise and, instead, accept inefficient bargaining outcomes (Feuille 1975). Procedures like Final Offer Arbitration or third party mediation in which the intermediary takes into account the strength of the subjects' case improve perceptions of fairness and increase the probability of efficient outcomes (Arnold 2000; Birkeland 2010; Heuer and Penrod 1986). In sum, when third party management is a voluntary process that allows actors to frame the debate according to their own interests and perceptions, then third party management has a positive impact on bargaining efficiency. Parties

become more likely to see third-party-induced settlements as acceptable and are therefore more likely to implement features of these outside influences into bilateral bargaining.

*Experimental Analysis and International Conflict
Bargaining*

This project links these two paths of inquiry in conflict bargaining processes by testing this theory of international conflict bargaining in a laboratory experiment. The experiment uses human subjects to participate in a randomized bargaining game that replicates the model's theoretical structure. The value of this approach is that it provides a direct test of the model's claims, allows investigation of causal effects, and, importantly, solves many problems that arise in the data generating process of naturally-occurring data. These problems, which are not isolated to simple endogeneity that may be easily resolved using other methodological tools, make deriving empirical results from traditional statistical analysis challenging. Though there are reservations about the use of laboratory experiments in international research – notably, centered on issues of external validity – the benefits of an experimental approach outweigh these drawbacks and provide the most appropriate approach to analyzing both the direct and indirect effects of power and management norms on conflict bargaining.

The research design employed in this chapter is borne of the experimental economics tradition that uses laboratory experiments to “speak to” formal theoretical models (Roth 1995). The value of this approach is that it, first, provides a direct test of theoretical models. Formal modeling contributes to theory-building by making explicit assumptions about motivations and actions and deriving conclusions directly from those assumptions. By omitting extraneous or implicit information, models often lead to

parsimonious and sometimes counter-intuitive observations. The theory presented in Chapter 3, for instance, makes the simple observation that third parties will only be influential under the circumstances that they are both acceptable and credible. The implication of this conclusion is that third parties sometimes seem irrelevant to the settlement processes because there are a number of cases in which they are unnecessary, but might otherwise be acceptable to the disputants. Contrary to traditional intuition, however, third parties' influence is not limited to cases in which they are directly involved; instead, they facilitate negotiations indirectly by creating focal points for agreement.

Formal Theory and Experiments

Because of the features that make them parsimonious, however, testing formal models requires special consideration of the assumptions and generalizability of the empirical approach. As Morton (1999) explains, the assumptions underlying a theoretical model and an econometric model (i.e., regression) may not be compatible or – less worryingly – the econometric model's assumptions about the underlying data generating process may add constraints to the analysis that would change the results of the theoretical model if they were, instead, considered together. The value of the experimental approach is that the research directly controls the data generating process and the ways that actors are exposed to treatment conditions. Accordingly, the experimenter may replicate the theoretical model in the research design. Thus, especially for formal models, experimental research designs encourage direct, empirical testing.

In some cases, the added constraints of a carefully selected, but not identical, statistical model are acceptable trade-offs for demonstrating a theory's validity in the real world. Because formal theories exclude information as a necessary function of the

modeling process may ignore mechanisms that are, in reality, empirically important to the phenomena under study; a simple statistical analysis may be sufficient to verify a theory (Granato and Scioli 2004). Such an approach may be especially useful when a theory makes a prediction that may be evaluated through the application of even a simple, cross-tabulation. Kugler and Lemke (1996), for example, employ this approach to great effect in the presentation of their research puzzle and analysis by comparing instances of major power war with power transitions. However, when a theory's predictions are predicated on interactive or indirect effects, as in the case of the theory presented here, laboratory experiments provide the most direct way of testing a theory because the experimental protocol can preserve the theory's structural logic and induce only those mechanisms that are explicitly determined to influence the outcome of interest (J. N. Druckman et al. 2011; Morton 1999; Morton and Williams 2010). This eliminates statistical noise that may lead to the observation of false negatives (Type II error) in empirical analysis. There are, of course, other methodological approaches that can be implemented to avoid this concern, which will be discussed in greater detail below, none of these approaches completely addresses each of the concerns about empirically testing theoretical models outside an environment that explicitly builds the data generating process and analysis to match the theoretical structure as well as experiments (McDermott 2002).³

Isolating Variables of Interest

Second and connected to the previous argument, the experimental approach focuses data collection and analysis to the causal implications predicted by the theory. Empirically testing the implications of theoretical models is an important step in

3 In other words, other methodological approaches tend to perform less well in terms of internal validity.

identifying causal mechanisms. One general criticism of testing formal models with large- N approaches, however, is that a researcher often has to include variables besides those that the theory is based upon. The rationalist model of conflict, for example, is based on just three variables: the distribution of capabilities, resolve, and a discount rate. Yet, most statistical models that explore the incidence of war and estimate the empirical validity of the rationalist explanations include a litany of other variables, such as domestic regimes (Kadera, Crescenzi, and Shannon 2003; Mitchell 2002), territorial contiguity (Gibler 2007; Goertz and Diehl 1992), changes in relative power (Kadera 2001), alliances (Leeds 2003; Siverson and Tennefoss 1984), membership in international organizations (Russett and Oneal 2001), and even systemic environmental conditions (Nordås and Gleditsch 2007). This is not to say that these additional explanations are extraneous; rather it is to point out that empirical analyses using naturally-occurring data often require the research to include controls for endogenous selections processes in the generating process of naturally-occurring data or to account for competing theories. The problem, as it specifically applies to empirically testing formal models, is that *the additional variables change the argument*. Some variables, such as resolve in the rationalist model of conflict, are intentionally left vague as to their empirical corollary.⁴ This gives the researcher great flexibility in using empirical analyses, regardless of methodology, to determine how the theoretical variable affects the observed outcome of interest.

In many other cases, if the researcher were to subsequently re-evaluate his or her model with the newly incorporated control or alternative variables, a different conclusion

4 Based on subsequent work, it is apparent that Fearon (1994) intended resolve to include domestic political factors. More recent research has begun to untangle the ambiguity using, appropriately, laboratory experiments to explore the psychological micro-foundations of the concept (Kertzer 2012).

might be reached. As a simple example, consider the rational voter model: The baseline model predicts an individual's probability of voting according to his or her costs for voting and the probability that he or she is pivotal in deciding the election's outcome (Downs 1957). However, the probability that an individual effects his or her preferred outcome is so small as to render voting irrational due to burdensome costs. Of course, the observation that many people vote weakened the theory's validity. The theory was subsequently revised to resolve this “ideological embarrassment” by incorporating an additional term, civic duty, to explain voting behavior (Riker and Ordeshook 1968). In international relations, another war model, Bueno de Mesquita's expected utility model, also illustrates the argument. In *The War Trap*, Bueno de Mesquita (1983) advances the argument that a necessary condition for war is, simply, that the expected gains from winning exceed the expected losses from losing. One of the theory's ambitions was to provide a risk-based explanation for conflict. However, as Bueno de Mesquita (1985) later revisited, the conception of risk in his original version of the theory was exogenous to actors' strategies. Empirical realities demonstrated that much of the risk that influenced disputants' actions was, instead, endogenously inferred from the crisis environment. As with the voting example, even though the original theoretical assumption was incorrect, naturally-occurring data generating processes that did not cohere led to incorrect inferences.

What these examples highlight is that empirical tests that do not also explicitly match the model's data generating process fail to provide a direct test of the model's implications. The goals of a direct empirical test of the theory are two-fold: First, an analysis that approximates as closely as possible the theory's assumptions has better

internal validity. In turn, direct tests improve researchers' ability to identify causal links between the theory and the empirical data (McDermott 2002). The risk of less direct research designs is, again, that the theory may fail to be validated even if its basic tenets are tenable. Alternatively, an effect might be overstated if the data lack an ability to evaluate a theory's indirect implications. Sometimes, such an occurrence is better for theory development. For example, empirical research, statistical, case studies, or experimental, can act as a stress test of the theory. However, even these approaches must, first, consider the theory on its merits before it seeks to test its limits. A laboratory experiment provides the most direct test of the theory because, in addition to replicating its analytical logic, it can also manufacture the theory's scope conditions (Morton 1999). Accordingly, linking theoretical models with laboratory experiments encourages analysis of causal inferences (Imai et al. 2011).

In application to this project, this last assertion is especially salient. In order to focus on disputants' forum choices, the theory assumes that a universe of third party fora is available for use in mediation. Empirical realities easily demonstrate the limits of this assumption. The International Conflict Management dataset records that approximately one-third of all territorial disputes between 1945 and 1995 received no offers of assistance from outside mediators (Bercovitch 1999). Third party availability has been shown to be influenced by major power interest (Favretto 2009; Melin 2010), the nature of the conflict (Bercovitch and Schneider 2000; Fortna 2004; Greig 2001), and potential moral hazard problems (e.g., the more states that neighbor a conflict, the less likely it is to receive an offer of mediation assistance [Beardsley 2010]). Additionally, the International Court also regularly decides to not hear cases, limiting the availability of even the most effective

management fora (Merrills 2005). In other words, the supply of third parties is, inherently, strategic and interdependent with features of the model that are explicitly considered here, such as the distribution of power or the conflict's urgency. Any data set and, subsequently, any large- N statistical analysis using those data, would adversely impact the theory's evaluation. The laboratory experiment permits the implementation of a bargaining environment in which a third party forum of varying acceptability and credibility is always available. Faithfulness to the model, in this case, is essential to testing the theory's implications.

Why Not More Experiments?

Unsurprisingly, several international relations scholars, among other political scientists, have embraced experimental research to leverage these advantages in the study of war and crisis bargaining (Beer et al. 1995; Kraus et al. 1992), the democratic peace (Mintz and Geva 1993), and foreign policy decision-making (D. Druckman 1997; Geva, Mayhar, and Skorick 2000). Recently, *International Studies Quarterly* published a special symposium on experimental research in international relations (Mintz et al. 2011) that featured new experimental research on commitment problems (D. H. Tingley 2011) and public support for war (Gartner 2011; Grieco et al. 2011). Indeed, “[t]he field of international relations, in some ways, lays claim to one of the longest ongoing experiment traditions with its many studies of foreign policy decision-making and international negotiations” (J. N. Druckman et al. 2011, 3). Despite these contributions, international relations scholarship has also traditionally been more skeptical than other subfields of the value of experimentation. Criticisms primarily point to weaker external validity and generalizability in experimental research, and tend to focus on two, specific yet common

research design features: the artificiality of the laboratory setting and the use of students as subjects.

Unlike voting or participating in a political campaign – events that occur relatively infrequently and that by necessity take individuals out of their normal patterns – phenomena of interest to international relations scholars are generally daily exercises for career diplomats. Negotiating treaty terms, responding to emergent crises, and making decisions about international investment and interventions, accordingly, occur regularly and simultaneously. Furthermore, these actions are carried out by individuals at different levels of authority and decision-making authority (Druckman 2011). Last, the consequences of any single decision are likely to be evaluated as part of a larger pattern of choices, rather than in isolation. Thus the laboratory environment, which removes an international relations problem from this context to one where only a few variables are present, is an artificial construct that appears to have little relevance to the practice of international relations in real world settings.

Termed mundane realism, these criticisms express the concern that laboratory experiments are so distinct from the behavior they intend to model that their results cannot be applied to the phenomenon of interest more generally (Iyengar 2011). For international relations research, this is particularly relevant because of its complexities and gravity of its consequences. Furthermore, it is not simply a matter of experimental research focusing on small number of variables. Research conducted in laboratories, in particular, reduces mundane realism salient to the international relations context by employing protocols that have subjects repeat a game in a single session, fix the length of a study period so that subjects have a finite time horizon on decisions, and soften the

repercussions for costly choices, like initiating war. It is, for instance, difficult to conceptualize an ethical incentive scheme that would mimic the costs that states face when deciding whether to use violence.⁵ Repeated play and fixed time lengths also limit how well experimental research speaks to international relations research concerned with reputation effects and long-term cooperation because these research designs remove interdependence of choices and consequences as a decision factor. When subjects play against the same subjects in some repeated experiment protocols, reputations may be developed, however, much of the purpose behind repetition is to increase the number of observations collected from a given number of participants and to manage potential subject-specific effects. These experimenter effects essentially take away some central international relations concepts (e.g., shadow of the future) from the causal logic.

A second experimental research design choice that is widely criticized in international relations research is the use of college students in foreign policy decision-making scenarios. Undergraduate college students tend to differ systematically and substantively from the types of actors that effect international relations (J. N. Druckman and Kam 2011; Morton and Williams 2010). In particular, diplomatic professions tend to be more educated, more experienced in information processing and decision making, and have ambitions beyond their current positions that might make them more averse to making decisions that deviate from procedural norms. The types of decisions that foreign policy experts make are also over higher stakes issues that have specific implementation

⁵ Some researchers have actually employed incentives schemes that require subjects to pay the experimenter for any amount of money they lose in order to make losses more realistic. However, this still fails to capture the full effect of the costs of war, to recall the example. Additionally, this protocol does not align well with other recommendations regarding financial incentives that encourage researchers to compensate subjects at least one-and-a-half times minimum wage.

challenges and interest to multiple audiences. These differences are appreciable, as demonstrated by some experimental research that compares elite decision making with students' performance in crisis bargaining and terrorism games. These scholars find that elites trained in tactical decision-making tend to align more closely with theoretical predictions than students. They also use less information; instead relying on their familiarity with different decision-making scenarios to reduce the amount of time they spend looking for alternative solutions (Mintz 2004; Mintz, Redd, and Vedlitz 2006). In contrast, students tend to be more risk acceptant than their elite counterparts, which reinforces the effect of bureaucratic politics on foreign policy (Hermann and Ozkececi-Taner 2011; Simon 1959).

The challenge, of course, is that policy professionals – especially those at the highest levels, such as heads of state or national defense leaders – are not accessible to political scientists. But, it is not simply an issue of convenience that experimenters rely on undergraduate students for research. Though their employment introduces certain problems of generality, as a group, students also have some desirable properties. First, they are relatively homogeneous, both within and across universities (Morton and Williams 2010). This makes it easier to replicate experiment research. Second, as long as the researcher is not interested in individual factors that are not well-distributed in the target population, then undergraduate students do not create special problems for causal inference and the generalizability of results. Druckman and Kam (2011), for instance, use simulations to demonstrate that the use of any convenience sample, including students, does not intrinsically harm external validity. Furthermore, experimenters, especially those using formal models, can emphasize similarities that exist between students and policy

professionals. These similarities include bargaining procedures and dilemmas, coalition dynamics, and ability to evaluate different choices (Druckman 2011; Hermann and Ozkececi-Taner 2011). Druckman and Albin (2011), for instance, observe an interesting symmetry between experimental results using students as subjects and international treaties: Whether the actors are students in an experiment or international negotiators, bargaining over issues of distributive justice tends to be decided by concerns about equality. Invocation of the equality principle in negotiations increased the probability, for both subjects and states, that an agreement was reached and that it was honored.

Alternatives to Experiments for Causal Inference

Instead of conceding the situational complexity of international politics, there is a stronger preference for scholars to analyze questions using case studies or large-*N* statistical methods. These methods rely on naturally-occurring data that add the benefit of having been observed from the environment they are intended to explain. Case studies and process tracing methods have the advantage of producing deep investigations of procedural logic, which are especially valuable when evaluating formal models. In some cases it is also easier to make causal inferences from case studies than large-*N* statistical analyses when there are endogenous selection concerns (Dion 1998; Pahre 2005).

Case study methods operate at a loss of generalizability compared to large-*N* analyses, however. Larger data collection projects open the possibility for the researcher to analyze political phenomena over a range of time periods and contexts. Further, methodologists have become more innovative in unifying theoretical models and empirical analyses and eliciting causal mechanisms. First, it is possible for a theorist to engineer the theoretical and statistical model together using maximum likelihood

estimation methods to create a unified theory, as Signorino and Tarar (2006; see also Signorino 2007) do in their study on deterrence. A second solution – the use of instrumental variables – allows the analysis to account for measurement error and to evince indirect effects (Bartels 1991; Imai, et al. 2011). The goal of this method is to identify causal mechanisms in statistical analysis using large datasets, however, as with other well-known methods for managing correlated errors (e.g., Heckman probit), there are constraints for implementing the methods that lend pause to its widespread application (Sovey and Green 2011). A third method that occupies a middle ground between large-*N* statistical analysis and experiments is matching. This quasi-experimental approach has been effectively used in international relations research to explain treaty compliance (Simmons and Hopkins 2005) and has the added benefit of relatively easy to implement and interpret. A requirement of this approach is that the data are of high enough quality so that proper matches can be made (Ho, Imai, King, and Stuart 2007), which may be a constraining requirement for international relations data.

Those still interested in the control permitted by experimental research but also wish to target a generalizable study population might pursue field experiments – where the researcher goes to the phenomenon's natural environment – or to take actions to make the laboratory environment more like the natural decision-making environment in order to improve external validity (Iyengar 2011). These methods are preferred because they more closely resemble the scenarios under which actual foreign policy decision occur.

The trade-off for the laboratory experimenter, however, is between experimental realism and control over the research environment. The more familiar the experiment environment is to the study participant, the more that participant will rely on information

that is individual to their experiences and less on the experiment manipulations. In some cases, it may be a goal for the researcher to exploit this tendency. For example, Yechiam, Barron, and Erev (2005) found that decision-making in one-shot games leads to more risk-averse behavior than choices made when subjects had more personal experience with a crisis scenario – in this case, personal security against terrorism.

Research in the vein of Yechiam, Barron, and Erev reveals one way that experimental work can improve its methods to better respond to questions of external validity. A second method is for researchers to expand their subject recruitment to other populations. International relations scholars, in particular, might benefit from conducting laboratory research within a number of different cultures and nationalities to further test the underpinnings of their theory. At the same time, the burden of proof for demonstrating the hazards of weak external validity measures is not solely on the laboratory experimenter. Many of the recommended alternatives to experimental analysis fall short of ideal measures of external validity themselves. Case studies, for example, are known to have limited generalizability, but, depending on data quality, large-*N* studies may also raise legitimate questions about broad application.

Experimentally Analyzing Forum Selection

Having considered the limitations of experimental research in the field of international relations, the conviction remains that this project's theory of forum selection in interstate conflict management is appropriately tested using a laboratory experiment. Two features of the laboratory experiment process are especially persuasive: First, assumptions about the data generating process cannot be readily accounted for with existing data and methods without unacceptable increases in computation complexity.

Notably, there exist only a few data sets that observe direct offers of third party mediation in interstate conflict (Bercovitch 1999; Wiegand and Powell 2010). Others develop data on the supply of third parties by drawing upon inferences about third party involvement from other research, such as the democratic peace (Crescenzi, et al. 2011). In neither case do these data provide a useful way of identifying offers of assistance that were not made because of the nature of the dispute or the outside actor's interests in the disputants. Even if they did, their assumptions would not align with the theoretical assumption that allows disputants to select from the universe of third party options. An experimental analysis provides just this environment.

Second, the artificiality of the laboratory environment provides the most consistent and accessible way to test the theory, compared to field experiments or case studies. The formal model, itself, is an abstraction from reality and econometric models using large- N data might not align with these assumptions. Field experiments do not guarantee the experimenter as much certainty about causal inferences and, again, access to the relevant field in interstate conflict management is unavailable. Case studies are no less accessible than experimental analyses for evaluating the model's claims, and examples are used whenever appropriate to help reinforce theoretical and experimental implications.

Experimental Design

This section describes the research design for this analysis. The protocol follows the structural logic of the theoretical model. Subjects interacted in an alternating-offers bargaining game in which they had three options to reach a resolution: direct agreement, third party management, and war.

Experiment Protocol

In the bargaining game, subjects were invited to play the bargaining game presented in Chapter 3. The experimental protocol follows the structural and analytical logic of the model, with a couple of exceptions. First, the theoretical model assumes an infinite-horizon, with a common discount rate that makes prolonged bargaining costly. The experimental model, instead, ended bargaining after four exchanges, where each player made, at most, two proposals to resolve the issue – a fixed amount of experiment “currency,” or points equal to π . Subjects were not informed prior to their starting the experiment that each period will end at after a fixed amount of turns. Rather, they were informed that a game ends when they reach one of three outcomes: a bilateral agreement, third party management, or one of the parties unilaterally terminates the round (war).⁶

After the opening exchanges of offers, where each player had the opportunity to propose a division, the number of points was reduced by $\delta = 0.8$. This discount rate, δ , did not change across manipulations; rather, it remained constant. This eliminated the option to evaluate some implications of the theoretical model, notably the transaction-cost

⁶ An alternative to this method would be to assume that δ represents the probability that the game ends after any exchange. This more closely matches the bargaining protocol with the infinite-horizon assumption (Croson 2002). Nonetheless, the method employed here, while a little clunky, does not dramatically affect the play observed in this experiment and has not been observed elsewhere to dramatically differ in effect from models that assume the random stopping rule (Personal conversation with Rick Wilson, March 2012).

reducing effect of credible third party alternatives. However, the emphasis of this analysis is to evaluate the effect of preferences over alternatives to bilateral negotiation (war and third party management) on concession-making. Thus, the choice to hold δ constant does not affect the purpose of this project.

An experiment period began with subjects anonymously assigned to pairs. Each partner in a pair was then randomly assigned to a role, Player A (*Challenger*) and Player B (*Target*). As in the model, the challenger, Player A, made an opening proposal to divide the pre-determined number of points. Player B then received this proposal and decided whether to accept or reject it and make a counter-proposal. If Player B made a new proposal, then Player A had the opportunity to accept this new proposal, reject it and make a counter-proposal, initiate war, or suggest third party management.⁷ If a player suggested third party management, then his or her counterpart was given the option to consent or object. If consent was obtained, then the third party decision was revealed and each player simultaneously decided whether to accept or reject the division the third party reached. If, instead, there was an objection then the objecting player proposed a new division of the points. Play proceeded in this fashion until the pair came to a bilateral agreement, one of the partners terminated negotiations, or they agreed to third party management and played the compliance subgame. Alternatively, if after three exchanges, the subjects had not yet reached an agreement, the subject whose turn it was to make a

⁷ Subjects interacted through an experiment computer program (*z-Tree*, (Fischbacher 2007)) and were told that the experiment involved an exploration of the factors that explain the use of various strategies (e.g., bilateral negotiations, mediation) in dispute resolution. All bargaining scenarios were described in terms of a generic problem-solving situation defined to subjects as the division of a number of points. Neutrality of language was maintained because allusions to foreign policy or instructions that ask subjects to act as though they were foreign policy decision-makers have been shown elsewhere to influence study participants' behavior in bargaining experiments (Mintz, Redd, and Vedlitz 2006). Screenshots of the bargaining protocol appear in Appendix B.

proposal was asked to make an ultimatum offer: If the responding party accepted, then each received its share of the points. If the responding party rejected, they both received zero points.

The Alternatives to Bargaining: War and Third Party Management

The expressed goals were for subjects to come to an agreement over the division of the points by exchanging offers or using different settlement tactics and for each subject to attempt to earn as many points for him/herself as possible. The experiment protocol manipulated subjects' preferences over war and third party management outcomes to elicit consistent with the theory's predictions. Each of these alternatives were described as follows:

- *Direct agreement:* A period ended in a direct agreement when subjects reached a mutually-accepted division of the points, without using a third-party mechanism or initiating war.
- *Third-party management:* Third-party settlement was described as an outside decision-making mechanism that, if appealed to, would result in a non-binding division of the points based on subjects' expectations about settlement outcomes (i.e., favors Player A, favors Player B, is impartial). The third party's bias and penalties for non-compliance were common knowledge to both players.

Whenever subjects agreed to use a third party manager, the experiment software determined each subject's share of the points based on one of these selected rules. If the third party was *biased* in favor of the *Challenger* then the points were divided such that the *Challenger* received $2/3 \pi$ and the *Target* received $1/3 \pi$. If the third party was biased

in the *Target's* favor, then the *Challenger* and *Target* were awarded $(1/3\pi, 2/3\pi)$, respectively. If the third party was *unbiased*, then the points were divided evenly, $(1/2\pi, 1/2\pi)$. In order to simplify the decision-making problem, third party divisions were consistent with subjects' expectations, such that if the subjects were informed that the third party was biased in the *Challenger's* favor, then the points were always divided $(2/3\pi, 1/3\pi)$. Each of these distributions was assigned with equal probability and described to subjects as though they were probabilistic results (e.g., the third party is *likely* to decide in Player A's favor).

The advantage of this approach, as opposed to one that would include another subject acting as the third party, is that it allows the experimenter to control the outcomes of third party management. The model assumes that the third party decision is nonstrategic. That is, the intermediary's decisions automatically triggered whenever the disputants agree to its implementation and is independent of the disputants' actions or expectations. Other experimental studies on third-party conflict management assign the third party role to another study participant (See Birkeland 2010). These designs test the third party's decision calculus and the role of uncertainty about third party management on forum selection, in addition to the influence of subjects' expectations about third party settlements on negotiation strategies. While future work based on the implications of the results found here may incorporate a strategic third party, for the present purposes these methods are inappropriate for the model tested here.

After the third party decision was revealed, subjects decided whether to accept the decision or defy it. Decisions to accept or defy the third party decision were informed by the players' costs for noncompliance, c . Noncompliance costs could either be high or low.

Values for these costs were selected based on the equilibrium results of the compliance subgame. When $c \geq 1/2$, whenever $1 - c \leq s \leq c$ the disputants both comply with the third party decision. Alternatively, if $s < 1 - c$ or $s > c$, then one of the parties reneges on its settlement commitments. For increasing values of δ , higher values of c create acceptable third party alternatives to direct bargaining. In contrast, when $c < 1/2$, δ has a negative effect on the acceptable and credible level of transparency. This is because both disputants expect to pay a cost for pursuing third party management due to the compliance coordination problem that results when $c \leq s \leq 1 - c$. Thus, costs for defection took the on the value $3/5 \pi$ when the costs were high and $3/10 \pi$ when the costs were low.

Payoffs for the compliance subgame, in sum, were as follows:

1. If both accepted, then each received its share decided by the third party, $(s, 1 - s) = \{(2/3\pi, 1/3\pi); (1/2\pi, 1/2\pi); (1/3\pi, 2/3\pi)\}$.
 2. If one player accepted and the other defected, then the compliant player received zero points and the defiant player received $\pi - c$, where $c = \{3/5\pi, 3/10\pi\}$.
 3. If both players defied the decision, then each received zero points.⁸
- *War*: War was conveyed in the experiment as a unilateral termination of

bargaining that would trigger a costly, chance-based payoff. After the opening

⁸ An alternative assumption, that would be closer to that of the theoretical model, is that each player would lose c points if they both defied the third party decision. Instead, this model was adopted for purposes of comparison with a separate set of experiments that were conducted earlier in which payoffs were based on entries into a lottery. In the earlier protocol, for every point a subject earned in the experiment, he or she earned one entry into a lottery for a \$100 prize. Given this incentive, it seemed imprudent to have subjects lose points. The protocol was later revised to compensate subjects directly for their performance, but the $\{\text{Defy}, \text{Defy}\} = \{0, 0\}$ rule was retained to compare results for future work on the difference between lotteries and direct payment on the dominance rule of monetary incentives (See Morton and Williams 2010).

exchange of offers, any subject responding to a proposal could decide to end negotiations by selecting this option. The model and the experimental protocol define this chance-based payoff by a discrete function of the probability of winning, $(p, 1-p)$ and an exogenous cost (w_C, w_T) . Both these terms were common knowledge. In the experimental model, however, only the probability of winning varied; the costs of war were held constant.

The probability, p , was described in terms of a coin flip, where the likely outcome defined the subjects' relative bargaining power. For instance, a coin “weighted in Player A's favor” indicated that the *Challenger* had a bargaining advantage with respect to its ability to use unilateral termination as an outside option to bargaining or third-party management. Likewise, a coin could be fair (balanced), or weighted in the *Target's* favor.

If either subject decided to use its unilateral termination option, the experiment software determined the winner by drawing a random number. If the coin was weighted in either party's favor, then the advantaged player had an 80% probability of winning the coin toss and a 20% probability of losing. If the coin was fair, indicating coercive power was balanced, then each player had a 50% probability of winning. The winner of the coin flip earned all of the available points and paid a penalty for failing to come to a bilateral agreement. The penalty for unilaterally terminating negotiations in the experiment was $3/5\pi$. The player who won the coin toss, then, received $\pi - 3/5\pi$ and the loser received zero points. Because the outcome was determined randomly, a player with an advantage could lose the gamble, making the decision to terminate especially risky. The aim of this implementation was to, first, increase the realism of the concept of war as a costly lottery by including the possibility for both players to win (or lose) and, second, make the

decision to initiate war a sufficiently risky decision to not always be preferred to third party management, but to also make it attractive enough that a properly incentivized player might select it.⁹

Table 4.1 summarizes the parameters of the model and their operationalization in the experimental protocol. At the end of every round, subjects were shown their payoffs, their opponent's payoffs, and the decision that triggered the end of the game. For

Table 4.1. Summary of Model Parameter and Experiment Implementation	
<i>Model Parameter</i>	<i>Value in Experiment</i>
Issue at stake, $X \in [0,1]$	Experiment “currency”; points = π
Expected Value of War	
Relative power, $p \in [0,1]$	Weighted coin toss, $p = \{0.8, 0.5, 0.2\}$
Resolve, $c_i > 0$	Fixed, $c_i = 3/5 \pi$
Expected Utility of Third Party Management	
Probability distribution, arbitrary p.d.f,	Probabilistic description
Distributional bias, $s \in [0,1]$	Discrete divisions, $s = \left[\left(\frac{2}{3} \pi, \frac{1}{3} \pi \right), \right.$ $\left. \left(\frac{1}{2} \pi, \frac{1}{2} \pi \right), \left(\frac{1}{3} \pi, \frac{2}{3} \pi \right) \right]$
Non-compliance costs, $c > 0$	Non-compliance costs, $c = \{3/10\pi, 3/5\pi\}$

example, if subjects ended the game through third party management, then they were informed what their choice was (*Accept*, *Defy*) and they were also told what their opponent's decision was, so that they could recognize the factors that contributed to their totals.

⁹ This decision becomes especially important for testing the construct validity of the relative power term.

Experiment Repetition and Rematching

When subjects reached one of the terminal conditions of the game, then the *round* ended. Subjects then repeated the game in a new bargaining round. Each experimental session had 15 rounds, and subjects were paid based on 10 randomly selected rounds. At the beginning of a new bargaining round, subjects were randomly reassigned to another participant.¹⁰ All matchings were anonymous. They were also assigned a new role and new experiment parameters. Randomizations, matching, and subject interactions were all managed using *z-Tree* (Fischbacher 2007).

The value of this within-subjects design is that, compared to a between-subjects design where participants would be exposed to the same set of treatment conditions with each repetition, a subject acts as its own control and random re-assignment of treatment conditions each period reduces the effect that only one individual has on the results (Keren and Lewis 1993). Additionally, it has economic advantages and typically results in smaller error terms and larger degrees of freedom. There are draw-backs to this approach, of course. Scholars express concern that within-subject designs reduce experimenter control over the effect of any individual set of parameter on behavior because subjects may *carry-over* knowledge or responses from one period to the next (Poulton 1982). By using past information to make decisions in the current period, subjects may either disregard new information or attempt to reconcile old information with new in an effort to guess what behavior the experiment wants. For this theory and approach, however, the

¹⁰ The protocol design is for perfect-stranger matching such that a subject, ideally, would not be paired with someone they had already been paired with. However, recruitment and space limitations made it such that simple random assignment was the only feasible option.

within-subjects design is apt because it reduces the effect of pre-existing subject experiences and creates opportunities to estimate the effects of learning.¹¹

Subjects and Compensation

This study was conducted in six sessions at the University of Iowa. Fifty-four undergraduate students (27 men and 27 women) were recruited as participants. For enrolling in the study, subjects were paid a \$10.00 show-up fee. Additionally, subjects were compensated according to their performance in the bargaining game.¹² In each

Table 4.2. Distribution of Observations

	<i>Low Transparency</i>			<i>High Transparency</i>			
	<i>Favors C</i>	<i>Unbiased</i>	<i>Favors T</i>	<i>Favors C</i>	<i>Unbiased</i>	<i>Favors T</i>	Totals
<i>C Stronger</i>	13	22	15	16	26	32	124
<i>Balanced</i>	20	24	17	30	26	25	142
<i>T Stronger</i>	23	28	22	17	24	25	139
Totals	56	74	54	63	76	82	405

round, subject-pairs divided 30 points between themselves. For every point garnered in the game, the subject earned \$0.10. Based on the total payoffs resulting from the 10 of 15

¹¹ Because specific learning effects are not a component of *this* research design, they are not estimated here. Future work will consider more intently this effect on decision making, especially in this environment where experience with one set of parameters, such as experiencing third party management, should inform future choices because subjects will have better information about the probabilistic statements.

¹² Incentivized payment structures, like this, that reward subjects for making specific choices are a common tool in experimental economic. The purpose is to elicit profit-maximizing behavior that aligns with the theoretical model. In addition to these incentives, subjects were paid a show-up fee to ensure that subjects were fairly compensated for their time. Morton and Williams (2009) recommend subjects earn at least one-and-a-half times minimum wage from participating in experimental research.

randomly selected rounds, the average subject earned 128 points (range: 69-154). Thus, the average subject earned \$22.80 for participating.

The 54 subjects made up 27 bargaining pairs. With 15 repetitions per session, this produced 405 observations, which were distributed as listed in Table 4.2.

Hypotheses

Evaluating the model according to the above-described parameters using backwards induction, the theory makes the point predictions presented in Table 4.3. For each factor, the equilibrium partition is given, with the *Challenger's* payoff listed first.

Table 4.3. Equilibrium Divisions of the Forum Selection Game as Implemented in the Experiment Protocol

<i>High Noncompliance Costs, $c = 18$</i>				
		Bias		
		1/3, 2/3	1/2, 1/2	2/3, 1/3
Relative Power	1/5, 4/5	18, 12	15, 15	6, 24
	1/2, 1/2	18, 12	15, 15	6, 24
	4/5, 1/5	18, 12	15, 15	12, 18
<i>Low Noncompliance Costs, $c = 9$</i>				
		Bias		
		1/3, 2/3	1/2, 1/2	2/3, 1/3
Relative Power	1/5, 4/5	6, 24	9, 21	18, 12
	1/2, 1/2	6, 24	9, 21	18, 12
	4/5, 1/5	12, 18	12, 18	18, 12

These predictions are derived from the shortened bargaining game that study participants actually played. As the results show, the expected partitions are sensitive to each of the three factors, relative power, third party distributional bias, and noncompliance costs.¹³

Based on these expected partitions, the following hypotheses may be made. For each set of hypotheses, the reference factor is the case in which power is evenly distributed and the third party is distributionally unbiased. Hypotheses will be tested with reference to the *Challenger's* payoffs, so they are stated in that context.

Partitions Under Low Noncompliance Costs: When forum transparency is low such that $c < 1/2$, the following are expected to occur in equilibrium.

1. If the *Challenger* is preponderant in power and is also favored by the third party, the *Challenger* is expected to receive a larger share of the issue than when the third party is not biased in its favor.
2. If the *Challenger* is preponderant in power and is not favored by the third party, the *Challenger* is expected receive a larger share of the issue than when it is not preponderant.
3. If the *Target* is preponderant in power and is also favored by the third party, the *Challenger* is expected to receive a smaller share of the issue.
4. If the *Target* is preponderant in power and the third party is unbiased, the *Challenger* is not expected to receive a significantly different share of the issue.

¹³ Alternatively, predictions could be based on the game that subjects might have perceived they were playing. In this case, the game would not terminate until later. Point predictions from a model based on these perceptions are provided in Appendix B.

5. If the *Target* is preponderant in power and the third party is biased in the *Challenger's* favor, the *Challenger* is expected to receive a larger share of the issue.
6. If neither disputant is preponderant in power and the third party is biased in the *Target's* favor, the *Challenger* is expected to receive a smaller share of the issue.
7. If neither disputant is preponderant in power and the third party is biased in the *Challenger's* favor, the *Challenger* is expected to receive a larger share of the issue.

Before outline the hypotheses corresponding with the high-cost scenarios, it worthy to note that the *Challenger's* predicted shares do not vary with its relative power when it is not stronger than the *Target*. Similarly, whenever the third party is biased in the *Challenger's* favor, the *Challenger's* share does not vary, regardless of its power. This provides initial justification for an empirical analysis that estimates the interactive effects between power and bias, along with noncompliance costs. Presented in similar fashion as above, when transparency is high, the *Challenger's* partition is expected to vary in the following ways.

Partitions Under High Noncompliance Costs: When forum transparency is high such that $c \geq 1/2$, the following are expected to occur in equilibrium.

1. If the *Challenger* is preponderant in power and is also favored by the third party, the *Challenger* is expected to receive a smaller share of the issue than when the third party is not biased in its favor.

2. If the *Challenger* is preponderant in power and the third party favors the *Target*, the *Challenger* is expected to receive a larger share of the issue than when the third party is unbiased.
3. If the *Target* is preponderant in power and the third party is biased in its favor, the *Challenger* is expected to receive larger share of the issue.
4. If the *Target* is preponderant in power and third party is biased in the *Challenger's* favor, the *Challenger* is expected to receive a smaller share of the issue.
5. If neither party is preponderant in power and the third party is biased in the *Challenger's* favor, the *Challenger* is expected to receive a smaller share of the issue.
6. If neither party is preponderant in power and the third party is biased in the *Target's* favor, the *Challenger* is expected to receive a larger share of the issue.
7. If the third party is unbiased, the *Challenger* is not expected to receive a significantly different share of the issue, regardless of its relative power.

In contrast to the predictions when forum transparency is low, the *Challenger's* expected share of the issue does not vary when the third party favors the *Target*. As before, however, when the *Challenger* is not stronger than the *Target*, it expects to receive the same partition, depending on the third party's distributional bias. Comparing across the two sets of predictions, noncompliance costs appear to reverse the direction of the *Challenger's* expected outcome. Additionally, the *Challenger's* share is generally smaller when noncompliance costs are less.

Empirical Analysis of Point Predictions

Empirical analyses of these predictions consider two different sets of cases, the entire set of observations and agreements that were immediately accepted. The theory predicts that disputants will reach an *immediate* agreement on the terms described in Table 4.3. In the experiment, 184 out of 405 (45%) periods ended in an agreement after the first offer. The remaining periods ended as illustrated in Figure B1 in Appendix B. To compare across these two sets of cases, the dependent variable is the proportion of points that the *Challenger* earned in the period, measured as the total number of points the *Challenger* earned divided by the total number of points at stake. On average, subjects in the *Challenger* role earned 45% of the points at stake, ranging between 0% and 78%. The proportion was used because the total number of points decreased over the course of the experiment game. Secondary analyses estimate the effects of the experiment factors on all of the observations in order to appreciate their effect across the entire game. ANOVA and regression methods are used to test these effects.¹⁴

Factor Analysis

Together, the operationalization of the independent variables – relative power, third party bias, and transparency – define a 3 x 3 x 2 factorial design. Each independent variable is categorical: Relative power is coded 0 if power is evenly distributed, 1 if the *Target* is preponderant, and 2 if the *Challenger* is stronger. Third party distributional bias is coded 0 if the third party is unbiased, 1 if it is biased in the *Target's* favor, and 2 if it is biased toward the *Challenger*. Noncompliance costs are coded 0 if costs are low and 1 when costs are high. The power of such a design is that it assumes interaction across

¹⁴ Difference of means tests included with Appendix B.

factors, which aligns well with the assumptions of the theoretical model. The model's predictions are based on actors' preference orderings, thus, the influence of any variable, relative power, for instance, is conditional on the value of third party bias and non-compliance costs. If the expected value of war is greater than the expected value of third party management, then relative power should predict the type of settlement the parties reach.

Results from the empirical models are presented in three different forms. First, three-way ANOVA analyses test the average effect of the study variables on the the *Challenger's* share of the issue. Split-sample OLS regression, divided by noncompliance costs are then presented to expand on the ANOVA results.

Results

Table 4.4 presents the results of an ANOVA analysis of the proportion of the points that the *Challenger* earned in immediate agreements (Models 1-3) and across all observations (Models 4-6). Models 1 and 4 present results on all 18 factors, while Models 2 and 5 show the effect of power and bias when the costs of noncompliance were low. Models 3 and 6 report the same results, but when the costs of noncompliance were high. The results demonstrate that none of the independent variables explains the variance in the *Challenger's* share of the issue when disputes were decided immediately. When the analysis is expanded to include all 405 observations, these effects are more readily apparent. Relative power, third party bias, and noncompliance costs independents explains the variance in the *Challenger's* point share and when the costs of noncompliance are low, relative power and third party bias interact to change the *Challenger's* partition.

Table 4.4. ANOVA of Challenger's Point Share Earned in Forum Selection Experiment

Immediate Agreements				All Observations			
Variable	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6	
	Full Sample Part. SS/MS	Low Costs Part. SS/MS	High Costs Part. SS/MS	Full Sample Part. SS/MS	Low Costs Part. SS/MS	High Costs Part. SS/MS	
Relative Power	0.001 (0.000)	0.002 (0.001)	0.007 (0.004)	0.114 [†] (0.057)	0.083 (0.041)	0.034 (0.017)	
Third Party Bias	0.000 (0.000)	0.000 (0.000)	0.000 (0.000)	0.160** (0.080)	0.133 (0.067)	0.039 (0.020)	
Noncompliance Costs	0.000 (0.000)			0.129** (0.126)			
Power x Bias	0.009 (0.002)	0.007 (0.002)	0.009 (0.002)	0.300** (0.075)	0.419** (0.105)	0.047 (0.012)	
Power x	0.007 (0.003)			0.010 (0.005)			
Noncompliance Costs	0.000 (0.000)			0.017 (0.009)			
Bias x Noncompliance Costs	0.007 (0.002)			0.162 (0.040)			
Power x Bias x Noncompliance Costs	0.027 (0.002)	0.009 (0.001)	0.018 (0.002)	0.0868*** (0.051)	0.613** (0.077)	0.138 (0.017)	
Model	0.296 (0.002)	0.079 (0.001)	0.217 (0.002)	9.672 (0.025)	6.116 (0.035)	3.556 (0.017)	
Residual							
R2	0.084	0.0977	0.0782	0.0824	0.091	0.0372	
RMSE	0.0419	0.0351	0.0456	0.1581	0.1869	0.1295	
N	186	73	113	405	184	221	

Note: [†] = $p = 0.104$, * = $p < 0.1$, ** = $p < 0.05$, *** = $p < 0.01$. Results in Models 1-3 based on all periods that ended after the first offer.

The ANOVA results presented in Table 4.4 provide the basis for Table 4.5, which presents the results of the split-sample regression of the *Challenger's* point share in immediate agreements and across all observations. The results in both sets of analyses, again, reveal little about the factors that led to the *Challenger's* partition. For immediate agreements, the results support second hypothesis that when the *Challenger* is stronger and the third party is biased against it that the *Challenger* will receive a smaller share than when power is balanced and the third party is impartial. The significant, negative coefficient in this factor indicates this relationship. Contrary to intuition, however, when the third party favors the *Challenger* and the *Challenger* is stronger, subjects in the *Challenger* also tended to receive smaller shares than when both of these variables were balanced. Instead, the theory predicted that the *Challenger* would receive a larger share of the issue.

One explanation for this contradictory finding is that players played more consistently with the perceived game than with the game they were actually playing. In the game that subjects might have perceived, the *Challenger* is always expected to receive a smaller share of the issue when the third party is biased than when the third party is unbiased – regardless of relative power or noncompliance costs. However, this explanation fails to satisfy the other significant result in this set of split-sample results. When noncompliance costs are high and the *Target* is preponderant in power, third party bias favoring the *Challenger* led to the *Challenger* receiving a larger share of the issue. Interestingly, in neither the actual game nor the perceived game is the *Challenger* expected to do better than the referent category in this scenario.

Table 4.5. Split-Sample Regression of *Challenger's* Point Share Earned in Forum Selection Experiment

<i>Factor</i>	<i>Immediate Agreements</i>		<i>All Observations</i>	
	Model 7	Model 8	Model 9	Model 10
	<i>Low Costs</i>	<i>High Costs</i>	<i>Low Costs</i>	<i>High Costs</i>
	Coef./Std.Err.	Coef./Std.Err.	Coef./Std.Err.	Coef./Std.Err.
<i>Challenger Stronger &</i>				
Bias Favors <i>Target</i>	-0.045* (0.027)	-0.010 (0.026)	-0.052 (0.086)	-0.029 (0.050)
Impartial	0.02 (0.016)	0.018 (0.019)	0.048 (0.055)	0.035 (0.036)
Bias Favors <i>Challenger</i>	-0.053* (0.027)	0.015 (0.027)	0.048 (0.086)	-0.009 (0.054)
<i>Power Balanced &</i>				
Bias Favors <i>Target</i>	0.011 (0.018)	0.003 (0.020)	0.006 (0.059)	0.022 (0.036)
Impartial	omitted	omitted	omitted	omitted
Bias Favors <i>Challenger</i>	0.02 (0.019)	-0.021 (0.017)	-0.156*** (0.057)	-0.034 (0.035)
<i>Target Stronger &</i>				
Bias Favors <i>Target</i>	-0.005 (0.029)	0.004 (0.027)	0.001 (0.080)	-0.071 (0.052)
Impartial	0.005 (0.015)	-0.005 (0.018)	-0.032 (0.052)	0.050 (0.037)
Bias Favors <i>Challenger</i>	-0.015 (0.024)	0.047* (0.025)	0.230*** (0.078)	0.008 (0.054)
Constant	0.500*** (0.011)	0.500*** (0.013)	0.445*** (0.038)	0.449*** (0.025)
R2	0.0977	0.0782	0.091	0.0372
RMSE	0.0351	0.0456	0.0495	0.1295
N	73	113	184	221

Note: * = $p < 0.1$, ** = $p < 0.05$, *** = $p < 0.01$. Results in Models 7 & 8 based on all periods that ended after the first offer.

Results for all of the study observations provide similarly inconsistent results. In line with the point prediction derived in Table 4.3, the *Challengers* received a larger share of the issue when the *Target* was preponderant in power but the third party favored the

Challenger and noncompliance costs were low. Compared to the baseline factor, though, the theory does not predict that the *Challenger* would do worse when power is balanced and the low-transparency forum favors the *Challenger*. Instead, it would predict that the *Challenger* would do *better* than when each factor was balanced. Such competing observations, along with number of unexplained factors, raise important questions about the theory's validity. The results are not only inconsistent with the theory, the explanations they do provide are tepid.

Considering the the dependent variable, again, one potential confounding factor in these empirical analyses is that there is little variance in the *Challenger's* point share. While, on average, the *Challenger* received approximately 45% of the partition across all cases, the variance of this value is just under 3%. 60% of all rounds ended in an even partition; more than 70% of immediately accepted offers proposed even divisions. Figure 4.1 illustrates how tightly grouped the cases are around 0.5. Elsewhere, experimental research in sequential bargaining observes that subjects tend to converge on even divisions of the stakes out of concerns of fairness (Ochs and Roth 1989). This behavior is emulated, furthermore, emulated in international relations bargaining, more generally (Druckman and Albin 2011).

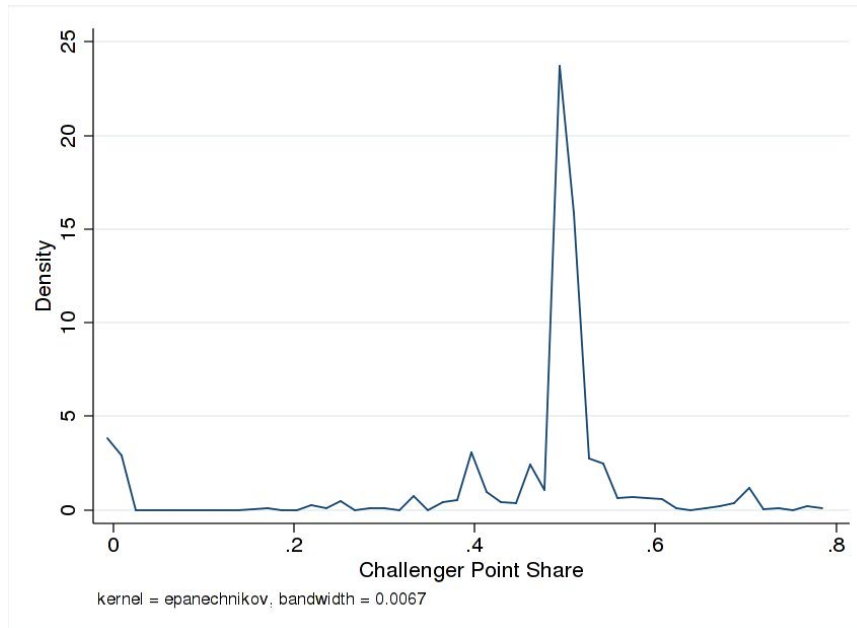


Figure 4.1. Kernel Density Plot of the Challenger's Point Share

Deviating from the Norm: Alternative Analyses of Forum Selection Effects

Rather than treating this phenomenon as an impediment to empirical inferences, this research design takes advantage of this behavior by using it as a baseline against which all propositions are tested. Therefore this analysis considers two alternative measures of the dependent variable that describe whether subjects in the experiment deviated from a 50/50 division of the issue and the direction in which they deviated. Drawing from the propositions of the model and the experimental design, this project makes the following hypotheses:

Hypotheses

Deviation Under Low Noncompliance Costs: When forum transparency is low such that $c < 1/2$, the following are expected to occur in equilibrium:

1. If the *Challenger* is preponderant in power and is also favored by the third party, the partition is expected to deviate from an equal distribution in the *Challenger's* favor.
2. If the *Challenger* is preponderant in power and is not favored by the third party, the partition is expected to deviate from an equal division in the *Target's* favor.
3. If the *Target* is preponderant in power and is also favored by the third party, the partition is expected to deviate from an equal division in the *Target's* favor.
4. If the *Target* is preponderant in power and the third party is unbiased, the partition is expected to deviate from an equal division in the *Target's* favor.
5. If the *Target* is preponderant in power and the third party is biased in the *Challenger's* favor, the partition is expected to deviate from an equal division in the *Challenger's* favor.
6. If neither party is preponderant in power and the third party is biased in the *Challenger's* favor, the partition is expected to deviate from an equal division in the *Challenger's* favor.
7. If neither party is preponderant in power and the third party is not biased in the *Challenger's* favor, the partition is expected to deviate from an equal division in the *Target's* favor.

In general, when noncompliance costs are low, the *Challenger* is only able to obtain a favorable partition when the third party is biased in its favor.

Deviation Under High Noncompliance Costs: When forum transparency is high such that $c \geq 1/2$, the following are expected to occur in equilibrium:

1. Regardless of either player's preponderance, if the third party is biased in the *Challenger's* favor, the partition is expected to deviate from an equal division in the *Challenger's* favor.
2. Regardless of either player's preponderance, if the third party is biased in the *Target's* favor, the partition is expected to deviate from an equal division in the *Target's* favor.
3. Regardless of either player's preponderance, if the third party is unbiased, the partition is not expected to deviate from an equal division that favors neither player.

The predicted effects under the high costs scenario are relatively more simple to observe because of the strong relationship between third party bias and expected partitions. What the two sets of hypotheses highlight, though, is the interactive effect of bias and non-compliance costs. As noted above, many of the associations between third party bias and the expected outcomes reverse when forum transparency increases from low to high.

Methodology

The value of this approach compared to the point prediction analysis is that, by scaling the partition to a two- or three-category variable, it increases variance on the dependent variable. This makes it possible to estimate the causes for deviations of a single experiment unit from the baseline outcome. The analysis proceeds with this scaling by creating two dependent variables, a bivariate measure of whether the subject-pairs deviated from a 50/50 partition and multivariate measure of the direction of the deviation. The first variable simply measures whether the subjects deviated from an even division,

taking the value 1 if they deviated in any direction and 0 if they agreed to an even division. The second measure identifies the direction of this deviation, categorizing the measure according to whether the outcome awarded more points to the *Challenger*, the *Target*, or divided the points evenly. This variable is 0 whenever the pair divided the points evenly, 1 if the division was in the *Target's* favor, and 2 if it was in the *Challenger's* favor. Both of these values were calculated by subtracting one subject's share of points at the end of the game from the other's and rescaling according the above described rules. subject-pairs deviated from a 50/50 division in 163 out of 405 cases. Seventy-seven of these deviations were in the *Target's* favor and eighty-six advantaged the *Challenger*.

Because these two variables take on different types of values, different models are used to estimate the effects of the experimental manipulations on their occurrence. For the first measurement of the dependent variable, simple deviation, logistic regression is used. Multinomial logistic regression is used for the categorical measure of deviation direction. Split-sample analyses that divide the data by the level of noncompliance costs are presented for each set of analyses.

Results

The results demonstrate that third party options strongly influenced decision-making: If a third party favored either of the subjects, the pair was more likely to deviate from the baseline, even division of the issue, especially when neither disputant was preponderant in power. This effect was present under both types of transparency. Contrary to the expectations established by the equilibrium point predictions, however, these deviations were more likely to be in the direction of the favored disputant instead of the disfavored party. The results also provide evidence for the theoretical model's novel

conclusion that credible third parties provide alternatives for weak, revisionist states to reduce the effect of the *Target's* coercive force. When the *Target* was stronger in terms of relative power, it was no more nor less likely to effect a settlement in its favor. In contrast, strong *Challengers* were coercive when the third party was impartial, indicating the *Challenger's* ability to gain a larger concession from the *Target* when force served as a viable alternative. That strong *Targets* could not similarly take advantage of their positions is counter-intuitive to power politics models that would expect a strong *Target* capable of rebuffing challenges from weaker rivals (Powell 1996). In sum, the experimental analysis provides more support for the theoretical model's implications than concerns about its validity.

Breaking the Trend: Deviations from Even Divisions

Table 4.6 reports the results of the split-sample logistic regression determining whether subject-pairs reached an outcome that divided the points unevenly. Models 11 and 12 investigate the effects of relative power, third party bias, and noncompliance costs on the deviations across all observations. Models 13 and 14 consider a smaller set of these observations, testing the theory against periods that ended in a direct, bilateral agreement. 314 (78%) out of 405 periods ended with a direct, bilateral agreement; 277 of which occurred after the first two exchanges. One reason to consider this subset of agreements is that it does not include the instances of war and third party management that directly produce unequal payoffs.

Table 4.6. Split-Sample Logistic Regression of Deviation from 50/50 Division in Forum Selection Experiment

<i>Factor</i>	<i>All Observations</i>		<i>Bilateral Agreements</i>	
	Model 11	Model 12	Model 13	Model 14
	<i>Low Costs</i>	<i>High Costs</i>	<i>Low Costs</i>	<i>High Costs</i>
	Coef./Std.Err.	Coef./Std.Err.	Coef./Std.Err.	Coef./Std.Err.
<i>Challenger Stronger &</i>				
Bias Favors <i>Target</i>	-0.557 (0.993)	-1.921** (0.900)	-0.442 (1.202)	-2.392** (1.157)
Impartial	0.693 (0.601)	0.568 (0.622)	0.799 (0.853)	1.099 (0.907)
Bias Favors <i>Challenger</i>	-0.842 (0.952)	-1.356 (0.900)	0.454 (1.331)	-1.992* (1.189)
<i>Power Balanced &</i>				
Bias Favors <i>Target</i>	1.386** (0.679)	1.284** (0.614)	1.723** (0.872)	1.658* (0.884)
Impartial	omitted	omitted	omitted	omitted
Bias Favors <i>Challenger</i>	1.130* (0.631)	1.204** (0.592)	0.134 (1.029)	1.792** (0.850)
<i>Target Stronger &</i>				
Bias Favors <i>Target</i>	0.693 (0.938)	-0.029 (0.889)	1.039 (1.257)	-1.045 (1.118)
Impartial	-0.588 (0.607)	-0.131 (0.685)	-0.865 (0.985)	1.099 (0.907)
Bias Favors <i>Challenger</i>	-0.858 (0.891)	-0.226 (0.920)	1.137 (1.357)	-1.386 (1.135)
Constant	-0.511 (0.422)	-1.204** (0.465)	-1.386** (0.645)	-2.197*** (0.745)
Pseudo R2	0.1022	0.0507	0.1379	0.0526
<i>N</i>	184	221	131	183

Note: * = $p < 0.1$, ** = $p < 0.05$, *** = $p < 0.01$. Results from Models 13 & 14 based on periods that ended with a direct, bilateral agreement. Instances of war and third party management excluded.

When the costs of noncompliance were low, subject-pairs were most likely to deviate from equal divisions when the third party was biased, which supports the last two hypotheses derived from the theory's point predictions. Specifically, when the third party

was biased in favor of the *Target*, disputes were more likely to result in disproportionate settlements in both sets of cases. This same relationship only holds for the universal set of cases in instances where the third party favored the *Challenger*. None of the other factors predicted the incidences of concession-making, however, this may be due to the nature of the referent category. According to the theoretical model, when noncompliance costs are low, the third party is impartial, and power is balanced, disputants should reach a settlement that awards 30% of the issue to the *Challenger* and 70% of the issue to the *Target*. The baseline factor, in this case, is both theoretically and substantively different from the high transparency case.¹⁵ Thus, since the theory predicts that all of the partitions in the set of low transparency factors will deviate from an equitable division and the referent category is also significantly different an equal partition, variance across these factors in terms of deviation is small.

When forum transparency was high, subject-pairs were more likely to deviate from 50/50 divisions of the issue when coercive power was balanced and the third party was biased. This relationship holds for both the set of bilateral agreements and the universe of cases. This supports, in part, hypotheses 1 and 2 for this set of factors because the deviation effect is observed only for the third party's distributional bias. In contrast, these effects are not independent of the disputants' relative power. When the *Challenger* was stronger and the third party was biased, disputants were more likely to divide the issue evenly than to deviate. This results contradicts the theoretical implication. One

¹⁵ Difference of means analysis shows that the *Challenger's* average point share when noncompliance costs were low was significantly smaller than the *Challenger's* average points share when noncompliance costs were high (Difference: -0.034, $p = 0.03$, two-tailed test). Additionally, approximately 55% of all deviations occurred when noncompliance costs were low. The mean value for the bivariate deviation term was 0.52 (variance = 0.25). in low transparency factors and 0.36 (variance = 0.23) in high transparency factors.

explanation might be that subjects perceived transaction costs that were not explicitly induced by the experimental research design that led subject-pairs to find equitable compromises because coercive demands were unacceptable. If this were the case, though, the results would be systematically affected. Observation of support for parts of hypotheses 1 and 2 and for all of hypothesis 3 in this context would limit the validity of this claim. Instead, it might be the case that high conflict costs coupled with high forum transparency influences behavior more strongly than theoretically anticipated. The costs of conflict relatively large – 70% of the size of the issue. Thus, the *Challenger* expects to receive, at best, 12 points from initiating war. At the same time, the best that a *Challenger* can hope to receive from third party management from a biased intermediary is also 12 points.¹⁶ The effect of these two options cancels out the *Challenger's* preponderance and lead subjects to seek more equitable agreements.

To aid this interpretation, Table 4.7 presents the marginal effects of the models' constitutive terms (*Relative Power* and *Third Party Bias*). Table 4.7 show that the third party's distributional bias had a significant effect on subjects' decision-making. When the costs of non-compliance were low, the marginal effect of third party bias in favor of the *Target* on the probability that a settlement deviated from an even division is positive and significant in both sets of observations. A similar effect holds for bias favoring the *Challenger* when the analysis includes all observations. Correspondingly, relative power had a negative marginal effect on deviations: When the *Challenger* was stronger and the

16 If the third party is biased in the *Challenger's* favor and noncompliance costs are high, then payoffs in the compliance subgame are {Comply, Comply} = (20, 10), {Comply, Defy} = (0, 12), {Defy, Comply} = (12, 0), {Defy, Defy} = (0, 0). This results in the {Comply, Defy} pure strategy equilibrium. If the third party is biased in the *Target's* favor and noncompliance costs are high, then payoffs are {Comply, Comply} = (10, 20), {Comply, Defy} = (0, 12), {Defy, Comply} = (12, 0), and {Defy, Defy} = (0, 0). This results in the pure strategy equilibrium, {Defy, Comply}.

third party forum was highly transparent, settlements were less likely to deviate from an even partition. Similarly, when noncompliance costs were low, *Target* strength had a negative marginal effect on concession-making. Together, these effects help to explain the anomalous result that strong *Challenger's* – even those with a third party advantage – were more likely to find equitable settlements. The force of the observation comes from the distribution of power and the relatively high costs of conflict.

Table 4.7. Marginal Effects of Experiment Factors on Probability of Deviation from 50/50 Division

Variable	<i>All Observations</i>		Bilateral Agreements	
	<i>Low Costs</i>	<i>High Costs</i>	<i>Low Costs</i>	<i>High Costs</i>
	$\partial y/\partial x$ (Std. Err.)	$\partial y/\partial x$ (Std. Err.)	$\partial y/\partial x$ (Std. Err.)	$\partial y/\partial x$ (Std. Err.)
Relative Power				
<i>Challenger</i> Stronger	0.066 (0.091)	-0.126* (0.076)	0.172 (0.109)	-0.093 (0.075)
<i>Target</i> Stronger	-0.149* (0.080)	-0.048 (0.079)	-0.011 (0.090)	0.034 (0.083)
Third Party Bias				
Favors <i>Challenger</i>	0.132 (0.084)	0.148* (0.080)	0.125 (0.090)	0.118 (0.081)
Favors <i>Target</i>	0.350*** (0.082)	0.144** (0.073)	0.429*** (0.094)	0.095 (0.075)
<i>N</i>	184	221	131	183

Note: * = $p < 0.1$, ** = $p < 0.05$, *** = $p < 0.01$. $\partial y/\partial x$ for factor levels is the discrete change from the base level. Delta-method standard errors reported.

Results in Table 4.6 also support the contention that third party influence varies with forum transparency. Though third party bias has a positive marginal effect on the

probability that subject-pairs deviated for both values of forum transparency, as Figure 4.2 illustrates, the magnitude of this effect depends on disputants' noncompliance costs. The effect is especially noticeable for the effect of third party bias in the *Target's* favor on the probability of deviation. Changing the third party's bias from impartial to favoring the *Target* increases the probability of unequal concessions 26 percentage points when forum transparency is low and just under 10 percentage points when forum transparency is high. The effect of third party bias favoring the *Target* is substantively larger when forum transparency is low; this is especially apparent when compared to the substantive effect of bias favoring the *Challenger*. Bias favoring the *Challenger* increases the probability of a deviation at a relatively equal rate between the two costs of noncompliance. Further this result provides initial support for another of the model's empirical implications. The point predictions suggest that the level of concessions is greater when noncompliance costs are low and the third party favors the *Target* than when noncompliance costs are high and third party favors the *Target*. If third party fora serve as focal points for negotiations, as the theory suggests, then there ought to be a wider range of acceptable, negotiated settlements when noncompliance costs are low in this scenario than when noncompliance costs are high. The effect is that this creates more opportunities for deviation from equal divisions; thus, a higher probability of concession-making.

Results from these analyses on the incidence of concession-making in conflict bargaining support some of theory's central tenets. First, especially when disputants do not have a credible claim to the use of force, third parties act as focal points for negotiations. Specifically, biased third parties increase the probability that disputants will make concessions in conflict bargaining. The incidence of these concessions is higher,

however, when forum transparency is lower. The theory explains that these concessions focal nature of credible and acceptable third parties in conflict bargaining. Hoping to contract around costly intervention and coordination problems resulting from third party management, states settle conflicts informed by their expectations about third party management and their ability to coerce and adversary into conceding.

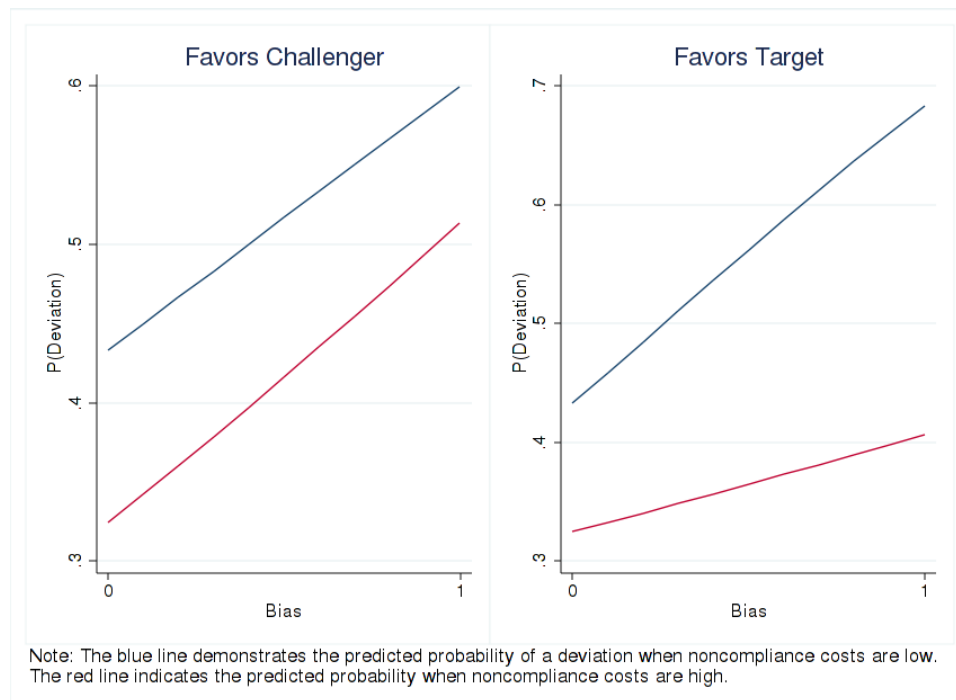


Figure 4.2. Interactive Effect of Third Party Bias and Noncompliance Costs on Probability of Deviation

To the Victor Goes the Spoils? Direction of Deviations

Though the findings presented in Table 4.6 lend insight to the process of concession-making in conflict bargaining, they are unable to answer which actor benefits from these unbalanced divisions. The theory predicts, as enumerated in the above hypotheses, that that direction of settlement partitions will be informed by the characteristics of the dispute and the nature of the third party environment. Table 4.8

presents the results of a set of multinomial logistic regression analyses of the direction of deviation in bargaining outcomes.¹⁷ As observed above, the number of deviations from even distributional outcomes is relatively small. When dividing these even further into distributions in favor of either disputant, statistical estimation becomes more burdensome. Thus, this analysis is restricted to the universe of cases; unlike with the previous analyses, no other subsets of the data are analyzed. In contrast to the inferences drawn from the previous set of results – that the probability of deviations was more strongly associated with the institutional environment than with the distribution of power – the direction of subjects' deviation from a 50/50 division is also strongly explained by relative power. In general, the results help to elicit the idea that third parties provide ranges of focal agreements. Negotiation within these focal ranges, however, is dominated by coercive force.

When the costs of noncompliance are low (Models 15 and 16), the results in Table 4.8 confirm the hypothesis that when relative power is balanced and the third party is biased in the *Target's* favor that the *Target* will be able negotiate for a larger share of the issue. The effect does not hold for the other factors predicted to produce a settlement that advantages the *Target*. When power is asymmetrically distributed and the third party favors the *Target*, the *Target* not significantly more likely to receive a larger concession. The theory also predicts that when disputants' power is balanced, the *Target* will be more likely to obtain a more favorable settlement. These factors, however, are insignificant,

¹⁷ Multinomial logit is used instead of ordered logit because it allows the analysis to focus on the *deviation* from even divisions, which is a categorical question, rather than an ordered question.

except where the *Challenger* is stronger. In this case, contrary to theoretical intuition, the settlement is more likely to favor the *Challenger*. Similarly curious is the finding that the *Challenger* also has a higher probability of gaining a larger share of the issue when power is balanced and the third party favors the *Target*.

Table 4.8. Split-Sample Multinomial Logistic Regression of Directional Deviation from 50/50 Division in Forum Selection Experiment, All Observations

<i>Factor</i>	<i>Low Costs</i>		<i>High Costs</i>	
	Model 15 (Tgt. Adv.)	Model 16 (Chal. Adv.)	Model 17 (Tgt. Adv.)	Model 18 (Chal. Adv.)
	Coef./Std.Err.	Coef./Std.Err.	Coef./Std.Err.	Coef./Std.Err.
<i>Challenger Stronger &</i>				
Bias Favors <i>Target</i>	0.357 (1.255)	-1.609 (1.183)	-1.638 (1.315)	-2.534** (1.102)
Impartial	-0.693 (0.724)	1.609** (0.775)	-0.194 (0.969)	1.464* (0.866)
Bias Favors <i>Challenger</i>	0.788 (1.274)	-1.003 (1.165)	-0.969 (1.309)	-2.494** (1.242)
<i>Power Balanced &</i>				
Bias Favors <i>Target</i>	1.253* (0.759)	1.609* (0.894)	1.253 (0.794)	1.812** (0.880)
Impartial	omitted	omitted	omitted	omitted
Bias Favors <i>Challenger</i>	0.128 (0.724)	0.598 (0.861)	1.317* (0.757)	1.589* (0.870)
<i>Target Stronger &</i>				
Bias Favors <i>Target</i>	0.809 (1.056)	0.452 (1.299)	0.379 (1.185)	-0.922 (1.199)
Impartial	-0.788 (0.727)	-0.788 (0.972)	-0.305 (0.966)	0.506 (0.966)
Bias Favors <i>Challenger</i>	-1.256 (1.371)	0.576 (1.243)	-0.675 (1.313)	-0.437 (1.201)
Constant	-0.916* (0.483)	-1.609** (0.632)	-1.945*** (0.617)	-2.351*** (0.741)
Pseudo R2	0.0984		0.0565	
<i>N</i>	43	43	34	43

Note: * = $p < 0.1$, ** = $p < 0.05$, *** = $p < 0.01$. Periods that ended with an even division are the base outcome.

When forum transparency is high, the empirical results support the contention that settlement outcomes will be more likely to be unbalanced when the third party is biased, however, the specific effect of third party bias is in the opposite direction of that predicted by the theoretical model. The point predictions indicate that the *Challenger* gains a distributional advantage when the third party is biased against it. Model 18 shows that when power is balanced, the *Challenger* is more likely to gain this concession, but, when the *Challenger* is preponderant in power, it is less likely to earn a larger share of the issue. Instead, the settlement is more likely to result in an equitable distribution. Similarly mixed results manifest when the third party is biased in the *Challenger's* favor. The theory predicts that the *Target* has a substantive advantage in these instances; Model 17 provides support for part of this contention as the settlement is more likely to favor the *Target* when power is balanced and the third party is aligned with the *Challenger*. None of the other factors that would predict this result, however, are significant.

Instead of third party bias solely explaining distributional outcomes when noncompliance costs are high, the results suggest that the *Challenger's* coercive power predict settlement direction. Table 4.9 adds to this perception: When the costs of noncompliance are low, the marginal effect of the *Challenger's* power preponderance on the probability that the *Challenger* gains a larger concession is positive. This effect is not significant when the costs of noncompliance are high. Instead, the *Challenger* effects distributional outcomes by constraining the *Target*. The marginal effect of the *Challenger's* relative power on the probability that the *Target*, rather than the *Challenger*, gains a larger share of the issue is negative. Last, Figure 4.3 illustrates the negative marginal effect of noncompliance costs. Considering the probability that the *Target*

Table 4.9. Marginal Effects of Experiment Factors on Probability of Directional Deviation from 50/50 Division, All Observations

<i>Variable</i>	<i>Full Sample</i>		<i>Split-Sample</i>			
	Tgt. Adv. $\partial y/\partial x$ (Std. Err.)	Chal. Adv. $\partial y/\partial x$ (Std. Err.)	<i>Low Cost</i>		<i>High Cost</i>	
			Tgt. Adv. $\partial y/\partial x$ (Std. Err.)	Chal. Adv. $\partial y/\partial x$ (Std. Err.)	Tgt. Adv. $\partial y/\partial x$ (Std. Err.)	Chal. Adv. $\partial y/\partial x$ (Std. Err.)
Relative Power						
	-0.107** (0.048)	0.075 (0.051)	-0.093 (0.081)	0.177** (0.085)	-0.119** (0.056)	-0.011 (0.063)
<i>Challenger Stronger</i>						
	-0.064 (0.048)	-0.014 (0.047)	-0.093 (0.072)	-0.036 (0.065)	-0.039 (0.063)	0.004 (0.066)
<i>Target Stronger</i>						
Third Party Bias						
	0.044 (0.043)	0.052 (0.048)	-0.001 (0.064)	0.043 (0.070)	0.082 (0.057)	0.060 (0.065)
<i>Favors Challenger</i>						
	0.165*** (0.047)	0.071 (0.047)	0.243*** (0.079)	0.085 (0.073)	0.100* (0.057)	0.059 (0.061)
<i>Favors Target</i>						
	-0.094** (0.039)	-0.048 (0.041)				
Noncompliance Costs						
<i>N</i>	77	86	43	43	34	43

Note: * = $p < 0.1$, ** = $p < 0.05$, *** = $p < 0.01$. $\partial y/\partial x$ for factor levels is the discrete change from the base level. Delta-method standard errors reported.

receives a larger share of the issue, a shift in third party bias toward the *Target* results in a much larger substantive increase when the costs of noncompliance are low compared to when they are high.

While these results are generally counter-intuitive to the theoretical predictions, they do lend support to the contention that third parties alter the scope of negotiations, yet also find evidence of the coercive effect of power. From the first set of results, it is apparent that deviations in any direction are predicated on the parties' expectations about the third party option. Biases in either direction were more likely to lead to deviations than impartial third parties. However, impartial third parties were still important to softening the coercive abilities of a strong *Target*. It is less surprising then, that this second set of analyses reveals that the *Target* gains a larger payoff by leveraging its diplomatic power (the third party) rather than its preponderant capabilities. It is also less surprising that the *Challenger* uses its threat of termination to effect a more favorable deal. Figure 4.4 demonstrates the substantive effect of this behavior. When the third party favors the *Target* and power is balanced, the *Target* is slightly more likely to gain a larger share of the issue. But, a stronger *Challenger* reduces the impact of the *Target's* third-party bargaining leverage: When the *Challenger* is preponderant in power, the *Target's* probability of gaining a concession decreases by more than 65%.

What is interesting, is that this factor's effect depends on the treaty compliance environment. When the costs of non-compliance are high, a stronger *Challenger* compromises and persuades its adversary to accept an even partition. However, when the costs of non-compliance are low, then the *Challenger's* power is an effective tool in obtaining a larger share. This suggests that third parties are important focal institutions for

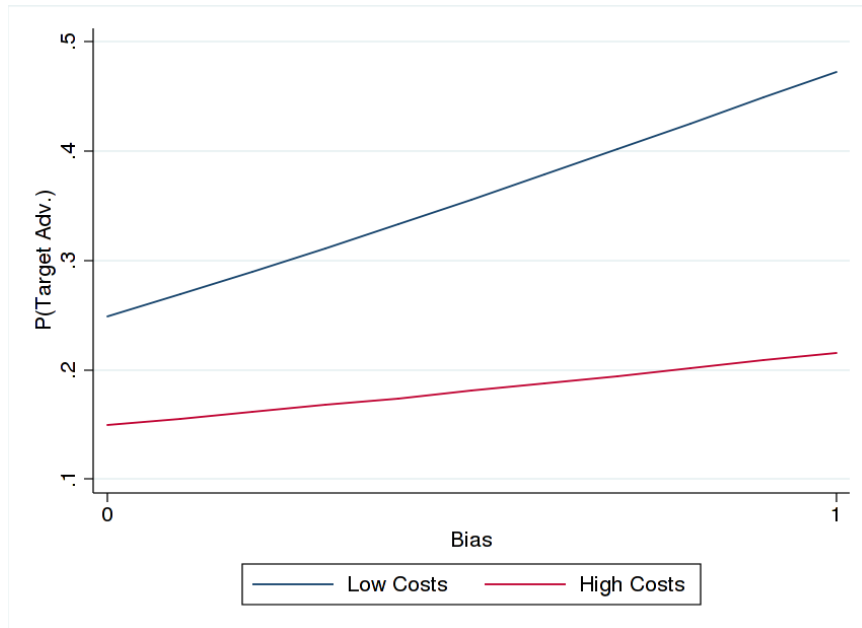


Figure 4.3. Probability of Settlement Distribution Favoring Target when Third Party Favors Target and Relative Power Balanced

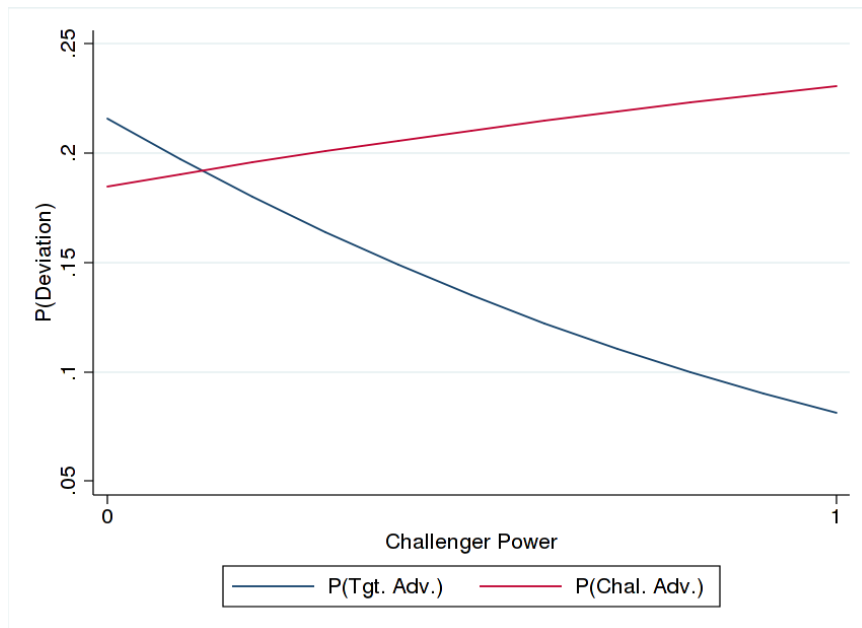


Figure 4.4. Effect of Challenger Preponderance on Directional Deviation when Third Party Favors Target

framing the range of acceptable concessions and providing assurances for their enforcement. However, within the that range, coercion is an effective tool at convincing an adversary to make a compromise. These results reaffirm the indirect and unobservable influence of third parties on interstate conflict management.

Discussion

The results of these two analyses demonstrate that the availability of third party management affects the probability of *deviations* from equal divisions in bargaining, as well as their *direction*. Though there some loss of information from the analysis of the *Challenger's* point share, these secondary tests better facilitate empirical analysis of the theory's claims by making it easier to identify the factors that lead to the outcomes of interest. Interestingly, both the analysis of the point predictions and the categorical deviations demonstrate that third party bias informs conflict bargaining settlements. But, the last results more clearly demonstrate that both biased and unbiased third parties affect whether subjects deviate from the natural tendency to reach equitable agreements, with biased third parties promoting the incidence of deviation and the magnitude of these deviations. A secondary observation of this analysis is that the role of relative power in effecting bargaining outcomes is highly conditional. Power preponderance rarely affects the incidence of deviations, but, it does affect the direction of these deviations. Particularly, stronger *Challengers* can use their coercive advantage to increase their own share and to persuade their weaker counterparts to compromise. Together, these results support the theoretical model's novel proposition that third parties provide a focal point

for bilateral negotiations, while also revealing some conditional effects of coercive power that were not predicted by the model.

Deviations from Equitable Outcomes

Much of the extant experimental research on bargaining is occupied with the tendency for subjects to simply divide the available experimental “currency” evenly, rather than acting strategically. The classic model for such analyses is the ultimatum bargaining game, where experimental research finds that participants reject equilibrium offers out of concerns of fairness (Bahry and Wilson 2006; Binmore, Shaked, and Sutton 1985). Rather than attempting to induce attitudes of fairness or competitiveness (Fehr and Schmidt 2011), the research design treated fairness as the baseline condition and then sought to discover where participants deviated from this tendency. The theoretical model, based on a Rubinstein bargaining protocol that also converges to an even partition of the issue, provides key insights about the expectations of deviations from even divisions. Thus, the first step of the empirical analysis was to determine the factors that affected the incidence of deviation. The results demonstrated that third party bias, regardless of the non-compliance costs, contributed to deviations from even divisions of the issue. The results also provided initial support for a novel conclusion from the theoretical model that impartial third parties attenuate the coercive power of strong target states.

The central contribution of this section is that it finds that third party alternatives are more likely to increase disputants' willingness to make a concession than is coercive force. This challenges the notion that a preponderance of capabilities and resolve allows an actor to coerce an adversary into capitulating (Kugler and Lemke 1996; Powell 1996). Instead, when the distribution of capabilities and resolve is common knowledge, power

preponderance serves as a less useful metric for determining the range of acceptable alternatives. This result – that both biased and unbiased third parties affect whether subjects deviated from even partitions – coheres with empirical research that observes a similar effect by third party intermediaries in asymmetric conflicts where the distribution of capabilities is not in question. In such conflicts, third parties facilitate weaker belligerents' satisfaction and assuage stronger parties' concerns about commitment to peace by framing the unbalanced outcome as a reasonable concession on the part of the stronger rival (Quinn et al. 2006).

Direction of Deviation

Having established the conditions under which parties deviated from 50/50 divisions, the analysis then examined their direction. The results of this section demonstrated, again, that third party bias is an important tool of persuasion in conflict bargaining as defending parties were able to use a favorable third party bias to their advantage. This ability, however, was mitigated by the revisionist party's coercive power. A strong challenger increases the probability that it receives a favorable partition and the probability that its adversary compromises on an even division.

The second result of this section identifies the critical role of power in conflict bargaining and suggests an alternative theory about conflict bargaining with the option to use third party management. De Dreu (1995) finds that coercive power affects both the level of demand and the use of threats. These tactics then allow a more powerful belligerent to compel an adversary to concede. The results of this analysis support these previous findings that the power to terminate negotiations is also the power to coerce.

Where these results differ, however, is in how this coercion is applied.

Traditionally, the sequential logic argues that the decision to pursue peaceful management and to consider input from external actors or international organizations is first determined by the parties according to their relative power. Conflicts between balanced adversaries are more likely to have unresolvable bargaining problems and are, thus, more likely to be influenced by third party alternatives. Asymmetric conflicts, on the other hand, have credible settlement options apart from third party management – for example, coercive power. A power preponderance allows a disputant to ignore international organizations or other third parties without leverage (Gent and Shannon 2011). Instead, the results of this model suggest that disputants determine the range of acceptable outcomes according to the disposition of third parties. They then leverage their relative coercive capabilities to broker favorable settlements within this range.

Though contrary to the conventional logic about states' responses to third party fora in decision-making (Mearsheimer 1994), this implication is not inconsistent with observed patterns of bargaining behavior. Bargaining scholars have observed in experimental analyses that subjects are more responsive to management procedures like arbitration and adjudication when they have an objective metric of the merits of their case (Arnold 2000; Arnold and Carnevale 1997; Lewicki and Sheppard 1985; Schuller and Hastings 1996). Though mediators may be able to balance emotions and interests in highly charged situations, it is uncommon for them to be able to off-set power asymmetries that would allow one party to abrogate an agreement without consequence (Beardsley 2009; Favretto 2009). Thus, once a third party establishes the range of

acceptable alternatives, asymmetrically powered disputants are *then* able to use the political tools at their disposal to broker an agreement.

Limitations

Despite the encouragement of these links between the theory, the experimental results, and extant conflict management literature, the analyses presented here also raise important limitations. Principally, the theory failed to fully explain the effect that third party bias had on distributional outcomes. Contrary to intuition, perhaps, the theory predicts that third party bias generally works against a disputant when the costs of noncompliance are high and improves payoffs when noncompliance costs are low. The empirical results, instead, demonstrated that subjects gained larger concessions when the third party was biased in their favor, all else equal. This was especially true for subjects in the *Target* role. Given the nature of these observations, there are two possible explanations: a gap between the theory and experiment protocol and experimenter effects.

The first possible explanation for the contradictory results related to third party bias is that the experimental protocol and the theoretical model do not align to produce the same results. Specifically, it might be the case that subjects in the experiment perceived additional transaction costs where there none in the theoretical model. In particular, though the first two exchanges in the theoretical and experimental models proceed without costly delays, subjects might have behaved as though there were potential losses associated with continued bargaining. Alternatively, subjects were likely to learn more about their counterpart after one or more exchanges in a period, which could have changed a player's strategy later in the bargaining game. For instance, *Challengers'*

opening offers were, on average, more than six points larger than *Targets'* counteroffers ($p = 0.00$, two-tailed difference of means test).

The effect of either of these perceptions is that subjects discount the value of future interactions where the theory does not specify it. The consequences for empirical implications, furthermore, can be tremendous. Consider, for example, the experimental condition where the *Target* is favored by the third party forum, costs for noncompliance are high, and the *Target* is preponderant in power. According to Table 4.3, the parties should divide the issue (18, 12). This partition is the equivalent of the Rubinstein partition as the third party forum is an acceptable, but not credible, alternative to direct negotiation. Re-evaluating the model under these conditions, but assuming an immediately effective discount rate, results in an equilibrium partition of (14, 16). Not only does the direction of the distributional outcome change the favor the *Target*, the third party also becomes an acceptable and credible alternative to bilateral bargaining. This subtle effect warrants further investigation, including theoretical and methodological refinements.

There may be other features of the research design that produce these confounding results. Principally, there may be experimenter effects that led study participants to make choices they thought the experimenter would prefer (Morton and Williams 2009). Though substantial care was taken to remove biasing language, the use of terms like “mediation” and “third party” in the experiment protocol might have cued subjects to select third party methods, even if they were not consistent with profit-maximizing motives. One reason why subjects might have acted in this manner is if they inferred from the study materials that the research project was about bargaining and mediation. Having these beliefs about

the purpose of the research, subjects may have sought third party procedures in the experiment under the presumption that those actions were the ones desired by the experimenter. Alternatively, subjects might have had exogenous attitudes toward mediation that predisposed them to responding to third party approaches. A central problem that this type of behavior creates for experimental research are reduced internal validity. Additionally, the construct validity of certain instruments, including subject instructions and the wording of the experiment protocol are open to scrutiny.

Based on the systematic nature of the observed differences between the theoretical model and the empirical results, it is more likely that the problem is in the implementation of the theory, as opposed to the construct validity of the protocol itself. Nonetheless, future work may consider changing the context to better elicit the types of behavior of interest. The findings derived from this research, meanwhile, provide useful instruction about the interactive effects between power and third party conflict management that are consistent with the theoretical logic and that cohere with other, empirical conflict management work. Therefore, the usefulness of this exercise is not lost to these limitations. Instead, these limitations highlight the path to advanced research on the topic, including potential psychological dispositions to alternative dispute resolution that could further explain respect for peaceful settlement norms and the use of third parties in interstate conflict management.

Conclusion

The purpose of this chapter was to investigate the empirical implications of the theoretical model presented in Chapter 3 through a bargaining experiment. The analysis

demonstrated the validity of the model's propositions relating to the indirect role of third parties in conflict bargaining. Principally, the analysis supported the conclusion that third parties, regardless of their bias, provide a focal point for negotiations. Within this framework, disputants can then use all of the political tools at their disposal to effect an agreement. Last, the results suggest that impartial third parties may be especially effective at balancing the interests of disputants in asymmetric conflicts.

The central contribution of these conclusions is that they highlight the ways the bargaining environment affects bargaining outcomes. Chapter 3 responded to the skeptical proposition that third parties are potentially irrelevant to successful dispute resolution because they are rarely used or, when they are, they cannot reflect a sincere desire on the part of the disputants to resolve the conflict. It concluded that third parties *are* influential, but in ways that may not be directly observed. This experimental research design provides an appropriate test of the proposition that third parties indirectly influence settlement outcomes because it assumes away the endogenous selection problems that complicate inferences in naturally-occurring data. The results provide further evidence against the initial skepticism: Even though third party management is rarely implemented, it frames the debate.

Certain aspects of the theoretical model remain open to evaluation. This chapter does not begin to address the factors that led subjects to select third party management or war. cursory analyses suggest that the selection of these outside options is predicted by the factors that also explain when these alternatives influence bilateral bargaining, but other methods are better suited to this analysis and are beyond the scope of this chapter. Additionally, more research can be conducted on certain types of experiment effects. The

within-subjects design, for instance, permits analysis of learning effects and future refinements of this work could benefit from an investigation of potential learning in conflict bargaining. Other research might also seek to focus more explicitly on the relationship between power and third party management. The results found here are illuminating and merit further examination. The value of this project is that, with few changes to the underlying model or experimental protocol, each of these new avenues may be readily explored.

CHAPTER 5

FINDING THE RIGHT FIT: TAILORING THE FORUM FOR DISPUTE RESOLUTION

There is, however, an outcome; and if we cannot find it in the logic of the situation we may find it in the tactic employed. ... The essence of these tactics is some voluntary but irreversible sacrifice of freedom of choice. They rest on the paradox that the power to constrain an adversary may depend on the power to bind oneself; that, in bargaining, weakness is often strength, freedom may be freedom to capitulate, and to burn bridges behind one may suffice to undo an opponent.

Thomas Schelling, *The Strategy of Conflict*¹

The purpose of this project, thus far, has been to demonstrate how interstate conflict bargaining strategies are shaped by disputants' access to third party alternatives to war and prolonged conflict. One answer is that states identify more efficient bilateral solutions based on the principles of third party management. These third-party-induced solutions not only encourage better conflict management practices by expanding the influence of more formal, institutionalized procedures and rules, but also help pacify disputes more generally. Yet, the various theories on the influence of third party management on conflict bargaining processes leave some questions unanswered: First, which aspects of third party management are most likely to resonate with disputants applying these practices in bilateral agreements? And second, why do many rivals appeal to third party managers in spite of incentives to negotiate bilaterally? Two examples illustrate these outstanding questions:

Between the fourth and fifth round of the Six Party talks among the United States, North Korea, China, Russia, and South Korea over the elimination of North Korea's nuclear weapons program, North Korea made several overtures to negotiate bilaterally

1 Schelling 1960, 22.

with the US. The US generally rejected each of these appeals, favoring the leverage of the multilateral, Six Party talks forum. Then Secretary of State Condoleezza Rice explained that North Korean leader, Kim Jong Il, preferred bilateral negotiations because they left the possibility for North Korea to renege without consequences: "...[H]e (Il) doesn't want to face the pressure of other states that have leverage. ... It's important to bring the weight of China and South Korea and Japan and Russia to bear."² When the US did agree to face-to-face meetings, it tended to keep knowledge of them secret. For example, days ahead of the fourth round of the Six Party Talks in July 2005, the US briefly met with North Korea officials, downplaying the exchange as a set of preparatory "discussions," rather than "negotiations" (Buckley 2005).

In contrast, more recent efforts by Iran, the United States, Great Britain, Russia, China, France, and Germany (the P5+1), and officials from the International Atomic Energy Agency to resolve the ongoing conflict over Iran's nuclear enrichment saw Iran opening its facilities to inspections, rather than attempting to obfuscate its activities. In what it heralded as a "sign of transparency," Iran invited several United Nations nuclear watchdogs to its uranium enrichment plant in Natanz in January 2011 (Derakhshi 2011). The catch, however, was that some ambassadors from some IAEA member-states, notably the US, the UK, Germany, and France, were excluded. Iran's signal of transparency was attached to its desire to adjust the distribution of bargaining power within the group by manipulating the composition of the IAEA's beliefs about Iran's willingness to negotiate a settlement.

2 Qtd. in "Rice: Bilateral talks with North Korea won't work." 2006. *CNNWorld.com*.

Both of these cases involve weaker antagonists attempting to manipulate their negotiation fora, with the hope of being able to reach a more favorable outcome. Also, both cases are characterized by the presence of credible and acceptable third party alternatives, which both states attempt to circumvent in one way or another. The difference is in the tactic employed: whereas North Korea sought to avoid pressure from China by decreasing transparency, Iran attempted to off-set major power leverage by publicly re-fashioning the composition of IAEA interests. Together, they highlight the lesson that agreement to negotiate peacefully is but one step in the settlement process. Indeed, the opening of settlement negotiations, itself, is another bargaining problem for disputants to overcome (Pillar 1983), which includes options to cede decision control and to manage information transmission.

This chapter examines bargaining over conflict management forum design in order to explain how states implement forum choices and subsequently tailor these management mechanisms to their individual situations. States proceed through third-party-induced bilateral negotiations by, first, identifying the forum features that best fit their balance of capabilities and interests. Only then do they decide whether those choices align with their long-term commitment to peace. Just as the range of third-party alternatives in the international system is wide, the combinations of bilateral forum design features from which states can select is varied. It also includes more areas for compromise than issue division and agreement over external enforcement. By directly exploring the ways in which states bargain over forum design features, this chapter further unravels the ways in which conflict management institutions directly and indirectly establish peace.

This chapter reintroduces the theory presented in Chapter 3 as a baseline model of third party management. However, it makes some important adaptations in order to explain how disputants design conflict management fora. In particular, this chapter's theory relaxes three assumptions of the baseline model: 1) That the third party mechanism possesses complete control over the division of the issue; 2) that noncompliance costs are always imposed; and 3) that third-party conflict management is costless, but for compliance decisions. These modifications allow the theory to cast a wider net over the ways in which disputants manipulate their own bargaining environments. It also lends insight into the *selection* of third party intermediaries, not just their influence.

Equilibrium analyses assess the implementation of conflict management strategies as a package deal: States propose a third party forum as a combination of decision control and transparency. The model suggests that disputants are especially constrained by the urgency of the crisis to decide on a peaceful management tactic. Acting within these constraints, the model reveals five lessons about forum selection. First, transparency is necessary for any mutually acceptable forum. Second, except in rare cases, states do not delegate complete decision control to third parties. Nonetheless, they *do* delegate to third parties when they hope to overcome potential stalemates or when third parties are useful for reinforcing power asymmetries. Fourth, though biased fora are sometimes optimal, unbiased intermediaries provide the greatest range of opportunities for peaceful settlement. And, last, not all acceptable third party fora are effective at enforcing peace in the short term.

The model explores the trade-offs that are inherent in dispute resolution decision-making. The difference between this model and others is that some of the most salient trade-offs correspond with decisions about the structure of the forum, rather than the political or territorial concessions that one makes to an adversary. Essentially, forum design is a multi-dimensional bargaining problem in which each side bargains over the allocation of issues of which they share preferences. For example, each prefers a forum that will impose the greatest costs on their opponent and impose the fewest costs on themselves. The irony is that by binding their adversary, they also bind themselves. These preferences, along with their inherent tensions, are then conveyed in the selection of a forum, which the disputants hope will provide an agreement on the division of an issue over which their interests diverge. Therefore, forum selection and design is a critical link in understanding treaty compliance and conflict management more generally.

This chapter proceeds by first building on the over-arching theme of conflict management forum design with a discussion about forum transparency and decision control. It then segues into a conversation about bargaining protocols in multi-issue decision spaces. Together, the bargaining protocol and the description of the issue space define the problem that disputants must resolve in the model of forum design. Results from the model for each type of bargaining protocol are then presented along with examples that highlight the times in which states use forum design as a tool to control the outcome of conflict management. An examination of the implications drawn from these theoretical deductions and their illustrative examples concludes.

Expanding the Catalog of Forum Choice

The management of the Barents Sea fishing dispute between Iceland, Norway, and Russia illustrates an interesting outcome of the conflict bargaining process when third parties might have become involved, but were eschewed. Rather than directly intervening, the third party provided a focal point for bilateral negotiations (Churchill 1999).

Observations similar to this are not only found from the implications of the forum selection theory presented in Chapter 3, but also by other researchers studying international negotiation. Manzini and Mariotti (2001), Fang (2010), and Fisher (1969) are but a few scholars who observe that international courts, arbiters, and mediators have a profound, but *indirect* effect on the outcomes of interstate conflict management.

Regardless of opportunities and incentives to settle bilaterally but use third party management principles, states still directly submit to third parties with sufficient frequency as to warrant further investigation. One explanation for the observation of mediation and arbitration when bilateral negotiations are more efficient is that there are factors beyond theories of forum selection like the one presented in Chapter 3 that make third party participation necessary for successful peaceful settlement. For instance, information asymmetries or issue indivisibilities may make it impossible for disputants to otherwise come to an agreement without third party assistance (Raiffa 1982).³ Another explanation is that existing theories, by conceptualizing strategic selection of third parties as a static alternative to direct bargaining do not yet appreciate the complexity of the choices that states make. This sets up a false dichotomy between third party management as a rigid, institutionalized forum and bilateral negotiation as a malleable. In reality,

3 See also Fearon (1995) and Manzini and Mariotti (2001, 2002).

Any negotiation will be characterized by an institutional context that constrains the negotiation process and shapes outcomes. This institutional context can be thought of as the negotiation structure, which consists of the agenda, rules, and procedures specific to the negotiation that regulate the interaction between states as they address a policy dispute (Davis 2005, 12 emphasis added).

Accordingly, a general model of forum selection should consider the constraints and compromises associated with both delegating to third parties *and* accepting bilateral negotiations.

In general, research in international conflict management and bargaining has tended to separate bilateral negotiations from third party management. From a bargaining perspective, bilateral negotiations seem to be the default approach. As such, it is rarely explored – theoretically – whether bilateral negotiations experience any of the same problems regarding long-term commitment as third party management or if states create rules and procedures for face-to-face talks in ways that genuinely replicate third party procedures. Instead, bilateral settlements are often presumed to be binding. In international relations, though, respect for bilateral treaties are met with many of the same criticisms that apply to multilateral treaties. For instance, lack of hierarchical enforcement and the ability of a strong power to manipulate and renege apply equally well. Thus, empirical evidence that widely documents the weakness of bilateral commitments is unsurprising. Hensel (2001) finds that bilateral settlements of contentious interstate disputes are more likely to fail than agreements reached through other methods. Likewise, a great deal of diplomatic effort is spent on the structure and agenda of bilateral negotiations (Pillar 1983); states sometimes manipulate the procedures of bilateral talks in order to make it more difficult for their adversary to renege (Tarar and Leventoglu 2009).

Given these similarities, it may be useful to study bilateral negotiations and third party management as different points within a shared continuum of peaceful conflict management choices, rather than separate categories of dispute resolution that have different rules regarding institutional design, issue division, and compliance. The forum selection model in Chapter 3 provides guidance by demonstrating when conflict management institutions are relevant to conflict bargaining decisions. In sum, management fora, such as third parties, are influential when they balance distributional outcomes with treaty compliance such that disputants in contentious conflicts have an incentive to follow peaceful management principles, rather than continue quarreling. The range of these acceptable and credible concessions varies with the forum's ability to impose noncompliance costs, the conflict's tractability, and the distribution of capabilities and interests between the disputants. These conclusions establish a set of baseline conditions for the structure of conflict management fora more generally. In order to expand the theory to capture the differences between bilateral negotiations and various types of third party management, this chapter introduces a third forum dimension: decision control. Implications from the model demonstrate how, despite their perceived efficiency, bilateral settlements are not always cost-saving compared to third party management. Consequently, it is less puzzling that states expend additional resources to negotiate over management fora.

*Decision Control – Identifying the Space Between Bilateral
Negotiations and Legal Dispute Resolution*

A central purpose of any conflict management forum is to lead states to a settlement of the issue that balances distributional outcomes with treaty enforcement. A

third party's distributional bias and ability to impose penalties for noncompliance contribute significantly to this effort. Disputants can also balance distributional outcomes by manipulating how much control any actor has over the division of the issue. For instance, a weaker adversary is unlikely to prefer its stronger counterpart to simply dictate the terms of settlement. A third party in this situation can off-set the stronger belligerent's coercive power. At the same time, disputants do not always prefer the third party to completely determine the outcome of negotiations. The risk is that if a third party has the authority to divide the issue, it may make a decision that neither side finds acceptable; then options for peaceful settlement may collapse. Such consequences deterred Venezuela and Colombia from submitting their dispute over the Gulf of Venezuela to the International Court of Justice. Though the pair had previously appealed to the court over territorial disagreements, in resolving the maritime conflict they “fear[ed] that an unexpected, binding, unfavorable ruling might eliminate all grounds for a compromise settlement” (Gent and Shannon 2011b; George 1988, 155). Concerns associated with each of these extremes substantiate the existence of the wide range of third party options that distribute decision making power among disputants and third parties, such as good offices, consultation, and mediation.

Conceptualizing conflict management fora according to decision control highlights how bilateral negotiations are also a structured type of conflict management that requires disputants to compromise their rigid positions over the dispute. It is frequently acknowledged that bilateral agreement involves compromise, but it is less commonly recognized that this means surrendering some control over the issue to one's adversary. Thus, decisions over the delegation of decision control in the formation of

conflict management fora are fraught with uncertainties. Delegating authority to an outside actor is, of course, risky because it increases the probability that a decision might be unacceptable (Gent and Shannon 2011b). At the same time, retaining decision control in bilateral fora is a gamble in which basic issue of recognition are at stake, especially in long-term rivalries. For example, in the early 1990s, when Guatemalan leaders made statements recognizing the independence and sovereign autonomy of Belize, the Guatemalan public viewed the concession as a major shift in the country's long-standing claim to the Belizean territory. A vote of no-confidence of the president ensued along with charges in Guatemalan court that the president violated the constitution (Wiegand 2005). In cases such as this, where agreements from bilateral procedures are essentially unenforceable due to commitment problems and trust, “two people who do not trust each other may find a third person that they both trust, and let him hold the stakes” (Schelling 1960, 145).

Corresponding with the risks of delegating decision control are the potential benefits for adversaries who face commitment problems resulting from potential reprisal by international or domestic audiences. These constituencies might seek to exploit any concession made to an adversary – as in the case of Guatemala and Belize. The trade-off, observed by Allee and Huth (2006), is that by delegating authority to an outside actor – especially an international court or arbiter – states pass on some of the blame for concessions to the third party, rather than acquiescing to belligerent domestic audiences that would potentially derail the peace process.

More generally, granting any amount of decision-making authority to an outside actor reduces a state's clarity of responsibility for concessions. Powell and Whitten (1993,

398) introduce this concept from electoral politics, stating, “The greater the perceived unified control of policymaking by the incumbent government, the more likely is the citizen to assign responsibility for economic and political outcomes to the incumbents.”

The concept is equally apt here where leaders seek to deter attacks from domestic or international rivals who perceive that the government is weak for making concessions through a management forum. Ramirez (2010), for instance, finds that using mediation to obscure responsibility for making concessions, was a highly successful strategy in the United States' mediation of the Brasilia Accords between Ecuador and Peru in 1998. There, the disputants linked a highly transparent international mediator with a moderate decision control approach. The resulting settlement process made it clear to domestic audiences that the terms of the peace agreement were incontrovertible, but were also due, in part, to the United States, and not either government.

In sum, describing conflict management fora according to decision control – in addition to issue division and transparency – creates a more general model of conflict management fora and reveals trade-offs in the structure of dispute resolution tactics. These trade-offs increase incentives to use third party alternatives to bilateral bargaining.

Transparency Revisited: Compliance and Concessions

An alternative method for states to reduce the clarity of their responsibility for concessions made in conflict bargaining is to reduce forum transparency. Chapter 3 discussed how forum transparency makes it easier for third parties and others to monitor disputants' commitment to settlement treaties, effectively raising the costs of noncompliance and binding adversaries to peace. At the same time, government leaders worry that forum transparency will also make it easier for international and domestic

rivals to observe concessions made while bargaining. Secrecy, or a lack of transparency, affords a government the opportunity to make concessions and implement policy without reprisal from audiences that cannot distinguish between weak resolve and an intermediary's stipulations (Prat 2005).

The primary mechanism through which forum privacy helps states avoid audience costs is by reducing public knowledge of concessions. Concessions do not only represent material losses. They also indicate to domestic opposition whether a leader has been responsible to his or her duty to take the interests of the public into account when negotiating policy. They also establish a precedent that a leader is willing to yield on issues of national interest and security (Finel and Lord 2002; Schelling 1960). In the former case, a government may be concerned that if domestic opposition learns of a concession that those domestic rivals will use it as evidence to justify the removal of the government from office (Fearon 1994; Hale 2008). Therefore, leaders tend to take hard-line stances when negotiating in transparent fora to avoid being punished domestically (Fearon 1998; Prat 2005). When negotiations are conducted privately, adversaries can more sincerely engage one another and make compromises (Strasavage 2004).

In the latter, concessions signal weak resolve, which other states may exploit to extract compromises on other issues. Crescenzi, Kathman, and Long (2007) find that disputants' conflict histories reveal information about the disputants' credibility and resolve, which may weaken their bargaining position in active conflicts and increase their probability of conflict with other states in the future. Busch (2007) adds that international management affects disputants' relationships with other IGO members by setting a precedent for future interactions. The result is that, as forum transparency increases, the

present value of a settlement decreases because disputants expect that a precedent for concession will follow them into future bargaining situations (Schelling 1960).⁴

When states decrease forum transparency in order to reduce the clarity of responsibility for concessions to international and domestic audiences, they also decrease third parties' ability to monitor and enforce agreements. Competing interests between compliance and reprisals occasionally increase tension when international audiences remain seized of a dispute that, for domestic reasons, might be difficult to resolve. The situation that Eritrea and Djibouti found themselves in 2010 when the UN Security Council (UNSC) threatened direct sanctions if they did not reach an settlement on their outstanding conflict illustrates such tension.⁵ The belligerents, namely Eritrea, which prior to the settlement had troops stationed in the disputed territory, missed several UNSC-imposed settlement deadlines and anticipated new sanctions should they continue to delay negotiations. However, leaders on both sides were concerned that the conditions necessary for a settlement might also lead to domestic outcry. But, because both sides were ready to settle, Eritrea initiated the peace process by withdrawing its troops and Qatar began mediating an agreement. Information about the negotiations, the existence of the settlement, and its outcome were kept secret by all of the parties involved.⁶ The

4 Indeed, Schelling (1960, 67–68) suggests that, “Precedent seems to exercise an influence that greatly exceeds its logical importance or legal force. A strike settlement or an international debt settlement often sets a 'pattern' that is followed almost by default in subsequent negotiations.”

5 Under-Secretary-General, Briefing Security Council, Commends Recent Steps by Eritrea, Djibouti to Negotiate Settlement of 2008 Border Dispute. 2010. Meeting Report. *United Nations Security Council*.

6 Eritrea Djibouti Mediation Agreement. 2010. *Awate.com*: “Since the agreement was never made public, it was never clear who initiated the agreement and what precisely are the contents of the agreement and why has the Eritrean government to this date not disclosed that it signed a peace agreement, fulfilling all the requirements of resolution 1862, a year after a UNSC imposed deadline.”

purpose of this secrecy was to protect government leaders from domestic challenges.

Because of international interest in the issue, indeed the UNSC was poised to pass a resolution for new sanctions, the parties were forced to disclose the settlement.

States will rarely be as conflicted between privacy of concessions and the need for external enforcement as Eritrea and Djibouti were. Still, the example illustrates that the trade-off is important to multiple audiences, which affects the long-term success of any resulting settlement. It also demonstrates the value of conceptualizing decision control and transparency as separate features of a management forum. Despite delegating some decision control to Qatar, Eritrea and Djibouti kept the result of their negotiations private. Bilateral negotiations, in contrast, can be highly transparent, as when democracies negotiate.

Unlike with decision control, where the tension of the decision to delegate is driven by the distribution of capabilities and resolve between the disputants, the primary trade-off in the decision to increase or decrease forum transparency is between the successful enforcement of a peace settlement in the current dispute and the potential for conflict from domestic and international challengers in the future. Where privacy confers the ability to evade audience costs, transparency enhances monitoring and enforcement of settlement treaties. These features interact with expectations about distributional outcomes to inform disputants' decisions about forum acceptability. At minimum, disputants must expect to do at least as well or better by delegating to third parties or increasing transparency as compared with private, bilateral negotiations. As Simmons (2002, 838) argues, legal dispute resolution of territorial disputes, which tends to be especially transparent, makes sense because the tactic is “associated with conditions in

which its expected value exceeds the value of political settlement.” “After all,” she continues, “the argument concedes that political solutions are preferred to arbitrated ones if they offer an expected higher payoff.”

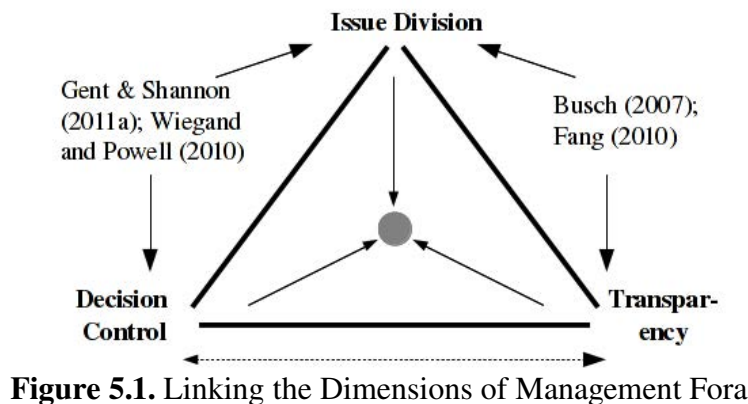
Multi-Dimensional Forum Design and Bargaining

When considered together, expectations about issue division, transparency, and decision control define a multidimensional space in which conflict management fora can be classified. This represents a significant departure from the way the extant literature has approached the question of forum selection in interstate conflict bargaining. Current bargaining models of international dispute resolution typically focus on a single dimension of peaceful dispute resolution without also considering whether those features are independent of other forum characteristics. The result is that the multidimensional features of a management forum are collapsed and evidence of their individual effects are lost. Allee and Huth (2006), Simmons (2002), and Gent and Shannon (2011b), for instance, focus on the decision to pursue binding arbitration and adjudication. They demonstrate that delegating decision control strongly indicates disputants' willingness to reach a peaceful resolution of the the conflict, but they equate the effect of this decision with the separate decision of enhancing compliance through increasing a forum's transparency. Mitchell and Hensel (2007), Hansen, Mitchell and Nemeth (2008), and Boehmer, Gartzke, and Nordstrom (2004) each investigate the effects of international organizations on the successful settlement of interstate conflicts, concluding that the transparency of these organizations improves settlement enforcement. But, each generally regards international organizations as impartial, so they are unable to separate the effect

that IGOs have on the distributional outcome of conflict management from their ability to monitor and enforce. Last, studies of mediation that emphasize the selection of biased intermediaries, such as Kydd (2003, 2006), Savun (2008), and Touval (1975), tend to study this issue division dimension in isolation from the other forum features.⁷ This project advances the insights from each of these areas of inquiry by considering how each forum dimension affects the others' acceptability.

More recent research does pave the way for this work by linking some of these three dimensions in different pairwise combinations. Figure 5.1 illustrates the links, noting where earlier work has established some interdependent expectations. Gent and Shannon (2011a) and Wiegand and Powell (2010), for instance, explain that the decision to pursue binding arbitration and adjudication is directly related to whether disputants expect the forum to be biased. Likewise, disputants are more likely to carefully weigh the long-term consequences of a settlement against a third party's bias, selecting fora that enhance external enforcement and transparency only when the expected distributional outcome is acceptable in relation to the costs (M. L. Busch 2007; Fang 2010). These contributions help explain the links between transparency and issue division and between decision control and issue division. What remains – and is the goal of this chapter – is to also link decision control and transparency and to find where these three features meet (See Figure 5.1).

⁷ This separation from other features of conflict management fora is justified in part because each of these authors makes a different argument from the one presented here that the primary goals of conflict management are substantive agreement (issue division) and enforcement of settlements (compliance). Kydd (2003, 2006), for example, bases his arguments on the idea that a mediator's primary role in dispute resolution is information transmission. Thus, the third party does not actively participate in the division of the issue or in the implementation of the settlement terms, and the mechanisms for consenting to such procedures might be different from those addressed here. The consequence is that states do not have to consider the trade-offs in forum selection.



Multi-Issue Bargaining Protocols

When states negotiate over management fora conceptualized according to multiple dimensions, the bargaining problem may either be treated as a single, multiple-issue bargaining situation or a series of single-issue interactions. As in bargaining over single-dimension issues, bargaining over multiple issues is strongly determined by the negotiation procedure, or protocol. A bargaining protocol is defined as the rules that structure actors' interactions. In bilateral, single-dimension bargaining, the focus is primarily on the procedural matter of “who makes offers and when” (Muthoo 1999, 187). In multi-issue negotiations, it also matters *what* is being offered. Once settlement negotiations begin, the bargaining protocol that disputants employ is sometimes determined by the type of forum they use. Other times, the disputants negotiate the protocol in addition to the other components of the settlement. Similarly, states can employ any of several bargaining protocols to identify the best *forum* for dispute resolution.

The literature on multi-issue bargaining identifies three ways that actors can negotiate over multiple issues: *sequentially*, *simultaneously*, and as a *package deal*

(Fatima, Wooldridge, and Jennings 2006; Fershtman 2000). In sequential, multi-issue bargaining, the actors bargain over each issue individually. Once agreement is reached on the one issue, then negotiations begin over the next issue. Parties to Arab-Israeli peace talk in Madrid in 1991 followed this protocol. Though the goal of the talks was a comprehensive peace agreement, the parties could not find sufficient agreement. Instead, individual issues like the status of refugees, mutual recognition, and the implementation of UN Security Council resolutions, were negotiated separately (Fershtman 2000; Mansour 1993). The choice to pursue international arbitration is similarly structured: Disputants first agree to arbitration, then decide which procedures to follow and what actors serve on the arbitral panel (Bilder 2007; Malintoppi 2006).

In the simultaneous bargaining procedure, all issues are discussed at the same time, but they are treated independently. The bargaining protocol achieves an agreement on all of the issues at once, which is more efficient than the issue-by-issue protocol, by bundling several issues together. Disputants then exchange offers within these bundles. The 2008 reconciliation between Turkish and Greek Cypriots is one example of simultaneous bargaining. The number and nature of issues at stake could not easily be managed at one time, so negotiations were structured around a few, larger issues to make the process easier: “They agreed on a package of measures to establish cooperation on issues of environment, cultural heritage, crisis management and crime fighting.”⁸ Crafting these issue categories paved the way to an agreement.

Simultaneous bargaining differs subtly, but importantly, from package deal bargaining. In package deal bargaining, all of the issues are negotiated simultaneously,

8 Turkish and Greek Cypriot leaders agree to start peace talks in Sept 3, 2008. *Turks.us*.

proposals are over all of the issues at stake, and offers are either accepted or rejected as a complete unit. The goal in this bargaining structure is to maximize cumulative utilities, rather than individual utilities over each issue. The difference between the package deal protocol and the simultaneous protocol is the possibility of trade-offs: In simultaneous bargaining, trade-offs between issues are only possible within issue bundles. In package deal bargaining, disputants can make trade-offs across all of the issues at stake (Fatima, Wooldridge, and Jennings 2006).⁹

The choice of negotiation procedure affects the nature of distributional outcomes and determines whether efficient solutions are feasible. Of these methods, package deal procedures are the most efficient: They decrease the time to agreement and, as Fatima, Wooldridge, and Jennings (2006) show, are the only procedure of these three to achieve Pareto optimality. The inefficiencies of sequential negotiations, compared to simultaneous or package deal, are fairly intuitive. Each new round of bargaining requires a new investment of resources. Further, distributional outcomes are strongly affected by the order of issues on the agenda, which states negotiate over intently in order to avoid signaling their resolve to an adversary (Bac and Raff 1996; Pillar 1983). This additional bargaining, or pre-negotiation, may actual derail the peace process as talks over procedure produce more disagreement (L.-A. Busch and Horstmann 2003).

Simultaneous and package deal negotiations improve bargaining efficiency and eliminate potential signaling because all of the issues are discussed at the same time. What makes package deal procedures preferable to simultaneous procedures is that the

⁹ Another way to think about simultaneous and package deal bargaining is that package deal bargaining is a special case of the simultaneous protocol in which there is just one bundle of issues.

interdependent negotiation of multiple issues allows parties to make trade-offs toward efficient agreements. The package deal approach is also a natural way to study forum selection in interstate conflict management. In many cases, third party fora come as a single bundle. For instance, though disputants sometimes have a say in which judges preside over a case, as in UNCLOS, many international organizations are institutionalized for a specific set of procedures and decision-making mechanisms (Boehmer, Gartzke, and Nordstrom 2004). Furthermore, given the interdependent effects of forum transparency, decision control, and issue division discussed above, any change in one dimension inherently alters the acceptability of that forum on another. So, this analysis approaches the decision-making problem as a multi-issue, package deal.

Forum Design in Interstate Conflict Management – A Bargaining Model

When states decide to pursue peaceful dispute resolution, they are often approached by several actors interested in facilitating the negotiation process. At the same time, the disputants may be members of an IGO that provides institutional management mechanisms. Alternatively, the disputants may agree to set aside these established fora, design a new set of rules, and select specific actors to mediate the dispute, as is often the case in international arbitration. Therefore, it is reasonable to presume that disputants are able to select over the full range of transparency, decision control, and issue division.

This model of forum design captures these various strategic dilemmas that disputants face when attempting to identify a mutually-acceptable approach to resolve the dispute. As in Chapter 3, the game begins with two actors, the *Challenger* and the *Target*, engaged in a dispute over the division of an issue, $X = [0, 1]$. This issue is of interest to

both parties and represents an infinitely divisible good where both actors would most prefer to possess the entire value of X ($= 1$) if either could unilaterally impose its ideal division of the issue. Though the particular division of the issue is the outcome on which disputants base their choices, they are, instead, engaged in negotiating over the features of the forum that will produce a division of the issue. So, instead of beginning with a proposal to divide the issue, as in the model in Chapter 3, in the opening action of this game the *Challenger* makes a proposal to the *Target* of forum transparency, $\tau \in [0,1]$, and forum decision control, $\kappa \in [0,1]$. The *Target* may then either accept this offer or reject it and make a counter-offer. The bargaining process proceeds in this fashion until a disputant accepts its adversary's proposal and the two disputants decide whether to implement the settlement. The model follows an infinite-horizon, alternating-offers protocol with a common discount factor, $\delta^t \in [0, 1]$, where t indicates the discount factor at the t^{th} stage. If the actors cannot come to an agreement over a management forum, their disagreement payoff is $(0, 0)$. Figure 5.2 illustrates the sequences of actions in this game.

In terms of its basic structure, this model captures some of the central features of the baseline model of forum selection presented in Chapter 3, but it also deviates in important ways. First, in the baseline model, the disputants negotiate directly over the division of the issue, X . In this modification of the game, the parties negotiate over the features of the conflict management forum, transparency and control. If an actor accepts a proposal from its adversary, it agrees to a conflict management forum that divides the issue. Consistent with the baseline model, the disputants then play a simultaneous

compliance subgame where each disputant has the option to comply with or defy the settlement created.

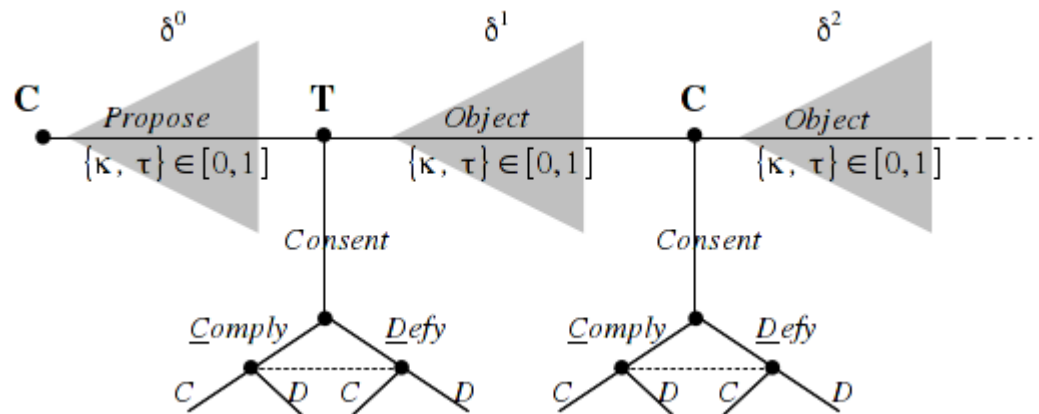


Figure 5.2. Forum Design Extensive Form Game

Second, the model presented in Chapter 3 included the opportunity for disputants to unilaterally impose a division of the issue through war. This model sets aside war in order to concentrate on the central question of forum selection. Though this omission limits the generalizability of this model to situations in which war is not a credible alternative to negotiation, it is not necessarily an unrealistic assumption. A state that rejects third-party conflict management weakens its bargaining position when it rejects an alternative that is as strongly supported and promoted by the international community as third-party management (Mitchell and Hensel 2007; Mitchell, Kadera, and Crescenzi 2009). Military force is simply not a viable, immediate response to an offer of negotiation. Instead, states are expected to exhaust all peaceful alternatives before using war as an instrument of conflict resolution (Lacey 2000; Malone 2003). In sum, once

states are on track toward formal management procedures, it is difficult for them to revert to violent tactics as a method of persuasion.

If a proposed forum is accepted, then the conflict management mechanism divides the issue and reveals the outcome to the disputants. This outcome represents a peace settlement, with which the belligerents then have the option to comply or defy. A peaceful conflict management forum is characterized by five different variables, two of which, κ and τ , are decision variables. This section, first, presents a discussion of the model's parameters. It then explains how choices over κ and τ relate to payoffs from the bargaining game. Table 5.1 summarizes each of these variables.

Table 5.1. Notation in the Forum Design Model	
$s \in [0,1]$	<i>Challenger's</i> share of the issue awarded by the third party
$p \in [0,1]$	<i>Challenger's</i> bargaining power to impose a settlement = 1
$c > 0$	Both disputants' cost for noncompliance
$\kappa \in [0,1]$	Management forum decision control
$\tau \in [0,1]$	Management forum transparency
$\delta' \in [0,1]$	Common discount factor at t th stage
$X \in [0,1]$	Issue at stake

The distributional outcome is a function of a third party's decision and each disputant's bargaining power, and the amount of decision control delegated to the third party. As in Chapter 3, the third party's distributional bias is $s \in X$. If the third party has complete decision control, it awards the *Challenger* s and the *Target* $1 - s$. Disputants are uncertain about the exact value of s ; instead, they have a set of continuous, probabilistic

beliefs that follow an arbitrary cumulative distribution function, $F(s)$, with $f(s)$ as the corresponding probability density function. Both of these functions are common knowledge.

If the issue is not entirely decided by the third party, the disputants also decide the division of the issue. The model assumes that whenever a disputant participates in the division of the issue, it attempts to impose its ideal partition ($= 1$) with probability, $p \in [0, 1]$ for the *Challenger* and $1 - p$ for the *Target*. Essentially, an actor's military power is its bargaining power based on the assumption that more powerful states are more capable of extracting concessions from weaker adversaries, even in highly structured bargaining environments (e.g., Mearsheimer 1994). An alternative assumption would be that the remaining decision control would be divided evenly among the disputants. Some scholars argue that weaker countries are just as effective in manipulating procedural rules in institutionalized fora as their stronger opponents (Singh 2000). Therefore, it might not remain a valid assumption that weaker parties are less capable of effecting an award in their favor. Such arguments do not necessarily contradict the assumption made here. The purpose of this theory is to explore how forum features, such as transparency, are used to balance unequally distributed bargaining power.

Once the issue is divided, the disputants then have the option to comply with or defy the management settlement, which they decide simultaneously. If both parties comply, they both receive their share of the issue awarded by the management forum. If one party complies and the other defies, the defiant party confiscates the entire value of the issue and pays a penalty for noncompliance, $c > 0$. If both parties defy, they each receive their disagreement payoff, $(0, 0)$, and both pay penalties for noncompliance.

Bargaining over κ and τ

Each offer that an actor makes specifies the forum's transparency, τ , and the third party's decision control, κ . Decision control, κ , represents the probability that the third party imposes the division $(s, 1-s)$. Alternatively, with probability, $1 - \kappa$, the disputants divide the issue according to their relative power. When $\kappa = 1$, the third party has complete control over the distributional outcome of negotiations. When $\kappa = 0$, the third party has no control over the distributional outcome and may be interpreted as the disputants negotiating bilaterally. When $0 < \kappa < 1$, the remaining amount of control over the division of the issue is shared among the disputants according to their relative power, $\{p, 1-p\}$. In essence, the division of the issue is determined by a lottery weighed by decision control and relative power. For the *Challenger*, the division of X weighted with respect to its relative power, the third party's ideal point, and κ is $\kappa s + (1 - \kappa)p$. The *Target's* weighted division of the issue is $1 - (\kappa s + (1 - \kappa)p)$.

When states settle through negotiations facilitated by a third party rather than remaining firm against an adversary, the result is often a concession from their ideal division of the issue. Therefore, it is assumed that states lose value for a settlement according to how much of the issue they gave up to their opponent, $\{1-s, s\}$ for the *Challenger* and the *Target*, respectively. States can temper the impact of these concessions through the selection of management fora that allow them to abdicate some responsibility for those concessions or that make concessions harder to detect. When $\kappa = 1$, as in arbitration or adjudication, the disputants have no direct input in the distributional outcome of negotiations, but they also have the ability to point to the third party as a

scapegoat for any concessions the third party imposes. As κ decreases and the disputants have more control over the distributional outcome, they also must accept more responsibility for the ground they cede. Formally, with probability $\kappa \in [0,1]$ disputants' concessions will be discovered by outside observers and the state's leader will be punished. With probability $1 - \kappa$, the concessions will go undiscovered and neither leader will be penalized.

An alternative to increasing decision control to reduce the impact of concessions on management outcomes is to increase transparency. Similar to decision control, transparency increases the probability that a government is held accountable by international or domestic audiences for concessions made during settlement negotiations. It is also the probability that a state pays noncompliance costs if it abrogates a settlement agreement. Therefore, allow τ to be the probability that an actor is punished according to the compromises it made over the issue. With probability $1 - \tau$ the actor's concessions go undiscovered and the state pays no penalty.

If both actors comply with the settlement, they receive the following payoffs:

$$EU_c^{PCM}(\text{Comply}, \text{Comply}) = \kappa s + (1 - \kappa)p - (1 - \kappa)(1 - s)\tau \quad (5.1)$$

$$EU_T^{PCM}(\text{Comply}, \text{Comply}) = 1 - (\kappa s + (1 - \kappa)p) - (1 - \kappa)\tau s \quad (5.2)$$

If a state defies the terms of the settlement and its opponent complies, the defiant party captures the entire value of the issue, $X = 1$, and with probability, τ , pays its costs for noncompliance, $c > 0$. With probability $1 - \tau$, the disputant's abrogation is undiscovered and it pays no noncompliance costs. Because the defecting disputant captures the entire value of the issue, the compliant disputant receives a payoff of 0. Assuming that the

payoffs in both the $\{Comply, Defy\}$ and the $\{Defy, Comply\}$ scenarios are symmetric, the defiant actor receives:

$$EU_C^{PCM}(Defy, Comply) = 1 - \tau c \quad (5.3)$$

$$EU_T^{PCM}(Comply, Defy) = 1 - \tau c \quad (5.4)$$

Last, if both parties defy the peace settlement, each receives its disagreement payoff, $(0, 0)$. They also risk the discovery of their disobedience, for which they pay their costs for noncompliance. Payoffs in the case where both disputants defy are $(-\tau c, -\tau c)$. Table 5.2 summarizes the simultaneous compliance subgame strategies and payoffs.

In pure strategies, given that the *Target* complies, the *Challenger* complies if

$$s \geq \frac{p - \kappa}{\kappa} \frac{p + \tau(\kappa + c - 1)}{\tau - \kappa - \tau}, \text{ and assuming that whenever the } \textit{Challenger} \text{ is indifferent between}$$

complying and defying with the settlement he complies, the *Challenger* defies when

$$s < \frac{p - \kappa}{\kappa} \frac{p + \tau(\kappa + c - 1)}{\tau - \kappa - \tau}. \text{ Whenever the } \textit{Target} \text{ abrogates a settlement, the } \textit{Challenger} \text{ always}$$

complies, preferring a complete loss to additional penalties. In turn, whenever the

Challenger complies, the *Target* also complies if $s \leq \frac{p - \kappa}{\kappa} \frac{p - \tau c}{\tau - \kappa - \tau}$, and defies whenever

$$s > \frac{p - \kappa}{\kappa} \frac{p - \tau c}{\tau - \kappa - \tau}. \text{ The } \textit{Target's} \text{ best response to a defection from the } \textit{Challenger} \text{ is always}$$

to comply.¹⁰

10 Additional solutions to this compliance subgame are in Appendix C. In particular, it is worth noting that for certain values of each of the parameters, the compliance subgame produces a coordination problem similar to a *Battle of the Sexes* game in which $\{Defy, Comply\}$ and $\{Comply, Defy\}$ are simultaneously pure strategy Nash equilibria. For simplicity of presentation and analysis, this chapter focuses only on the set of cases described above where there is a feasible coordination equilibrium. Future work will expand on these other bargaining outcomes.

Table 5.2. Simultaneous Compliance Subgame in Expanded Conflict Management Forum Model

		<i>Target</i>	
		Comply	Defy
<i>Challenger</i>	Comply	$\kappa s + (1 - \kappa)p - (1 - \kappa)(1 - s)\tau,$ $1 - (\kappa s + (1 - \kappa)p) - (1 - \kappa)\tau s$	$0, 1 - \tau c$
	Defy	$1 - \tau c, 0$	$-\tau c, -\tau c$

Together, these strategies determine each disputant's expected value of conflict management as a function of the lottery in which a third party distributes X between the disputants, each state's risks for conceding to an adversary, and the costs of noncompliance. Given an arbitrary p.d.f. over which the disputants are uncertain about the value of s , the expected utilities of conflict management are:

$$EU_C^{PCM} = (1 - \tau c) \int_0^A f(s) ds + \int_A^B \kappa s + (1 - \kappa)p - (1 - \kappa)(1 - s)\tau f(s) ds \quad (5.3)$$

$$EU_T^{PCM} = \int_A^B 1 - (\kappa s + (1 - \kappa)p) - (1 - \kappa)\tau s f(s) ds + (1 - \tau c) \int_B^1 f(s) ds \quad (5.4)$$

where $A = \frac{p - \kappa p + \tau(\kappa + c - 1)}{\kappa\tau - \kappa - \tau}$ is the lower bound of the *Challenger's* range of acceptable values for s and $B = \frac{p - \kappa p - \tau c}{\kappa\tau - \kappa - \tau}$ is the upper bound of the *Target's* range of acceptable values for s .

Equilibrium Analysis

This section presents the equilibrium solutions to the model. First, the general solution to the model is described. Then, the equilibrium solution is evaluated using comparative statics in order to derive empirical implications. Because the model is an infinite-horizon bargaining game under complete information, the equilibrium concept is

subgame perfect. There is one unique, no-delay equilibrium forum from which each

disputant expects to receive its Rubinstein share, $\left(\frac{1}{1+\delta}, \frac{\delta}{1+\delta}\right)$.

Exposition. Let (κ_i^*, τ_i^*) be the equilibrium proposal that player i makes whenever s/he makes a proposal, and v_i^* be the best payoff player i receives from accepting a proposal and playing its equilibrium compliance subgame strategy. Suppose that the *Challenger* makes an offer, (κ_C^*, τ_C^*) and the *Target's* best payoff from rejecting is δv_T^* .

Perfection requires that the *Target* accept any offer (κ_C, τ_C) such that

$$EU_T^{PCM}(\kappa_C, \tau_C) \geq \delta v_T^*, \text{ and reject any offer } (\kappa_C, \tau_C) \text{ where } EU_T^{PCM}(\kappa_C, \tau_C) <$$

δv_T^* . However, (κ_C, τ_C) cannot be greater than δv_T^* because the *Challenger* could then increase his payoff by offering $(\kappa_C', \tau_C') > (\kappa_C^*, \tau_C^*)$, which the *Target* would reject.

Therefore, it follows that the *Challenger* makes an offer (κ_C, τ_C) such that:

$$EU_T^{PCM}(\kappa_C^*, \tau_C^*) = \delta v_T^*. \quad (5.5)$$

Assuming that whenever a player is indifferent between a proposal and rejecting and making its equilibrium proposal one stage later a player accepts, the *Target* accepts in this scenario. By a symmetrical argument, the *Target*, whenever it proposes a management forum, (κ_T, τ_T) , proposes such that:

$$EU_C^{PCM}(\kappa_T^*, \tau_T^*) = \delta v_C^*. \quad (5.6)$$

The unique solution to these equations is the Rubinstein solution:

$$EU_C^{PCM}(\kappa_C^*, \tau_C^*) = \frac{1}{1+\delta} \quad (5.7)$$

$$EU_T^{PCM}(\kappa_C^*, \tau_C^*) = \frac{\delta}{1+\delta} \quad (5.8)$$

which is accepted immediately. The subgame perfect equilibrium of this model, then, is as follows in Proposition 5.1.

Proposition 5.1. If and only if $EU_C^{PCM}(\kappa_T, \tau_T) \geq \delta v_C^*$ and $EU_T^{PCM}(\kappa_C, \tau_C) \geq$

δv_T^* , then there exists a no-delay SPE in which the disputants agree to a forum

that converges on the partition, $\left(\frac{1}{1+\delta}, \frac{\delta}{1+\delta}\right)$.

1. Propose $(\kappa_C^*, \tau_C^*) [(\kappa_T^*, \tau_T^*)]$;
2. accept any $(\kappa_i, \tau_i) \geq \delta v_{-i}^*$;
3. reject any $(\kappa_i, \tau_i) < \delta v_{-i}^*$ and make a new proposal.

Proof of this equilibrium in Appendix C.

Taking it In: Five Lessons About Forum Selection

What the equilibrium result of the model explains are the constraints that are on disputants seeking peaceful conflict management. Essentially, the selection of a conflict management forum is about managing expectations, and a forum must be perceived as fair in order to be acceptable to all the parties involved. Fairness is not necessarily equality, though. A conflict management forum is acceptable when it satisfies disputants' competing desires to obtain a larger share of the issue at stake while restricting their adversary's ability to renege on any subsequent agreement. This section presents an analysis of how these various interests are managed through the selection or design of management fora. The analysis maps the constrained optimization problem the *Challenger* faces across different distributions of power, costs of noncompliance,

transaction costs, and expectations about third party decisions.¹¹ The analysis reveals five lessons about forum selection in interstate conflict: First, transparency is necessary for peaceful dispute resolution. Second, under complete information, states do not delegate complete decision control to third parties, but, third, when they *do* delegate control, they do so in order to raise the stakes of the conflict or to clarify power asymmetries and make weaker targets more satisfied with compromises to stronger challengers. Fourth, unbiased third parties provide the largest range of acceptable alternatives to prolonged conflict. Last, mutually-acceptable management fora do not always guarantee peace – Instead, some states enter into negotiations without a commitment to follow-through with the terms of an agreement. In many instances, these implications are not novel. Rather, they clarify a few enduring debates in conflict management regarding commitment problems and third party bias. Further, implications from the model, combined with that presented in Chapter 3, explain when third parties are indirectly *and* directly involved in dispute resolution outcomes.

Transparency is Necessary

The theory makes two arguments about forum transparency: First, forum transparency increases the probability that a disputant will be punished if it abrogates a settlement treaty. Second, forum transparency also increases the probability that a state is challenged by an international or domestic audience for making concessions to an adversary. Ideally, a state could increase forum transparency without also increasing its own costs for conflict management, but, conflict management the onus of responsibility is on both states to follow through with settlement commitments. Therefore, states must

¹¹ See Appendix C for details of the approaches used for these analyses.

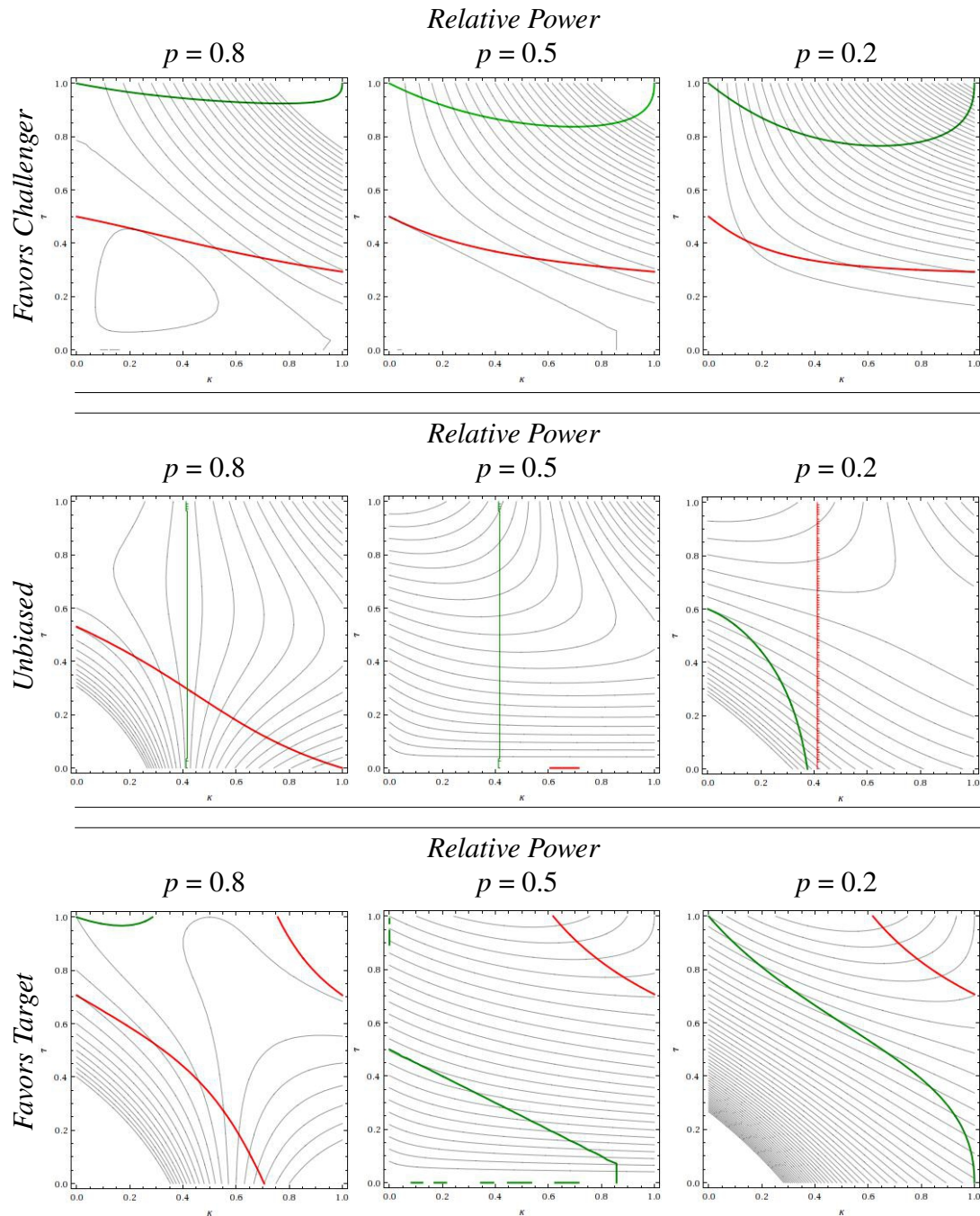


Figure 5.3. Forum Design Model Equilibria by Relative Power and Third Party Bias

Note: Values calculated for $c = 1$. For each figure, κ is on the x-axis and τ is on the y-axis. The thick, red line is the constraint for $\delta = 1$ and the thick, green line is the constraint for $\delta = 0$. The thin, blue lines represent the *Challenger's* expected utility. Where the upper part of the curve of the *Challenger's* expected utility is tangent to the constraint indicates an equilibrium management forum.

be willing to trade their value for a distributional outcome for the assurance that their adversary will follow through. In equilibrium, every optimal forum proposal includes a strictly positive value of transparency. This implies, first, that disputants find that having some mechanism of enforcement essential to the acceptability of a forum.

Figure 5.3 illustrates this result. The figure graphs the equilibrium combinations of transparency and decision control according to two different factors, relative power and third party bias. The thick, red and green lines in each graph indicate the equilibrium constraint where the *Target's* expected value for any form must produce its Rubinstein share and the thin blue lines are the *Challenger's* expected utility as a function of τ and κ . Where the upper part of the curve *Challenger's* expected utility function just touches the constraint indicates an equilibrium combination of τ and κ . Consider the top, left graph in the figure where the third party favors the *Challenger* and the *Challenger* is also stronger than the *Target*: The equilibrium forum in this condition is where $\{\kappa, \tau\} = \{0.22, 0.45\}$. Where there is no tangent between the *Challenger's* expected utility and the constraint condition, the optimal solution falls outside the bounds prescribed for κ and τ . Where the constraint is undefined, a vertical green or red line, any combination is feasible.

Knowing this, it is easily observed that any equilibrium forum is transparent. An additional observation is that the optimal level of transparency is increasing in the third party's bias toward the *Target* and in the *Target's* relative power ($1 - p$), and appears to be decreasing with decision control.¹² Because the *Challenger* has a strategic advantage as the initiating state, it can impose a less transparent forum that the *Target* must accept,

¹² This relationship is generally true for the representation of values show. However, as will be demonstrated below, this relationship is not consistently negative as the discount rate, δ , decreases to 0.

even if it as an advantage through its relative power and the third party's favor. The intuition behind this result is that both weak and strong *Challengers* prefer to constrain themselves in order to also constrain their adversaries to a peace deal. This intuition aligns with the expectations of other research that investigates the binding capacity of third party conflict management: Third parties that are able to impose stronger penalties for noncompliance are more likely to help states reach agreements and encourage long-term peace (Fang 2010; Gent and Shannon 2010). Additionally, disputants can manufacture transparency through public statements or by inviting media to portions of the negotiations (Slantchev 2006; Tarar and Leventoglu 2009). This appears to be one tactic that Iran used when it invited IAEA members to its nuclear enrichment plants. Democracies may be especially effective as using these kind of transparent, bilateral tactics because they are more likely to have institutions in place that make information transmission more credible (Fearon 1994; Mitchell, Kadera, and Crescenzi 2009; Shannon 2009).

An additional implication of this observation is that external pressure to commit to peace settlements compels states to open the lines of communication not only to themselves, but others. The covert mediation between Eritrea and Djibouti, then, represents an anomaly in interstate conflict management, which explains the Security Council's disquieted response. By accepting higher levels of transparency, disputants increase the probability that they will be punished for making concessions. Bargaining scholars find that these concerns about punishment for demonstrating weak resolve increases actors' incentives to bargain hard and to ignore private information that could help them reach a compromise that would resolve the dispute (Hale 2008; Prat 2005;

Strasavage 2004). Transparency in interstate bargaining also increases the probability that external actors interfere in the negotiation process, potentially derailing it. For example, Finel and Lord (2002) demonstrate that British and French negotiations during the Fashoda crisis verged near a stalemate because domestic media exposed details that led representatives from each country to question the other's sincerity and commitment. Though the model is silent to the intra-bargaining dynamics that ultimately determine whether a peace agreement is produced, this result suggests that peace may be more difficult to achieve, even when states implement mechanisms designed to ensure its longevity.

States Do Not Delegate Complete Decision Control

A second observable implication from Figure 5.3 is that there is no optimal forum that results in states delegating complete decision control to a third party. Except in rare cases, management approaches like arbitration and adjudication are not represented in equilibrium.¹³ Instead, disputants either negotiate bilaterally, $\kappa = 0$, or they delegate some control, sharing the decision-making power with the third party. When the *Challenger* is stronger than the *Target*, the equilibrium level of control is decreasing in the third party's bias toward the *Target*, and, interestingly, when the third party is biased in the *Challenger's* favor, control is also decreasing with the *Challenger's* relative power.

Together with the conclusions regarding transparency, these observations suggest two things about the selection of management fora. First, the observation of arbitration and

¹³ However, there *are* equilibrium cases of arbitration and adjudication. They occur in two different instances. The first are corner solutions where asymmetrically balanced disputants delegate complete decision control to an unbiased third party. In the second case, as will be illustrated below, evenly matched disputants will delegate control to any forum that falls along the constraint condition. Again, though, the observation of this result is at the limit of the range of equilibrium fora, so it is difficult to draw definitive conclusions.

adjudication must be explained by some factor other than a concern about settlement compliance. Second, when third parties *do* delegate control over distributional outcomes they do so in order to satisfy problems related to power asymmetries and settlement commitment.

A motivating question for this and other research on interstate forum selection asks why disputants avoid management fora known to be especially effective resolving conflicts, such as arbitration and adjudication. Some contend that because the process of presenting a complaint before an international court is lengthy and costly, states that are eager to resolve their dispute tend to resolve their dispute bilaterally. Disputants in these conflicts often submit to the court or agree to mutual referenda that would permit the states to seek a legal settlement. Before they make it to formal proceedings, however, they reach a direct settlement (M. L. Busch and Reinhardt 2000). Alternatively, disputants fear that the risk of a potentially unfavorable decision puts them at a disadvantage because arbitration and adjudication are viewed as binding. When disputants have reliable information that a legal forum will decide against them, they opt not to pursue arbitration or adjudication, even when they have previously done so (Gent and Shannon 2011b; Wiegand and E. J. Powell 2010). Others question whether legal fora are able to impose the kind of sanctions necessary to ensure compliance (Fang 2010). In sum, the literature views international arbitration and adjudication as a significantly costly approach to dispute resolution, the benefits of which may not be realized (Malintoppi 2006).

The results here suggest that the puzzle regarding the disuse of arbitration and adjudication may not be entirely due to concerns about distributional outcomes or commitment problems. There exist equilibria in which disputants agree to a forum that is

biased against their interests that also makes it more difficult for either to abrogate. The answer may lay in conflict dynamics to which the theory is silent, including information asymmetries and procedural transaction costs. For instance, if it is possible for both disputants to believe that an international court will decide in its favor, it may increase the possibility for the observation of adjudication. As explained earlier, this type of mutual optimism has been used to the submission of cases like the North Sea continental shelf delimitation dispute between German, Denmark, and the Netherlands in 1969 (Fischer 1982) and the contestation over possession of the Aouzou strip between Chad and Libya in 1994 (Paulson 2004). Alternatively, it could be that legal procedures involve a different consent mechanism than that assumed here, however, Fang (2010) shows that, under complete information, disputants also avoid international courts even when the decision to do so is unilateral. Another alternative explanation may be that legal conflict management involves different transaction costs than other management approaches. For instance, Lewicki and Sheppard (1985) note that arbitration involves fewer start-up costs because courts are pre-existing institutions that have established protocols for presenting arguments and evidence. Such procedural control frees disputants from having to negotiate over additional issues before beginning settlement negotiations (See also Cogan 2008; Malintoppi 2006). These characteristics of conflicts and management fora suggest future avenues for research in understanding the use, and subsequently, the disuse, of legal dispute resolution in international relations.

Delegating to Manage Power and Commitment

A significant contribution of this chapter to the larger discussion on the use and influence of third parties in international conflict management is that it generalizes across

different management approaches through the concept of decision control. As Figure 5.3 shows, states consent to processes that limit their unilateral options, even in complete information. “According to much mainline theory,” Simmons notes (1998, 76), “states make commitments – especially formal legal commitments – either cautiously or cynically, and are reluctant to delegate decision making to supranational bodies.” Though states certainly do not freely grant decision control to an intermediary, their agreement to delegate control to third parties challenges these traditional conceptions. Specifically, states cede decision control in order to raise the stakes of the conflict, breaking a potential stalemate, and to clarify power asymmetries, making concessions by a weak adversary more palatable. Each of these explanations rests on the way that disputants manage power symmetries and asymmetries through the strategic allocation of decision control.

The relationship between relative power and decisions to pursue third party management have been well-explored by the extant literature, with an emphasis on which mediation tactics are most effective. Hensel (2001) and Gent and Shannon (Gent and Shannon 2011b) observe that conflicts characterized by power asymmetries are more likely to resist third party assistance because stronger adversaries use their leverage to coerce an adversary to concede (See also Bercovitch and Jackson 2001; Dreu 1995; Kleiboer 1998). Disputes between symmetrically powered disputants, alternatively, are more likely to be mediated because they are more likely to face disagreements over relative power that lead to prolonged, violent conflict (Bercovitch and Gartner 2006; Greig 2001, 2005). This research contributes to this dialogue by demonstrating when evenly matched disputants invite third parties to facilitate an agreement and when

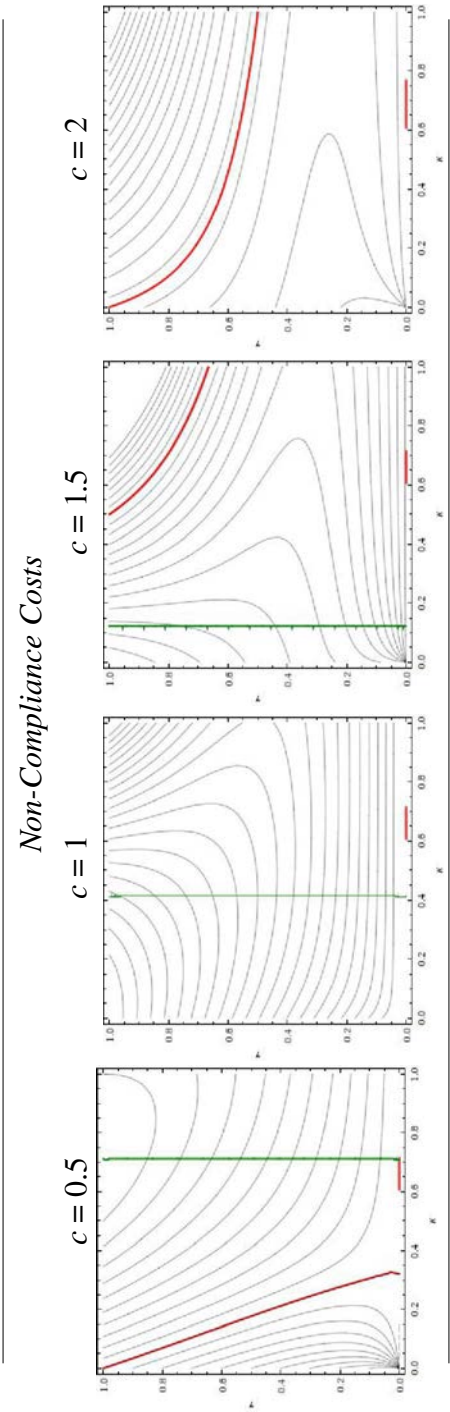


Figure 5.4. Effect of Non-Compliance Costs on Forum Design, Unbiased Third Party

Note: All values calculated for $p = 0.5$ and according to a uniform p.d.f. The level of decision control is on the x-axis of each graph, and the level of transparency is on the y-axis.

asymmetrically powered adversaries consent to intervention. These findings clarify both when third parties are appealed to and what kinds of tactics are best deployed.

Power Parity and Forum Selection

Most disputes that are submitted to third party management in the international system are between symmetrically powered states (Bercovitch, Anagnoson, and Wille 1991). In contrast to asymmetric conflicts, disputes between evenly matched rivals are good candidates for third party intervention because they are more likely to become intractable (Bercovitch and Rubin 1994). Neither state can use coercive force to gain leverage and the consequence of making a concession is to disrupt the current balance of power. Thus, direct negotiation is often not a feasible forum for managing these disputes. Results from the comparative statics analysis of the model correspond with this conclusion in terms of identifying which types of management fora disputants find acceptable. In none of the cases where the disputants are evenly matched ($p = 0.5$) do the disputant agree to a bilateral forum.

Neither do these examples clearly show when third parties provide acceptable alternatives. The top and bottom rows of Figure 5.3 would suggest that disputants prefer solutions that are close to bilateral negotiations in terms of decision control, while the middle row indicates that any management forum is possible. One suggestion from the literature is that third parties can be especially effective in managing disputes between symmetrically powered disputants when they use manipulative tactics, which make it more costly for states to avoid peace (Beardsley et al. 2006; Quinn et al. 2006). Figure 5.4 shows how manipulating disputants' costs for noncompliance affects the range of feasible management fora. When third parties raise the stakes of a conflict between states of equal

capabilities by increasing the costs of noncompliance, they increase the number of options for peaceful settlement. What is particularly noteworthy is that the range of equilibrium fora falls along the the line of the constraint condition and allows for bilateral negotiation, mediation, and legal dispute resolution.

Raising the Stakes: Some Examples

Third parties accordingly can alter belligerents' payoff structures by applying *manipulative* mediation techniques. Quinn, Wilkenfeld, Smarick, and Asal (2006) identify the United States' management of the 1974-1975 crisis between Turkey, Greece, and Cyprus with this technique. There, the United States and Great Britain threatened to remove the countries from the protection of the US nuclear umbrella unless they came to an agreement. The threat was effective at convincing the disputants to negotiate. However, the manipulation does not always have to be punitive. Another commonly cited example of this technique is Libya's mediation between North and South Yemen in 1972. Among other tactics, Qaddafi offered both sides \$46 million per year in aid, should the disputants reach a settlement (Beardsley et al. 2006; Lawson 1985). The inducement made prolonged conflict unbearable and the two parties ended hostilities.

This manipulation does not even have to be directly applied in order to have the desired effect. As the conclusions from Chapter 3 suggest, disputants use information about potential third party intervention as a focal point for making concessions. In this case, if a third party signals its interest in the conflict and its ability to affect disputants' value for a settlement, the disputants may reach an agreement on their own. A more recent example of this manipulation technique occurred during the 2001 crisis between India and Pakistan, which was triggered by a terrorist attack on the Indian parliament.

Blame for the attack was placed on Pakistan and hostilities quickly led to violence as the two states converged on their shared border. In order to help control its own conflict in the region, the United States pressured Musharraf, hinting it would target Pakistan in its War on Terror if it could not deescalate the dispute (Lakshmi 2001). The suggestion eventually proved to be effective as Musharraf publicly declared a cessation of hostilities and the crisis abated (Brecher and Wilkenfeld 1997, 1997 ICB Case #435). This type of management strategy is consistent with the far right graph in Figure 5.4, where a management forum may be bilateral if the disputants also make the outcomes and actions of the process transparent.

Power Asymmetry and Forum Selection

In contrast to disputes between evenly matched actors, conflicts between asymmetrically powered states are thought to be resistant to third party management. The coercive and deterrent influence of military force often allows “the strong [to] do what they have the power to do and the weak to accept what they have to accept” (Thucydides 431BCE, bk. 5, v. 89). Nonetheless, disputes of this nature regularly turn to third parties. Quinn, Wilkenfeld, Smarick, and Asal (2006) observe that more than 25% of international crises between disproportionately powered states involved a third party mediator. Additionally, Bercovitch and Jackson (2001) find that disputes characterized by extreme power asymmetries were more likely to employ third party mediation than bilateral negotiation. Thus, it is not an unexpected result of the model that imbalanced disputes open to mediation. What is intriguing, though, is that these fora are to the *Challenger's* advantage; meaning that strong *Challengers* convince weaker *Targets* to accept mediation by a third party biased in the *Challenger's* favor, rather than simply use

their coercive capabilities and the benefit of a legitimizing, international ally to negotiate bilaterally. This conclusion reinforces that observed in Chapter 3 where biased fora inspire some third-party-induced agreements.

Mediation in asymmetric conflicts has been noted to ease tensions and make concessions more acceptable. When a settlement preserves a power imbalance or contributes even further to the stronger actor's preponderance, it can further stoke animosity. The weaker party may be especially prone to belligerence after a negotiated settlement because it must proceed in a relationship with its rival from an even weaker position (Walter 1997). Relatedly, accepting mediation provides a signal to weaker parties that the stronger is committed to peace and that the effort to resolve the conflict is sincere (Arnold and Carnevale 1997; Carnevale 2002). This helps adversaries feel that the process is fair, ensuring satisfaction with settlement outcomes (Quinn et al. 2006). A mediator also provides an independent source of information that cements the power-asymmetry so that disputants understand what kinds of concessions are reasonable and can more easily work their way out of no-win situations (Quinn et al. 2006; Zartman and Touval 1985). Finally, for the *Challenger*, conceding decision control to a like-minded intermediary is less threatening than conceding decision control to an impartial or opposing third party. Thus, disputes where one actor could otherwise simply force a settlement are made more manageable by mediation.

Selecting Mediators to Reinforce Power Asymmetries: Essequibo

These conclusions align with empirical research that elsewhere demonstrates that challengers have an advantage when proposing management fora. Wiegand and Powell

(2010), for instance, observe that challengers have greater control over the bargaining process and that they are more likely to appeal to third party fora in which they were previously successful. The authors suggest that a record of winning and losing in a forum is an indication of the forum's bias. The frequent efforts by the United States to manage conflicts between Israel and its Arab neighbors are frequently identified as examples of biased mediation favoring a militarily stronger party (Touval 1975). Another example of this behavior is illustrated in the 1981 crisis between Venezuela and Guyana over the demarcation of a border along the Essequibo river. Venezuela, the stronger party, initiated the conflict when it announced plans to end its obligations to the Port of Spain Protocol and opposed the development of a Guyanese hydroelectric plant (Brecher and Wilkenfeld 2010 ICB Crisis #325; Donovan 2004).

The conflict escalated to the point where military action was believed to be imminent. Motions to negotiate the dispute bilaterally were dismissed, as neither side trusted the other to act in good faith. Eventually, Venezuela appealed to the United States with the hope that the regional power would intervene on its side. Surprisingly, this proposal was also acceptable to Guyana, who viewed US mediation favorably. Unfortunately for both sides, the US was uninterested in aiding the resolution of the dispute and declined the Venezuelan invitation. In the end, UN Secretary-General, Javier Perez de Cuellar, met with representatives from each country to begin the settlement process.

Though this conflict is uncharacteristic because the dispute did not end with US mediation, the 1981 Essequibo dispute is nonetheless illustrative. Guyana was willing to

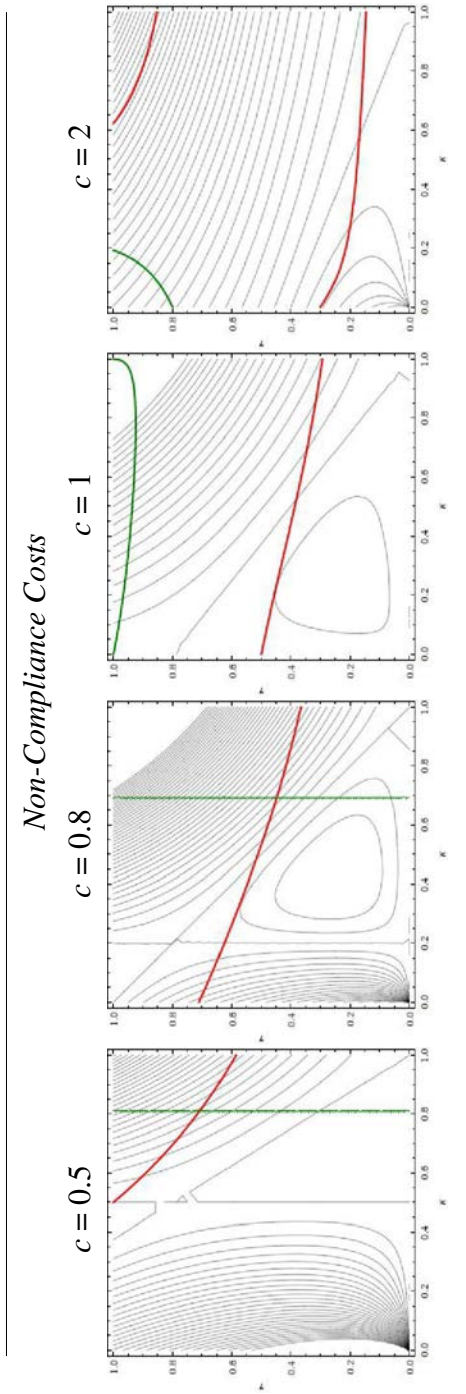


Figure 5.5. Effect of Non-Compliance Costs on Forum Design, Third Party Favors Challenger

Note: All values calculated for $p = 0.8$ and according to a uniform p.d.f. The level of decision control is on the x-axis of each graph, and the level of transparency is on the y-axis.

accept mediation by the United States even though it was more closely aligned with Venezuela.¹⁴

Unbiased Third Parties are Generally More Acceptable

The previous lesson, that disputants delegate decision control to strategically manage power imbalances and commitments, begs the question of whether biased or impartial third parties are generally more acceptable. Indeed, both the model and extant research provide two different answers. Young (1967) argues that third parties, by virtue of their role in the conflict management process, are best when they are impartial. Impartial third parties are also able to deploy mechanisms that break stalemates. Contrast Figure 5.4 with Figure 5.5, which shows the effect of manipulative management techniques by biased intermediaries. In these types of disputes, the range of feasible management fora contracts with increases in noncompliance costs, and the range of acceptable fora decreases. Touval (1975, 1985, 1996), on the other hand, notes that biased intermediaries have been instrumental, especially noting the role of the US in several Arab-Israeli clashes. Gent and Shannon (2011a) suggest that the relationship is more conditional and depends on the amount of control disputants grant third parties. One implication of the model is that mediation is invited in asymmetric conflicts in order to make concessions acceptable.

The most generative statement on this relationship, however, comes from Kydd (2003), who observes that impartial mediators are untrustworthy because they have incentives to lie about disputants' resolve in order to bring an end to hostilities. Biased

¹⁴ This allegiance was no doubt bolstered by the fact that the Cuban military was also staging a transfer of troops from Angola to Guyana at the height of the conflict.

mediators, on the other hand, can be trusted to indicate when a concession is necessary in order to avoid war. This bias is only effective, though, when the mediator is biased in favor of the satisfied state deciding whether to concede to a dissatisfied challenger. Allowing the *Challenger* to be associated with the role of the dissatisfied actor,¹⁵ this model provides additional insight into when a biased mediator will be effective by demonstrating the conditions under which a satisfied disputant will accept its intervention.

As Figure 5.3 shows, the story about third party bias and forum acceptability is also about the balance of capabilities. A mediator is most likely to be acceptable when it is unbiased (see also Figure 5.4). Biased intermediaries, in contrast, are only observed when they would decide in favor of a strong *Challenger*. Focusing on the top row in the figure, as the *Challenger's* power relative to the *Target's* declines, the *Challenger's* ability to directly employ a biased intermediary also declines. Alternatively, a *Target* of any strength is unable to obtain an offer of a multilateral forum that is biased in its favor. Assuming that the *Challenger* is the dissatisfied actor in this relationship, the implication of these two observations is a contradiction of Kydd's conclusion.

This, however, is not to say that Kydd's conclusion is wrong. Rather, the model on which these observations are based make a different assumption about forum acceptability. In Kydd's model, the mediator is automatically included in the process of negotiations. Because it cannot be excluded from the bargaining process, its message of restraint is then useful for informing disputants' beliefs. This model assumes that management fora are selected by both participants. It also assumes that the mediator has a

¹⁵ This is assumed because the *Challenger* initiates the conflict.

direct impact on the distributional outcome of a dispute. Though the mediator in Kydd's model may make recommend restraint, it does not, itself, decide what level of concessions to make. Thus, a dissatisfied *Challenger* is unlikely to propose a mediator that is biased against it so that it may avoid making concessions that it cannot back out of. Instead, an impartial intermediary or bilateral negotiations are preferred. In sum, a fourth conclusion of the theory is that unbiased third parties provide the widest range of acceptable alternatives to bilateral negotiation and prolonged conflict.

Not All Acceptable Fora Are Effective Fora

A final lesson about forum selection in conflict management derived from the model is that not all acceptable fora are effective fora. That is, some disputants agree to settlement negotiations and then renege on the commitments that result. Contrast Figure 5.4 with Figure 5.6, which demonstrates the combinations of transparency and decision control that lead to mutual compliance, given the distribution of power and third party bias. Note that in many cases, the forum that is acceptable to both parties does not correspond with mutual compliance.¹⁶ There are two ways to approach this problem. First, prudence recommends a deeper look into the model to determine whether there is a mechanism at work that is unaccounted for. Second, it is possible that factors outside the dispute environment modeled explain why some management fora end in compliance failure. The reality, of course, is that both approaches provide a better explanation for failed management efforts. Varying the costs for noncompliance and exploring when disputants approach the negotiation table insincerely demonstrates that the constraints

¹⁶ Interestingly, it can be computationally shown that in the corner solutions in which the disputants cede compete decision control to a perfectly transparent forum both disputants comply with the settlement.

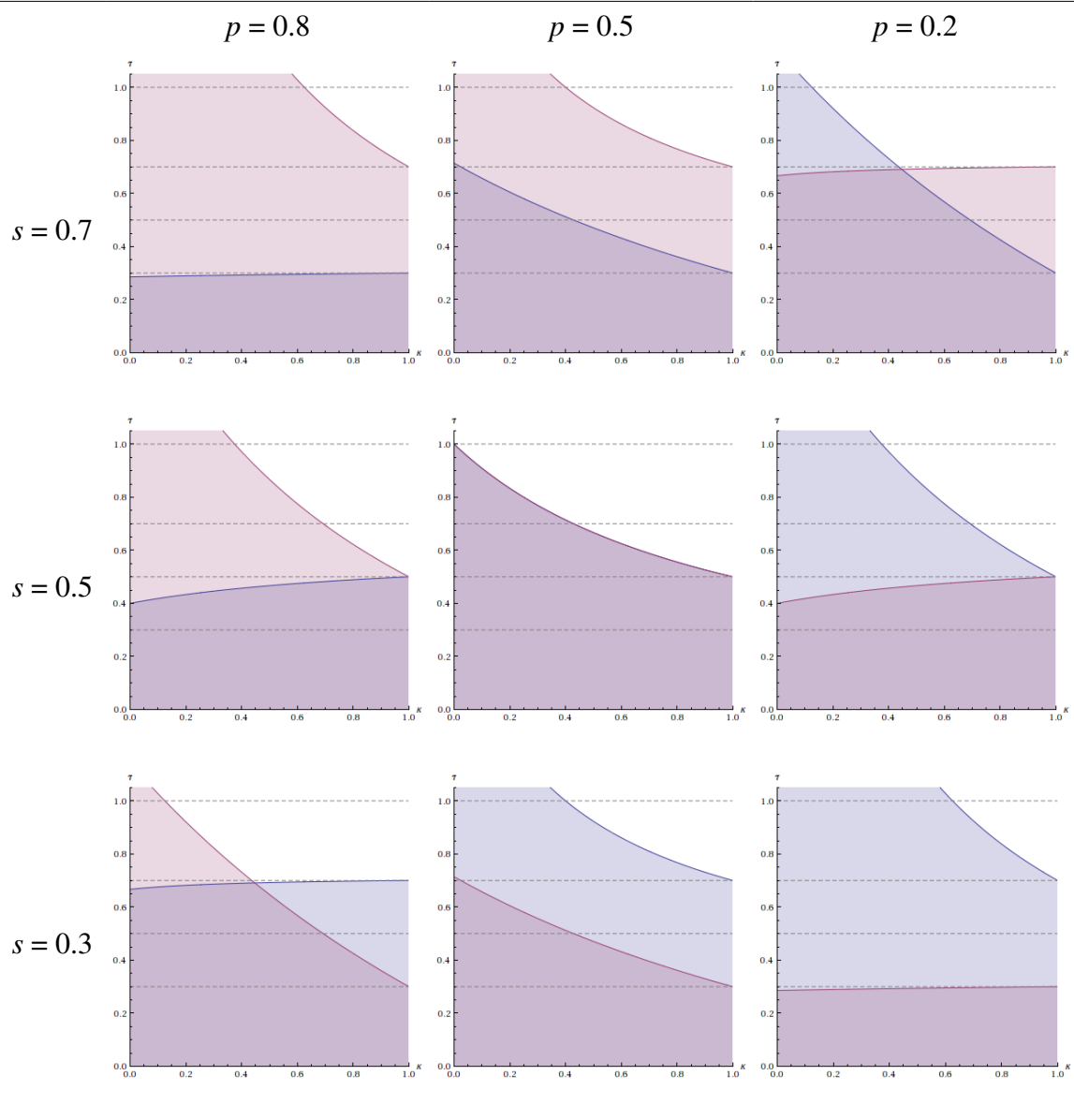


Figure 5.6. Conflict Management Compliance

Note: Values calculated for $c = 1$. κ is on the x-axis of each graph and τ is on the y-axis. The *Challenger's* areas of compliance are in blue and the *Target's* areas of compliance are in light purple. Mutual compliance is observed where these two regions intersect, in the darker purple areas.

that make a forum acceptable often clash with those that help produce enduring peace.

Third parties need to occupy a flexible, but firm, middle ground in order to gain disputants' trust and help ensure compliance.

Figure 5.7 shows that decreasing the costs of noncompliance improves the rate of mutual compliance. This is somewhat counter-intuitive, but it coheres with the logic that compliance is easier to obtain when commitments contain some flexibility. Treaty flexibility increases compliance because it makes it less costly for states to back out or reinterpret agreements (A. Chayes and A. H. Chayes 1993; Koremenos 2001). With respect to asymmetric conflicts, this observations conforms with empirical results that show that manipulative mediation fails to reduce long-standing tensions that lead to recurrent conflict. However, it does not align with findings from this same work that show that directive and facilitative mediation is especially effective in resolving conflicts between evenly matched disputants (Quinn et al. 2006).

One explanation for this remaining gap is that disputes that are especially difficult to resolve, such as those between balanced belligerents, are more likely to use third party mediation and other olive branches as stall tactics to redouble capabilities. Greig (2005) finds that disputes characterized by insincere motives are more likely to attract offers of assistance from weak intermediaries. Thus, these disputes may not attract the kind of third parties that lead to effective management in the first place. Beardsley (2009) adds that disputants select into certain management fora when they anticipate that an adversary is insincere. In particular, they tend to select weak mediators that cannot exert sufficient leverage to compel them to an agreement. By continuing to decrease the costs of noncompliance below $c = 0.5$, it can be shown that the range of mutual compliance begins

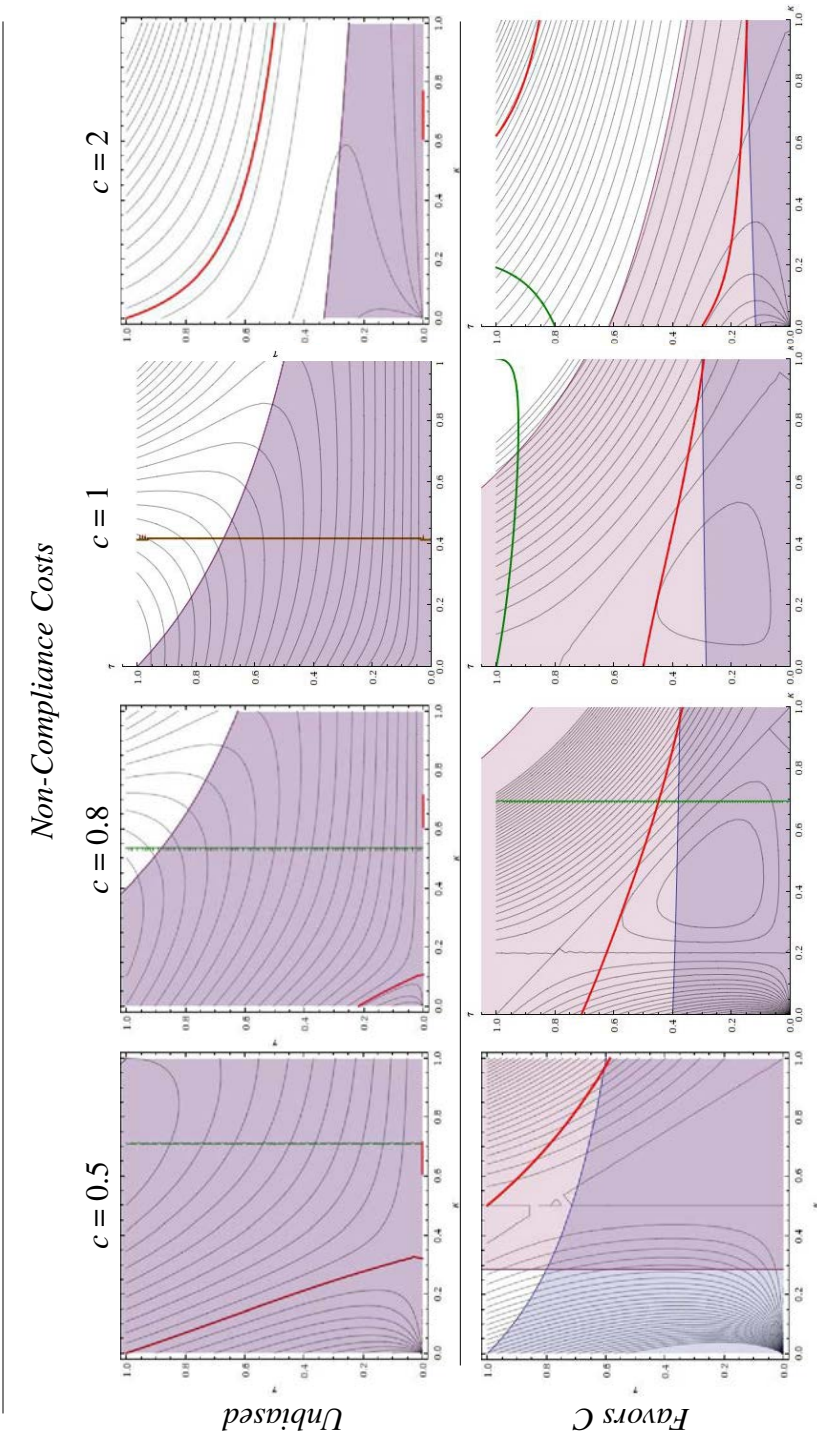


Figure 5.7. Effect of Non-Compliance Costs on Forum Selection and Settlement Compliance.

Note: Values in the top row are calculated for $p = 0.5$ and $s = 0.5$; values in the bottom row are calculated for $p = 0.8$ and $s = 0.7$. The level of decision control is on the x-axis of each graph and the level of transparency in on the y-axis. The Challenger's range of compliance values are in blue and the Target's are in purple. The darker purple regions are where both disputants comply.

to shrink again such that acceptable fora are no longer the same kind that induce compliance.

Conclusions

The five lessons elicited from the analysis of the model explain the more novel characteristics of the forum selection model. More generally, though, the model establishes a set of expectations about when third party management should be observed and when states can, instead, replicate some of the features commonly associated with third party management in bilateral fora.

With respect to forum transparency, states prefer to draw attention away from settlement negotiations as they grant increasing decision control to third parties. This is counter-intuitive to the conjecture that international legal fora are especially attractive settlement options *because* of their transparency and decisiveness. At the same time, it is consistent with international norms that discourage states from brokering secret deals, as in the case of Eritrea and Ethiopia. An additional implication of this relationship is that democracies will be less likely to pursue third party management in disputes with one another than disputes that include autocratic regimes. This is because democracies already have many of the necessary mechanisms in place to make bilateral negotiations successful.

The observed level of forum transparency is dependent upon the correspondence between the distribution of power and third party bias. When a third party favors a strong challenger, the challenger will concede to a higher level than if the challenger is at parity or weaker than its counterpart. A strong challenger will also increase forum transparency

as the third party increasingly favors its counterpart. These competing conclusions demonstrate how the challenger uses its positional advantage as the initiator, or plaintiff, of the claim to draw the settlement process as far away as possible from fora in which his adversary enjoys her greatest advantage: when the target is preponderant and the third party also favors her. Last, as the costs of noncompliance increases, the level of forum transparency decreases, demonstrating the inherent trade-off.

The corresponding prediction for states' willingness to delegate decision control imply that as forum transparency increases, the amount of control that disputants cede decreases. Under complete information, it is rarely the case that disputants will commit to arbitration or adjudication. Instead, mediation is most likely to occur when the relative power distribution corresponds with third party bias. That is, disputants agree to turn the stakes over to a third party when the third party and the challenger are aligned or when the disputants are balanced and the third party is impartial. Unlike with forum transparency, however, noncompliance costs do not have a linear relationship with decision control. As the costs of noncompliance increase toward the total value of the conflict, the level of decision control also increases. Once noncompliance exceed this value, however, decision control declines.

These predictions also correspond well with the implications of the model presented in Chapter 3. The central conclusion of that model was that states could bilaterally implement agreements that reflected third party preferences. This was especially true when the third party was expected to deliver an impartial decision, but it was also possible for a weak challenger to use the presence of credible third party to reduce the coercive force of a stronger adversary. The theory presented here reinforces the

ability of states to use bilateral negotiations as a way to avoid some of the costs of third party management. However, weak challengers are less capable of leveraging impartial third parties against their stronger counterparts. Instead, the challenger is much more dependent upon the target's urgency for a settlement.

Though there are limitations to this approach, as observed at various points in the equilibrium analysis, this theory of forum selection answers the questions that initially motivated this project. First, disputants adjust bilateral fora according to their relative power and ability to manipulate their costs for noncompliance and urgency for a settlement. Consider the disagreement between the United States and North Korea over North Korea's pursuit of nuclear weapons. In a conflict characterized by vast power asymmetries but an impartial third party presence, North Korea had two options to reduce the influence of external actors (primarily China and Japan) and to increase the acceptability of a bilateral forum: make moves to escalate the urgency of the crisis or make a credible commitment to increase its costs for noncompliance in order to simultaneously decrease forum transparency. North Korea exercised this first option as it conducted weapons testing in the months that led up to the 2006 Six Party Talks. These actions increased pressure on the United States and other members of the international community to negotiate a settlement. Though it may have been unintentional, North Korea's belligerence also increased its costs for not reaching an agreement as the UN Security Council approved sanctions against the rogue state. Ultimately, the tactic was successful in getting the United States to come to the negotiating table alone at the end of 2006 (Brecher and Wilkenfeld 2010, ICB Case #450).

Second, despite the presence of bilateral alternatives to third party management, disputants delegate to third parties in order to manage problems related to parity and commitment. In disputes between evenly matched belligerents, impartial third parties provide a wide range of options to facilitate agreement. Important among these is the third party's ability to alter the costs of making insincere commitments and prolonging conflict. Such manipulative mediation tactics shift the disputants' focus toward agreement, rather than contention. Asymmetric conflicts lead to third party mediation because it makes concessions more palatable to weaker adversaries and reduces the exploitative effect of peaceful management.

Unfortunately, weak challengers are unable to take advantage of these asymmetries as well as strong challengers. Another tactic that is available to a weak challenger in this situation is to increase forum transparency by shifting the third party's preferences. In the case of Iran, Ahmadinejad attempted this very tactic by inviting a select set of IAEA delegates to tour its nuclear enrichment facilities. By excluding the United States and other Western powers, the hope was that more neutral states would come to Iran's side. However, the plan backfired as China and Russia were unwilling to damage their relationship with the United States and the West in order to pacify Iranian nuclear ambitions (Derakhshi 2011).

In sum, what this chapter contributes is a more general understanding of the impact that forum characteristics have states' tactics in interstate conflict management. Notably, the theory reveals when disputants delegate to third parties, even when there are bilateral alternatives. It also sheds light on the trade-offs between various forum features, especially transparency and decision control. In many cases, the choice to commit oneself

to transparency or to delegate decision control is binding in the sense that it truly leads to acceptable and enforceable solutions to conflict. However, in several other cases, negotiations are merely a stall tactic in the path to prolonged conflict, as states make the concessions that are necessary to end bargaining over forum selection before they even begin the arduous process of crafting an agreement.

In this regard, this chapter highlights avenues for future research. First, the literature on multi-issue bargaining already demonstrates how issue-by-issue protocols lead to less efficient processes. If bargaining over the selection of a management forum is but the first step to dispute resolution, are there ways in which the process after this step can be made more efficient? This is especially relevant as it addresses the second issue: whether there are ways to improve the chances for treaty compliance and long-term peace during the negotiation process. Implications from the model suggest that a flexible-but-firm approach to treaty enforcement increases compliance. Without uncovering more about the bargaining process once disputants are at the table, it is difficult to make more explicit prescriptions. In either case, scholars should also pay attention to how disputant tailor their forum choices to the information they have prior to the initiation of any of these additional processes.

CHAPTER 6

MAKING TRADE-OFFS: EXPERIMENTAL ANALYSES ON DECISION CONTROL AND FORUM TRANSPARENCY

Negotiations begin by groping for a jointly agreeable formula that will serve as a referent, provide a notion of justice, and define a common perception on which implementing details can be based.

I. William Zartman, "Negotiation as a Joint Decision-Making Process"¹

The selection of management fora in international dispute resolution is characterized by a number of trade-offs intended to improve the acceptability of mediation. Finding a mutually-acceptable management forum, it is hoped, is a precursor to the eventual settlement and resolution of conflict between states. However, as Chapter 5 reveals, it is easy to encounter challenges in the forum selection process that direct disputants away from effective third party strategies, such as arbitration and adjudication. Consistent with the conclusions reached in Chapter 3, states often avoid third party fora because there are acceptable bilateral alternatives that do not require disputants to cede control to an outside party. Though the implication that bilateral fora provide equally viable alternatives to conflict explains, in part, the preponderant use of direct negotiations compared to third party management, as Chapter 5 also discussed, it does not wholly satisfy the question regarding states' appeals to third parties. Indeed, despite the availability of bilateral fora, states regularly invite mediators to facilitate settlement negotiations. Chapter 5 also provides a set of answers to this puzzle: States use third parties when they can help disputants gain tractability on the dispute and break stalemates. Interestingly, third parties are also useful in disputes between asymmetrically

1 Zartman 1977, 619.

powered disputants, where the challenger is stronger than the target, because they make concessions more palatable. Last, the model makes some suggestions about the use of arbitration and adjudication. Consistent with general empirical trends, states are rarely willing to cede so much decision control to third parties, and when they do, the forum is more likely to be low transparency. This is due to a negative relationship between forum transparency and decision control. Ultimately, forum transparency is more important for long-term success than is third party decisiveness. So, states prefer highly transparent, bilateral fora to distributional outcomes determined by a third party. In sum, the most effective conflict management tactics are rarely implemented because of the difficulties inherent the bargaining process and disputants' incentives to seek profitable distributive outcomes.

Despite these difficulties, there is a “method to the madness” of forum selection based on the features of conflict management that help states overcome commitment problems, balance interests, and produce political cover for concessions. Specifically, Chapter 5 enumerates five lessons about forum selection in conflict management:

1. Transparency is necessary.
2. Complete decision control is rarely delegated.
3. Third party input balances power asymmetries and weak commitment.
4. Impartial third parties open the greatest range of settlement opportunities.
5. Nonetheless, acceptable fora are not always effective fora.

These lessons guide this chapter, which evaluates the effects of third party bias, the balance of bargaining power, and noncompliance costs on the selection of decision control and transparency in a set of experimental analyses. As in Chapter 4, aspects of the

model create certain challenges for empirical evaluation and laboratory experiments introduce a number of beneficial tools that overcome these difficulties. For instance, in contrast to the theoretical world in which disputants have a full range of management options from which to select, naturally occurring conflicts often have fewer options. Additionally, some options that come attached with strings that are unrelated to the process of reaching a substantive settlement of the conflict. For example, Russia's persistent guidance over negotiations between its former Soviet republics regarding the delimitation of the Caspian Sea may, in part, be motivated by Russian leaders' interest in maintaining a regional security foothold. Thus, third parties' strategic motivations are, in reality, equally as important to the empirical observation of mediation as the disputants' interests. Nonetheless, the theory focuses on disputants' strategies absent outside actors' motivations in order to understand the processes related to demand for management fora. Last, some forum selection processes are difficult to observe in naturally-occurring data because it is especially challenging to gather information on events that did not occur. In particular, As both Chapter 3 and Chapter 5 highlight, third parties can be influential beyond their direct implementation when they would otherwise provide acceptable and credible alternatives.

This chapter addresses these empirical puzzles through two experimental analyses that examine decisions to delegate decision control and the selection of transparency. Through these laboratory settings, the analyses test the conditional effects that coercive power and expectations about negotiation outcomes have on the design of management fora. The results highlight the logic of the theoretical model presented in Chapter 5,

identify the links between the two theories presented in Chapter 3 and Chapter 5, and reveal some unexpected tensions that are inherent to the bargaining process.

Specifically, the experimental analyses show that disputants design management fora to address problems related to the nature of their conflict and the management environment. First, the results validate the negative relationship between forum transparency and decision control, which is an implicit assumption of modeling these dimensions simultaneously. Second, the results align with the theoretical prediction that strong distributional advantages lead disputants to delegate more decision control, rather than less. The first experiment, which examines the factors that result in different levels of decision control, shows that disputes characterized by power asymmetries that advantage the challenger delegate higher levels of decision control to third parties biased in the challenger's favor. The other experiment, on the selection of forum transparency, provides additional supporting evidence of this result. As transparency increases, disputants shift their trust to impartial intermediaries. This suggests that when the settlement terms are more likely to be enforced, states increasingly prefer unbiased mediators. Preferences for impartial third parties continues to hold when forum transparency is low. The difference, however, is that when forum transparency is low, disputants are more likely to delegate to impartial third parties when neither has a coercive advantage than if one of the disputants is preponderant in power.

Together, the theoretical and empirical work of this dissertation challenge some recently advanced assertions about the effectiveness of biased third parties and the prescriptions for more legal intervention in interstate conflict. Though this research shows that biased intermediaries often provide many of the same benefits as impartial third

parties in conflict management – for example, they provide acceptable and credible focal points for bilateral negotiation when they can also provide strong commitment mechanisms – they are not generally acceptable in the same types of conflicts as impartial third parties. Notably, results from this project finds that impartial third parties are most likely to influence disputants when the third party is biased in stronger challenger's favor. In general, however, impartial third parties forge more opportunities for settlement, across a larger range of disputes. Therefore, when the central bargaining problems are disagreement over distributional outcomes and commitment, biased third parties are less acceptable. If biased intermediaries are less acceptable, they are less likely to be influential in dispute resolution more generally. This is not to say that they are not effective when they *are* acceptable. Rather, the implication challenges the perceived wisdom that they are generally better than impartial third parties.

Second, the results of this project call for continued examination of the mechanisms that lead states to arbitration and adjudication. This project focuses on two mechanisms that are widely considered to be important to the effectiveness of legal dispute resolution: transparency and decision control. Taken together, however, the arguments about the effect of these factors on conflict management suggest that adjudication by international courts should rarely occur because disputants' preferences for forum transparency decrease with decision control. This trend would place most international courts outside the range of acceptable fora because they are both highly transparency and require disputants to delegate complete decision control. This is not true for all disputes, of course. The theory developed in this project explains that when rivals are evenly matched, any impartial forum within the multidimensional range will be

acceptable. This means that arbitration and adjudication are one of several options, even when there are equally viable bilateral alternatives. Pinpointing which of these disputes result in legal dispute resolution and which do not requires continued work, however.

This chapter continues with a brief discussion of the empirical implications from the model presented in Chapter 5. It then describes and presents the results from two different experimental analyses. Each experiment explores a different dimension of the forum selection problem, decision control and transparency. The chapter then concludes with a brief discussion of the results and consequences for conflict management more broadly.

Evaluating the Trade-offs of Forum Selection

As has been detailed throughout this project, bargaining over management fora is an important and sometimes contentious part of the settlement process. When a state suggests peaceful settlement and negotiation through a mediator, it can be perceived as a signal of weak resolve (Pillar 1983). Therefore, states have incentives to be strategic when recommending a specific forum. This pre-negotiation process is also a necessary step for settlement efforts to even begin. Accordingly, “[t]he conflict over appropriate measures occurs on two levels,” Zartman observes (2007, 6). “[O]pposing sides fight for the specific and the general, the case and the principle, the exception and the precedent.” In other words, states are concerned not only about the distribution of the goods at stake. They also anticipate that large concessions will lead to challenges from domestic and international rivals and that treaties might not last. The hope is that by selecting a forum

that balances each of these concerns, a state will be able to proceed through the rest of the negotiation process successfully.

The theory of forum selection presented in Chapter 5 provides a general formula for navigating these multiple conflict management concerns. The theory assumes that a management forum, whether bilateral or multilateral, can be characterized by three central features: its level of transparency, the amount of decision control that an external actors exerts, and expectations about distributional outcomes. The existing literature then guides which trade-offs might be made between these forum dimensions. Transparency, for instance, is essential for ensuring disputants' commitment to settlement agreements (Fang 2010; Lohmann 2003), but by this same virtue, it increases the risk that international and domestic audiences will punish an actor for making a concession (Busch 2007; Finel and Lord 2002). Disputants can mitigate these risks by allowing a third party to provide political cover for concessions (Allee and Huth 2006; Beardsley 2010), but in so doing, actors give up control over the division of the issue (Gent and Shannon 2011b). Substantively, disputants are motivated to find negotiation tactics that suggest a focal point for issue division (Ginsburg and McAdams 2004; Hensel 2001; Schelling 1960). Third parties supply some guidance, but their believability is often connected to their bias (Kydd 2003, 2006).

Disputants' interests to produce a settlement that resolves the conflict and to each obtain as large a share of the issue as possible reduces which management fora are acceptable and credible. But, when states negotiate over management fora, they can also make trade-offs between dimensions to help facilitate this process (Fatima, Wooldridge, and Jennings 2006). The trade-offs inherent to forum selection, recalling the trends

illustrated in Figure 5.3 in Chapter 5, suggest several empirically testable implications.

First, when states decide to delegate decision control to third parties, they simultaneously reduce forum transparency. Nonetheless, transparency is essential to forum acceptability.

In equilibrium, transparency ensures compliance with settlements, so disputants implement transparent mechanisms in both bilateral and multilateral fora. Accordingly, it is reasonable to expect, all else equal, that transparency has an independent, negative effect on the type of forum selected. Similarly, higher levels of decision control result in lower levels of transparency.

The levels of acceptable transparency and decision control are both conditioned by the distribution of capabilities and third party bias. Strong challengers prefer to increase decision control to third parties that are biased in their favor. If the third party is biased against a strong challenger, the optimal level of decision control decreases and forum transparency increases. As a challenger's power decreases, the optimal levels of transparency and decision control depend on the third party's distributional bias. If the third party is biased toward either disputant, as the challenger's power declines, forum transparency increases and decision control decreases. In contrast, an impartial third party allows disputants to select from a wide range of forum combinations. In these cases, the theory predicts that any combination of decision control and transparency will be acceptable. The expected relationship, then, is that transparency and decision control will be negatively correlated, but the presence of an impartial third party will increase the probability that disputants will select higher levels of each of the dimensions.

These implications guide the empirical analysis, a set of two laboratory experiments. Chapter 4 detailed the many benefits and challenges of using laboratory

experiments, especially in the study of international relations. As in the case of the theory tested in Chapter 4, there are several reasons why an experimental design is appropriate to analyze Chapter 5's expanded theoretical model. In particular, the conditional nature of several of the hypotheses are ideally suited to the laboratory environment because each factor can be manipulated individually. These manipulations can then be used to simultaneously test the direct and interactive effects of relative power and third party bias on management forum selection through a factorial analysis. The next sections describe and present the results of two experimental research designs that leverage these advantages.

Experimental Design: Delegating Decision Control

Experimental analysis of the theory divides the decision problem into two components: the decision to delegate decision control to a third party and the choice of forum transparency. This first experiment evaluates the effects of forum transparency, relative power, and third party bias on disputants' willingness to cede decision control in a 2x3x3 factorial design.

Basic play in the decision control game was designed as a bargaining problem structurally identical to the theoretical model. Subjects' goals were to come to an agreement on the level of decision control and to also maximize their individual share of the issue, π , defined as a predetermined number of points. The experiment began by randomly matching subjects into pairs and assigning one subject to the Player A (*Challenger*) role and the other subject to the Player B (*Target*) role. Player A initiated the

game by proposing a level of control to delegate to a third party.² Player B then decided whether to accept or reject the proposal. If Player B rejected the proposal, the number of points at stake were reduced by δ , the player made a new proposal of decision control, and play proceeded in an alternating-offers fashion.³

If Player B accepted the proposal, then the third party decision was randomly drawn and the outcome of the decision was revealed. The subjects then simultaneously decide whether to accept or reject the division. If they both accept the outcome, each receives its proposed share. If one player rejects while the other accepts, then the cooperative player receives zero points and the defiant player receives $(\pi - \tau c)$, the entire value of the issue, minus the player's costs of non-compliance, which is modified by the level of transparency. Last, if both players reject the decision, they both lose the number of points corresponding with their non-compliance costs and level of transparency, $(-\tau c)$. If after five exchanges the subjects had not come to an agreement, each received a disagreement payoff of zero points.

Selecting Decision Control

Selection of decision control was informed by a function of three variables: the distribution of power, the third party's distributional bias, and forum transparency. In the case that each subject accepted the settlement outcome, these variables become part of the following payoff functions:

-
- 2 The third party is played by the computer. When both disputants agree to a level of decision control, the third party, whose distributional bias is determined at the beginning of the game by random assignment, randomly decides s and $1 - s$. The reasons why this design uses the computer to fulfill the third party role are to ensure that the third party decides consistently with its assigned decision rule and to reduce the protocol's complexity.
 - 3 The point-reduction implementation of transaction costs is used instead of a probabilistic, stopping rule. This reduces the complexity of the decision problem in this experimental analysis.

$$EU_A(\kappa) = \kappa s \pi + (1 - \kappa) p \pi - (1 - \kappa) \tau \epsilon \quad (6.1)$$

$$EU_B(\kappa) = \pi - (\kappa s \pi + (1 - \kappa) p \pi) - (1 - \kappa) \tau \epsilon \quad (6.2)$$

where π is the number of points at stake, s is the third party decision, p is Player A's relative power, τ is the forum's transparency, and ϵ is a fixed negotiation cost. These payoff functions closely resemble the mutual compliance payoffs from the theoretical model. The primary difference is that concessions have been simplified to the exogenous term, ϵ .⁴

When making a proposal, subjects selected one of five different levels of control, $\kappa = \{0, 0.25, 0.5, 0.75, 1\}$. The impact of this choice was illustrated to each subject through a table that showed how each level of control potentially affected the division of the issue. Figure 6.1 shows an example of one of these tables. Before subjects began the bargaining game, a preliminary walk-through explained how each components of the table affected their payoff. For instance, it illustrated how, as the level of decision control increased, the effect that the subject's own contribution to the division of the issue decreased. It was also explained that the subject's negotiation costs decreased with this decision, such that it was riskier, but less costly, for a subject to grant a third party more control over the division of the issue.⁵

4 The purpose of this change is, first, to simplify the decision making problem. Without having the recursive effect of the third party's decision bias on the disputants' expected utilities, the computational complexity is significantly reduced. A second reason for this modification is that it helped increase monetary payoffs. An earlier pilot of this study was conducted using the original assumption about concessions. Subjects earned enough points to meet the financial incentives criterion which recommends payments of at least one-and-a-half times minimum wage in just a handful of cases. As a result, a compromise was made in the research design to ensure subjects were fairly compensated. Despite this change, there is no loss in generality from the original model.

5 Images of the experiment protocol are available in Appendix D.

Level of Control	Your Contribution	Third Party Contribution	Expected Points
0%	24	0	23
25%	18	25% chance of 2.5 25% chance of 3.75 50% chance of 5	25% chance of 19.75 25% chance of 21 50% chance of 22.25
50%	12	25% chance of 5 25% chance of 7.5 50% chance of 10	25% chance of 16.5 25% chance of 19 50% chance of 21.5
75%	6	25% chance of 7.5 25% chance of 11.25 50% chance of 15	25% chance of 13.25 25% chance of 17 50% chance of 20.75
100%	0	25% chance of 10 25% chance of 15 50% chance of 20	25% chance of 10 25% chance of 15 50% chance of 20

Figure 6.1. Decision Control Choice Information

The Contribution of Relative Power

Continuing with Figure 6.1, subjects were instructed to find a balance between their own contribution (“Your Contribution”) to the division of the issue and the third party's decision. The subject's contribution to the division of the issue is the share that the subject would receive if the s/he decided to delegated no decision control to the third party. The player's contribution is, accordingly, a function of the subject's relative power, p or $1 - p$. Relative power was assigned one of three values, $p = \{0.2, 0.5, 0.8\}$, where $p = 0.2$ indicated that the target was preponderant, $p = 0.5$, a balance of power, and $p = 0.8$ attributed the challenger preponderance. To determine the actual value of the player's “contribution,” the player's level of relative power was multiplied by the number of points at stake, π . For example, in the illustration, the player had a relative power of $p = 0.8$ and the number of points at stake were 30. As a player considered increasing the level of

control from zero, the player's contribution to the total division of points declined as a function of its relative power and the amount of decision control. Thus, in the example, the player's contribution of 18 points at the 25% level of control results from $(1 - 0.25) \times 0.8 \times 30 = 18$.

Third Party Distributional Bias

The second component of the subject's decision was informed by the third party's distributional bias, which took one of three, discrete probability distributions over a set of values for s . The third party could divide the issue such that $(s, 1-s) = \{(10, 20), (15, 15), (20, 10)\}$. These values remained fixed. What varied, instead, was the probability that any of these individual partitions was selected. If the third party was biased in favor of Player A, it divided the issue according to the following probability distribution $\{0.25(10, 20), 0.25(15, 15), 0.5(20, 10)\}$. In this case, the third party had a 50% chance of selecting the distribution $(s, 1-s) = (20, 10)$. If the third party was biased in favor of Player B, then it selected according to the distribution, $\{0.5(10, 20), 0.25(15, 15), 0.25(20, 10)\}$. Last, if the third party was impartial, then it decided the division according to the rule, $\{0.25(10, 20), 0.5(15, 15), 0.25(20, 10)\}$. The last decision rule deviates slightly from the theory. The model assumes that an impartial third party follows a uniform probability density function. In the experimental model, the third party is, instead, "biased" in favor of an even division such that the third party is more likely to select an even partition than an uneven partition. When subjects came to an agreement over the level of control, the computer selected a point distribution according to its probability function. Therefore, it was possible for a third party to decide against its bias.

This implementation of third party bias increases the complexity of the subjects' decision problem: rather than simply selecting over a discreet set of values, the players select between a known outcome (the case where control equals zero) and one of several lotteries, the outcome of which the subject has some control. Previous research in experimental economics has explored the issue of decision making under uncertainty. Typically, this research specifies the decision problem as a choice between two risky lotteries. These scholars find that experiment subjects tend to select values at the extreme ends of their value over the lotteries – choosing either a lower value/no-risk option, or accepting a high-risk/high-reward lottery (Tversky, Slovic, and Kahneman 1990). Another common problem observed in research of this nature is that subjects sometimes engage in preference reversal. Preference reversal is observed when subjects, asked the same question twice, change preference orderings over lotteries (Pommerehne, Schneider, and Zweifel 1982). The explanation for this result is that the complexity of the decision problem is prone to high error rates (Neugebauer 2008). A second explanation is that subjects randomly mix over lotteries when they really prefer a lottery somewhere in-between the options presented. Thus, observed preference reversal might be the result of individual-level variation across mixed strategies (Sopher and Narramore 2000).

To manage this problem without sacrificing the theoretical assumption of risk, the research design clarifies the decision problem and subjects' beliefs in four ways. First, subjects began the experiment with a “walk-through” of the bargaining game, where each stage of the decision problem was explained, including the consequences of the choice over decision control.⁶ This was done through the experiment software so that study

⁶ See Appendix D.

participants can read the information at their own pace. A second component of the research design emphasizes the payoffs, rather than the risks of the decision choice. The preference reversal problem is typically observed in studies where subjects are asked to state their preferences over two lotteries, one low-risk/small-reward and one high-risk/large-reward. Then they are asked to place a bet on each of these lotteries. Subjects in these studies usually correctly identify the low-risk/small-reward lottery as preferable, but, nonetheless, invest in the high-risk lottery (Tversky, Slovic, and Kahneman 1990). Here, the risk of the lottery reduces with the increased decision control investment because the negotiation costs simultaneously decrease. Additionally, the subjects are not asked to stake any of their own endowment on the lottery. Instead, they are simply asked to identify the lottery which is most preferred – a choice on which subjects in previous research tended to perform better.

A third component of the research design allows subjects to select an intermediate level of commitment to the lottery. Sopher and Narramore (2000) demonstrate that when participants have intermediate options, they are more likely to express consistent preferences over lotteries. And, last, whenever subjects agreed to a level of control, they were asked to guess what the third party decision would be. If the subject's guess matched the third party's decision, the subject was awarded addition points in that period. This questions builds in a check to assess the consistency of subjects' beliefs about the third party partition and to increase subjects' perceived control over the outcomes of the game.⁷

⁷ Subjects chose correctly 48% of the time. Though low, within each category, the correct selection was usually the majority choice. The exception is the impartial case, in which subjects chose correctly only a third of the time.

Forum Transparency

The last component of the decision problem is forum transparency. The level of forum transparency as modifies the disputants' costs – their costs of noncompliance and their concession – in the compliance subgame. Transparency takes two values: $\tau = \{2/5, 2/3\}$. The positive values of transparency align with the model's prediction that some level of transparency is necessary, and the simple, two-level variation reduces the number of factors in the analysis to a manageable number.⁸

Other Parameters

These three variables comprise a $3 \times 3 \times 2$ factorial research design. In addition to these variables, there are four parameters which remain fixed during the experiment. The first is the issue at stake, $X = \pi$, which as noted above was 30 points. The 30 points had a monetary value of \$3.00. The second parameter is the discount rate, $\delta = 4/5$. The third parameter is the disputants' cost of non-compliance. This cost is $c = \pi$, such that subjects simply pay τ if they renege on a settlement. This parameterization of c also matches the value of c used in the computational analysis of the theoretical model. The last parameter, $\epsilon = 2/15 \pi$, is the disputants' negotiation cost, or concession. As explained above, this parameter is adopted instead of the theoretical assumption that sets a player's concession equal to its' opponent's third party share. Though this modification changes the computation of the model slightly, the inferences between the two models are similar.

⁸ Indeed, as the number of values a variable takes increases, the number of factors also increases. The difference between a $3 \times 3 \times 2$ factor analysis – as presented here – and $3 \times 3 \times 3$ factor analysis is 9 factors. This would then require at least 180 more observations (Croson 2002) and make empirical analyses more cumbersome.

*Subject Rematching, Experimental Repetition, and
Compensation*

Sixty-eight University of Iowa undergraduate students (45 women and 23 men) participated in this study over six sessions. Subjects played the above-described decision control game 15 times.⁹ Of these 15 rounds, subjects were paid for 10 randomly-selected rounds. A random-round payoff structure was adopted in order to encourage independence between periods and reduce wealth effects (Morton and Williams 2009). At the beginning of each new bargaining round, subjects were reassigned to new partners. All matchings were anonymous. Subject-pairs were also assigned new roles and a new set of experiment parameters. Randomizations, matching, and subject interactions were all managed through *z-Tree* (Fischbacher 2007). For enrolling in the study and as compensation for their time, subjects were paid a \$10.00 show-up fee. Additionally, subjects were compensated according to their performance in the bargaining games. In each round, approximately 30 points was at stake.¹⁰ Subjects also had the opportunity to earn points for making correct guesses about the outcome of the third party decision. For every point a subject earned, he or she was paid \$0.10. Total payoffs in the decision control game ranged between \$12.50 and \$31.00, with an average payoff of \$20.91.

Together, the 68 subjects made up 34 bargaining pairs and 510 observations. Table 6.1 describes the distribution of these observations to the 3x3x2 factor analysis:

9 Treatment and session effects are illustrated in Figures D1 and D2 in Appendix D. There are no concerns about any individual session swaying the results or subjects' learning over the 15 periods.

10 The actual value was more or less depending on the value of some of the parameters, but the baseline incentive was 30 points. Subjects were paid according to the number of points they earned in order to encourage profit-maximization behavior.

Table 6.1. Distribution of Observations in the Decision Control Game

	<i>Low Transparency</i>			<i>High Transparency</i>			
	<i>Favors C</i>	<i>Unbiased</i>	<i>Favors T</i>	<i>Favors C</i>	<i>Unbiased</i>	<i>Favors T</i>	Totals
<i>C Stronger</i>	19	25	30	23	43	33	173
<i>Balanced</i>	29	29	24	30	34	27	173
<i>T Stronger</i>	26	42	26	30	22	18	164
Totals	74	96	80	83	99	78	510

Decision Control Hypotheses

Based on these parameterizations, the theory makes the following predictions:

1. The delegated level of decision control increases if the challenger is preponderant in power and is also favored by the third party.
2. The delegated level of decision control decreases if the challenger is preponderant in power and is not favored by the third party.
3. The delegated level of decision control decreases if the challenger is not preponderant in power and the third party is biased in favor of either disputant.
4. The delegated level of decision control increases if the challenger is not preponderant in power and the third party is impartial.
5. All else equal, the delegated level of decision control decreases as forum transparency increases.

Empirical Analysis of Decision Control

This section describes the data and methodology used to evaluate these hypotheses. As detailed above, there are three independent variables: relative power, third party bias, and transparency. Each factor is categorical. Relative power is coded 0 if power is evenly distributed between the players, 1 if the target is preponderant, and 2 if

the challenger is preponderant. Third party bias is coded 0 if the third party is impartial, 1 if the third party is biased in favor of the target, and 2 if the third party is biased in favor of the challenger. Transparency is coded 0 if forum transparency is low and 1 if it is high. Corresponding with these coding rules, the omitted factor in each analysis is the case in which the third party is impartial and the distribution of power is balanced. The dependent variable is the selected level of decision control. The average level of decision control is 0.67. Figure 6.2 illustrates the kernel density plot of the selected levels of decision control.

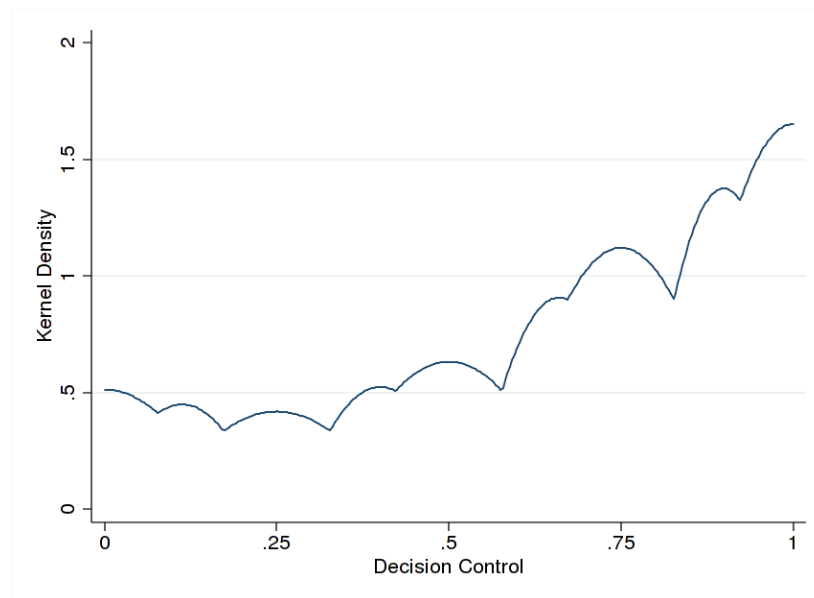


Figure 6.2. Kernel Density Plot of Selected Levels of Decision Control

Immediately observed in Figure 6.2 is that subjects tended to delegate at least some level of decision control. Subject-pairs also delegated complete decision control with the greatest frequency. This contrasts with the theoretical prediction that disputants

should rarely delegate complete decision control. The prevalence of high-level delegations might be a sign that the bargaining problem was too complex, so that the decision to delegate complete decision control, because its consequences were clearer, was a simplifying heuristic.¹¹ The next section presents results from ANOVA regression that more explicitly evaluate the factors that led subjects to delegate decision control at these various levels. The statistical analysis splits the data by forum transparency in order to facilitate interpretation of the three-way interaction between relative power, third party bias, and transparency.¹²

Results: Delegating Decision Control

Table 6.2 reports the results of the split-sample regression of decision control in this first forum design experiment. The cases under study are divided by the level of forum transparency and include the entire universe of observations. Because there were three cases in which the subject-pair did not come to an agreement on decision control, there are 507 observations in this analysis. In sum, the results in Table 6.2 provide strong support for several of the theory's implications. When forum transparency is low, the results confirm hypotheses 1 and hypothesis 3 for impartial third parties. When forum transparency is high, belligerents are also more likely to increase their delegated level of decision control with the third party is impartial and the target is preponderant in power.

11 It may also be that simply having the choice to select from more than two options above any theoretically observed level invited to option select these levels.

12 Table D1 in Appendix D reports the results of the ANOVA analysis. Table D2 presents the full-sample regression of all 18 factors.

Table 6.2. Split-Sample Regression of Decision Control in Forum Design Experiment

	Model 1 <i>Low τ</i>	Model 2 <i>High τ</i>
<i>Factor</i>	Coef./Std.Err.	Coef./Std.Err.
<i>Challenger Stronger &</i>		
Bias Favors <i>Challenger</i>	0.263* (0.137)	-0.060 (0.127)
Third Party Impartial	-0.091 (0.093)	0.150 (0.093)
Bias Favors <i>Target</i>	0.212 (0.133)	-0.006 (0.138)
<i>Power Balanced &</i>		
Bias Favors <i>Challenger</i>	-0.190** (0.090)	0.020 (0.084)
Third Party Impartial	omitted	omitted
Bias Favors <i>Target</i>	-0.190** (0.094)	-0.107 (0.086)
<i>Target Stronger &</i>		
Bias Favors <i>Challenger</i>	0.118 (0.124)	0.029 (0.120)
Third Party Impartial	0.032 (0.082)	0.156** (0.077)
Bias Favors <i>Target</i>	0.031 (0.127)	0.120 (0.116)
Constant	0.741*** (0.063)	0.589*** (0.057)
R2	0.0511	0.0764
RMSE	0.3415	0.334
N	249	258

Note: * = $p < 0.1$, ** = $p < 0.05$, *** = $p < 0.01$.

Coefficients derived from the underlying regression fit to the ANOVA estimates.

More specifically, Model 1 of Table 6.2 shows that when forum transparency is low, disputes in which the challenger is preponderant in power and favored by the third party are likely to delegate higher levels of decision control than disputes in which neither

party has a coercive or third party advantage. In other cases where the challenger is stronger, subject pairs were no more or less likely to delegate higher levels of decision control. The theory predicted that disputants in these scenarios would be less likely to give control to a third party to mediate. The results here suggest that there might not be an obvious, optimal level of decision control – an implication that aligns with the theory's computational results. In the case where the third party favored the target but the challenger was stronger, the theory's computational solution did not result in a real-value, optimal forum. For these disputes, it appears that third party alternatives are simply not acceptable due to the cross-cutting tension between the stronger initiator and the favored defendant.

When power is balanced and forum transparency is low, third party bias in either direction results in the disputants electing to reduce decision control. Both the factor in which power is balanced and the third party favors the challenger and factor in which the target is favored are negative and significant. The converse is that disputants are willing to delegate higher levels of decision control when the third party is impartial and power is balanced. Both of these inferences align with the model, supporting the third hypothesis as it applies to a balance of power.

In contrast to this finding, when the target is stronger, no combination of target strength and third party bias affects the level of decision control. Hypothesis 3 also applies to these cases; the insignificant results indicate that disputants are less able to agree on decision control when the challenger has a positional advantage as the initiator and the target has a distributional advantage through its preponderant power or its relationship with the third party. Additionally, hypothesis 4 fails to find support when

forum transparency is low and the target is preponderant. Though the coefficient is positive, as predicted, it does not reach traditional levels of significance. When forum transparency is high, however, decision control increases when the target is stronger and the third party is impartial. Therefore, while hypothesis 4 is not confirmed when transparency is low, it has support when transparency is high.

For the remaining factors, when forum transparency is high, there is no significant effect of a given factor on disputants' selection of decision control. Together, these results hint that hypothesis 5 might also be verified by this analysis. Interpreting the effect of a constitutive term from its coefficient in an interactive model is often challenging, though. To more clearly infer the independent effect of forum transparency on decision control, it is helpful to consider the factor's marginal effect. Table 6.3 presents the marginal effects of the constitutive terms on subjects' selection of decision control in the forum design experiment. The table reports three sets of marginal effect estimations. The first evaluates the effect of each term in the full-sample model. In this set of cases, the factor in which the third party is impartial, power is balanced, and forum transparency is low is the reference factor. According to these estimates, forum transparency has no significant, independent effect on decision control; thus hypothesis 5 is not supported by this analysis. In contrast, the marginal effect of the power asymmetry on decision control is positive and third party bias in favor of the target has a negative effect.

These effects vary according to forum transparency, as the two sets of marginal effects from the split-sample analysis show. When forum transparency is low, third party bias in favor of the target has a negative marginal effect on decision control. When forum transparency is high, power asymmetries increase the acceptable level of decision control.

Table 6.3. Marginal Effect of Relative Power, Third Party Bias, and Transparency on Decision Control

<i>Factor</i>	<i>Full Sample</i> $\partial y/\partial x$ (Std. Err.)	<i>Low τ</i> $\partial y/\partial x$ (Std. Err.)	<i>High τ</i> $\partial y/\partial x$ (Std. Err.)
Relative Power			
<i>Challenger Stronger</i>	0.092** (0.039)	0.054 (0.056)	0.129** (0.054)
<i>Target Stronger</i>	0.140*** (0.036)	0.077 (0.052)	0.202*** (0.049)
Third Party Bias			
<i>Favors Challenger</i>	-0.026 (0.037)	-0.068 (0.053)	0.016 (0.051)
<i>Favors Target</i>	-0.088** (0.037)	-0.116** (0.052)	-0.062 (0.051)
Transparency	0.002 (0.030)		
<i>N</i>	507	249	258

Note: * = $p < 0.1$, ** = $p < 0.05$, *** = $p < 0.01$. $\partial y/\partial x$ for factor levels is the discrete change from the base level. Delta-method standard errors reported.

Though the analysis does not support an independent effect of forum transparency on decision control, variation between results when forum transparency is high and when it is low suggest an interactive effect. Figure 6.3 graphs the marginal effect of third party bias on decision control when the challenger is stronger. As the figure shows, when transparency is high and relative power shifts from parity to challenger preponderance, a challenger favored by the third party effects a 5% decrease in the level of decision control. When the forum is more private, disputants increase decision control by 11% when the third party is biased in the challenger's favor and the distribution of power changes to also advantage the challenger. This figure not only illustrates the effect supporting hypothesis

1, it also demonstrates how transparency changes a forum's acceptability, conditioned by third party bias and the distribution of power.

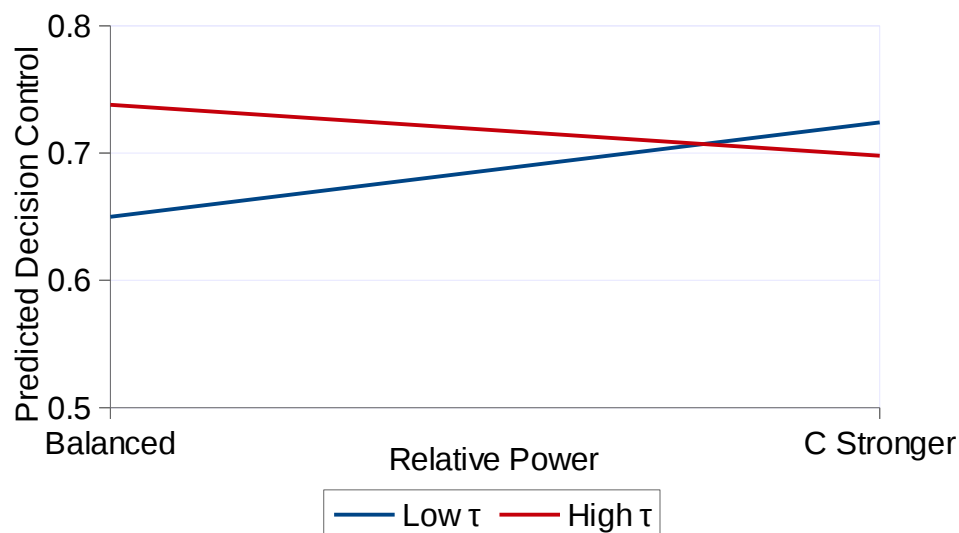


Figure 6.3. Marginal Effect of Relative Power on Decision Control by Forum Transparency

Note: Values estimated for third party bias favoring the challenger. The top, red line demonstrates the effect of relative power as it shifts from balanced to challenger preponderance when transparency is high. The bottom, blue line illustrates the same relationship for low transparency.

A Discussion on Decision Control

In sum, the results from this decision control experiment support the theoretical model: First, the experimental analysis reproduces the counter-intuitive result that strong challengers that are favored by third party intermediaries are willing to delegate decision control, despite their ability to otherwise coerce a settlement. Though this implication challenges conventional wisdom about forum selection, it corresponds with a number of empirical examples. Chapter 5, for instance, recounted the management of the conflict

between Venezuela and Guyana over the Essequibo river. In that conflict, though both disputants expected the United States to favor Venezuela, the belligerents issued a mutual request for the regional power to mediate (Brecher and Wilkenfeld 2010, ICB Crisis #325). The management of the Second Cod War between Great Britain and Iceland is another example of disputants consenting a management forum that favored the stronger party. Though the United States, in this case, attempted to mediate a middle ground between its NATO allies, it entered the conflict as a traditional British ally (Mitchell 1976). In both of these cases, the disputants' mutual willingness to appeal to the United States was motivated by concerns about the imposition and acceptability of concessions. As scholars have elsewhere observed, stronger parties are unlikely to make concessions in bilateral negotiations. The presence of a third party – even one that is biased in its favor – increases the probability that the stronger challenger backs down from some portion of its claim. The result of this third party manipulation is that the subsequent settlement is more acceptable to the weaker target, who typically assumes a larger share of the concessions (Quinn et al. 2006). Based on the alignment between the theoretical implication, the experimental result, and extant empirical research, this conclusion generalizes this novel insight well. Where traditional power politics would expect asymmetrically powered disputants to negotiate bilaterally, this research shows that there are acceptable and credible third party options that improve conflict management success.

In light of the strong support for the conclusion that strong challengers negotiate multilaterally, it is consequently surprising that strong targets cannot similarly appeal to third parties biased in their favor. As the results show, when the target is preponderant, decision control increases only when an impartial, high-transparency forum offers an

alternative to bilateral negotiation. One explanation for this result is that strong targets are unable to take advantage of favorable third party fora because the bargaining protocol places them at a disadvantage. The first actor in an alternating-offers bargaining model typically gains more from its outside options than the responding actors because transaction costs make it more difficult for a defendant to credibly appeal to its outside option (Muthoo 1999). Thus, for a strong target, an impartial third party is an acceptable alternative to no third party involvement. This result also recalls the implication from Chapter 3 that impartial third parties can balance power asymmetries between weak challengers and strong targets. Empirical evidence of this implication was not observed in the experimental analysis presented in Chapter 4. There, however, it might have been the case that coercion was not a credible alternative for either actor because neither rival was resolved enough to initiate conflict. The experimental results in this chapter allow this topic to be revisited.

In particular, the conditions of this conclusion help to support both Chapter 5's expanded forum design model and the corresponding implication from Chapter 3. Notably, whenever the challenger does not have a coercive advantage, disputants are more likely to delegate decision control to impartial third parties. This result coincides with implications from both models that impartial third parties create more opportunities for dispute resolution. It is additionally remarkable that this chapter finds that rivals delegate this decision control when forum transparency is high. This finding provides early intuition about the contradicting explanations about third party management derived from the literature. Though transparency is generally expected to decrease with decision control, this relationship is conditioned on the distribution of power and third party

interest. An impartial third party – as evidenced by the theory and empirical results – is more accommodating.

Last, the results from this analysis contribute to the on-going debate in the literature regarding third party bias and forum acceptability. Observations from the laboratory lead to the conclusion that when neither disputant has a coercive advantage – cases in which information about resolve would be vital because violence is a possibility – disputants are less likely to invite biased, low transparency mediators. Though these types of intermediaries might be able to foster trust, if their role is to also bring about a substantive end to the dispute, disputants will find them unacceptable. Again, then, if issue division and commitment problems are the most salient barriers that disputants face, biased third parties are less likely to be useful. This result not only verifies the implication from the theoretical model, it also agrees with research using naturally-occurring data to explain the use of biased intermediaries (Gent and Shannon 2011a).

Experimental Design: Forum Shopping For Transparency

The results from the previous experimental analysis highlight the conditional nature of forum transparency in the decision to delegate control to a third party. This second experimental analysis investigates transparency even further, analyzing the interacting effects of distributional outcomes and decision control on the choice to increase forum transparency. The experiment follows the same alternating-offers protocol as the other two experimental models this project evaluates. It differs with respect to the type of decision problem: In this study, the game began by randomly pairing subjects and assigning one to the role of Player A (challenger) and the other to Player B (target). The

players were instructed that they would be negotiating over the selection of a third party mediator. In the opening stage of the game, Player A was shown three mediation options, A, B, and C, and invited to propose one of them to Player B. Player B then observed Player A's selection and decided whether to accept the proposal or reject it and propose a different mediator. If the responding player rejected a proposal, then the points at stake, $\pi = 30$, were reduced by δ . If the responding player accepted, then the subjects played a simultaneous compliance game to determine the final point division.

As in the other two experiment protocols, if both players complied with the mediator's suggestion, then each received its proposed share of the issue. If one player reneged and the other accepted, the defiant player received the entire value of the issue minus its costs for non-compliance, $(\pi - \tau c)$. The compliant player received zero points. If both parties defied the mediator's decision, then each player lost τc points.

Selecting Transparency

This experimental protocol deviates from the structural logic of the model to highlight potential forum shopping aspects of forum selection that the theory in Chapter 5 only hints at. Subjects were asked to select from a set of three mediators, rather than propose a specific division or level of a choice variable. The mediators were represented by normal form games that were structured similarly to the compliance subgame of the theoretical model. The subjects, accordingly, had information about the mediators' distributional bias and their ability to impose costs for noncompliance. The mediator's bias was determined by a cumulative distributional outcome, σ , and a level of control, κ , which modified the negotiation costs, ϵ , of each game. The three mediators that the subjects viewed only vary by the level of transparency. Thus, the subjects selected on the

level of transparency, without explicitly setting it as in the previous experiment. Table 6.4 illustrates a typical set of choices that study participants faced.

Table 6.4. Transparency Analysis Decision Problem¹³			
<i>Challenger</i>	A	<i>Target</i>	
		Comply	Defy
	Comply	20, 10	0, 0
	Defy	0, 0	-30, -30
<i>Challenger</i>	B	<i>Target</i>	
		Comply	Defy
	Comply	20, 10	0, 15
	Defy	15, 0	-15, -15
<i>Challenger</i>	C	<i>Target</i>	
		Comply	Defy
	Comply	20, 10	0, 5
	Defy	5, 0	-25, -25

Note: In this case, $\kappa = 0$ and the distributional bias, σ , favors the *Challenger*.

A subject in the role of the proposer was tasked with selecting its most-preferred mediator; understanding that if his or her counterpart also agreed to the mediator that both would then decide whether to comply or defy the division induced by the third party. The levels of transparency that were used to determine the choice were determined by computational solutions of the compliance subgame and ranged between 0 and 6. In each

¹³ In the experimental protocol, the three mediation options were randomly ordered on the screen so selecting the same option over repeated rounds resulted in the same type of outcome.

set of mediation choices, there was one level of transparency that was the minimally acceptable level of transparency, which was intended to be the optimal choice, and two other levels of transparency, one above and one below the optimal level.¹⁴

In some cases, as in the example illustrated above, there could be multiple mediation fora that would result in an efficient division of the issue at stake, mutual compliance. In these cases, the optimum forum was the one identified as having all of its pure strategy outcomes dominating the other and that also met the constraint condition. Applied to the set of mediators in Table 6.4, for example, though mediators A and C are both cooperation-inducing fora, mediator C is preferred to mediator A because C minimizes the players' risks should they both make a mistake and defy the mediator's decision. The risk that an adversary will unilaterally renege is no worse through mediator C than through A. Additionally, the best that the *Target* can hope to do by renegeing and proposing mediator B, instead, is 3 points. Thus, in this decision problem, Player A should propose mediator C and Player B should accept. Then, both parties should comply with the settlement decision.

Variation in Decision Control and Distributional Outcomes

The acceptability of this choice depends on the other ways that mediators vary in this game. First, a mediator divides the issue at stake according to one of three division schemes, $(\sigma_A, \sigma_B) = [(1/3\pi, 2/3\pi), (1/2\pi, 1/2\pi), (2/3\pi, 1/3\pi)]$. The players' partitions are also modified by negotiation costs. The costs, or concessions, involved in peaceful management, $\epsilon = 2/15\pi$, are scaled according the mediator's level of decision

¹⁴ A spreadsheet containing the values of these calculations is available upon request, but Table D3 in Appendix D shows the values of transparency that were selected in each case.

control, $\kappa = \{0, 0.5, 1\}$ In this research design, the purpose of decision control is to provide political cover for concessions (Allee and Huth 2006; Beardsley 2010).

Operationally, a mediator provides more political cover when κ is small, which results in fewer negotiation costs for disputants that comply with mediated settlements.¹⁵

Other Payoff Parameters

In addition to transparency, decision control, and distributional bias, there are four other parameters in the experimental design that alter subjects' payoffs. As before, π represents the value of the issue at stake and is equal to 30. The cumulative value of π diminishes over prolonged bargaining as it is reduced by the common discount rate,

$\delta = 4/5$, every time a subject rejects a proposal. If subjects complete five rounds of offers without coming to an agreement, then the period ends and each player receives its disagreement payoff of zero points. If both subjects accept a mediator, the subjects' mutual compliance payoff is a function of the distributional outcome, σ , negotiation costs, $\epsilon = 2/15\pi$, and the level of decision control. Decision to defy the mediated settlement impose costs for non-compliance, $c = 30$, weighed by the level of transparency.

Subject Rematching, Experimental Repetition, and Compensation

Forty University of Iowa undergraduate students (26 women and 14 men) participated in this experiment. In each session, subjects completed 15 bargaining periods. For enrolling in the study and compensation for their time, subjects were paid a \$10.00 show-up fee. They were additionally compensated for their performance in 10 of

¹⁵ These values for κ should be conceptualized as the result of $(1-\kappa)$.

15 randomly selected periods.¹⁶ Performance-based compensation was determined by the number of points that a subject earned across each of the subject's 10 randomly-selected payment periods. In this study, subjects earned an average of \$18.28 (performance + show-up fee). In total, compensation ranged between \$11.70 and \$26.20.

At the beginning of every round, subjects were randomly paired and assigned to one of nine treatment conditions based on a 3x3 factorial design. The distribution of the 300 subject-pair observations is reported in Table 6.5. Partner, role, and treatment conditions were reassigned each period. All matching was anonymous and interactions were expedited using *z-Tree* (Fischbacher 2007).

		Table 6.5. Distribution of Observations in Transparency Game		
		<i>Decision Control</i>		
		High (=0)	Med. (=0.5)	Low (=1)
<i>Third</i>	Bias Favors C	25	29	35
<i>Party</i>	Impartial	34	42	38
<i>Bias</i>	Bias Favors T	23	32	42

Transparency Hypotheses

Chapter 5 suggests that transparency and decision control share a negative correspondence, such that as decision control increases, transparency decreases. At the same time, transparency increases whenever a disputant expects that the third party will decide against it. As Figure 5.3 in Chapter 5 shows, forum transparency tends to increase as the forum increasingly disagrees with the challenger. The theory also suggests – and

¹⁶ As before, a random-round payoffs protocol was implemented in order to ensure independence of observations and reduce wealth effects.

the previous experimental results confirm – that impartial third parties create more acceptable alternatives to bilateral negotiation. Therefore, forum transparency should be higher when the distributional outcome is impartial than when it is biased. Together, these trends produce the following hypotheses:

1. The selected level of transparency increases if the challenger is not favored by the management forum.
 - 1.1. The selected level of transparency will be higher if the target is favored by the management forum than when it favors the challenger.
2. The selected level of transparency increases if the management forum is impartial.
3. All else equal, the selected level of transparency decreases as decision control increases.

The above hypotheses are stated in terms of the constitutive terms' direct effects, however, it is also possible that distributional bias and decision control interact. In particular, the simultaneous effects of hypotheses 1 and 3 would suggest that disputes in which the challenger is favored by a high decision control forum result in the lowest levels of transparency. In contrast, it would be expected that low-control, impartial management fora encourage the highest levels of transparency. Furthermore, there are other implications which could be derived from the theory about disputants' preferences over transparency. For example, as the costs of noncompliance increase, the optimal level of transparency decreases. This analysis, however, focuses simply on the direct and combined effects of issue division and decision control. The aim is to lend additional clarity to the results presented above and to develop a fuller picture of preferences over management fora.

Transparency Data and Methodology

The analysis considers two different dependent variables: the level of transparency selected and the difference between the level of transparency selected and the optimal level of transparency. The level of transparency is an interval variable that ranges between 0 and 6, and the analysis uses ANOVA regression to evaluate the level of transparency that subjects selected. Comparisons between levels of transparency are not interval, however. In some cases, there is more than a one-unit difference between the values of transparency from which the subjects selected. To evaluate the difference between the selected level of transparency and the optimal value of transparency suggested by the model, a difference is coded 1 if the selected value is less than the optimal value and 2 if the difference is greater than the optimal value. If subjects selected the optimal value the difference is coded 0. Multinomial logistic regression, with the no difference outcome as the base level, is used to test the effects of distributional bias and decision control on transparency choices.

The factorial analysis considers the forum's distributional bias and the level of decision control. If the distributional outcome is impartial, the variable is coded 0. If the distributional outcome, instead, favors the target, it is coded 1, and if the distributional outcome advantages the challenger, the variable is coded 2. The variable, *Decision Control*, ranges between 0 and 2 and is coded 0 if the level of decision control was 0, 1 if the level was 0.5, and 2 if the level was 1.

Results: Selecting Transparency

The first set of analyses examine the level of transparency that subjects selected in the transparency experiment. In 299 of the 300 games, the subjects came to an agreement over the level of transparency before the game ended. Ninety-seven percent of all games ended after two rounds of offers. Table 6.6 presents the results of an ANOVA regression of decision control and distributional bias on the level of transparency disputants selected. As the table shows, the results provide just tacit support for the theory's implications. Instead, important predicted effects are either insignificant or significant, but in the opposite direction.

In particular, Table 6.6 shows that when decision control is low, forum transparency is lower when the distributional outcome favors the challenger than when it is impartial. This result confirms the main effect of hypothesis 1, which states that fora biased against the challenger are likely to result in lower levels of transparency. Interestingly, transparency is higher when the distributional outcome favors the target than when the forum is impartial. On the one hand, this results contradicts hypothesis 2 that impartial fora will result in higher levels of transparency than biased fora. On the other hand, it confirms the corollary hypothesis to hypothesis 1 that forum transparency is likely to be higher when the forum favors the target than when it favors the challenger. The justification for this hypothesis comes from the model's prediction that decision control decreases and forum transparency increases as the distributional outcome shifts away from the challenger.

Table 6.6. Regression of Transparency in Forum Design Experiment

<i>Factor</i>	Model 3 Coef./ (Std. Err.)
Low Decision Control &	
	-1.202***
Bias Favors <i>Challenger</i>	(0.458)
No Bias	omitted
	1.392***
Bias Favors <i>Target</i>	(0.452)
Medium Decision Control &	
	-0.474
Bias Favors <i>Challenger</i>	(0.610)
	0.106
No Bias	(0.392)
	0.873
Bias Favors <i>Target</i>	(0.607)
High Decision Control &	
	-0.838
Bias Favors <i>Challenger</i>	(0.602)
	0.217
No Bias	(0.401)
	-0.694
Bias Favors <i>Target</i>	(0.595)
	2.941***
Constant	(0.291)
<i>N</i>	299
R ²	0.2327
RMSE	1.6972

Note: * = $p < 0.1$, ** = $p < 0.05$, *** = $p < 0.01$.

Coefficients derived from the underlying regression fit to the ANOVA estimates.

The remaining results in Table 6.6 are not significant, but, the factors, in general, retain the direction of their effect across the three levels of decision control. For any value of decision control, a distributional bias favoring the challenger is negatively associated

with forum transparency. Alternatively, mediated outcomes that favor the target tend to increase forum transparency, regardless of the value of decision control. The only exception to this trend is when forum transparency is high. In that case, bias in favor of the target negatively, though insignificantly, influences transparency.

These results warrant a cautious approach in examining the results for support of hypothesis 3 – that, all else equal, forum transparency decreases with decision control. The interactive effect implied by hypotheses 1 and 3 would predict that the factor in which decision control is high and the distributional outcome favors the challenger produces the lowest levels of transparency. Therefore, it would be expected that bias favoring the challenger would remain negative and significant across the three decision control levels. However, the effect appears to diminish. To help interpret these results with greater clarity, Table 6.7 presents the marginal effects of decision control and distributional bias on forum transparency. Contrary to the intuition from the coefficients in the regression, the marginal effect of bias favoring the challenger on transparency is positive. In a similarly curious result, the marginal effect of a distributional bias in the target's favor on transparency is negative. Last, decision control has no direct, independent effect of transparency. The interactive effects of these constitutive terms appears to alter their main effects, which might hint at a mediating factor, however the analysis presented here cannot confirm the existence of such an influence.

This last result echoes results from the previous experimental analysis where transparency was also found to have no independent effect on decision control. Again, substantive results from the empirical analysis appear to support an interactive

Table 6.7. Marginal Effect of Decision Control and Distributional Bias on Forum Transparency

<i>Factor</i>	$\partial y/\partial x$ (Std. Err.)
Decision Control	
	0.250
Medium	(0.253)
	-0.254
High	(0.247)
Distributional Bias	
	0.907***
Favors <i>Challenger</i>	(0.242)
	-1.168***
Favors <i>Target</i>	(0.236)
<i>N</i>	299

Note: *** = $p < 0.01$. $\partial y/\partial x$ for factor levels is the discrete change from the base level. Delta-method standard errors reported.

relationship between distributional bias and decision control on forum transparency that also supports a negative correspondence between decision control and transparency. Consider Figures 6.4 and 6.5, which portray the marginal effect of distributional biases favoring the challenger and the target, respectively, for the three values of decision control. Figure 6.4 demonstrates the positive effect of bias favoring the challenger on the predicted level of transparency, in line with the effect reported in Table 6.7. The figure also shows that this effect is the strongest when decision control is low and the weakest when decision control is high. In other words, low levels of decision control correspond with higher levels of transparency and high levels decision control with lower levels of transparency. This pattern is mimicked in Figure 6.5: As the distributional bias shifts from impartial to the target's favor, the highest level of decision control reduces forum

transparency most dramatically. In sum, results from both experiments demonstrate the subtlety of the relationship between transparency and decision control. It might be difficult to observe states responding to particular forum features because they work interdependently with other forum dimensions and characteristics of the dispute to inform management decisions.

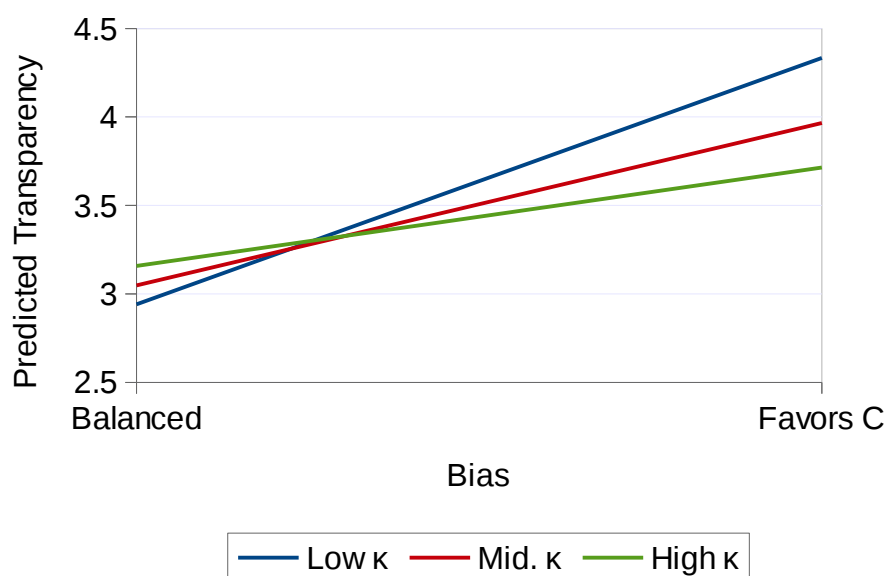


Figure 6.4. Marginal Effect of Distributional Bias Favoring Challenger on Transparency by Decision Control

A second question related to these results asks whether subjects diverged from the best level of transparency and, if so, in which direction. Subject selected the “best” mediator 25% of the time. Surprisingly, the more transparent forum was selected just 18% of the time. Instead, subjects selected the less transparency forum more than 55% of the

time. Table 6.8 presents the results of the multinomial logistic regression that explores how decision control and distributional outcomes influenced these deviations.

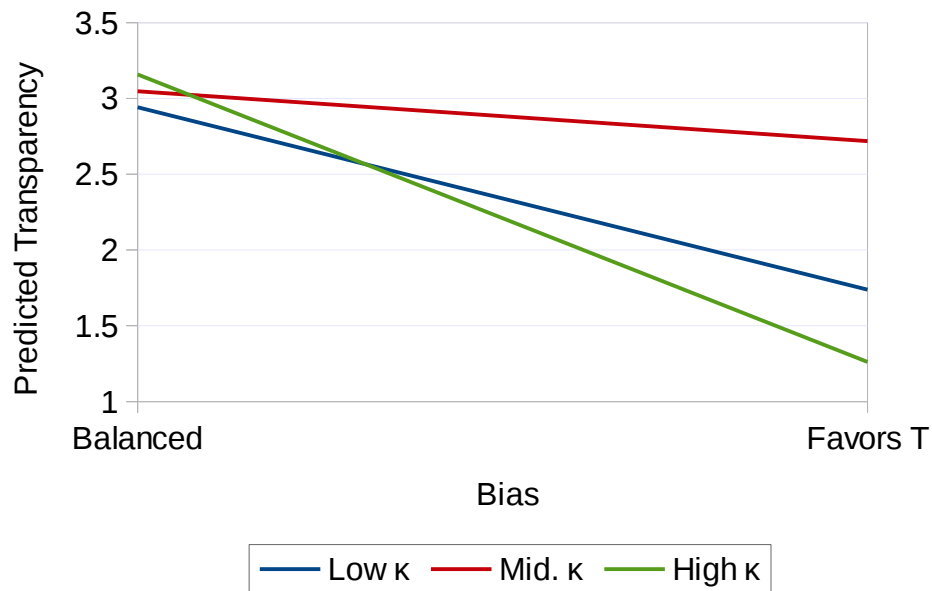


Figure 6.5. Marginal Effect of Distributional Bias Favoring Target on Transparency by Decision Control

Model 4 demonstrates the effect of distributional bias on the decision to select a lower level of transparency and Model 5 reports deviations to more transparent fora. Results reveal that as decision control increased, subject-pairs were more likely to deviate from the best choice. When decision control was low, which eliminated negotiation costs, distributional bias in either direction increased the probability that disputants chose a less transparent forum. Bias in the challenger's favor also increased the probability that subjects deviated to more transparency forum. As decision control increases, though, the

direction of these effects reverse and subjects become more likely to select the best forum.

Table 6.8. Multinomial Logistic Regression of Transparency Selection Deviation		
<i>Factor</i>	Model 4 Coef./Std. Err.	Model 5 Coef./Std. Err.
Low Decision Control &		
Bias Favors <i>Challenger</i>	2.565** (1.115)	2.485** (1.133)
No Bias	omitted	omitted
Bias Favors <i>Target</i>	2.079** (0.854)	1.099 (0.940)
Medium Decision Control &		
Bias Favors <i>Challenger</i>	-2.382* (1.244)	-2.405* (1.379)
No Bias	0.574 (0.536)	-0.591 (0.653)
Bias Favors <i>Target</i>	-2.075** (1.012)	-0.577 (1.175)
High Decision Control &		
Bias Favors <i>Challenger</i>	-1.584 (1.236)	-2.079 (1.433)
No Bias	0.118 (0.534)	-1.204* (0.704)
Bias Favors <i>Target</i>	-0.742 (1.012)	-0.049 (1.240)
Constant	0.000 (0.408)	-0.182 (0.428)
<i>N</i>	169	54
Pseudo R2	0.063	

Note: * = $p < 0.1$, ** = $p < 0.05$, *** = $p < 0.01$.

One factor that may explain this behavior is that lower levels of transparency often created *Battle of the Sexes*-type games in which there were larger rewards if a subject

thought that the other player would cooperate, rather than defect in the compliance subgame. For example, Mediator B in the example in Table 6.4 is the low transparency mediator. Imagine that the payoffs were reversed and that the third party, instead, favored the *Challenger*. A Player A in this situation might find the low transparency forum enticing if he or she believes that his or her counterpart is a cooperative type. And, because the losses associated with delay appear so large, a responding subject might accept this proposal. The result in many of these cases is that both players mis-estimate their opponent and both defect. In cases where the lower level of transparency was selected and the third party was biased, subjects mutually defected 33% of the time; when the third party was impartial, they both defected 23% of the time. This is in contrast to the cases in which the optimal mediator or the higher transparency mediator was selected: In none of these cases did both subjects defy the mediated division.

This intuition is supported by analysis of the marginal effects of the constitutive terms on subjects' probability of selecting the best forum. A distributional bias favoring either disputant marginally decreased the probability that subjects selected the correct forum (Bias Favoring Challenger: $\partial y / \partial x / (\text{Std. Err.}) = -0.170^{***} / (0.061)$; Bias Favoring Target: $\partial y / \partial x / (\text{Std. Err.}) = -0.180^{***} / (0.059)$). On the other hand, decision control had a positive effect on the probability that subjects agreed to the best forum (Medium Decision Control: $\partial y / \partial x / (\text{Std. Err.}) = 0.115^{*} / (0.059)$; High Decision Control = $0.107^{*} / (0.057)$).

In sum, the results from the experimental analysis of forum transparency are less supportive of the theoretical model as the results on decision control. Where the empirical results appeared to support the model's implications, notably hypotheses 1 and 3, the effects were highly conditional or were unverified by additional post-estimation tests.

However, subjects' behaviors which contradicted the theory's expectations builds on the narrative established by the theory. Namely, subjects often saw low transparency fora as opportunity to exploit an adversary's cooperation. Chapter 3 supports this observation as one area in which third parties were especially influential was when they would create coordination problems in the compliance subgame. Similar behavior emerges in this experimental analysis where subjects frequently pursued fora with multiple equilibria. Chapter 5 did not explicitly explore the implications of these types of compliance games on disputants' expected utilities for conflict management. Though it acknowledged that such multiple equilibrium problems could occur, it focused, instead, on games with single, mutual-compliance outcomes. These results point to the need for further explication of the theoretical model.

Conclusion

These two experimental analyses take two different approaches to understanding a similar question: How actors shape settlement fora according to their balance of capabilities and interest. The theory predicts that forum transparency and decision control depend upon the distribution of power, disputants' expectations about the outcome of negotiations, and the costs of non-compliance compared to the costs of prolonged conflict. In particular, the theory provides five lessons about conflict management forum selection that guide this chapter's analyses. In general, the experiments described in this chapter find support for the theory's main implications. Both experiments agree with the model that in cases where the challenger is preponderant in power and is favored by the third party – granting him a distinct distributional advantage – the optimal level of

decision control increases while forum transparency decreases. Additionally, when the target has a distributional advantage, as when she is preponderant in power (though not necessarily favored by the third party), higher levels of decision control and transparency will be acceptable. Last, both research designs facilitate the discovery of conditional, indirect effects of the two forum dimensions on bargaining behavior. Though the theory made more explicit assertions about the relationship between decision control and transparency than the empirical analyses produced, their interactive effects reinforce the message that third parties often subtly influence bargaining outcomes.

More specifically, when examining the decision to delegate decision control to a third party, this chapter demonstrates that parties are less willing to grant high levels of decision control or transparency when they anticipate that a third party will divide the issue unevenly and disrupt the balance of power. The second analysis, on the selection of transparency, supports this conclusion, but only for low decision control fora. Indeed, neither analysis observes the direct, negative relationship between decision control and transparency that the theory assumes. Instead, the negative correspondence between control and transparency is conditioned on other dispute factors.

The experimental analyses also demonstrated that higher levels of both transparency and control were more acceptable when the mediator was impartial. However, when third parties exercised substantial control over the proceedings, decision makers were less likely to increase forum transparency when negotiations were expected to result in an imbalanced partition. One explanation for these results is that the costs of non-compliance in a highly transparent forum are more salient than the small concessions that may be necessary when negotiating with an adversary more directly. Furthermore, a

low transparency forum keeps commitments flexible. In the event that large concessions are expected, the option to leave a commitment may make the peace process, itself, more acceptable.

The study on decision control, in contrast, uniquely concludes that decision control decreases as the third party's bias shifts from the challenger to the target. The exception to this rule, though, is when the target is stronger than the challenger. In these cases, the observed level of decision control was higher and increased with forum transparency. This result, which supports conclusions from the models in Chapter 3 and Chapter 5, suggests that an impartial arbiter is preferred to help balance the coercive power of the stronger adversary or, at least provide a stronger framework in which concessions may be inevitable.

A critical, but untested, observation that comes from these analyses is that the timing of third party management predicts which management fora will be acceptable and, in turn, whether the resulting efforts will be lasting. One reason why impartial third parties are effective in managing disputes between weak challengers and strong targets, but less acceptable when the challenger is preponderant, is that the offer to negotiate changes the transaction costs associated with continued bargaining. This makes it less profitable for an actor to use coercion once an olive branch has been extended. Therefore, less-than-optimal fora are selected because they are viewed as checkpoints before the next stage of settlement, but not influential choices on their own.

Though the experimental results lend substantial support to the theoretical implications from Chapter 5, they also signal opportunities for advanced work. First, there are potential limitations in the implementation of both of these experimental protocols.

Work within experimental economics raises doubts about the consistency of subjects' behavior in games of uncertainty. Future work will hope to contribute to this dialogue with further analysis of potential learning effects and instances of possible preference reversal in the data from the decision control experiment. In this vein, the analysis presented here suggests that subjects' beliefs about the portions of the experiment over which they had uncertainty were generally consistent with the beliefs that were intended to be induced. Beyond further experimental work, however, there remains a remarkable amount of information to be gleaned from the data collected in these two analyses. The purpose of this chapter was to investigate the *selection* of management fora, but each experiment also included a compliance rounds after subjects agreed to a forum. The links between forum selection and compliance with settlement outcomes have been less clearly established – both by this work and existing research. Though additional theoretical work on the effect of sequential bargaining is warranted in order to fully appreciate a dispute's transition from forum selection to negotiation and, ultimately, treaty compliance, the analyses presented here provide fruitful ground for the beginning of these next projects. The formula for such referents begins with the evidence found here.

CHAPTER 7

CONCLUSION

[I]f parties knew in advance the precise solution to their dispute, based on their relative power, they would not bother going through the process of third-party dispute resolution, which is costly and time consuming. States would not turn to third parties unless they played some role in helping the states to resolve problems.

Tom Ginsburg and Richard H. Adams, “Adjudicating in Anarchy”¹

The aim of this dissertation was to investigate the factors that explain the use of various management fora in international dispute resolution. Specifically, this project responds to an empirical puzzle in which disputants rarely pursue legal dispute resolution, such as arbitration and adjudication, despite their demonstrated effectiveness in helping states find lasting solutions to conflict. Another goal was also to build a generalizable theory of forum selection from the extant literature's long list of single-issue, causal variables that could not only explain why legal dispute resolution was rare, but that could also respond to alternative explanations. Through a series of theoretical models and experimental analyses, this project concludes that states select management fora which best balance their capabilities and interests with the need for external enforcement of agreements. The features of a conflict management forum, which include decision control, transparency, and distributional bias, materially affect the outcome and long-term viability of negotiated settlements. These features also indirectly inform belligerents' conflict bargaining strategies.

¹ Ginsburg and McAdams 2004, 1239. In the context of why rationalist realism fails to explain the prevalence of compliance with international law.

States' ability to *manipulate* these features – instead of simply selecting readily available, settlement packages from the shelf – is an important part of the conflict bargaining process. In particular, the manipulable, negotiable nature of forum selection drives, the conclusion that states select third party fora that balance power asymmetries and resolve commitment problems. From this general observation, the theoretical and empirical evidence shows that, in asymmetric disputes, states achieve a balance of interests and external enforcement by selecting impartial fora that are highly transparent and that provide a focal point for negotiations. In conflicts between states of equal power, disputants delegate to third parties to help overcome stalemates. Last, even when states do not invite third parties to the table, third party management principles still effect settlement outcomes. This third observation provides a direct response to the puzzle that originally motivated this project: Rather than submitting to third party management, states simply implement bilateral settlements that replicate the features of anticipated third party decisions.

These results respond to three alternative explanations for the infrequent use of third parties in interstate conflict management. The first conjecture was that third party management is rare because states are insincere in their efforts to resolve dispute peacefully. Relying on bargaining theories for leverage demonstrates the fallacy of this argument. Because prolonged conflict incurs transaction costs, states cannot afford to be patient without also sacrificing more of the issue than they may have to make in concessions. The second conjecture was that third party options are rare. Though empirically this assertion appears to be false, the theories presented in Chapter 3 and Chapter 5 demonstrate that, for some conflicts, third parties do not provide credible

alternatives to bilateral negotiation. The novelty of this insight comes from the fact that the multidimensional definition of a management forum created the possibility that states could select from *any* combination of forum features. Despite a universe of options, there are some conflicts that are simply poorly served by traditional substantive settlement fora. However, for many other disputes, the presence of physical dispute resolution institutions is unnecessary for successful settlement. Instead, states can often find acceptable, bilateral alternatives that replicate the features of effective third party management.

The third argument advanced the skeptical position that the conditions for successful management are rare. This, essentially, renders third parties irrelevant to conflict management processes. The bargaining perspective on dispute resolution demonstrates that the conditions for successful dispute resolution are, instead, quite commonplace. Additionally, the theory reveals that disputants in some types of conflicts – notably those contentious conflicts characterized by moderately high transaction costs – may not be able to recognize potential regions of agreement without the assistance of third parties. For example, when power parity threatens to bring disputes to a stalemate, this project shows that third parties are instrumental in tipping the balance toward agreement.

The second part of this last proposition, however, was less readily dismissed. This project, accordingly, established a framework intended to mete out each step of the forum selection process to identify where third parties were influential. This process began with defining a generalizable conception of a management forum. Using the extant literature as a starting point to the development of a streamlined concept, a conflict management

forum was defined as a venue intended to facilitate substantive dispute resolution, characterized by three features: decision control, transparency, and distributional bias.

Decision control describes the degree to which and external actors determines the outcome of settlement negotiations. Comparing across management fora, bilateral negotiations delegate the least decision control and arbitration and adjudication require states turn over the entire issue to a third party. Transparency corresponds with the accessibility outside actors have to the settlement process and its outcomes. An international organization, for instance, is a high transparency forum by virtue of its institutionalization and large international audience. A private individual or state acting as a mediator, in contrast, is a much lower transparency forum. More generally, transparency describes the features of a forum that allow it to transmit information and enhance commitment. Last, the distributional bias of a forum describes disputants' expectations about how the issue at stake will be divided.

The last two forum features were used to define a management forum in the baseline model outlined in Chapter 3. The bargaining model evaluated the effect of two different outside options on negotiation: third party management and war. The central contribution of this theory for explaining forum selection in interstate conflict management was the observation that states can construct bilateral agreements that reflect the characteristics of third party management, rather than directly appealing third party fora. A corresponding prediction was that impartial management fora balance power asymmetries by allowing weaker challengers to invoke third party management principles and avoid the coercive force of a stronger adversary. Significantly, this model also produced equilibria that explained settlement outcomes according the distribution of

power and capabilities (coercion) and disputants' patience. In sum, there are three explanations for the frequency with which states pursue bilateral conflict management, one of which includes indirect guidance from third parties.

Chapter 4 tests the implications of these results in a laboratory bargaining experiment. The experimental analysis concentrated on the degree to which the presence and absence of credible third parties influenced concession-making in conflict bargaining. The results of the analysis highlighted disputants' receptiveness to third party distributional bias and transparency, though little other support for the theory's central conclusions was found. Empirical results from the experimental analysis suggest, instead, third party distributional bias has the opposite effect on conflict bargaining outcomes than what was originally predicted. However, the chapter identifies several refinements that will inform future research on the effect of third parties in conflict management.

Chapter 5 expanded the theoretical model to also include decision control, matching the full multidimensional decision problem suggested by the management forum definition. An additional innovation of the theory is that it modeled forum selection as a multi-issue bargaining process. Rather than selecting management fora according one characteristic at a time, states select forum transparency and decision control simultaneously. The advantage of this approach is a gain in efficiency and a more realistic representation of forum selection in conflict bargaining. Additionally, the approach highlights the trade-offs that are inherent to the forum selection problem. The results of the model provided five lessons for forum selection research: First, transparency is a necessary component of an acceptable management forum. Private negotiations have the appeal of low costs for concession, but they provide little cover in the event that an

adversary reneges on a settlement commitment. Second, states rarely delegate complete decision control. The literature and empirical observations that motivate this project lament that states do not use binding conflict management with greater frequency. This result of the model demonstrates that the decision to delegate complete decision control is conditioned by the negative relationship between decision control and transparency and disputants' expectations about distributional outcomes. In short, though some impartial third parties are acceptable for arbitration and adjudication, there are either other bilateral and multilateral alternatives that are equally acceptable, or these fora are not credible for disputants in asymmetric conflicts. Otherwise, when states do delegate decision control, they do so to reinforce existing power asymmetries and to manage balances of power and commitment. Remarkably strong challengers are among the most likely actors to delegate decision control. The goal of this decision is to reinforce the existing balance of power and to help weaker adversaries find satisfaction with smaller concessions. Alternatively, as the balance of power shifts and disputants are at parity, states are more willing to delegate decision control in order to have a third party presence guide negotiations.

The fourth lesson revealed by the expanded forum design model was that unbiased third parties provide a larger range of opportunities for agreement. The last implication of the model indicated that forum acceptability did not necessarily correspond with forum effectiveness. This result provides another response to the question of disputant sincerity. Some states enter into settlement negotiations with the intention of reneging on any commitment that comes of it. However, this is often because third parties fail to provide an environment conducive to compliance. If third parties are too punitive or too lenient, then states will be more likely to abrogate. Similarly, biased third parties were more likely

to invite opportunities for non-compliance than impartial fora. Together, these lessons explain states' forum selection decisions and provide guidance for the design of management fora outside the state's direct control.

Empirical implications from these lessons were evaluated in a second set of experimental analyses, presented in Chapter 6, that tested the selection of decision control and transparency. The results of both models provided evidence for the conditional effect of power and third party bias on forum design. In particular, results from the decision control experiment supported the conclusion that weak challengers prefer to delegate decision control and transparency to impartial third parties in order to constrain their stronger adversaries from using coercion. Additionally, it found that strong challengers could use biased third party management to reinforce power asymmetries. The results of the transparency model further supported the conclusion that transparency and decision control increase together when third parties are impartial, and move in opposite directions when third parties are biased. Counter-intuitive empirical results from the transparency experiment also reinforced the cautionary message advanced with the theory: not all acceptable fora are effective fora. In many cases, subjects were tempted by perceived individual gains only to be disappointed when multiple equilibria in a game produced losses instead of profit.

Considered together, the theoretical and empirical work reinforces the conjectures made by portions of the literature in interstate conflict management that recommend impartial third parties, the ability of management fora to balance disputants' interests and capabilities, and to provide focal points for negotiation. At the same time, it raises questions about the generalizability of theories that suggest that biased third parties play

an important role in conflict management broadly, the notion that asymmetric conflicts are resistant to third party management, and that power is an overriding predictor of states' choices.

As illustrated in the review of the literature in Chapter 2, there is a highly engaged debate among conflict management scholars about the importance of impartiality in third party management. For some scholars, the very definition of mediation is predicated on the idea that the third party is impartial (Young 1967). Others adopt a more flexible position, noting a number of times in which a biased mediator – by virtue of his or her bias – was instrumental in the settlement of a dispute (Kydd 2003, 2006; Touval 1975). The results of the theoretical and experimental models provide support for both of these camps, conditioned on the balance of capabilities and disputants ability to control other aspects of the forum design. First, the baseline model predicted and its experimental analysis confirmed that both biased and unbiased third parties provide acceptable alternatives to prolonged conflict and, thus, states use these actors' distributional biases to frame the debate.

The expanded model gave greater clarity to the conditions under which biased and impartial third parties would be accepted. Biased third parties were acceptable and states delegated decision control to them when they helped reinforce power asymmetries. This is consistent with the argument that asymmetric conflict are amenable to mediation because they help clarify the distribution of power and make weaker adversaries more comfortable with concessions (Quinn et al. 2006). In contrast, impartial third parties enjoy a wider range of acceptability: disputants in symmetric and asymmetric conflicts delegate decision control and transparency to impartial third parties as a way to facilitate

agreement. In conflicts between weak challengers and strong targets, especially, the presence of impartial third parties pacifies coercive motives. Thus, while biased third parties are also acceptable, impartial third parties have a larger range of influence (Moore 1986).

Relatedly, the results of these analyses show that third parties are effective in balancing power and interests. This was specifically demonstrated in the robust observation that weaker challengers could use impartial third parties to reduce the coercive force of a stronger adversary. Often, this effect is indirectly observed through concessions made in the bargaining process, rather than the selection of a specific management forum. Thus, this conclusion is also somewhat novel in that it reveals an explanation for dispute resolution outcomes that has not been widely demonstrated in empirical research. However, other types of balancing behavior, such as the use of third parties to balance asymmetries between weak targets and strong challengers, have been previously demonstrated (Bercovitch 1997; Bercovitch and Gartner 2008). The analyses presented in this project contribute to these earlier conclusions as it demonstrates that impartial third parties are more likely to influence bargaining outcomes and, notably, that power asymmetries between weaker challengers and stronger targets are especially assuaged by these parties' intervention.

The last point of agreement between this research and the extant literature is the observation that third parties serve as focal points for bilateral negotiations. Schelling (1960) was among the first to suggest that third parties could facilitate agreement by making a recommendation to divide the issue. Once a recommendation is presented to the rivals, it quickly shapes the debate over appropriate concessions. In this analysis, actors

were more likely to reach agreements that aligned with the third party's distributional bias. And, as the analysis further demonstrated, this suggestion was focal primarily in establishing a range for concessions. Once that range was established, negotiators could then use coercive tools to gain a larger share of the issue within that range.

In contrast to these areas of agreement, this project highlights avenues that warrant further investigation. First, though the models predict that biased third parties are influential in dispute resolution, they make different predictions from other models of biased mediation. In particular, Kydd (2003) predicts that a target of a revisionist claim will be able to receive a signal from a mediator biased in its favor. However, according the results of the decision control experiment, targets are less likely to be able to obtain a favorable management forum. At the same time, strong targets will be constrained by impartial intermediaries that are granted high levels of decision control and transparency. Thus, it appears that target states do not benefit as much from forum selection as expected.

In contrast, strong challengers are able to gain access to fora biased in their favor. Though in the first bargaining experiment the challenger's coercive power had little impact on the incidence or degree of concessions, in the decision control model, a strong challenger was able to use its leverage to gain a more favorable forum. Furthermore, a challenger with a coercive advantage could make his opponent worse off by constraining the target's ability to gain larger concessions, as evidenced in the bargaining model experiment. These results, then, suggest a revisiting of the role of power in conflict bargaining when third parties are available to balance against coercive demands. In particular, the empirical results suggest that the relationship between coercive power and

the ability to demand concessions is conditional on third party fora. The presence of third parties appears to alter the bargaining process such that traditional power has less direct influence; instead, the third party frames the bargaining environment and states then use the instruments of power to leverage greater concessions.

In addition to these two areas disagreement, this project also raises the profile of areas of research in conflict management that should be opened to fresh debate. First among these is the literature related to the timing of conflict management. Research on conflict “ripeness” has waned in favor of other methods of inquiry. This may be because it is difficult to identify just when a conflict has reach as hurting-enough-stalemate that the disputants are ready for mediation, which makes it challenging to isolate specific policy prescriptions (Greig 2001; Kleiboer 1998). One of factor that this research contributes to this research is evidence that the timing at which third parties may be requested also determines whether management efforts will be informed by third party principles or other, exigent circumstances. Indeed, there is a distinct advantage to be the first actor to extend an olive branch, which may encourage states to seek out mediation too early in a dispute. Therefore, some third party management efforts fail because states request it before they have reached a stage where the dispute is most amenable to intervention. The implications from Chapter 3 particularly show that conflicts in which disputants have high transaction costs for prolonged bargaining are amenable to third party intervention because there are a number of acceptable third party alternatives. However, these disputes are more efficiently resolved by direct negotiation. Nonetheless, these disputants may turn to third parties, despite their inability to provide credible alternatives to bilateral settlement.

Alternatively, disputants might be hesitant to recommend third party management if doing so puts a state at greater risk. The most significant is the concern that being the first to call for negotiations is a signal of weak resolve (Pillar 1983). This could potentially place a state at risk for future challenges. Therefore some states may prefer not to be the first to call for peace. In either case, the second thread to be drawn from this is that sequential bargaining processes matter not only in an isolated component of the larger conflict management process, but across the entire bargaining game as well. Chapter 5 briefly described research on multi-issue bargaining that finds that simultaneous and package deal bargaining is more efficient than sequential bargaining (Fatima, Wooldridge, and Jennings 2006). Additionally, sequential bargaining was demonstrated to adversely affect the nature of offers made downstream in the bargaining process because agreements reached on earlier issues provided signals of an adversary's willingness to make concessions. Thus, when forum selection is just one part of the conflict management process, it may be that the subsequent settlement negotiations are conditioned on the information gleaned from the process of selecting a forum in the first place.

This insight provides further guidance for research that seeks to identify the links between forum selection, distributional outcomes of conflict bargaining, and compliance with settlement agreements. The model developed here provides some guidance on this issue, but, without fully capturing the steps that occur after forum selection, the implications may be merely suggestive. Thus, a final avenue for future research should consider conflict bargaining as a sequential bargaining process of several smaller sequential bargaining processes.

Apart from the descriptions and justifications for strategic behavior that this project illuminates, this project advances one last recommendation. At the beginning of this dissertation, the concern was expressed that international organizations may be irrelevant to conflict bargaining. The theory developed here provides strong evidence that this is not the case, but it may be an unsatisfying prescription to policy makers that the best practice is for strong, credible institutions of conflict management to be built so that they do not have to be used. Indeed, many scholars point to the effort required to craft international organizations as evidence that international organizations matter in international relations. However, this project suggests that the positive effects of international organizations may not be directly observable. Instead, IGOs inform conflict management outcomes by fostering successful management practices that may be widely adopted.

One interpretation of this implication is that international organizations do not require IGOs to be norms entrepreneurs for effective management principles. Instead, i there are strong norms supporting peaceful settlement (e.g., *pacta sunt servanda*) fostered by states, such as democracies (Mitchell, Kadera, and Crescenzi 2009), all that is required for successful dispute resolution is widespread recognition of the importance of treaty compliance that encourages states to monitor and enforce occasional abrogations. Absent these norms, formal management institutions are easily identifiable sources of transparency, decision control, and issue division.

APPENDIX A

APPENDIX TO CHAPTER 3: FORUM SELECTION IN INTERSTATE CONFLICT MANAGEMENT

Proof: Proposition 3.2

Proof of parts 1 and 2 of this equilibrium are trivial; for reference see the proofs for Proposition 3.1 in Chapter 3. This section, instead, provides explicit verification for the condition that a disputant never initiates war when rejecting an offer and explains the subgame perfect logic of the result.

Part 5 of the equilibrium requires that third party management be preferred to war for both the *Challenger* and the *Target*. Beginning with the *Challenger*, suppose the opposite is true: that the *Challenger* prefers war to third party management. Formally,

$$p - w_c > EU_C^{3PCM}$$

It must then be the case the *Challenger* is either highly resolved, having low costs for fighting, or has a high probability of victory, such that

$$p > EU_C^{3PCM} + w_c, \text{ or} \\ w_c < p - EU_C^{3PCM}.$$

Figures A1 and A2 illustrate the values of p , c , and w_c at which the *Challenger* prefers to initiate war to pursuing third party management. In each of the figures (A1, A2, A3, A4), the curved lines are labeled with their corresponding value of p , the region below which is the area where the player prefers war to third party management.

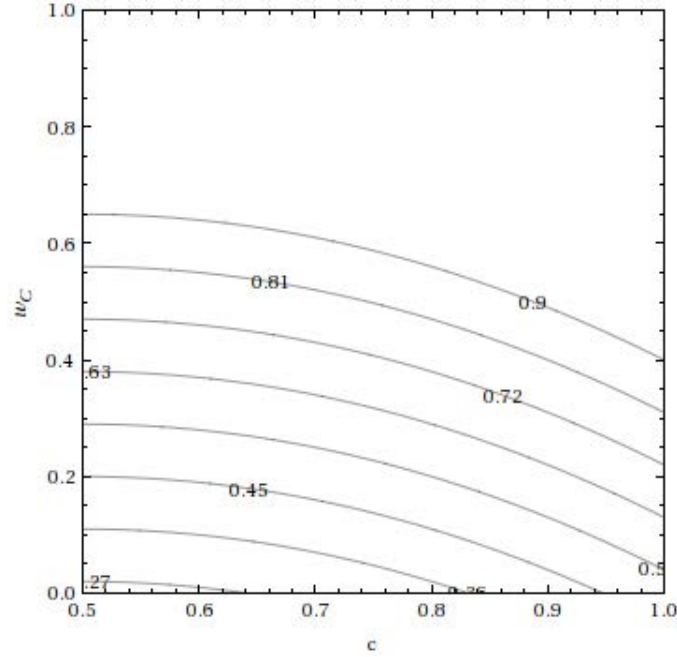


Figure A1: Challenger's Preferences for War Compared to Third Party Management when $c \geq \frac{1}{2}$

Note: Defined by p as a function of c and w_C .

A similar argument may be made for the *Target*. The *Target* prefers fighting to third party management whenever:

$$1 - p - w_T > EU_T^{3PCM}$$

$$p < 1 - EU_T^{3PCM} - w_T, \text{ or}$$

$$w_T < 1 - p - EU_T^{3PCM}.$$

Figures A3 and A4 illustrate.

According to the above inequalities, if the *Target* has low costs for fighting or a high probability of winning, then the *Target* prefers fighting to 3PCM. Given the

bargaining protocol, which begins with the *Challenger*, though, the *Target* does not get to

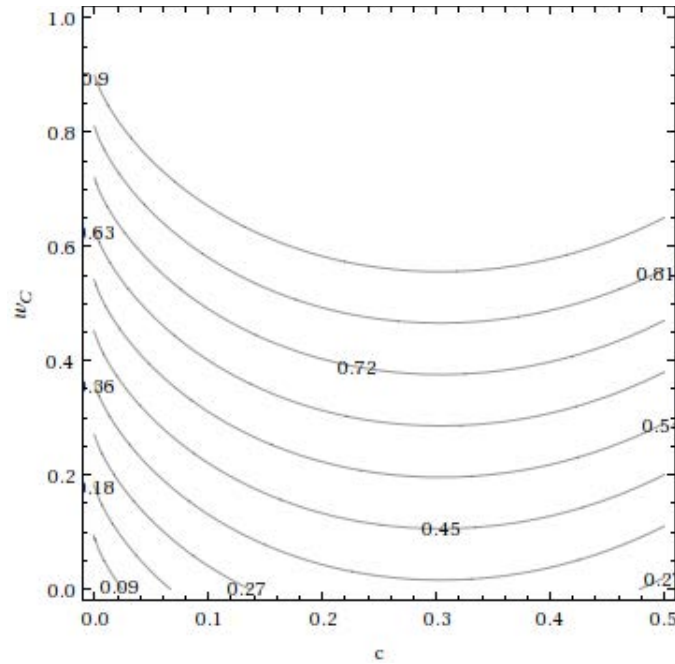


Figure A2: Challenger's Preferences for War Compared to Third Party Management when $c < \frac{1}{2}$

Note: Defined by p as a function of c and w_C .

invoke this option right away whenever the *Challenger* suggests third party management.

Suppose that the *Target* does prefer war to third party management. Whenever the *Challenger* suggests the use of third party management, the *Target* would need to have an alternative y to propose to make the *Challenger* indifferent between accepting and rejecting and suggesting third party management again, that would also be consistent with the *Target's* preferred outcome of obtaining its value for war, $1 - p - w_T$. If, for the *Target*,

$$EU_T^{War} > EU_T^{3PCM} \quad \text{it must be the case that} \quad EU_C^{3PCM} > p + w_T. \quad \text{But, because } p + w_T \text{ is}$$

the best partition that the *Target* could hope the *Challenger* to accept, it is not possible for the *Target* to object to the *Challenger's* suggestion to use third party management and

make a new offer on its value for war because it would have to be the case that

$$p + w_T > EU_C^{3PCM}.$$

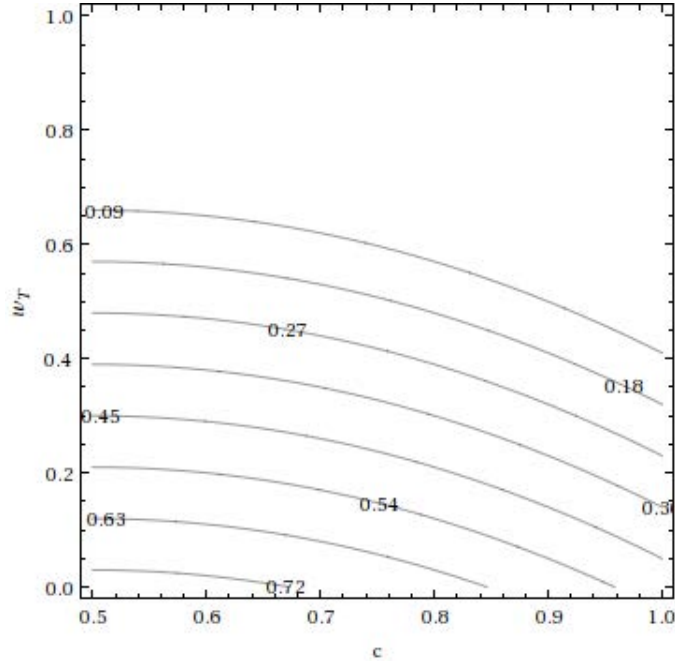


Figure A3: Target's Preferences for War Compared to Third Party Management when $c \geq \frac{1}{2}$

Note: Defined by p as a function of c and w_T .

Proof: Proposition 3.3

As before, the reader is referred to the proof of Proposition 3.1 regarding the logic of parts 1 and 2 of this equilibrium strategy. Further, with regard to parts 3 and 4, it is straightforward to demonstrate that whenever $EU_i^{3PCM} > \frac{\delta}{1+\delta}$ that a player does not prefer the third party outcome such that he or she suggests third party management or consents to third party management whenever it is suggested.

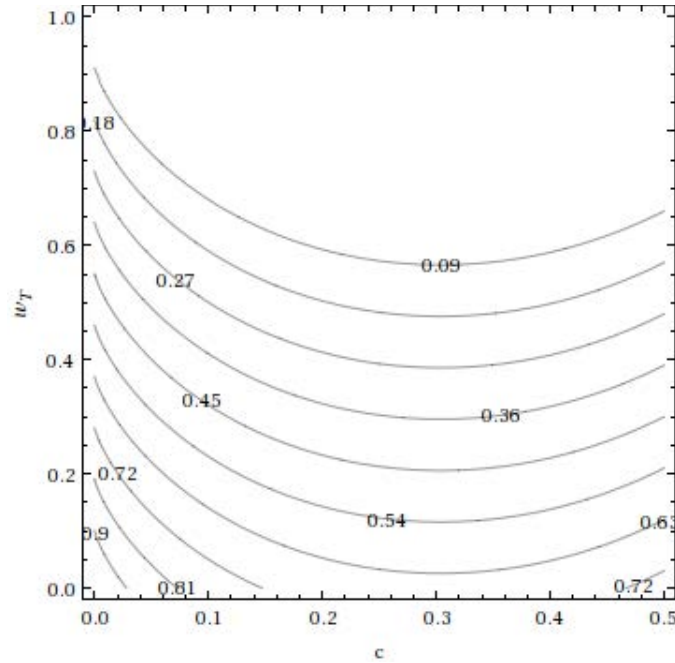


Figure A4: Target's Preferences for War Compared to Third Party Management when $c < 1/2$

Note: Defined by p as a function of c and w_T .

Let the *Challenger's* best payoff from a bilateral agreement when he is the proposer be v_C^B , his best payoff from third party management be v_C^{3CM} , and his best payoff from initiating war be v_C^W . Likewise, let the *Target's* best payoff from a bilateral agreement when she is the proposer be v_T^B , her best payoff from third party management be v_T^{3CM} , and her best payoff from initiating war be v_T^W .

Part 3: Suppose the opposite, that the *Challenger* suggests third party management whenever it rejects an offer at the appropriate stage. Given the other player's strategy to object to all suggestions of third party management, it must be the case that

$\delta(v_C^B) > v_C^B$, a contradiction. The same logic applies for the *Target's* strategy.

For Part 4, again, suppose that the *Challenger* prefers to consent to any offer of third party management, rather than object and make a new proposal. It must be the case, then, that $v_C^{PCM} > \delta(v_C^B)$. This implies:

$$\frac{\delta}{1+\delta} > \delta v_C^B$$

$$v_C^B < \frac{1}{1+\delta}$$

a contradiction.

Part 5: If a player i prefers to initiate war whenever $EU_i^{War} > EU_j^{War}$ when rejecting an offer, it must be the case that $v_i^W > \delta(v_i^B)$. This implies $v_i^W > \delta(v_i^W)$, a contradiction according to player j 's equilibrium proposal whenever $EU_i^{War} > EU_j^{War}$.

The equilibria partitions are unique, given the relationship between the *Challenger's* and the *Target's* expected values for war, as it cannot be the case that both disputant prefer to initiate war. To demonstrate, suppose that both parties do prefer to fight. This implies that the *Challenger* prefers $v_C^W > v_C^B = 1 - \delta v_T^W$, which suggests

$$v_C^W + \delta v_T^W > 1. \text{ Similar logic applies for the } Target: \text{ it must be the case that } v_T^W > v_T^B;$$

$$v_T^B = 1 - \delta v_C^W, \text{ implying } v_T^W + \delta v_C^W > 1.$$

Suppose that when $EU_C^{War} > \frac{1}{1+\delta} > EU_T^{War}$, the *Challenger* proposes its equilibrium partition $1 - x^* = 1 - p + w_C$ because the *Challenger* prefer to fight than to continue bargaining. The *Target* rejects whenever $1 - x < 1 - x^*$, and proposes $1 - y^* = x^*$, thus the *Challenger* cannot profitably deviate from its strategy, given that if it is indifferent between proposing $1 - x^*$ and accepting x^* , that it proposes $1 - x^*$. The structure

of the game allows the *Challenger* to impose its coercive share, which the *Target* immediately accepts. If $EU_C^{War} < \frac{1}{1+\delta} < EU_T^{War}$, the *Target* prefers initiating war to bargaining. Thus, the *Challenger* proposes $1-x^* = \delta(1-p-w_T)$ such that the *Target* accepts whenever it is indifferent between accepting and fighting. The *Challenger* cannot propose $1-x < 1-x^*$, or else the *Target* will reject and initiate war, which is less than the *Challenger's* optimal bargaining share.

APPENDIX B

APPENDIX TO CHAPTER 4: AN EXPERIMENTAL ANALYSIS OF STRATEGIC FORUM SELECTION

Alternative Point Predictions

Point predictions in Table B1 are based on the assumption that the bargaining game does not terminate until the points have been completely reduced.

Table B1. Equilibrium Divisions of the Perceived Forum Selection Experiment Game				
<i>High Noncompliance Costs, $c = 18$</i>				
		Bias		
		1/3, 2/3	1/2, 1/2	2/3, 1/3
Relative Power	1/5, 4/5	12, 18	15, 15	12, 18
	1/2, 1/2	12, 18	15, 15	12, 18
	4/5, 1/5	12, 18	15, 15	12, 18
<i>Low Noncompliance Costs, $c = 9$</i>				
		Bias		
		1/3, 2/3	1/2, 1/2	2/3, 1/3
Relative Power	1/5, 4/5	12, 18	15, 15	12, 18
	1/2, 1/2	12, 18	15, 15	12, 18
	4/5, 1/5	12, 18	15, 15	12, 18

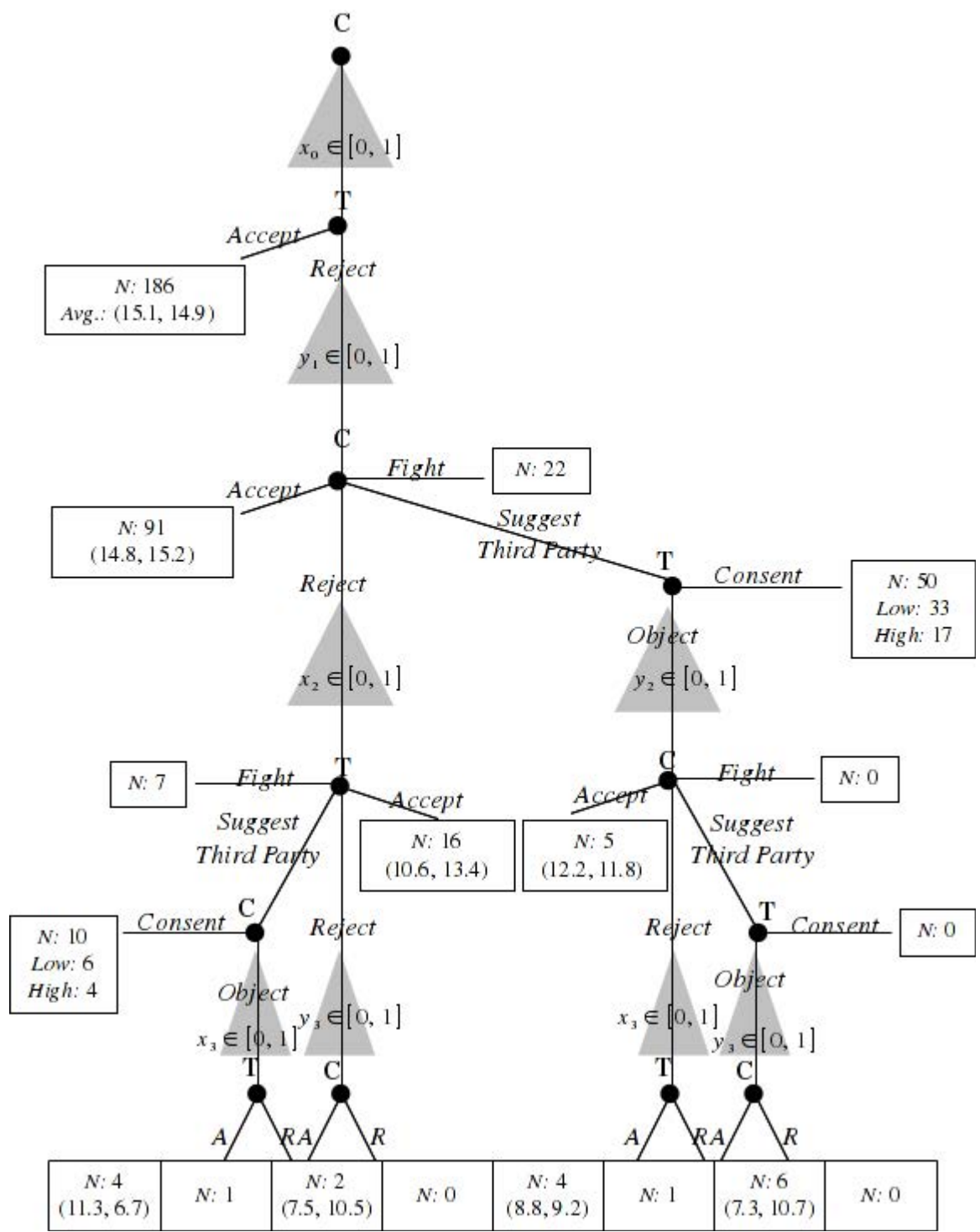


Figure B1. Experiment Terminal Nodes and Outcomes

Note: This figure summarizes the number of cases at each terminal node. Included with bilateral agreement is the average partition. Third party management cases also count the number of high transparency and low transparency instances.

Difference of Means Analysis of *Challenger's Point Share*

The factor in which the third party is unbiased and power is evenly distributed, in bold, is the referent factor.

Table B2. Difference of Means of *Challenger's Point Share*, All Observations

<i>Low Noncompliance Costs, c = 0.3</i>				
		Bias		
		1/3, 2/3	1/2, 1/2	2/3, 1/3
Relative Power	1/5, 4/5	0.420 (0.041)	0.413 (0.037)	0.487 (0.023)
		0.451 (0.048)	0.445 (0.040)	0.289** (0.061)
	1/2, 1/2	0.447 (0.037)	0.494 (0.021)	0.385 (0.063)
	4/5, 1/5			
<i>High Noncompliance Costs, c = 0.6</i>				
		Bias		
		1/3, 2/3	1/2, 1/2	2/3, 1/3
Relative Power	1/5, 4/5	0.450 (0.017)	0.500* (0.005)	0.473 (0.047)
		0.471 (0.016)	0.449 (0.027)	0.415 (0.034)
	1/2, 1/2	0.477 (0.019)	0.484 (0.023)	0.442 (0.043)
	4/5, 1/5			

Note: Mean and standard error reported. * = $p < 0.1$, ** = $p < 0.05$, two-tailed test. $N = 405$.

Table B3. Difference of Means of *Challenger's* Point Share,
Immediate Agreements

<i>Low Noncompliance Costs, $c = 0.3$</i>				
Relative Power		1/3, 2/3	Bias 1/2, 1/2	2/3, 1/3
	1/5, 4/5	0.511 (0.022)	0.505 (0.003)	0.510* (0.004)
	1/2, 1/2	0.511 (0.014)	0.500 (0.000)	0.52 (0.02)
	4/5, 1/5	0.486 (0.018)	0.52* (0.011)	0.487 (0.040)
<i>High Noncompliance Costs, $c = 0.6$</i>				
Relative Power		1/3, 2/3	Bias 1/2, 1/2	2/3, 1/3
	1/5, 4/5	0.503 (0.005)	0.495 (0.008)	0.521 (0.015)
	1/2, 1/2	0.503 (0.003)	0.500 (0.000)	0.479 (0.024)
	4/5, 1/5	0.512 (0.007)	0.518* (0.010)	0.513* (0.009)

Note: Mean and standard error reported. * = $p < 0.1$, two-tailed test. Results based on all periods that ended in a bilateral agreement after the first offer. $N = 186$.

Estimating Session and Period Effects

This section reports results of three different analyses conducted to determine if there were any session- or period-specific effects that may confound results. The analyses consider the average Gini coefficient, the average opening offer, and the average exit stage in each period and session.

Session-Specific Effects

Figure B2 reports the average opening offer across sessions. Though there are some sessions that have larger than average opening offers, they are not statistically different from the average opening offers of the other sessions. Following Figure B2, Figure B3 reports the average exit stage across sessions. Again, the variance across sessions is not statistically significant. Thus, there are few concerns that there are confounding session-specific effects in the analysis presented in Chapter 4.

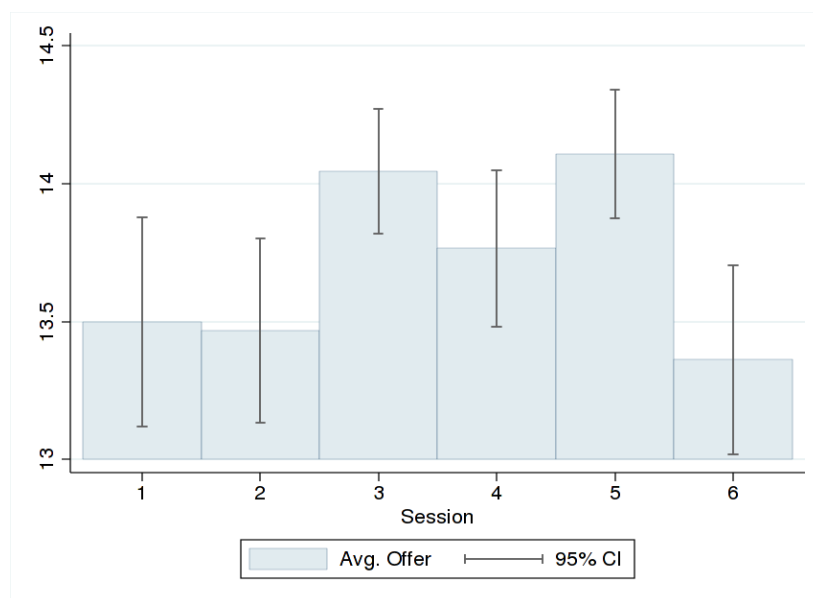


Figure B2. Average Opening Offer by Experiment Session

Note: Figure illustrates the average opening offer in each experiment session along with 95% confidence intervals.

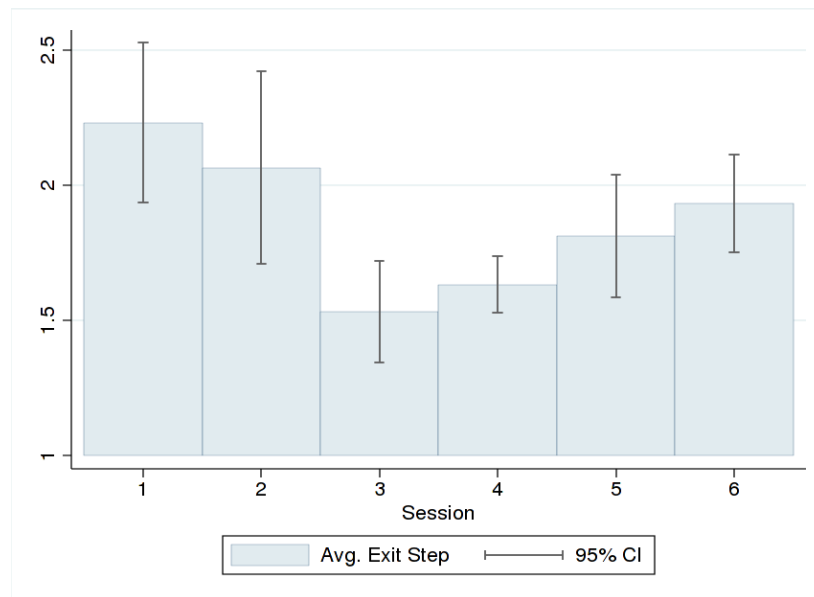


Figure B3. Average Exit Stage by Experiment Session

Period-Specific Effects

The within-subjects design adds concerns that subjects learn as they play additional periods. There may also be other factors that influence subjects' play across repeated round. For instance, subjects may become fatigued, and thus play less consistently, or they may become more aware of the time and accumulating “wealth” as the session goes on. In these latter cases, the experimenter should be concerned about subjects playing according to more risk-acceptant behavior. The following set of figures, Figure B4 and Figure B5, examine whether there are round-specific effects on the average opening offer and the average exit stage. The analyses allay concerns that there are confounding period-specific effects on the analyses presented in Chapter 4.

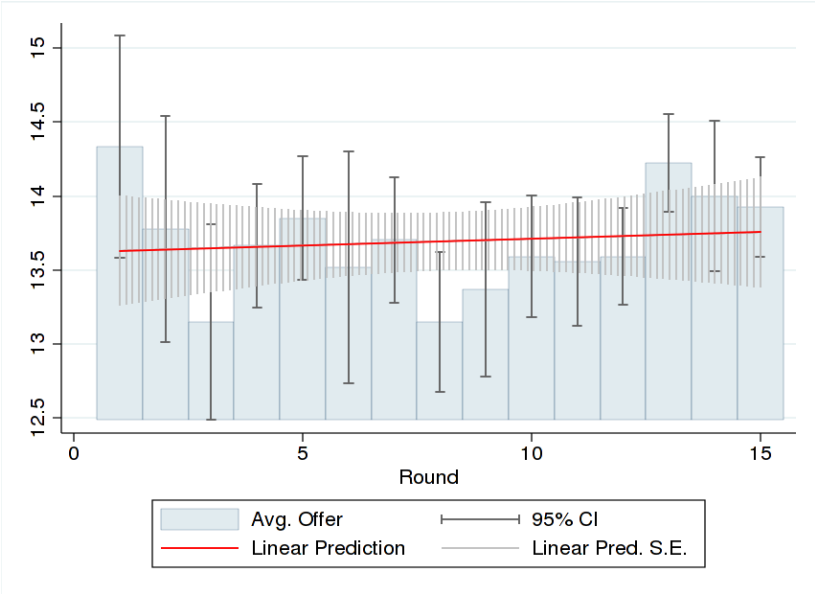


Figure B4. Average Opening Offer by Experiment Round

Note: Average opening offer across periods illustrated with 95% confidence intervals and fit to a linear prediction line.

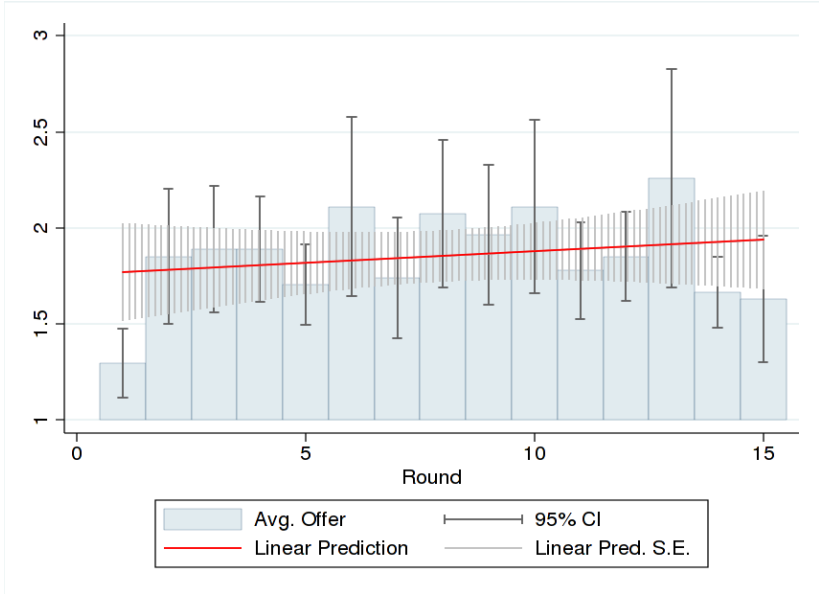


Figure B5. Average Exit Stage by Experiment Round

Screenshots of Experiment Protocol

The following are screenshots of the experiment protocol that the subjects experienced. The experiment was conducted using *z-Tree* (Fischbacher 2007).

Period

1 out of 15

You are **Player A** in this scenario.
Player A will begin the bargaining period by making an initial proposal to divide the points to Player B. Player B will then respond to this offer, and the game will proceed according to this response. After an initial exchange of offers between you and the other subject you are paired with, you and the other subject will continue to exchange offers until you reach an agreement. Additionally, you will have the option to pursue one of two other tactics to divide the points: Option 1 and Option 2.

Continue

Period
1 out of 15

If you choose Option 1 negotiations will end and a **fair coin** will be flipped to determine the distribution of points. If the coin lands in your favor, then you win all the points but incur a penalty of **18** points.

Continue

Period

1 out of 15

Instructions

You will initiate negotiations by making an opening proposal to divide the points between yourself and Player B.
Propose your division of the points, stating how many points you would give Player B.
The amount proposed should be in whole number increments.

The total number of points to divide are 30

Points to offer Player B

Offer

Period

1 out of 15

Instructions

Player B proposes a different division of the points, offering you the below number of points.

You may now consider taking one of four actions to response to Player B's offer.

- 1) You may ACCEPT the offer.
- 2) You may REJECT the offer and make a new proposal to divide the points.
- 3) You may choose OPTION 1.
- 4) You may choose OPTION 2.

If you decide to choose OPTION 1 negotiations end and a **fair coin** will be flipped to determine the distribution of points. If the coin lands in your favor, then you win all the points. If the coins lands in Player B's favor, then Player B wins all the points. The winner will receive all of the points, but pay a penalty of 18 points.

If you decide to choose OPTION 2 and Player B consents, then the computer will divide the points between you and Player B. If Player B objects, then a new round of offers will begin.

The computer is likely to make a division of the points that **favors you**.

The total number of points to divide are

30

Player B's Offer

15

What would you like to do?

Accept

Reject

Option 1

Option 2

Period

4 out of 15

Instructions

Player A proposes OPTION 2 to divide the points. You may either CONSENT or OBJECT to this proposal.
If you CONSENT, the computer will divide the points between you and Player A. If you OBJECT, then a new round of offers will begin.
The computer is likely to make a division of the points that **favors your counterpart**.

Do you CONSENT or OBJECT to Option 2?

Consent

Object

Period

4 out of 15

Instructions

The computer divided the points, awarding you and your counterpart the following number of points.
You must now decide whether to COMPLY with this decision, or DECLINE the decision. Your counterpart will make the same choice.

1. If you **both** COMPLY with the decision, then you each receive your share of the points.
2. If you DECLINE the decision, but your counterpart complies, then you take all of the points and pay a **large** noncompliance penalty of **18** points. Your counterpart receives zero (0) points.
3. If your counterpart declines and you COMPLY, then you receive zero (0) points. Your counterpart takes all of the points, paying a **large** noncompliance penalty of **18** points.
4. If you **both** DECLINE the decision, then you both receive zero (0) points.

The total number of points to divide are

30

You receive

10

Do you COMPLY with or DECLINE the decision?

Comply

Decline

APPENDIX C

APPENDIX TO CHAPTER 5: TAILORING THE FORUM FOR DISPUTE RESOLUTION

Other Compliance Subgame Solutions

Chapter 5 presents solutions for the pure and mixed strategy Nash equilibria of the compliance subgame with respect to the distributional outcome of the management effort, s . This section presents solutions to this portion of the model with respect to other variables of the subgame to illustrate their individual relationship to the actors' strategies. Each of the solutions presents each actor's strategy with respect to its adversary's decision to comply with the decision. As discussed in Chapter 5, a mutual defiance equilibrium is not optimal in pure strategies as each actor strictly prefers to comply whenever its opponent defies the settlement.

Solutions for κ

Given that the *Target* complies, the *Challenger* also complies when:

$$\kappa \geq \frac{1 + \tau(1 - c - s) - p}{\tau - p + s(1 - \tau)}$$

and defies when

$$\kappa < \frac{1 + \tau(1 - c - s) - p}{\tau - p + s(1 - \tau)}.$$

Alternatively, given the *Challenger's* decision to comply, the *Target* complies whenever

$$\kappa \geq \frac{p + \tau(s - c)}{p - s(1 - \tau)}$$

and defies when

$$\kappa < \frac{p + \tau(s - c)}{p - s(1 - \tau)}.$$

Solutions for τ

Given that the *Target* complies, the *Challenger* complies if

$$\tau \leq \frac{\kappa s + p(1 - \kappa) - 1}{1 - \kappa - s(1 - \kappa) - c}$$

and defies whenever

$$\tau > \frac{\kappa s + p(1 - \kappa) - 1}{1 - \kappa - s(1 - \kappa) - c}.$$

The *Target* complies whenever

$$\tau \leq \frac{p(\kappa - 1) - \kappa s}{s(1 - \kappa) - c}$$

and defies when

$$\tau > \frac{p(\kappa - 1) - \kappa s}{s(1 - \kappa) - c}.$$

Figures C1 and C2 illustrate the regions of mutual compliance and unilateral abrogation for these equilibrium values of decision control and transparency according to different values of s and p . In all of the figures, the cost of non-compliance, c , is kept constant at $c = 1$. The values in which the *Challenger* complies are in blue and the *Target's* compliance values are in the lighter purple. Looking at Figure C1, what is apparent is that equilibrium allocations of decision control that produce mutual compliance (the darker, purple-shaded regions) require some positive level of transparency. The amount of control necessary to produce mutual compliance is also, generally, decreasing with transparency. That is, the more transparent a forum is, the less control the third party needs to have over the division of the issue to produce an

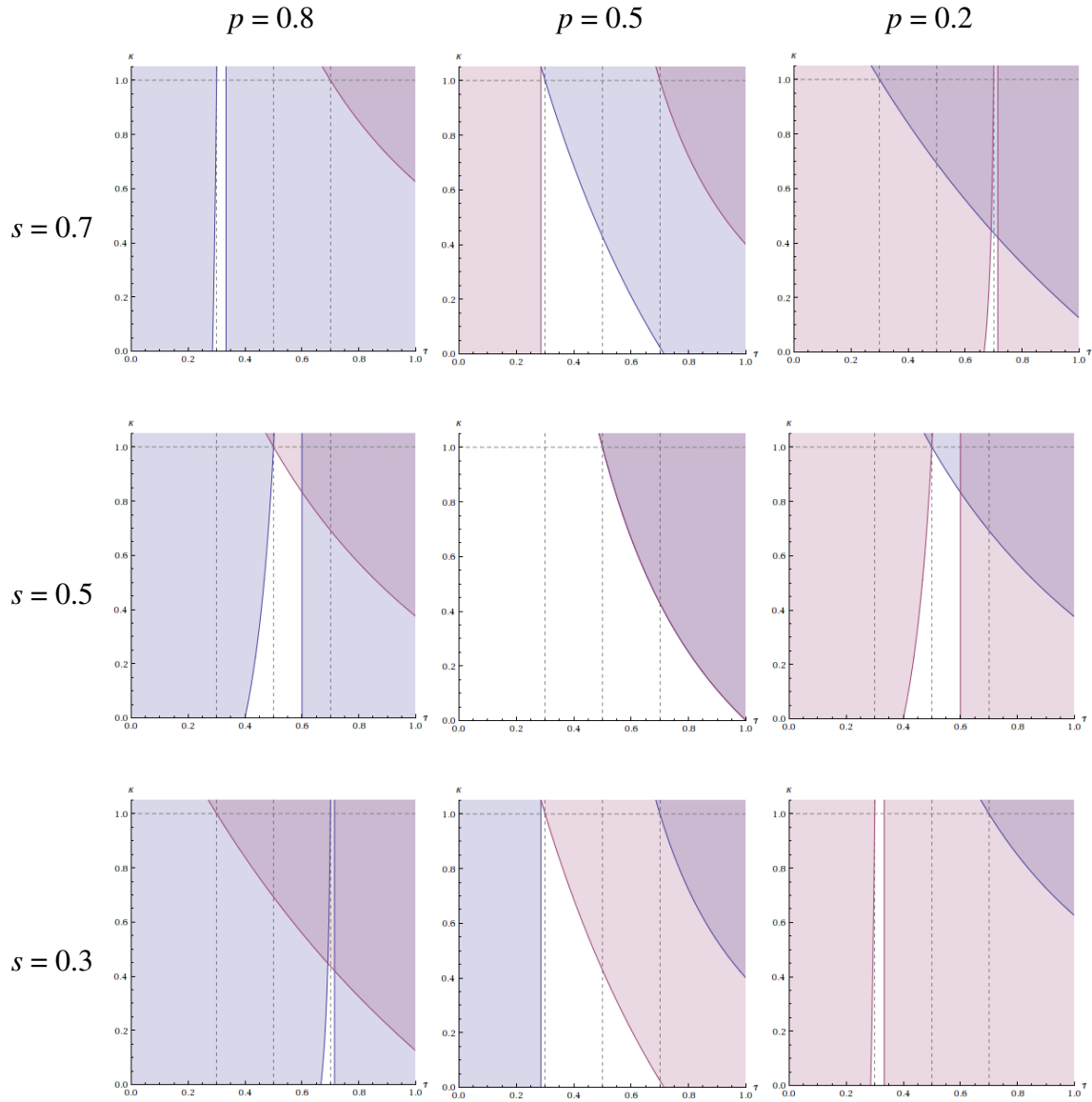


Figure C1. Compliance and Defiance According to Decision Control

Note: The figure depicts the equilibrium value of κ , allowing τ to vary. The vertical axis of each individual graph is κ and the horizontal axis is τ . Dashed, vertical grid lines are added where s takes on each of its set values. Values are calculated for $c = 1$.

agreement that is acceptable to both disputants. However, this relationship is not linear – there are discontinuities where the function of κ is undefined for a specific value of τ . The effect of these discontinuities is that there are some values of τ for which an actor will comply under any distribution of decision-making power.

Surprisingly, these regions are the largest when the third party decision balances the disputants' interests by awarding a larger share of the issue to the disputant with less ability to coerce a settlement. For instance, for the sets $\{s, p\} = \{0.7, 0.2\}$ and $\{0.8, 0.3\}$, the militarily stronger party that, nonetheless, has a weaker case with the third party, complies over a wide range of combinations of transparency and control. The disputant that improves its distributional bargaining position through the third party forum is, of course, much more willing to comply with the outcome than when it is awarded a smaller portion of the issue. Last, when the parties are evenly matched, an impartial third party is likely to broker a successful settlement to the dispute – all of the equilibrium combinations of control and transparency result in mutual compliance.

Figure C2 demonstrates a similar logic as in Figure C1, but with some notable differences. As with the equilibrium values for κ , the equilibrium values for τ produce the largest regions of mutual compliance when the third party balances a militarily stronger disputant against a weaker disputant by awarding the weaker a larger share of the issue space. Also, when power is evenly distributed and the third party decides impartially, neither of the disputants is willing to cheat its rival. Unlike in the values illustrated in Figure C1, though, there is no general relationship between κ and τ . Instead, there is a set of relationships that depend on a disputant's relative power. For stronger states, as κ increases, τ decreases. In contrast, τ is increasing in κ for weak states. If power is evenly

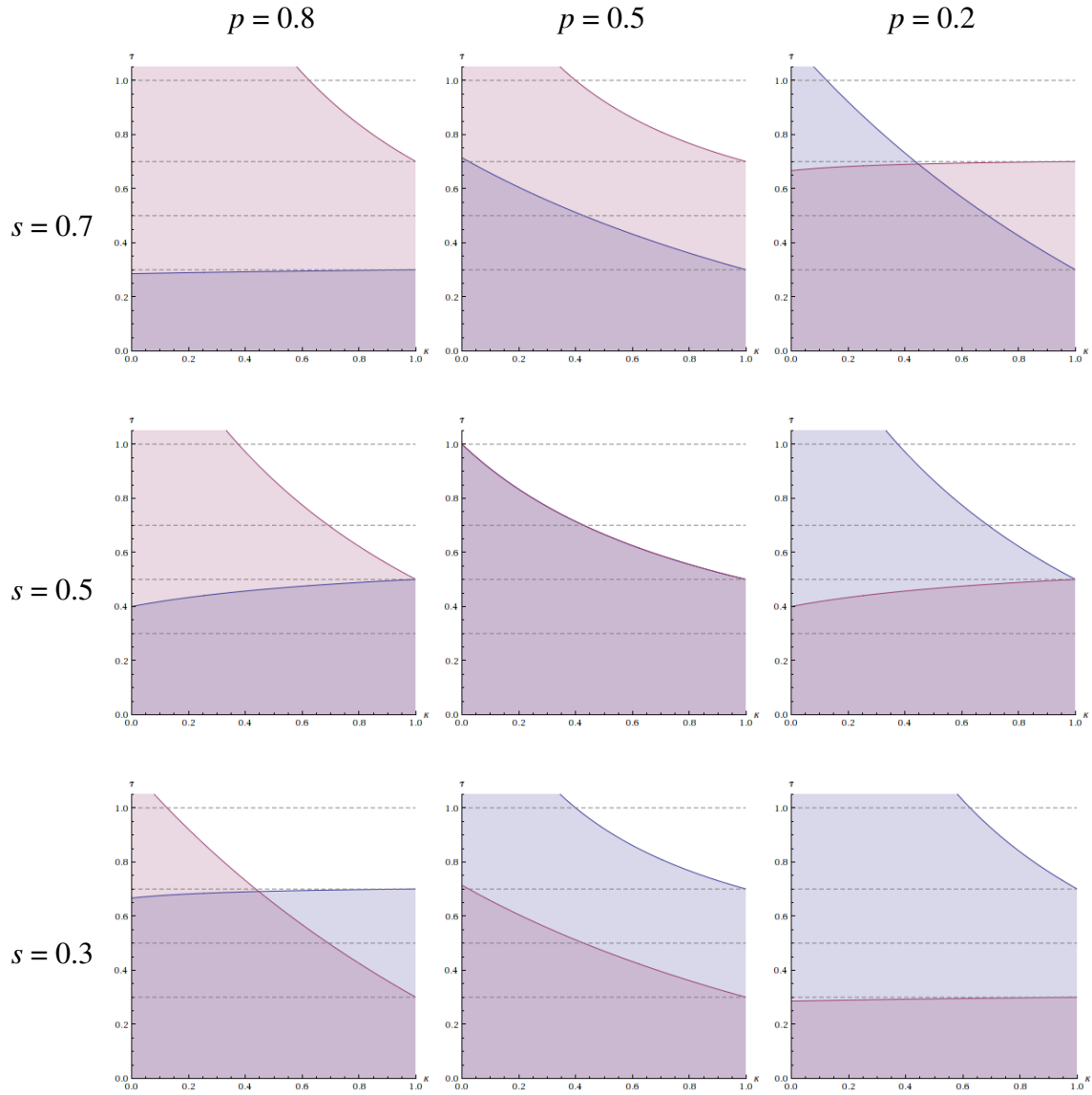


Figure C2. Compliance and Defiance According to Forum Transparency

Note: The figure depicts the equilibrium value of τ , allowing κ to vary. The vertical axis of each individual graph is τ and the horizontal axis is κ . Dashed, horizontal grid lines are added where s takes on each of its set values. Values are calculated for $c = 1$.

distributed between the disputants, then τ is decreasing in κ . Also, there are no discontinuities in any of the disputants' equilibrium values. This makes it fairly straightforward to identify the regions of cooperation and dissent.

Underlying these relationships is an interesting pattern of convergence toward a level of transparency that matches the disputant's bargaining share. As κ increases from 0 to 1, the *Target's* optimal level of transparency converges from $\frac{p}{s-c}$ at the intercept to $\frac{s}{c}$ when κ equals 1. The *Challenger's* level of τ follows the same relationship, but based on the opposing value of s : The *Challenger's* level of τ moves from $\frac{p}{1-s-c}$ at the intercept to $\frac{1-s}{c}$ when κ equals 1. When c equals 1, the convergence is toward the exact division of the issue implemented by the third party. A similar relationship is evident in a weaker actor's minimally-acceptable level of transparency in Figure B1, but it does not correspond with the stronger actor's strategy.

Solutions for p

Given that the *Target* complies, the *Challenger* complies whenever

$$p \geq \frac{1 + \tau(1 - c - s - \kappa(1 - s)) - \kappa s}{1 - \kappa}$$

and defies when

$$p < \frac{1 + \tau(1 - c - s - \kappa(1 - s)) - \kappa s}{1 - \kappa}.$$

Likewise, given that the *Challenger* complies, the *Target* also complies whenever

$$p \geq \frac{\tau c - \kappa s - \tau s(1 - \kappa)}{1 - \kappa}$$

and defies when

$$p < \frac{\tau c - \kappa s - \tau s(1 - \kappa)}{1 - \kappa}.$$

As this result shows, an actor's compliance-inducing level of power is decreasing in κ , and there is discontinuity when $\kappa = 1$ because the function is undefined.

Solutions for c

Given that the *Target* complies, the *Challenger* complies whenever

$$c \geq \frac{\kappa s + (1 - \kappa)p - (1 - \kappa)(1 - s)\tau - 1}{\tau}$$

and defies when

$$c < \frac{\kappa s + (1 - \kappa)p - (1 - \kappa)(1 - s)\tau - 1}{\tau}.$$

In turn, given that the *Challenger* complies, the *Target* also complies whenever

$$c \geq \frac{-\kappa s - (1 - \kappa)p - (1 - \kappa)\tau s}{\tau}$$

and defies when

$$c < \frac{-\kappa s - (1 - \kappa)p - (1 - \kappa)\tau s}{\tau}.$$

As is evident from the two sets of functions, as τ increases, the penalty that must be imposed for non-compliance in order to gain both players' cooperation decreases.

Mixed Strategy Nash Equilibrium

For certain values of each of these parameters, there exist multiple, pure strategy Nash equilibria as in a *Battle of the Sexes* game. One way to evaluate a strategic game with multiple equilibria is to observe whether, in aggregate behavior, actors randomize between strategies. In this forum design compliance subgame, the mixed strategy Nash equilibrium is

$$q = \frac{\tau c}{1 - p + \kappa p - s(\kappa + \tau - \kappa \tau) + \tau(1 - \kappa)} \quad \text{and}$$

$$r = \frac{\tau c}{p - \kappa p + s(\kappa + \tau - \kappa \tau)}$$

where the *Challenger* complies with probability q and the *Target* complies with probability r .

Proof of Forum Design Subgame Perfect Equilibrium

Let (κ_i^*, τ_i^*) be the equilibrium proposal that player i makes whenever s/he makes a proposal, and v_i^* be the best payoff player i receives from accepting a proposal and playing it equilibrium compliance subgame strategy. Suppose the *Challenger* plays according to its strategy in Proposition 5.1. His best payoffs from this strategy is then v_C^* . If the *Challenger* plays an alternative strategy, proposing a forum (κ_C^a, τ_C^a) such that $EU_T^{PCM}(\kappa_C^a, \tau_C^a) \geq \delta v_T^*$, the *Challenger* cannot profitably deviate and prefers to propose (κ_C^*, τ_C^*) instead. Alternatively, if the *Challenger* proposes (κ_C^b, τ_C^b) such that $EU_T^{PCM}(\kappa_C^b, \tau_C^b) < \delta v_T^*$, increasing its expected share relative to the *Target*, then the *Target* reject and proposes (κ_T^*, τ_T^*) such that $v_C^b < v_C^*$. Thus, the *Challenger* cannot profitably deviate from its strategy by attempting to increase its expected share by proposing an alternative management forum. By similarly logic, the *Target* cannot expect to gain by deviating from its strategy described in Proposition 5.1.

Taking it In: Methodology for Comparative Statics of Forum Design Model

The model presented in Chapter 5 is a constrained optimization problem, which is typical in game theoretic modeling. Analysis of the comparative statics presented in this

chapter is based on two approaches to the optimization problem. Both use the substitution method to define the constraint. The first method, which is used to illustrate the conclusions from the model, is a graphical solution adapted from Bhatti (1999). Prior to implementing this method, though, computational results were derived. Both of these approaches were used instead of an exact, analytical result because the analytical result is computationally complex as to make the solution unobtainable through available software and hardware. For reference, though, the steps taken to reach the computational results are as follows.

First, because the expected utility equations are based on an arbitrary probability density function, it is necessary to identify those functions in order to explain variation third party bias. For this purpose, three different probability density functions (p.d.f.) were selected: uniform, $f(s) = 2s$, and $f(s) = 1 - 2s$. The uniform p.d.f. indicates an unbiased third party that selects each division of $(s, 1 - s)$ with equal probability. If the third party is biased in favor of the *Challenger*, then the p.d.f. is $2s$. And, if the third party favors the *Target*, the p.d.f. is $1 - 2s$.

The equilibrium result of the model implies that the *Challenger* optimizes his expected utility according to the constraint which requires the *Target* to receive exactly

$EU_T^{PCM}(\kappa_C^*, \tau_C^*) = \frac{\delta}{1+\delta}$. Thus, the optimization problem is:

$$\begin{aligned} \max_{\{\kappa, \tau\}} f(\kappa, \tau) &= EU_C^{PCM}(\kappa_C, \tau_C) \\ s.t. \quad g(\kappa, \tau) &= EU_T^{PCM}(\kappa_C, \tau_C) = \frac{\delta}{1+\delta} \end{aligned}$$

The first step, then, is to solve the constraint by one of the decision variables, κ or τ . In this case, it was computationally easier (though not mathematically different) to first

solve the constraint for κ . This was conducted for each value of the *Target's* expected utility, producing the function:

$$\kappa = h(\tau, \delta)$$

This value is then substituted into the *Challenger's* expected utility for κ , which creates a single variable, unconstrained optimization problem,

$$\max_{\{\tau\}} f(\tau, h(\tau, \delta)).$$

The next step is to solve for the first order condition, which is given by the expression

$$\tau^* = f_{\tau} + f_{\kappa} \frac{\partial h}{\partial \kappa} = 0.$$

This value, τ^* , is then substituted back into function created in the first step from the constraint condition in order to obtain κ^* : $\kappa^* = h(\tau^*(\delta), \delta)$.

To obtain computational results (available upon request), this process was carried out for three different values of $p = \{0.2, 0.5, 0.8\}$, three different values of $c = \{0.8, 1, 2\}$, and two different values of $\delta = \{0, 1\}$.

The results from this analysis were then used to inform the creation of the graphs that illustrate the constrained optimization problem. As Bhatti (1999) explains, the constrained optimization problem can be demonstrated through two different contour plots. The first is the constraint condition, $EU_T^{PCM}(\kappa_C^*, \tau_C^*) = \frac{\delta}{1+\delta}$. This is represented in the figures in Chapter 5 by the thick, red and green lines. Because this plot takes only one value, there is only one line associated with this plot. The second portion of the graph is the contour plot of the *Challenger's* expected utility function. Figures were adjusted so that equilibria results derived in the computational analysis could be observed. This was

achieved by increasing or decreasing the number of lines in the *Challenger's* contour plot.

By separating these steps and manually adjusting the graphs to show the equilibria, this

method deviates slightly from Bhatti, who developed a *Mathematica* function

(`GraphicalSolution`) to obtain the same result. Nonetheless, the concept is the same and

illustrates the equilibria results effectively.

APPENDIX D

APPENDIX TO CHAPTER 6: EXPERIMENTAL ANALYSES ON DECISION CONTROL AND FORUM TRANSPARENCY

Decision Control Experiment Session and Period Effects

The following figures illustrate the session and period effects that are possible in an experimental design involving repeated rounds and multiple study implementations. Each figure measures the average level of the dependent variable, decision control, and 95% confidence intervals.

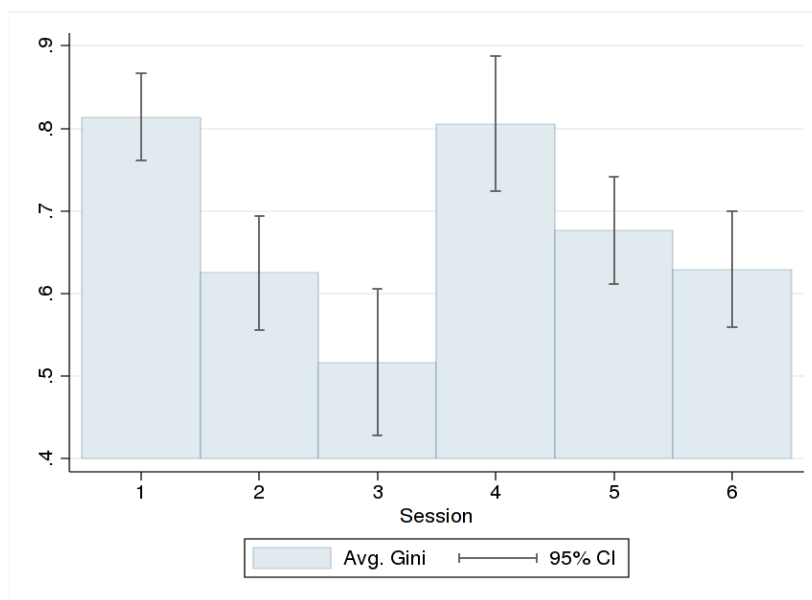


Figure D1. Session Effects in Decision Control Experiment

The figures illustrate that there are some concerns about possible session effects, but few substantive concerns about period effects. Additional models estimated excluding session 3 failed to demonstrably alter the implications of the analysis of the decision control experiment in Chapter 6.

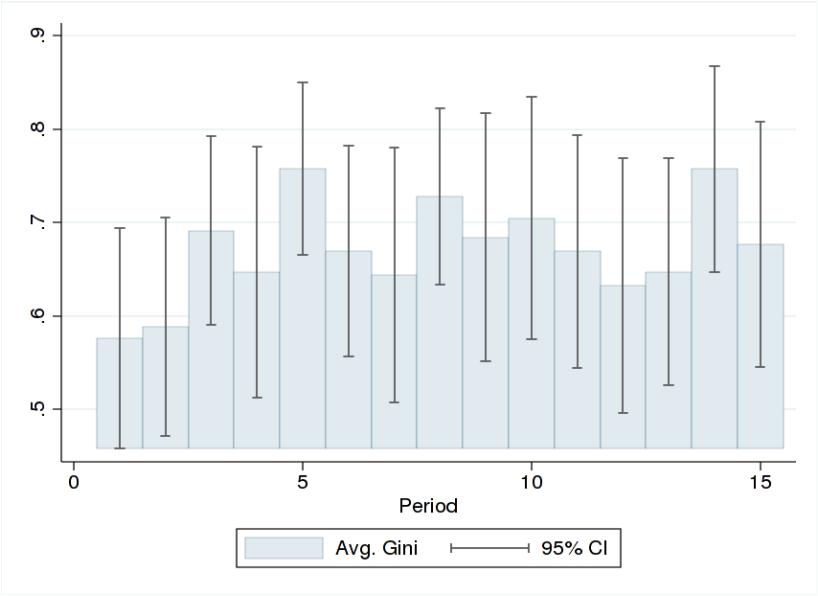


Figure D2. Period Effects in Decision Control Experiment

Supplementary Materials: Decision Control Analysis

Tables reporting the results of ANOVA analyses and the full-sample ANOVA regression appear on the pages that follow.

Table D1. ANOVA of Decision Control in Forum Design
Experiment

Variable	Model 1	Model 2	Model 3
	<i>Full Sample</i>	<i>Low Costs</i>	<i>High Costs</i>
	Part. SS/MS	Part. SS/MS	Part. SS/MS
	1.878***	0.315	1.961***
Relative Power	(0.939)	(0.158)	(0.981)
	0.669*	0.505	0.281
Third Party Bias	(0.334)	(0.253)	(0.140)
	0.004		
Transparency	(0.004)		
	0.206	0.565	0.189
Power x Bias	(0.051)	(0.141)	(0.047)
Power x	0.338		
Transparency	(0.169)		
Bias x	0.110		
Transparency	(0.055)		
Power x Bias x	0.532		
Transparency	(0.133)		
	3.805**	1.509	2.297**
Model	(0.224)	(0.189)	(0.287)
	55.765	27.987	27.778
Residual	(0.114)	(0.117)	(0.112)
R2	0.0639	0.0511	0.0764
RMSE	0.3377	0.3415	0.334
N	507	249	258

Table D2. Regression of Decision Control in Forum Design Experiment

	Model 1
<i>Factor</i>	<i>Full Sample</i> Coef./Std. Err.
<u>Low Transparency</u>	
<i>Challenger Stronger &</i>	
	0.263*
Bias Favors <i>Challenger</i>	(0.136)
	-0.091
Third Party Impartial	(0.092)
	0.212
Bias Favors <i>Target</i>	(0.131)
<i>Power Balanced &</i>	
	-0.190**
Bias Favors <i>Challenger</i>	(0.089)
Third Party Impartial	omitted
	-0.189**
Bias Favors <i>Target</i>	(0.093)
<i>Target Stronger &</i>	
	0.118
Bias Favors <i>Challenger</i>	(0.122)
	0.032
Third Party Impartial	(0.082)
	0.031
Bias Favors <i>Target</i>	(0.126)
<u>High Transparency</u>	
<i>Challenger Stronger &</i>	
	-0.323*
Bias Favors <i>Challenger</i>	(0.187)
	0.241*
Third Party Impartial	(0.131)
	-0.218
Bias Favors <i>Target</i>	(0.191)
<i>Power Balanced &</i>	
	0.209*
Bias Favors <i>Challenger</i>	(0.123)
	-0.153*
Third Party Impartial	(0.085)
	0.083
Bias Favors <i>Target</i>	(0.128)
<i>Target Stronger &</i>	
	-0.089
Bias Favors <i>Challenger</i>	(0.172)
	0.124
Third Party Impartial	(0.112)
	0.089
Bias Favors <i>Target</i>	(0.172)
	0.741***
Constant	(0.063)
R ²	0.0881
RMSE	0.0555
N	314

Supplementary Materials: Transparency Game Values

Table D3. Values of Transparency Selected for Transparency Game

		<i>Decision Control</i>		
		High (=0)	Med. (=0.5)	Low (=1)
<i>Third</i>	Bias Favors C	6, 5, 3	6, 5, 3	6, 5, 3
<i>Party</i>	Impartial	2, 3, 4	2, 4, 5	2, 4, 5
<i>Bias</i>	Bias Favors T	3, 5, 6	0, 5, 6	0, 4, 5

Note: Values are shown in order, A, B, C. The value associate with B is always the optimal level.

Transparency Experiment Period Effects

Figure D3 demonstrates the average level of transparency selected across each period in the transparency experiment. This value was used as the dependent variable in Table 6.7. As the figure shows, there are no significantly different periods to confound analysis based on the entire population of data.

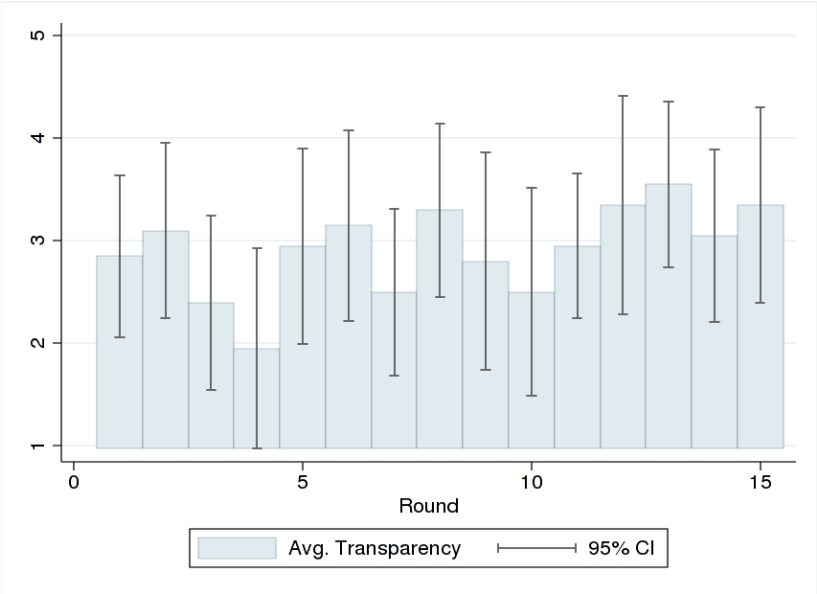


Figure D3. Period Effects in Transparency Experiment

Screenshots of Experiment Protocol: Decision Control

Period

1 out of 15

Instructions

In this game, you are seeking to divide a number of points between yourself and your counterpart.

To do this, you will be able to accept input from a **third party**. You will be given some information about the third party's expected decision, but you will not know with certainty whether the third party will decide in your opponent's favor, your favor, or impartially.

Continue

Period

1 out of 15

Instructions

Your task is to determine how much input the third party has in dividing the points between yourself and your counterpart. You will do this by granting the third party some *control* over the outcomes of this game.
 You may allocate the third party complete control (100%), no control (0%), or some amount in-between.

If you allocate no control to the third party (see below), then the number of points you and your counterpart receive are based on your contribution to decision, minus a small cost.

Level of Control	Your Contribution	Third Party Contribution	Expected Points	Opponent's Expected Points
0%	24	0	22.33	4.33
25%	18	25% chance of 2.5	25% chance of 19.25	25% chance of 8.25
		50% chance of 3.75	50% chance of 20.5	50% chance of 7
		25% chance of 5	25% chance of 21.75	25% chance of 5.75
50%	12	25% chance of 5	25% chance of 16.17	25% chance of 12.17
		50% chance of 7.5	50% chance of 18.67	50% chance of 9.67
		25% chance of 10	25% chance of 21.17	25% chance of 7.17
75%	6	25% chance of 7.5	25% chance of 13.08	25% chance of 16.08
		50% chance of 11.25	50% chance of 16.83	50% chance of 12.33
		25% chance of 15	25% chance of 20.58	25% chance of 8.58
100%	0	25% chance of 10	25% chance of 10	25% chance of 20
		50% chance of 15	50% chance of 15	50% chance of 15
		25% chance of 20	25% chance of 20	25% chance of 10

Continue

Period

1 out of 15

Allocating Control to Third Party

If you allocate 100% control to the third party, then the third party determines the point division itself. However, you pay no cost by allowing the third party to decide.

Level of Control	Your Contribution	Third Party Contribution	Expected Points	Opponent's Expected Points
0%	24	0	22.33	4.33
25%	18	25% chance of 2.5	25% chance of 19.25	25% chance of 8.25
		50% chance of 3.75	50% chance of 20.5	50% chance of 7
		25% chance of 5	25% chance of 21.75	25% chance of 5.75
50%	12	25% chance of 5	25% chance of 16.17	25% chance of 12.17
		50% chance of 7.5	50% chance of 18.67	50% chance of 9.67
		25% chance of 10	25% chance of 21.17	25% chance of 7.17
75%	6	25% chance of 7.5	25% chance of 13.08	25% chance of 16.08
		50% chance of 11.25	50% chance of 16.83	50% chance of 12.33
		25% chance of 15	25% chance of 20.58	25% chance of 8.58
100%	0	25% chance of 10	25% chance of 10	25% chance of 20
		50% chance of 15	50% chance of 15	50% chance of 15
		25% chance of 20	25% chance of 20	25% chance of 10

Continue

Period

1 out of 15

Other Allocations

If you allocate some level of control in-between, your expected share of the points will be determined by the level of control you select, your contribution, the third party's contribution, and some small cost.

Level of Control	Your Contribution	Third Party Contribution	Expected Points	Opponent's Expected Points
0%	24	0	22.33	4.33
25%	18	25% chance of 2.5	25% chance of 19.25	25% chance of 8.25
		50% chance of 3.75	50% chance of 20.5	50% chance of 7
50%	12	25% chance of 5	25% chance of 21.75	25% chance of 5.75
		25% chance of 5	25% chance of 16.17	25% chance of 12.17
75%	6	50% chance of 7.5	50% chance of 18.67	50% chance of 9.67
		25% chance of 10	25% chance of 21.17	25% chance of 7.17
100%	0	25% chance of 7.5	25% chance of 13.08	25% chance of 16.08
		50% chance of 11.25	50% chance of 16.83	50% chance of 12.33
		25% chance of 15	25% chance of 20.58	25% chance of 8.58
		25% chance of 10	25% chance of 10	25% chance of 20
		50% chance of 15	50% chance of 15	50% chance of 15
		25% chance of 20	25% chance of 20	25% chance of 10

You will note that as you allocate more control to the third party, your contribution affects your expected outcome less and the third party's contribution affects the decision more. Additionally, your costs decrease as you grant the third party more control.

Continue

Period

1 out of 15

Information

You are Player A.

You will be negotiating with your counterpart over how much control to allocate to a third party.
For this decision, you may expect to receive the following distribution of points:

Level of Control	Your Contribution	Third Party Contribution	Your Expected Points	Opponent's Expected Points
0%	6	0	5.00	23.00
25%	4.5	25% chance of 2.5	25% chance of 6.25	25% chance of 22.25
		50% chance of 3.75	50% chance of 7.5	50% chance of 21
50%	3	25% chance of 5	25% chance of 8.75	25% chance of 19.75
		25% chance of 5	25% chance of 7.5	25% chance of 21.5
75%	1.5	50% chance of 7.5	50% chance of 10	50% chance of 19
		25% chance of 10	25% chance of 12.5	25% chance of 16.5
100%	0	25% chance of 7.5	25% chance of 8.75	25% chance of 20.75
		50% chance of 11.25	50% chance of 12.5	50% chance of 17
		25% chance of 15	25% chance of 16.25	25% chance of 13.25
		25% chance of 10	25% chance of 10	25% chance of 20
		50% chance of 15	50% chance of 15	50% chance of 15
		25% chance of 20	25% chance of 20	25% chance of 10

OK

Period

1 out of 15

Information

You are Player B.
 You will be negotiating with your counterpart over how much control to allocate to a third party.
 For this decision, you may expect to receive the following distribution of points:

Level of Control	Your Contribution	Third Party Contribution	Your Expected Points	Opponent's Expected Points
0%	24	0	23.00	5.00
25%	18	25% chance of 2.5	25% chance of 19.75	25% chance of 8.75
		50% chance of 3.75	50% chance of 21	50% chance of 7.5
		25% chance of 5	25% chance of 22.25	25% chance of 6.25
50%	12	25% chance of 5	25% chance of 16.5	25% chance of 12.5
		50% chance of 7.5	50% chance of 19	50% chance of 10
		25% chance of 10	25% chance of 21.5	25% chance of 7.5
75%	6	25% chance of 7.5	25% chance of 13.25	25% chance of 16.25
		50% chance of 11.25	50% chance of 17	50% chance of 12.5
		25% chance of 15	25% chance of 20.75	25% chance of 8.75
100%	0	25% chance of 10	25% chance of 10	25% chance of 20
		50% chance of 15	50% chance of 15	50% chance of 15
		25% chance of 20	25% chance of 20	25% chance of 10

OK

Period

1 out of 15

Information

If you come to an agreement over this allocation, the third party will decide its division and you will be awarded points according to Your Contribution, the Third Party Decision, and the Level of Control.
You will then have the opportunity to decide whether to comply or decline this division.

A. If you both COMPLY, then you each receive your share of the points.
B. If **you** DECLINE, but your counterpart complies, then you receive **18.00** points.
C. If **you** COMPLY, but your counterpart declines, then you receive 0 points.
D. If you both DECLINE, then you both **lose 12** points.

The table below illustrates your payoffs (on the left in each cell) and your opponent's payoffs (on the right).

		Opponent	
		<i>Accept</i>	<i>Decline</i>
Your Actions	<i>Accept</i>	Your points, Opponent's points 0, 18.00	0, 18.00
	<i>Decline</i>	18.00, 0	-12.00, -12.00

OK

Period

1 out of 15

Make a Proposal

You are Player A.
Allocate a share of control to the third party. For this decision, you will receive:

Level of Control	Your Contribution	Third Party Contribution	Your Expected Points	Opponent's Expected Points
0%	6	0	5.00	23.00
25%	4.5	25% chance of 2.5	25% chance of 6.25	25% chance of 22.25
		50% chance of 3.75	50% chance of 7.5	50% chance of 21
		25% chance of 5	25% chance of 8.75	25% chance of 19.75
50%	3	25% chance of 5	25% chance of 7.5	25% chance of 21.5
		50% chance of 7.5	50% chance of 10	50% chance of 19
		25% chance of 10	25% chance of 12.5	25% chance of 16.5
75%	1.5	25% chance of 7.5	25% chance of 8.75	25% chance of 20.75
		50% chance of 11.25	50% chance of 12.5	50% chance of 17
		25% chance of 15	25% chance of 16.25	25% chance of 13.25
100%	0	25% chance of 10	25% chance of 10	25% chance of 20
		50% chance of 15	50% chance of 15	50% chance of 15
		25% chance of 20	25% chance of 20	25% chance of 10

How much control do you give the third party?

☐ 0%
☐ 25%
☐ 50%
☐ 75%
☐ 100%

Offer

Period

1 out of 15

Response

You are Player B .
Player A allocated the following amount of control to the third party.
 You may now agree to this allocation, or reject it and propose a different allocation.
 If you accept , you may expect to receive the following, according to each level of control.
 If you reject , 6 points will be destroyed and you will make a new proposal.

Level of Control	Your Contribution	Third Party Contribution	Your Expected Points	Opponent's Expected Points
0%	24	0	23.00	5.00
25%	18	25% chance of 2.5	25% chance of 19.75	25% chance of 8.75
		50% chance of 3.75	50% chance of 21	50% chance of 7.5
		25% chance of 5	25% chance of 22.25	25% chance of 6.25
50%	12	25% chance of 5	25% chance of 16.5	25% chance of 12.5
		50% chance of 7.5	50% chance of 19	50% chance of 10
		25% chance of 10	25% chance of 21.5	25% chance of 7.5
75%	6	25% chance of 7.5	25% chance of 13.25	25% chance of 16.25
		50% chance of 11.25	50% chance of 17	50% chance of 12.5
		25% chance of 15	25% chance of 20.75	25% chance of 8.75
100%	0	25% chance of 10	25% chance of 10	25% chance of 20
		50% chance of 15	50% chance of 15	50% chance of 15
		25% chance of 20	25% chance of 20	25% chance of 10

Player A's allocation: 50

Do you agree to this allocation of control to the third party?

Yes

No

Period

1 out of 15

Guess Third Party Decision

The allocation of control to the third party has been agreed.

Please guess what the third party's contribution to your share of the points will be by predicting whether the third party will decide in *your* favor, your *opponent's* favor, or divide the points *evenly* .

Recall that if the third party has 100% control, it divides the points as follows:

	<i>Your Points</i>	<i>Opponent Points</i>
25% chance of	10	20
50% chance of	15	15
25% chance of	20	10

Guess how the third party will decide

☐ My favor
☐ Evenly
☐ Opponent's favor

OK

Period

1 out of 15

Information

The allocation of control to the third-party has been agreed.

The third party decided impartially. *You guessed correctly, which gives you 5 points.*

You must now decide whether to comply with this decision or decline. Your counterpart will make the same choice.

A. If you both COMPLY, then you each receive your share of the points.

B. If **you** DECLINE, but your counterpart complies, then you receive **18.00** points.

C. If **you** COMPLY, but your counterpart declines, then you receive 0 points.

D. If you both DECLINE, then you both lose 12 points.

		Opponent	
		Comply	Decline
Your Actions	Accept	10.00, 19.00	0, 18.00
	Decline	18.00, 0	-12.00, -12.00

Control allocated to third party:

50

Your share of the points:

10.00

Do you Comply with or Decline the division?

Comply

Decline

Screenshots from Transparency Experiment

Period

1 out of 15

Make a Proposal

Three different mediators propose the following point distributions.
If you and your counterpart agree to a mediator, then you will each have the opportunity to respond to the mediated outcome by Accepting or Declining.
You may expect to receive the following payoffs in each game, with **your** point share listed first in each pair of points.
Select one of the mediation options.

A

		Opponent	Actions
		Accept	Decline
Your	Accept	20.0, 10.0	0, 0.0
Actions	Decline	0.0, 0	-30.0, -30.0

B

		Opponent	Actions
		Accept	Decline
Your	Accept	20.0, 10.0	0, 15.0
Actions	Decline	15.0, 0	-15.0, -15.0

C

		Opponent	Actions
		Accept	Decline
Your	Accept	20.0, 10.0	0, 5.0
Actions	Decline	5.0, 0	-25.0, -25.0

Select a mediator:

☐ A

☐ B

☐ C

OK

Period

1 out of 15

Respond

Three different mediators propose the following point distributions. **Player A selected Mediator B.**
You may now agree to this selection or reject it and propose a different mediator.

If you and your counterpart agree to a mediator, then you will each have the opportunity to respond to the mediated outcome by Accepting or Declining.
You may expect to receive the following payoffs in each game, with **your** point share listed first in each pair of points.

If you **reject**, 6 points will be destroyed and you will make a new proposal.

A		Opponent	Actions
		Accept	Decline
Your	Accept	10.0, 20.0	0, 0.0
Actions	Decline	0.0, 0	-30.0, -30.0

B		Opponent	Actions
		Accept	Decline
Your	Accept	10.0, 20.0	0, 15.0
Actions	Decline	15.0, 0	-15.0, -15.0

C		Opponent	Actions
		Accept	Reject
Your	Accept	10.0, 20.0	0, 5.0
Actions	Decline	5.0, 0	-25.0, -25.0

Do you accept or reject Player A's selection?

Accept

Reject

Period

1 out of 15

Accept or Decline?

A mediator has been agreed upon: **You agreed to Mediator B.**

You may now Accept or Decline the point division the Mediator proposes.
A. If you both **Accept** then you both receive your share of the points (You receive 10.0 points).
B. If **you** Accept and your opponent Declines, then you receive 0 points.
C. If **you** Decline and your opponent Accepts, then you receive 15.0 points.
D. If you both **Decline** then you both lose -15.0 points.

B		Opponent	Actions
		<i>Accept</i>	<i>Decline</i>
Your	<i>Accept</i>	10.0, 20.0	0, 15.0
Actions	<i>Decline</i>	15.0, 0	-15.0, -15.0

Do you Accept or Decline?

Accept

Decline

Period

1 out of 15

Results

This round is complete. Your opponent chose to Accept. You received the following number of points this round.

You earned:

15.00

Your opponent earned:

0.00

Continue

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