Bargain Shopping for Peace? Forum Selection in Interstate Conflict Management

Vanessa A. Lefler
University of Iowa

vanessa-lefler@uiowa.edu

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1. Introduction

This project investigates states' strategies in the management of contentious interstate disputes[1] 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, Mitchell, Sowers, and Thyne 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 primarily focused on the *results* of conflict management strategies, rather than their *selection*.

I develop a bargaining model with an option to submit to third-party conflict management to explore the strategic incentives that disputants consider when trying to choose a settlement

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[1] Hensel (2001) defines a contentious conflict as a disagreement between states over tangible stakes or issues such as territory. What distinguishes contentious conflicts from other types of disputes are that 1) they are over measurable goods, rather than abstract concepts such as security or a national interest – though they may be manifestations of these abstract goals; and 2) they are conflicts that may be at risk for escalating to militarization.

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 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. For instance, recent research demonstrates that arbitration or adjudication by a highly institutionalized IGO is more likely to deliver a settlement that resolves the major issues of contention and reduces the risk of future conflict because the forum's transparency enhances commitment by increasing the costs of non-compliance (Fang 2010; Hansen, S. M. Mitchell, and Nemeth 2008; Hensel 2001; S. M. Mitchell and Hensel 2007) However, fewer than five percent of contentious disputes are brought before transparent, binding fora.[2]

I argue that aversion to international courts and other public fora is influenced by forum transparency and disputants' expectations about settlement outcomes. Research that prescribes legal or institutional solutions to bargaining problems relies on the assumptions that there is some set of actors attentive to the forum's activities and 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. Propositions from the model support this intuition and demonstrate that the presence of

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[2]   Using the Issue Correlates of War Project (Hensel 2001; Hensel, Mitchell, and Sowers 2006; Hensel, Mitchell, Sowers, and Thyne 2008; Nemeth, Mitchell, Nyman, and Hensel 2006) for territorial, maritime and river disputes, between 1816 and 2001, 68.5% of all disputes in the Western Hemisphere were managed through bilateral negotiations. Meanwhile, only 4.1% of all disputants submit to binding arbitration or adjudication.

alternative dispute resolution mechanisms affects the bargaining process and the types of tactics available to overcome bargaining problems. Because peaceful conflict management is voluntary, only *impartial* outside options provide a credible alternative to bilateral solutions or militarized conflict. Accordingly, states are willing to directly make concessions in order to reach agreements that save the potential reptuational costs of non-compliance with third-party decisions. 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.[3] Therefore, it is important for scholars to collaborate on how particular mechanisms of a management forum affect selection, agreement, and compliance and make recommendations about forum design that can be implemented through a number of different methods.

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[3] This may be especially true for intense conflicts that do not draw interest from states or regional organizations and, instead can only rely on large institutions like the United Nations to intervene. In such cases, the nature of the conflict and the lack of international support diminish the chances that third-party intervention will be successful (Fortna 2004). Alternatively, an inability to agree on a forum is likely to frustrate other, bilateral efforts to make peace, both at the settlement stage (Wiegand 2005) and at the peace enforcement stage (Diehl, Reifschneider, and Hensel 1996).

2. Bargaining Problems and the Management Market

2.1 Overview

The wisdom handed down from the conflict bargaining literature contends that violent, interstate disputes result from three, critical barriers to settlement: issue indivisibilities, information asymmetries, and commitment problems (Fearon 1995). The aim of conflict management efforts is to overcome these barriers and prevent the outbreak of conflict. In particular, third-party management is a less costly method of settlement compared to war when bargaining problems keep states from otherwise agreeing bilaterally (Bercovitch and Jackson 2001; Hensel 2001). Intervening third parties, whether they are states or IGOs, 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; Fang 2010; S. M. Mitchell and Hensel 2007).

While theoretical and empirical research demonstrate the efficacy of each of these conflict management tactics (Fang 2010; Kydd 2003; Mattes and Savun 2010; Savun 2008), evidence is mounting that especially supports the use of some fora – namely binding management through international organizations – over others (Gent and Shannon 2010; S. M. Mitchell and Hensel 2007). One of the primary explanations for these observations is that IGOs and legalized management approaches increase the costs of non-compliance by making it reputationally disadvantageous for states to renege on settlement agreements (Fang 2010). These fora thus become attractive options to disputants in especially intense or evenly-matched conflicts where the role of a third-party as an issue divider and commitment guarantor may break the stalemate (Hensel 2001).

At the same time, peaceful conflict management suppliers encounter distinct challenges in ensuring that monitoring and enforcement are carried out. "Enforcement," as 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." In order to meet these requirements, conflict management fora require some level of transparency through which actors can detect violations. However, enforcement-facilitating transparency necessarily pose additional risks to disputants concerned about their domestic or international reputations because concessions made in settlement negotiations may reveal weaknesses in resolve and commitment to national interests. I argue that disputants have strategic incentives to cautiously approach different conflict management mechanisms. Because of the proliferation of conflict management fora, trade-offs are possible between settlement outcomes and commitment-enhancing forum characteristics, like transparency. As a result, the presence of management fora with varying levels of transparency ought to affect the progression of settlement negotiations.

2.2 Causes of Conflict and Closing the Deal

More specifically, Schelling (1960) attests that all-out, pure conflict is extremely rare and that, instead, disputes tend to arise over more modest objectives; both parties value an outcome that is mutually advantageous. The most efficient way to "close the deal" is through negotiation. 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 seem capable of in practice.

There are several ways that states and third parties can addressed these missed opportunities for peaceful settlement. First, disputants can reduce uncertainty 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. With leaders of each country available to one another in an instant, the states hoped this communication line would avoid nuclear crisis. 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.

The role of third parties as information arbitrageurs in conflict management has received significant scholarly attention, with vibrant debates focused on the relative abilities of biased and impartial intermediaries to foster trust and on the information-delivery capacities of different types of international actors, such as states and IGOs (Gent and Shannon 2010; Kydd 2003, 2006; Mitchell and Hensel 2007; Rauchhaus 2006; Savun 2008). Investigation of the ability of various fora to alleviate these barriers to agreement have alternatively discovered that mechanisms that enhance disputant's commitment to the settlement have the greatest impact on conflict resolution outcomes. Mitchell and Hensel (2007) argue that the liability and 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. Finding support for their argument, they observe that international organizations involved as binding arbiters or judges in dispute settlements 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. Shannon (2009) adds that states may be socialized by international organizations into using peaceful dispute resolution mechanisms and complying with their agreements – an argument supported by the widely observed notion of *pacta sunt servanda*. 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).

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 rulings: 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." In sum, management that employs particular mechanisms that increase the material or social costs of non-compliance is capable of effectively overcoming commitment problems and resolving interstate conflicts.

Simmons (2002) and Allee and Huth (2006) add that states may productively use binding conflict management as a means of enhancing their commitment to peace when domestic groups are resolved against concessions. By placing the third-party intermediary in the position of an arbiter, the disputants put the stakes of the dispute in the hands of the manager (Schelling 1960), creating both a scapegoat for domestic disapproval and an outside guarantor of the agreement.

This has the effect of deflecting direct challenges to the governments' domestic authority while also providing additional safeguards against non-compliance (Mattes and Savun 2010).

Despite the range of empirical evidence supporting the efficacy of binding management, the literature has not yet targeted the mechanism that causes states to comply with legal decisions. Some scholars argue that norms against non-compliance deter states from reneging on agreements reached through arbitration or adjudication, but such assertions are not consistent with legal scholars' view that the international legal system lacks a hierarchical structure and consistent interpretation of legal obligations (Cogan 2008; Gross 1971). Furthermore, research on binding management generally does not distinguish arbitration, which may be conducted by any international or private actor, and adjudication, which is performed by international courts. This is problematic for the norms-based argument of compliance because arbitral tribunals are often temporary, limiting their ability to nurture norm acceptance. Finally, the binding management literature tends to separate itself from the rest of the management market. Many scholars investigate only the use arbitration and adjudication, failing to take into account the features of binding approaches that would make them similar to other types of management fora that are also effective.

I argue that the primary mechanism through which the commitment-enhancing characteristics of a management forum works is the imposition of non-compliance costs. 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. Furthermore, when disputants manage their conflicts in a public forum, the consequences for non-compliance increase if domestic or international

audiences apply additional punishment (Fearon 1994). As Simmons (2002) explains, unresolved

conflicts can be 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 may reduce public

support for the government (Carrubba 2009; Davis 2007).[4] 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 (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;

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 be

willing to provide enforcement. Violations of settlement agreements are not uniformly observed

by domestic audiences or the international community; in order for enforcement to work, a

conflict management forum must be transparent to some audience of observers. Ideally, these

observers would include the parties involved in enforcing the agreement, however, it may happen

that these guarantors do not receive enough information to meaningfully monitor if the forum is

not transparent enough. Alternatively, other actors – actors that might take advantage of

perceived weaknesses of resolve or capabilities – are also privy to states' management efforts.

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[4] 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).

Thus, the transparency of a forum affects disputants' expectations about the nature of non-compliance costs and, as a result, shapes a forum's acceptability.

3. Transparency and Conflict Management

Typically, transparency is defined as the ability of outside actors to observe how parties (usually agents) behave (Prat 2005), which varies along to two dimensions: transparency of actions and transparency of outcomes (Strasavage 2004). By making debate or hearings open to the public, publishing meeting minutes, or detailing the processes by which decisions are made, a forum increases its transparency with respect to actions. Parties that negotiate through fora with transparent processes may be subject to sanctions from domestic groups or allies (Hale 2008). Likewise, published or otherwise widely disseminated details of a settlement decision make outcomes transparent – and it is this type of transparency that is typically evoked by scholars who invoke respect for the norm, *pacta sunt servanda*. Legal decisions are followed because defections could be detected by other actors who also observe the decision. Understood in the context of international relations, transparency is often ascribed to international institutions as a feature of their working methods where scholars study whether interactions within IGOs are transparent to other member-states and domestic audiences and the consequences for policy. Griegorescu (2007) argues that IGOs, in particular, can increase their legitimacy among states in the international community by increasing the transparency of their decision-making and operations. This includes reforming the institution's bureaucracy, voting procedures, and openness to non-governmental monitors, such as NGOs. Cortell and Peterson (2006) add that international organizations are less accountable to their member states when they have more professionalized operating staffs and less consensus-based voting procedures, suggesting that the more bureaucratic an organization is, the less transparent it is outside parties. Such design

features decrease the ability of IGO member-states and other actors to gain information about the activities of a conflict management forum and, therefore, be less active in monitoring and enforcement.

An alternative perspective within this same literature points to the importance that domestic audiences may place on the transparency of their governments' international activities. Significantly, transparent processes can affect distributional outcomes. For instance, if leaders have different foreign policy preferences from their domestic populations, then secrecy affords a government the opportunity to implement policy without reprisal from a public that cannot distinguish between diplomatic representatives who do not agree with them and a mediator's stipulations (Prat 2005). In other words, if a forum only reveals the agreement that results from negotiations – and not the process of the negotiations – then states can use the forum for political cover. Alternatively, institutional transparency that reveals actions and concessions allows domestic populations to evaluate whether leaders have faithfully represented national interests. Therefore, there tends to be a tension especially between democratic leaders and domestic groups about the most desirable design of settlement fora; where leaders benefit from secrecy, the pubic tends to expect bargaining processes to adopt transparent features when they suspect that their representatives will be undisciplined (Strasavage 2004).

Thus, in conceptualizing the forum shopping problem solely in terms of settlement enforcement, third parties and other observers would prefer that disputants select more transparent fora in order to improve their ability to discover and punish violations. Thus, norms promoting formal or institutionalized settlement of contentious conflicts are externally driven. The disputants, alternatively, are more likely to prefer avoiding these fora. Private negotiations allow agents to take advantage of private information revealed in the negotiation process. Public

negotiations cause government leaders to take hard-line stances to avoid being punished domestically for conceding the national interests (Fearon 1998; Hale 2008). Negotiations in transparent fora compromise information transmission because disputants are unable to adjust positions without appearing disloyal (Prat 2005). Second, information that is shared between disputants and intermediaries may also be revealed to other outside actors who can use it to exploit either of the parties. In this way, the reputational consequences of transparency may be harmful to disputants, rather than pacifying. Crescenzi, Kathman, and Long (2007) find that disputants' histories with conflict shape the progress of ongoing dispute settlement efforts. Historical conflicts, they argue, 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. For example, states that are engaged in multiple conflicts may wish to avoid transparent fora because they could weaken their position relative to other adversaries. Busch (2007) adds that international management affects disputants' relationships with other IGO members by setting a precedent for future interactions. Therefore, I argue that transparent conflict management, while commitment-enhancing, may be limiting with respect to suitable settlement outcomes. Disputants do not want to be observed making significant concessions for fear of appearing weak to other rivals – foreign or domestic. Likewise, it is not desirable for concessions made on an issue in one contest to affect bargaining in another. Therefore, states have conflicting incentives in using highly transparent fora for dispute settlement because transparency has the effect of improving chances for long-term peace, while also opening states to the possibility of future conflicts.

One factor that may alleviate this dilemma is that states can shop among alternatives to transparent fora in the conflict management market. 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 too great for disputants in especially contentious conflicts to stand and so, instead, they seek less high-profile management venues (Gent and Shannon 2010, 2011). 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.

3.1 Open or Closed – Completing the Transaction

Given the options, how do states decide whether to negotiate privately or publicly? Based on the criterion of transparency alone, disputants appear to have conflicting motivations for selecting among management fora. Therefore, it is useful to think of other ways that management

fora differ from one another that also affect the process or outcome of settlement negotiations. One such distinguishing factor is disputants' expectations about whether a forum will be more likely to favor one party over another. Even *impartial* third party managers may to come to different conclusions about the settlement of a claim and states prefer to appeal to fora "when they believe that doing so will provide them a bargaining advantage" (Fang 2010, 110). Countries have been noted to research previous rulings and intermediaries' dispositions to determine whether the members of an international court or multilateral organization will decide in their favor (Fischer 1982; Morgan 2002; Voeten 2007). Such efforts were influential Iceland's decision to reject the authority of the International Court of Justice in the settlement of the 1972 Second Cod War with Great Britain and in more recent attempts by the Philippines to bring its conflict with China and other east Asian countries over the possession of the Spratly Islands to a multilateral, ASEAN-US forum. In the first case, Iceland was certain that the ICJ would decide in favor of Great Britain (B. Mitchell 1976). In the second case, congenial relations between the Philippines and the US led the Philippines to believe that a multilateral coalition could balance against Chinese power (Dacanay 2011). Wiegand and Powell (2010) find that disputants also 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 in 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 also attempt to employ settlement strategies that are most responsive to domestic interest groups' expectations.

If forum selection is understood solely as an issue-dividing process, these findings suggest that challengers, who have the advantage as plaintiffs in legalized dispute resolution, apply to fora that are more likely to decide in their favor. A puzzling implication of these results is that other adversaries *consent* to fora that are likely to rule *against* them. One reason for this is that they do not have the option to object: In economic disputes, from which Davis (2005, 2009) draws her conclusions, states have the ability to individually submit to the WTO and states often make unilateral applications to the ICJ in other, contentious conflicts (Fang 2010). But, international norms and legal precedent are generally against submission to international courts or arbitral panels without both parties' consent: "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).[5] Thus, a second reason why states consent to fora that are to their distributional *disadvantage* is that there are other incentives. Because third-party conflict management is voluntary, a forum that is undesirable on one dimension must have other desirable characteristics. I submit that disputants' forum selection decisions weigh expectations about settlement outcomes against the potential enforcement capacity generated by a forum's transparency.

4. A Model of Transparency and Forum Selection

To navigate the trade-offs between these two dimensions of conflict management forum design, I combine elements from two existing models on conflict bargaining model and third-party management. Manzini and Marrioti (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

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

Marrioti's assumptions regarding disputants' prior knowledge about third-party decisions and the sustainability of settlement outcomes. From these two models, I draw on Manzini and Mariotti's assumption that third-party solutions are voluntary, requiring the consent of each disputant. To this, I incorporate, 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 that commitment once it has been decided. I also add the option for either disputant to unilaterally terminate negotiations and initiate war. Finally, I conceptualize forum transparency as two different types of mechanisms, closed door and open door, and analyze the model with the presence of each type. The model, illustrated in Figure A1 in the Appendix, begins with two actors, a *Challenger* and a *Target*, negotiating the division of an issue of mutual interest.[6] Let this common interest issue, $X = [0,1]$, represent 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. In the opening stage of the model, the *Challenger* proposes a division of X, $x_t \in [0,1]$ and bargaining proceeds in an alternating-offers protocol with a common discount factor, $\delta^t \in [0,1]$ where t indicates the discount rate at the tth 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_t, the *Target* rejects, the *Target* counters with the distribution of the issue $y_t \in [0,1]$.

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[6]   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.

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 expected values of war for each actor in the game, excluding discounting from bargaining delays, are as follows:[7]

$$EU_C^{War} = p - w_C$$
$$EU_T^{War} = 1 - p - w_T$$

To avoid the violent consequences of bargaining failure, a third-party intermediary may provide new information or guarantee commitments in order to facilitate negotiation and peaceful settlement (Mitchell and Hensel 2007; Beardsley and Greig 2009; Crescenzi, Kadera, Mitchell, and Thyne 2011). Thus, if after an initial period of negotiating the *Challenger* and the *Target* cannot come to an agreement, the *Challenger* may suggest the use of third-party conflict management, in addition to making a counter-offer or initiating war. 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

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[7] Expressed as reduced values of the standard, costly lottery representation of war where each actor gains the entire value of the issue in the event of victory (Fearon 1995).

international organizations – are able to relieve some of the transaction costs of bilateral negotiations in conflict bargaining.

In addition to providing solutions to 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. In practice, third-party management efforts vary, ranging from facilitative, good-offices to binding arbitration or adjudication; different levels of delegated authority allow the third party to have more or less direct influence over the outcome of negotiations. In many instances, the third party is active in shaping the distribution of the issue at stake (Bercovitch 2007), either by strategically providing information in order to encourage concessions (Kydd 2003; Savun 2008) or by directly making recommendations to the disputants. 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, $s \in [0, 1]$. 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.

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. For example, another state acting as a mediator could offer to compensate a losing party's losses or an international organization could take advantage a wide scope to similarly improve the position of a state that has to make concessions. These tactics have proved to be especially effective in the management of river disputes where there are distinct disadvantages among states based on their geographic location along the river basin (Ostrom 1990). For instance, 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.

I this project, I do not incorporate the potential for third parties to alter the available bargaining space. Instead, I focus on bargaining efficiency, which is another important feature of third party fora in conflict bargaining. 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.[8] Instead, 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. Additionally,

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[8]   Personal conversation with Prof. Steven Burton, former Legal Adviser at the U.S. State Department for management international maritime, environmental, and scientific claims (May 2010).

by focusing on efficient divisions of the issue, I am able to explore other ways in which third parties affect distributional outcomes through other features, such as transparency.

In order for third-party conflict management to be implemented, the disputants must agree to the third party's intervention. Elsewhere, third-party management efforts are modeled as unilateral outside options, similar to war, where either actor can essentially sue another to appear before a third-party forum. Manzini and Mariotti (2001) demonstrate that when third-party management is treated as a unilateral outside option a disputant will be able to take advantage of a potentially favorable third-party decision and avoid concessions through bilateral negotiations by appealing to third-party management. As a result, a disputant only has a preference to implement outside management if the intermediary is biased. Fang (2010) comes to a similar conclusion in her model of submission to an IGO as an outside option to bilateral dispute settlement. According to her model, the disputant with a strategic advantage from appealing to third-party management uses that advantage as bargaining leverage. Individual (non-consensual) preferences for third-party management make it unlikely that third-party management will occur at all because the favored disputant will be willing to accept a division of the issue that matches its gains from conflict management.[9] These conclusions contrast with a mutual-consent model in which disputants, expecting the third-party to make an unbalanced decision, do not submit to arbitration because an adversary will veto the decision. A mutual consent-based model of third-party conflict management, therefore, has advantages for modeling the forum selection process as a trade-off between distributional outcomes and transparency because where a mutual-consent

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[9] Fang (2010) finds support for an arbitrated outcome when non-compliance costs for the actor proposing arbitration are significantly less than its opponent's, but the arbitration mechanism remains preferable to just one player. The lower-cost disputant triggers IGO management when its expected payoff from management is greater than its expected payoff from a negotiated solution. Because the opponent has no option to veto, it must passively make the larger concession.

model requires disputants to accept third-party management in favor of potentially more favorable bilateral agreement, the unilateral application model requires no trade-off.

From a pragmatic perspective, the mutual-consent assumption additionally appeals to a number of empirical realities. First, respect for sovereign autonomy prevents intervention in a state's affairs without its agreement – few actors can unilaterally compel states to negotiate or to accept the assistance of a third party. More generally, though, an adversary or an outside intermediary will find it difficult to resolve a dispute if a party refuses to participate (Bercovitch 2007). While the consultative workshop model of conflict management, which allows parties to work individually with consultants to identify internal reasons for hostility and continued conflict, (Fisher 1972; 2007; Fisher and Keashly 1991) may be useful in deescalating hostilities even without the participation of all critical parties to the dispute, management efforts intended to resolve the dispute will be hard-pressed to make substantial progress without the disputants' cooperation.

A related complication is that many actors in the international community do not have the capabilities or jurisdiction to intervene without a state's consent. A state or international organization may attempt to use force, impose sanctions, or withdraw aid if disputants do not attempt to settle their conflicts peacefully. In the domestic legal context, such actions are frequently taken by judges who order claimants to employ alternative dispute resolution approaches (mediation, arbitration), rather than settle through the court. Similarly, in the international context, a third party may use coercive tactics to draw states into negotiation. For example, Touval (1996) suggests the United States' use of force in the Bosnian conflict intimidated the Serbs into US-led mediation at Dayton, which eventually contributed to the successful resolution of the conflict. But these efforts may not always provide a direct path to

negotiations. Lack of jurisdiction is a particular problem for international organizations, which play a prominent role in interstate conflict management but are typically not equipped to intervene without member-states' support or dispute resolution mechanisms (Boehmer, Gartzke, and Nordstrom 2004; Haftel and Thompson 2006; Mitchell and Hensel 2007). Even institutions that are more independent and have the ability to impose binding decisions, international courts for instance, rarely have compulsory jurisdiction (Alter 2008). And those that do, such as the United Nations Convention on the Law of the Sea (UNCLOS), which claims jurisdiction over all contentious conflicts where disputants are otherwise unable to agree on a forum ("Part XV: Settlement of Disputes"), may still be avoided by states' employing other settlement approaches or because the organization lacks the ability to purchase states' cooperation (Malintoppi 2006) These insights provide empirical support for the models' assumption that both parties' consent is necessary for third-party management to be implemented.

Agreement on the use of third-party conflict management depends upon two important features of the forum. First, an appeal to a third party results in a division of the issue, (s, 1-s). I relax the assumption in Manzini and Marriotti that actors have complete information about settlement outcomes and, instead assume that states' expectations about settlement outcomes are informed by a common-knowledge probability distribution, $F(s)$. The degree to which information about a forum is available to disputants affects their evaluation of a forum's acceptability. In some cases, each disputant may be confident that a third party will decide in its favor, resulting in overly optimistic expectations of conflict management. 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" 2011/02/14). Such "mutual optimism" may lead disputants to select fora under the mistaken belief that they will win through mediation, which could influence both strategic interactions and compliance with agreements – not unlike the potentially dangerous consequences of mutual optimism about military victory (Slantchev and Tarar 2011).[10] 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 (Morgan 2004; Wiegand and Powell 2010).

A second, important forum characteristic, as discussed above, is transparency. If the parties agree to third-party conflict management, they agree to do so in a setting that may reveal information about the negotiation process and the nature of the settlement to outside observers (Prat 2005). The degree to which any of this information is revealed depends upon the type of forum that disputants elect to use. Some fora may only reveal one type of information, where other fora disclose information about both actions and outcomes. For example, the *existence* of the 2010 settlement agreement between Eritrea and Djibouti, mediated by Qatar, was only made public after the UN Security Council increased the pressure on the two states to resolve the conflict. None of the parties, the disputants or the mediator, informed the international community that they had already negotiated a peace agreement! Even then, the contents of the settlement agreement were largely kept secret until independent sources were able to leak to agreement document to the public ("Eritrea Djibouti Mediation Agreement" 2010). For simplicity, this paper will present a theory based on two different models of transparency: a "closed-door" model of management, which reveals information only about the nature of the

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[10] I leave the conceptualization of mutual optimism to future work.

outcome, and an "open-door" model of management that also reveals information about settlement procedures. In the closed-door model, outside observers only learn about the division of the issue, allowing the disputants to use the third-party forum for political cover. In this case, transparency affects disputants' choices through the imposition of penalties for non-compliance with third-party agreements. As a forum's transparency increases, disputants pay larger costs for non-compliance because there is larger number of monitors to punish defections. In the event that a disputant fails to fulfill its settlement commitments, it incurs a cost, c_i, $i = \{C, T\}$.

In the open-door model of third-party management, outside observers receive information about the settlement agreement and the bargaining processes that led to the division of the issue. Thus, as in the closed-door model, disputants pay non-compliance costs, c_i, $i = \{C, T\}$, if either reneges on the settlement agreement. Additionally, the decision to pursue third-party management is costly in that it opens disputants to challenges from domestic and international rivals. Therefore, management through an open-door forum deducts the players' concessions from their share of the distributional outcome. Disputants that make larger concessions decrease their total payoff because they are subsequently more vulnerable than if they had made smaller concessions. Bargaining concessions are measured as the difference between the actor's opening offer, $\{x_1, y_1\}$, and its share of the issue after third-party management, $\{s, 1\text{-}s\}$.

Finally, I assume that outcomes from third-party management are not binding, and that disputants may choose to defy a third-party-facilitated agreement even after consenting to both the process of third-party negotiations and the initial settlement treaty. Such superficial commitments to third party management can be the result of a number of factors, including rejection from domestic audiences or failing to reach a mutually-acceptable division of the issue. Even among legally-binding international fora, compliance is not guaranteed. Therefore, once a

third-party decision is delivered, disputants then decide whether to comply with the decision or

to defy it and assume possession of the entire issue. In the model, this set of decisions is

expressed as a simultaneous compliance game where payoffs from third-party conflict

management are determined by the adversaries' compliance with the settlement decision. 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 $(0, 0)$, and pay non-

compliance costs, $c_i > 0$, $i = \{C, T\}$. 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. Payoffs for the closed-door and open-door compliance

subgames are summarized in Table 1 and 2, below.

Table 1: Compliance subgame within a closed-door forum			
		Target	
		Comply	*Defy*
	Comply	$s, 1-s$	$0, 1-c_T$
Challenger			
	Defy	$1-c_C, 0$	$-c_C, -c_T$

Table 2: Compliance subgame within an open-door forum			
		Target	
		Comply	*Defy*
	Comply	$s - (x_1 - s),$ $1-s - (y_1 - (1-s))$	$0, 1-c_T$
Challenger			
	Defy	$1-c_C, 0$	$-c_C, -c_T$

In the pure strategy equilibrium of the closed-door compliance subgame, the *Challenger* defies when $0 \leq s \leq 1 - c_C$ and complies when $1 - c_C \leq s \leq 1$. Alternatively, the *Target* complies when $0 \leq s \leq c_T$ and defies when $c_T \leq s \leq 1$. In no case do both disputants defy the third-party settlement in equilibrium. Assuming that $c_C = c_T$, there is a clear range of settlements that allow both parties to comply with the third party decision. Figure 1 shows the range of values for s and c_i that would make each actor willing to comply with a third-party settlement. The top portion of the figure (unshaded) shows the combination of noncompliance costs and divisions of the issue that result in mutual compliance. Two features are notable about this space. First, virtually any division of the issue is sustainable for mutual compliance in this subgame, assuming that when parties are indifferent between complying and defying the third-party decision, they comply. Second, noncompliance costs have to be sufficiently large to make this result possible. For example, if noncompliance costs are less than half of the issue space, then one of the disputants will defy the settlement agreement. This is illustrated in the figure in the shaded portions of the graph.

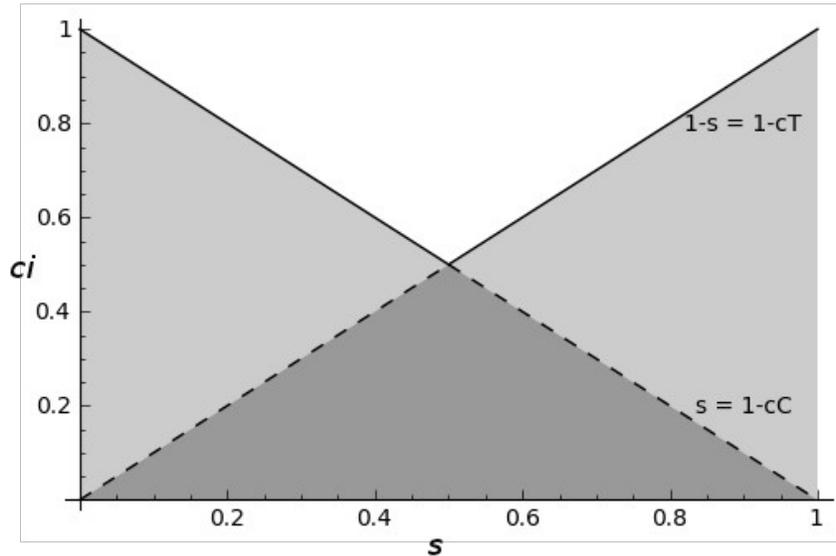**Areas of Compliance and Non-Compliance in Third-Party Management**

Figure 1: Areas of Compliance and Non-Compliance in Third-Party Management

Taking into account the disputants' probability distribution across expectations about settlement outcomes, the *Challenger* and *Target*'s expected utility for pursuing closed-door, third-party management are as follow:

$$EU_C^{CPCM} = \int_0^{1-c_C} (1-c_C) \cdot f(s)\,ds + \int_{1-c_C}^{c_T} d \cdot f(s)\,ds$$

$$EU_T^{CPCM} = \int_{1-c_C}^{c_T} (1-s) \cdot f(s)\,ds + \int_{c_T}^{1} (1-c_T) \cdot f(s)\,ds$$

For open-door, third-party fora, the range within which the disputants will both consent to the management decision shrinks as a result of the increased transparency of the forum. In the pure strategy equilibrium of the open-door compliance subgame, the *Challenger* complies if $\frac{1-c_C+x_1}{2} \leq s \leq 1$ and defies the decision if $0 \leq s \leq \frac{1-c_C+x_1}{2}$. The *Target*, conversely, complies if $0 \leq s \leq \frac{c_T-y_1-1}{2}$ and defies if $\frac{c_T-y_1-1}{2} \leq s \leq 1$. Accordingly, assuming a uniform probability

distribution, the disputants expected utility for third party settlement within an open-door forum are as follows:

$$EU_C^{OPCM}=\int_A^B s-(x_1-s)\cdot f(s)ds+\int_B^1 (1-c_c)\cdot f(s)ds$$

$$EU_T^{OPCM}=\int_0^A (1-c_T)\cdot f(s)ds+\int_A^B (1-s)-(y_1-(1-s))\cdot f(s)ds$$

where $A=\frac{1-c_C+x_1}{2}$ and $B=\frac{c_T-y_1-1}{2}$.

Table 3 summarizes the central components of the model and compares them with the other two models upon which this research is based. Some of the key contributions of this approach is that it incorporates war as a strategic alternative to third-party management and bilateral negotiations, rather than a consequence of noncompliance; it conceptualizes the costs of third party management according to features of the forum, and incorporates different assumptions about the bargaining protocol as it relates to the selection and implementation of third-party management, which affects the decisions that disputants make in conflict bargaining. The bargaining protocol in each of these three models is the same, though there are slight differences between this Fang (2010) and Manzini and Mariotti (2001) and the model presented here where the option to pursue third-party management alters the sequential structure of the game to allow for a no-delay third-party decision. Neither of the other two models treats the outside option to unilaterally terminate negotiations (war) as a separate alternative to third-party management. Fang (2010) considers the implications of war in her model, but it is incorporated in the compliance subgame where the decision to defy the institutional ruling results in war defined as a costly lottery. Fang also treats the implementation of third-party management as a unilateral outside option, whereas I draw from Manzini and Mariotti and model the decision to

<table>
<tr><td colspan="4" align="center">Table 3: Comparing Models of Conflict Bargaining with
Third-Party Management</td></tr>
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Assumption	Model		
	Manzini & Mariotti (2001)	Fang (2010)	Lefler (2011)
Bargaining Protocol	Alternating, Infinite Horizon	Alternating, Infinite Horizon	Alternating, Infinite Horizon
Outside Options	Third-Party Mgt. (Arbitration)	Third-Party Mgt. (Arbitration) War†	Third-Party Mgt. (Arbitration) War
Third-Party Management Implementation Rule	Mutual Consent	Unilateral	Mutual Consent
Third-Party Distributional Outcomes	Efficient, Certain	Efficient, Uncertain	Efficient, Uncertain
Costs of Third-Party Management	Yes	No	Yes (Open-Door)
Binding Third-Party Settlement?	Yes	No	No
Strategic Third Party?	No	No	No
Incomplete Information?	No	Yes – about 3PCM	Yes – about 3PCM; Forthcoming – about Resolve

Note: † = Modeled as payoff for noncompliance in compliance subgame.

negotiate through outside fora as dependent upon the consent of both parties. As noted earlier, I relax the assumptions from Manzini and Mariotti's model about disputants' knowledge about distributional outcomes from third-party management and whether this decision is truly binding, but I adopt the concept that distributional outcomes may not be efficient due to forum transparency. None of the models incorporates uncertainty about parties' reservation values (resolve) or third parties' strategic interests; future research should pursue these gaps to further understand how issues related to information asymmetries, the supply of third-parties, and collective action problems affect the selection of strategies in conflict bargaining.

4.2 Equilibrium Analysis

In this section, I present equilibrium outcomes of the model and draw inferences for testing. The bargaining models are games 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 outcome, a peaceful concessions outcome, and a coerced concessions outcome. In the peaceful concessions outcome, the presence of alternative dispute resolution mechanisms affects conflict bargaining; the *Challenger* is able to draw early concessions from the *Target* because the *Challenger* has a "first olive branch" advantage in recommending third-party management. However, third-party alternatives are only influential under certain conditions. The requirement that subjects both consent to third-party management removes an actor's credible threat to use biased fora and, instead, only impartial intermediaries influence negotiations – despite the ability of third parties to effectively impose settlements at the extremes of the bargaining range.

In equilibrium, the third-party mechanism is never implemented on the equilibrium path because disputants, instead, use expectations from settlement outcomes to draft a bilateral agreement. As a forum becomes more transparent, however, the concept of what constitutes an acceptable forum – and thus, an acceptable settlement – changes. The range in which an impartial third party can implement settlement agreements in a closed-door forum is larger than in an open-door forum. This implies that when disputants negotiate through less transparent fora, they are more likely to obtain more favorable results, defined as a division of the issue closer to each party's ideal point, than when they negotiate through highly transparent fora.

Similarly, the disputants' other outside option, war, is never triggered on the equilibrium path, but does influence bargaining outcomes whenever either party prefers their chances to war

their prospects for peace through third-party fora or through bilateral negotiations. An adversary in the opening position to propose a peaceful settlement also has an advantage here, as in the peaceful concessions case, in obtaining an agreement that would deter an actor from using militarized force.

Rather than turning to outside options for dispute resolution, parties in the model reach an immediate bilateral agreement that resolves the conflict. Proposition 1 states disputants' equilibrium strategies in the unique subgame perfect equilibrium. Propositions 2-4 provide additional information about the types of agreements that result.

PROPOSITION 1: *In the unique subgame perfect equilibrium,*

The Challenger *always offers* x^*_C, *always accepts an offer* y_T *if and only if* $y_T \leq y^*_T$,

initiates war if $\max\left[\delta x^*_C, EU_C(3PCM)\right] < p - w_C$, *suggests third-party management if*

$\delta x^*_C < EU^{3PCM}_C$ *and* $\delta y^*_T < EU^{3PCM}_T$, *and consents to third-party management if*

$\delta^*_C < EU^{3PCM}_C$.

The Target *always offers* y^*_T, *always accepts an offer* x_C *if and only if* $x_C \leq x^*_C$, *initiates*

war if $\max\left[\delta y^*_T, EU_T(3PCM)\right] < 1 - p - w_T$, *suggests third-party management if*

$\delta y^*_T < EU^{3PCM}_T$ *and* $\delta x^*_C < EU^{3PCM}_C$, *and consents to third-party management if*

$\delta^*_T < EU^{3PCM}_T$.

The first two parts of the proposition follow from the properties of the model (stationary, no-delay). The next parts of the proposition follow from Muthoo (1999) according to the outside option principle. Because parties are able to anticipate the consequences of using outside options

and third party management, they alter their opening offers to make their opponents indifferent between pursuing an alternative tactic and accepting.

Given the different tactics that disputants have access to in resolving interstate conflicts, there are three different types of agreements that can occur in equilibrium:

- Rubinstein bargaining outcome
- Peaceful concessions outcome
- Coerced concessions outcome.

The shape that each of three outcomes takes is dependent upon disputants' preferences for each type of outcome. Propositions 2-4 present these agreements.

4.2.1 Rubinstein Bargaining Outcomes

PROPOSITION 2: If both disputants prefer to negotiate bilaterally than to use coercive force (war) to compel a settlement agreement, then the equilibrium bargaining outcome is the Rubinstein bargaining share for each disputant, $\left(\frac{1}{1+\delta}, \frac{\delta}{1+\delta} \right)$.

Specifically, each actor, when it is in the position to propose an agreement-inducing division of the issue offers the following in equilibrium:[11]

$$x_C^* = \frac{1}{1+\delta} \text{ if } EU_C^{War} \leq \delta x_C$$
$$y_T^* = \frac{1}{1+\delta} \text{ if } EU_C^{War} \leq \delta y_T$$

An additional feature of this result is that if it is not the case that *both* parties prefer to pursue third-party management to continued bilateral negotiations, then the presence of third-party intermediaries does not have an effect on the result.

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[11] For consistency, I solve the optimum equilibrium offer for each party, though only the *Challenger's* offer is observed in the subgame perfect equilibrium.

The logic of Proposition 2 follows from Rubinstein's alternating-offer model, where time sensitivities induce parties to come to an early agreement. 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 biased against the *Challenger* or the *Challenger* has previously received unfavorable settlements in the forum, 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. This contrasts with Fang (2010), who finds that disputants can take advantage of favorable third-party rulings by unilaterally appealing to an outside forum. This proposition provides two implications for empirical testing. First, it should be anticipated that experiment subjects will end bargaining immediately, coming to an agreement after the first stage of negotiations. Second, the presence of biased third-party fora should not affect the share of the issue that subjects obtain because actors cannot use potential favorable awards through third-party management to extract concessions from their counterparts.

4.2.3 Peaceful Concessions Outcomes

The discussion of Proposition 2 suggests how outside options and, in particular, third-party intermediaries, can affect the realization of the Rubinstein bargaining outcome. Propositions 3 and 4 demonstrate that when disputants have a credible threat to use an outside option, that bilateral agreements adjust to reflect those opportunities. Proposition 3, in particular, presents the types of agreements that occur when disputants prefer to third party management.

PROPOSITION 3 (Peaceful Concessions Outcome): If both disputants prefer to

implement third-party management to continued bilateral negotiations, then the

equilibrium bargaining outcome reflects the proposing actor's expected payoff from third-party management. Specifically:

$$x_C^* = 1 - \delta(1 - EU_C(3\text{PCM})) \text{ if } \delta(1 - 3\text{PCM}_C) < \omega_C < 3\text{PCM}_C \text{ and}$$
$$\delta(1 - 3\text{PCM}_T) < \omega_T < 3\text{PCM}_T$$
$$y_T^* = 1 - \delta(1 - EU_T(3\text{PCM})) \text{ if } \delta(1 - 3\text{PCM}_C) < \omega_C < 3\text{PCM}_C \text{ and}$$
$$\delta(1 - 3\text{PCM}_T) < \omega_T < 3\text{PCM}_T$$

where $\omega_i = EU_i(War)$, $i \in \{C, T\}$ and $3\text{PCM}_i = EU_i^{3\text{PCM}}$, $i \in \{C, T\}$. In this case, when the third-party outcome is the most preferred payoff for both parties, then each actor consents to third-party management off the equilibrium path. When the third-party outcome is the disputants' most preferred option, the expected value of third-party management will not exceed the disputants' value for a negotiated agreement, meaning that an acceptable third-party forum is unbiased over distributional outcomes and is expected to deliver an impartial settlement.

It does not have to be the case that third-party management is the most preferred outcome to both parties of the dispute in order for a peaceful concession-type outcome to be observed. What is necessary is for both parties to prefer the third-party outcome to continued negotiations. However, a party in the respondent position that favors both war and third party management to bilateral negotiations may be convinced to make concessions that reflect its payoffs for third-party management, rather than its military power if the initiating actor most prefers the third-party agreement. In this case:

$$x_C^* = 1 - \delta(1 - EU_C(3\text{PCM})) \text{ if } \omega_C \leq \delta(1 - 3\text{PCM}) < 3\text{PCM}_C \text{ and}$$
$$\delta(1 - \omega_T) < 3\text{PCM}_T < \omega_T$$
$$y_T^* = 1 - \delta(1 - EU_T(3\text{PCM})) \text{ if } \delta(1 - \omega_C) < 3\text{PCM}_C < \omega_C \text{ and}$$
$$\omega_T \leq \delta(1 - 3\text{PCM}_T) < 3\text{PCM}_T$$

If the forum is expected to produce an impartial settlement, then disputants have a credible threat to appeal to the third party. Because the third-party ruling is preferred to a delayed bilateral

agreement, the responding party consents to the third-party process. However, because both actors have a credible threat to submit to outside management, both seek to extract concessions equivalent to the third-party ruling in a bilateral agreement. Because the *Challenger* has a "first olive branch advantage," the *Challenger* is able to anticipate the *Target's* threat to submit to third-party management and make an early agreement, instead. This advantage is potentially transformative in the progression of the conflict because a disputant with a distinct bargaining advantage can use its position to obtain a peaceful concession, rather than being coerced by its opponent. This logic differs slightly from that explained by Mitchell and Hensel (2007), who also argue that third-party fora (specifically international organizations) have a passive effect on peaceful settlement. The authors emphasize the opportunities that international organizations create for cooperation and their ability to punish treaty violations as explanations for states' compliance with settlement agreements. They do not directly consider whether those same forces influence whether third-party strategies are selected in managing interstate conflicts. This result suggests that part of the passive influence of IGOs on states' compliance with dispute settlements results from their ability to design treaties that reflect the expected effect of third-party intervention.

4.2.4 Coerced Concessions Outcomes

The last proposition presents the equilibrium bargaining shares that obtain when either party prefers their chances in war to peaceful settlement alternatives. Two features are notable about these results. First, the optimal bargaining share is predicated upon the bargaining protocol, where the actor in the position to make the opening offer has the ability to make a larger demand of its opponent than if it is in the respondent position. Second, it does not have to be the case that war is the most preferred outcome for either disputant in order for it to be able to

use the threat of military force to coerce concessions from its counterpart. In the case presented in the second part of Proposition 3, for instance, if the responding party was in the position to determine the settlement agreement, that agreement would reflect its payoffs from war, rather than from third-party management. Proposition 4 details these observations:

> PROPOSITION 4: If either party prefers to use unilateral, military force to peaceful settlement alternatives, then that party is able to coerce concessions from its counterpart based on its expected payoff from war. The types of concessions it is able to coerce is dependent upon its bargaining power as determined by the bargaining protocol.

These concession types may be classified as those when the *Challenger* is advantaged by the bargaining protocol and when the *Target* is advantaged. The bargaining shared obtained in these scenarios are:

Challenger Advantage:

$$x^* = 1 - \delta + \delta(p - w_C) \qquad \text{if } \omega > \delta(1 - \omega_C) \text{ and } \omega_T \leq \delta(1 - \omega_C)$$
$$\text{OR}$$
$$\text{if } \omega_C > \delta(1 - \omega_T) \text{ and } \omega_T > \delta(1 - \omega_C)$$

$$y^* = 1 - \delta + \delta^2(1 - p - w_C) \quad \text{if } \omega_C > \delta(1 - \omega_C) \text{ and } \omega_T \leq \delta(1 - \omega_T)$$

Target Advantage:

$$x_C^* = 1 - \delta + \delta^2(p + w_T) \quad \text{if } \omega_C \leq \delta(1 - \omega_T) \text{ and } \omega_T > \delta(1 - \omega_T)$$

$$y^* = 1 - \delta(p - w_T) \qquad \text{if } \omega_C \leq \delta(1 - \omega_T) \text{ and } \omega_T > \delta(1 - \omega_T)$$
$$\text{OR}$$
$$\text{if } \omega_C > \delta(1 - \omega_T) \text{ and } \omega_T > \delta(1 - \omega_C)$$

4.3 Re-opening the Open-door Model

Because the model is a game of complete information, propositions from the open-door model mirror those of the closed-door model, except that the range of values in which disputants will be willing to consent to third-party management is much smaller. Figure 2 illustrates the difference in possible equilibrium divisions that would align with Proposition 3 for the two different models. Essentially, the results of the open-door model converge on an even division of the issue, assuming that disputants' costs for noncompliance are equivalent. Manzini and Mariotti (2001) conclude that whenever third-party management is even marginally costly, as is the case here, that disputants prefer to pursue bilateral options to the third-party settlement. Comparing the results of the open-door model to other research on bargaining in public fora, further, demonstrates the tension between governments and international and domestic audiences. Strasavage (2004) explains that when parties negotiate in public, open-door fora, their positions are more likely to become polarized because they want to protect themselves from punishments from domestic audiences. The value added of the model I present here shows that *if* audiences can be appeased, there exists a range of agreements that would be preferred to continued conflict and that prevent sharp divisions. Future work will seek to endogenize the selection of transparency to better capture the trade-offs within forum types.

Range of Potential Third-Party Settlements in Conflict Bargaining with Transparent Fora

c_C $\dfrac{1-c_c+x}{2}$ $\dfrac{c_T-y-1}{2}$ c_T
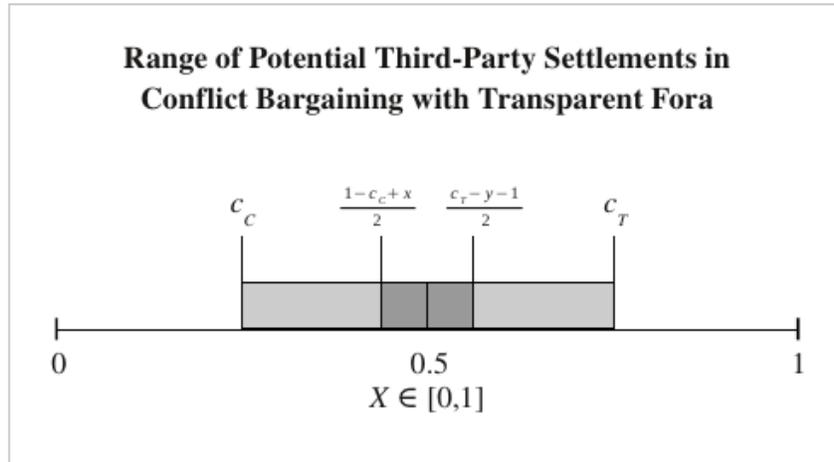
0   0.5   1

$X \in [0,1]$

Figure 2: Range of Potential Third-Party Settlements in Closed and Open-Door Management

Table 4 summarizes the conclusions of this model in contrast with the two other models discussed above. What is notable about the model presented here is that, because it explicitly incorporates war as an outside option that disputants may take at any stage where it is responding to an offer, the force of potential militarized conflict is felt in the types of agreements that are observed in equilibrium. At the same time, by including war in this way, I am able to demonstrate the indirect, pacifying effect that third-party options have on conflict bargaining. In the second scenario presented Proposition 3, the initiating actor is able to convert a potentially violent conflict into a peaceful agreement. What the model also shows is that, while biased or unbalanced settlements are sustainable in the compliance subgame, only in instances where *both* parties prefer the third-party outcome to war or bilateral negotiations does the option to pursue outside management have any bite.

Table 4: Comparing Conclusions from Models of Conflict Bargaining with Third-Party Management			
	Model		
Concept/Prediction	Manzini & Mariotti (2001)	Fang (2010)	Lefler (2011)
Equilibrium Concept	SPE	SPE	SPE
Equilibrium Strategy	Immediate, bilateral agreement	Immediate, bilateral agreement	Immediate, bilateral agreement
Do parties implement third-party options?	No	No	No
Influence of Outside Options			
Preferences for 3PCM	Any division supported; Balanced fora	No mutual preference; Divisions align with Rubinstein outcome	Only balanced divisions supported
Role of Coercion	Untested	No strong influence	Direct influence on settlement division

7. Discussion: Bargain Shopping for Peace?

When actors have access to credible outside alternatives to war, those alternatives influence the bargaining process. In this bargaining game, the presence of third-party options causes the *Challenger* to modify its opening offer to anticipate the *Target* applying to the third-party forum. As a result, disputants are more likely to reach equitable divisions of the issue when impartial intermediaries are present to reinforce compliance with third party decisions. This result is suggestive of conclusions reached elsewhere that third parties, in particular democracies and international organizations, have an indirect, pacifying effect on international dispute settlement. Because these actors provide impartial, transparent alternatives to bilateral negotiations, disputants have incentives to find peaceful solutions to their conflicts (Crescenzi et al. 2011; Mitchell and Hensel 2007; Mitchell, Kadera, and Crescenzi 2009). In contrast with extant empirical research, however, the model predicts that disputing parties are able to use the

presence of credible third-party alternatives to inform *bilateral* agreements; indeed, third-party

conflict management is not an equilibrium outcome of the model.

Given the emphasis that conflict management scholars have placed on the importance of

third-party management in dispute resolution, these results may be surprising. But, as surprising

as these results are, there are applicable lessons to be gleaned:

1. Third-party conflict management is the result of strategic selection over several
   dimensions that characterize a settlement forum.

2. States employ bilateral negotiations for several reasons that influence both distributional
   outcomes and expediency of settlement.

3. Settlement forum design matters in conflict bargaining strategies, and disputants may be
   able to replicate features of third-party fora in other settlement approaches.

4. The presence of third party fora – even if they are implemented to resolve interstate
   conflicts – can have a transformative effect on the conflict bargaining process,
   moderating states' ability to use coercive tactics.

The following discussion highlights each of these observations, and discusses them in context of

the broader conflict management literature. While this project takes an important leap in studying

the selection of conflict management strategies, it represents just the beginning of what remains

to be explored in the study of international conflict and peace.

The first important conclusion is that decisions made in conflict bargaining, including the

selection of settlement strategies such as bilateral negotiations and third party management, are

the result of strategic trade-offs across forum characteristics. That is, disputants will use all

available information about their adversary and potential settlement fora when negotiating

settlement agreements. In particular, the analysis here demonstrates that states investigate

whether a forum is likely to rule in their favor and how well that forum will be able to ensure compliance. But, the pursuit of settlement strategies is also determined by bargaining protocols – neither complainant can unilaterally compel negotiations. If either disputant has the ability to veto the selection of a third party forum, then states make trade-offs between transparency and expectations about settlement outcomes. Specifically, disputants select third party fora according to their expectations about distributional outcomes, which are informed by their knowledge about the third party's disposition and consequences associated with a forum's transparency.

These observations provide additional nuance to other research that posits that only certain types of states will pursue third party management and the types of dispute settlement procedures that are most likely to effect peace. I find that only certain fora will be acceptable to both parties and that the pursuit of third party management depends not only on the willingness of disputants to find peaceful solutions, but on the availability of credible alternatives to continued conflict. Even though they do not use them, impartial outside decision-making mechanisms that are transparent to reveal abrogations of domestic and international trust have a substantial impact on the conflict management process. In sum, third party conflict management is the result of strategic selection over several dimensions that characterize a settlement forum.

A second conclusion from the model and experimental analysis finds that actors select bilateral negotiations for several reasons. The first reason why disputants agree to bilateral negotiations is that they are an efficient means of resolving conflicts. The Rubinstein bargaining outcome predicted by Proposition 2 demonstrates that when prolonged peace talks are costly, disputants are able to reach bilateral agreements quickly in order to avoid impasse. This result is observed in the frequency with which subjects in the experiment reached bilateral agreements after the first exchange of offers. But, it is also observed in real world data on crisis bargaining:

Boehmke and Lai (2004) find that as conflict costs mount over the settlement of a dispute, combatants are more likely to reach agreements more quickly to avoid additional casualties.

A second reason why disputants may negotiate bilaterally is that they are attempting to compensate for potential bargaining inefficiencies from third party management by designing a forum that anticipates the expected payoffs from third-party outcomes. This explanation for the observation of bilateral negotiations is distinct from the previous conclusion in that it explains bilateral negotiations as the result of third-party influence, rather than fears about potential negotiation breakdowns. Thus, disputants can pursue bilateral negotiations as a defensive posture against future conflict costs or as a proactive measure in response to the influence of third parties. A third reason why actors negotiate bilaterally, rather than through multilateral fora, results from an artifact of the model that assumes that bilateral agreements are self-sustaining. However, the literature widely documents the weakness of bilateral commitments. Hensel (2001) finds that bilateral settlement agreements are more likely to fail than agreements reached through other methods. Therefore, bargain shopping for peace by using bilateral arrangements to replicate the features of third party management may not take advantage of the best features of third-party fora in a more general model.

Though the model is not able to make specific predictions about compliance with bilateral agreements, it does suggest that settlement outcomes differ according to the selection mechanism influencing the choice. Extant research generally treats bilateral negotiations and settlements as a homogeneous category. Results from this project demonstrate that this is not the case and that scholars should also account for factors that would allow states to take better advantage of bilateral arrangements.

Ultimately, what is important is that a forum be designed to encourage peaceful dispute resolution. When third-party conflict management is voluntary, only impartial intermediaries will be acceptable to both parties in a dispute. Impartial third parties are more influential over the settlement process than biased intermediaries because disputants do not have a credible threat to appeal to biased fora. A second component of a forum's design that makes it more effective in providing peace is its transparency and ability to impose penalties for noncompliance. The model demonstrates that forum transparency moderates disputants' attitudes toward third-party management – the potential costs associated with an adversary's abrogation of a settlement agreement makes it more difficult to find fora that are acceptable to both parties. This is especially true in open-door management fora where disputants with more attentive domestic or international audiences are likely to avoid institutions that would expose them to other risks, such as removal from office. Isolating the central mechanisms through which conflict management strategies affect dispute resolution demonstrates both how third parties can influence settlement outcomes, but also how states can select among various features to design cooperative arrangement that achieve the same goals.

A final interesting observation from the theoretical model is that effectively designed management fora can be effect power equalizers. Typically, powerful states are able to leverage their coercive capabilities against adversaries to extract concessions and reach bilateral agreements. This means that disputes in which the states' capabilities are unevenly distributed are more likely to avoid third party management (except in certain circumstances), are more likely to result in distributional outcomes that favor the more powerful state, and are more likely to observe compliance with settlement agreements because the stronger state can use force to punish defiance. Extant empirical research demonstrates a strong relationship between relative

power and settlement strategies, with asymmetrically-powered states negotiating bilaterally more frequently (Dreu 1995; Hensel 2001). But what has been more difficult to explain is why powerful states comply with agreements reached through third party fora, even when those agreements – as in the *Halifax Fisheries* case (Lord 1892) – decide against the major power. The analysis presented here demonstrates that when disputants have access to credible third party options, that threat attenuates imbalances of power and parties are uninfluenced by relative bargaining power when making settlement decisions. Transparent institutions, such as the UN Security Council, are capable of raising the costs of unilateral actions, increasing the incentives for major powers to comply with their rules, norms, and policies (Thompson 2006; Voeten 2001).

7. 2 Control over Settlement Outcomes: Other Dimensions?

Though the model provides some insight into how different characteristics of third-party management fora affect forum selection and bargaining strategies in dispute resolution, there are potentially other dimensions within which the concept of forum shopping can be explored. For instance, this model's concentration on enforcement mechanisms and issue division presents a fairly limited view of how conflict managers influence dispute resolution. In addition to facilitating settlements by directly identifying a division of the issue at stake, third party intermediaries can less directly influence settlement agreements by coordinating disputants' interactions and sharing information (Bercovitch 2007). The degree to which a third party may facilitate settlement negotiations has been defined by conflict management researchers as process control and decision control. When a third party has decision control, it has the authority to decide the type of agreement that parties submit to, as states do in arbitration and adjudication. Under procedural control, the third party also controls how parties interact and the types of evidence they are allowed to present in support of their case (LaTour et al. 1976; Thibaut and

Walker 1975). It is not difficult to see that process control and decision control in the management of interstate disputes are related to one another, where states that submit to arbitration or adjudication have delegated control of both procedures and distributional outcomes to a third party. Conversely, disputants may only delegate procedural control to a mediator and retain the ability to determine the division of the issue at stake on their own. Within this dimension of control, disputants not only have significant latitude, but they also face new strategic considerations: Granting control of any kind to a third-party intermediary reduces the ability of either state to unilaterally influence the outcome of settlement negotiations. Therefore, states may be cautious when evaluating a forum with respect not only to its anticipated decision and transparency, but also with regard to how much authority they delegate in the process.

Gent and Shannon (2011) find, for instance, that disputants engaged in territorial conflicts tend to select impartial third party fora when they elect to use binding arbitration or adjudication to resolve their disputes. Alternatively, mediators were more likely to be biased toward one of the parties, which the authors explain is the result of disputants' unwillingness to trust biased actors with decision control. Thus, Gent and Shannon observe that third-party control is connected to disputants' expectations about distributional outcomes – a finding which is suggested elsewhere among scholars who investigate the role of third party bias and the use of mediators in transmitting information. Kydd (2003, 2006) explains that biased third parties are more trustworthy when disputants expect mediators to provide information about an adversary's resolve to fight. Savun (2008) finds support for this conclusion, noting that biased intermediaries are also more likely to have access to the kind of information that will be most relevant for resolving interstate conflicts.

States may be willing to delegate a small amount of control to biased intermediaries when negotiations are hindered by information asymmetries. The structure of the model is unable to speak to this conjecture, and suggests avenues for continued work. A third mechanism by which an outside intermediary can influence dispute resolution is by facilitating negotiations or providing focal points for settlement agreements, and third party activities can fall in different places within this dimension. The degree to which a third party controls the procedure and distributional outcome of negotiations has an observed impact on whether a dispute is successfully resolved. Additionally, it has a distinct relationship to other dimensions that this theory has already explored – namely, expectations about distributional outcomes. Therefore, another extension of the model could include third party control as a characteristic of a management forum that affects its selection, in much the same way that transparency affects disputants' strategies in the model presented here.

A second limitation in the model comes from the assumption that the third party acts without interests of its own – it has no strategic role in the game. Though a simplifying assumption for the purposes of analysis, this restriction fails to capture two significant realities of third-party management: 1) Third-party managers offer assistance selectively, and 2) third parties have preferences over settlement outcomes, receive payoffs of their own when they successfully settle disputes, and pay costs for monitoring and enforcement. From the beginning of the model, the option to pursue third-party conflict management is present. However, this may not always be the case. Many potential intermediaries, especially IGOs, do not have the capacity to provide dispute settlement and others do not have the interest. Bercovitch (1999) records that in approximately one-third of cases between 1945 and 1995 in the International Conflict

Management dataset received no outside offers of mediation assistance.[12] Beardsley (2010)

additionally observe a moral hazard problem in the provision of peace-keeping services – when

more states neighbor a conflict, which would suggest a large supply of interested intermediaries,

there tend to be fewer outside offers to facilitate dispute resolution procedures. When situations

like this occur, disputants may be able to negotiate bilaterally, seek assistance from the United

Nations or submit to an international court, but costs may be prohibitive (Cogan 2008;

Malintoppi 2006). The selective involvement by conflict management providers would alter the

conclusions of the model.

Relatedly, an intermediary's preferences over settlement outcomes would influence

disputants' expectations about the division of the goods at stake, which would correspondingly

adjust the range of negotiated settlements the disputants could reach. However, in this model, the

assumption that the management forum is merely an issue-dividing mechanism does not affect

the outcome nearly as strongly as if the model implemented a signaling mechanism. As Kydd

(2003, 2006) demonstrates, if the mediator is trusted to provide information about the disputants'

reservation price for the division of the issue and has preferences over settlement outcomes, then

the incentive to send a false signal in order to effect peace may lead to mistrust and management

failure. Likewise, the treatment of the third-party as a mechanism assumes that monitoring and

enforcement are costless. As the principal-agent literature demonstrates, as monitoring costs

increase, the ability to observe violations decreases. The ability of third-party guarantors and

interested audiences to observe and punish violations is critical for the effectiveness of

commitment-enhancing mechanisms. If the third party were autonomous in the model, non-

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[12]   Offers for mediation only. Therefore, this excludes possible submissions to international courts. Thus, it is
        reasonable to assume that this is a fairly accurate picture of the supply of conflict managers in interstate
        territorial disputes during this time period.

compliance should be expected to occur more frequently and, as a result, disputant should be less likely to submit to dispute management.

Nonetheless, the theory and discussion presented here suggest some innovations in our understanding of interstate conflict management. Though the assumption that the conflict management only results in a division of the issue and does not reflect the more subtle role that third-parties can play in the settlement process, it focuses the analysis to conflict management efforts intended to end the dispute. Good offices, consultation, and facilitation may be useful pre-negotiation steps to a settlement where disputants share information and establish an agenda for future talks, they do not directly attempt to resolve the conflict. Management efforts targeted to settlement have the end goal of dividing the issue of contention. Therefore, it is not unreasonable to assume that disputants anticipate this division ahead of consenting to management and attempt to coordinate on fora accordingly. With this assumption held as a baseline characteristic of all conflict management fora, future efforts can add more complex features, such as decision control, to assess their impact on forum selection. Second, by remaining neutral about the intermediary's strategic incentives, I allow the possibility that disputants design bilateral mechanisms that replicate the features of conflict management commonly associated with third-party fora. Elsewhere, scholars have noted that states can use public statements to increase the transparency of talks (Schelling 1960; Tarar and Leventoglu 2009), incorporate issue linkages to enhance commitment and alleviate issue indivisibilities (Pillar 1983), and agree to arbitration by a private actor (Bilder 2007).[13] This provides a possible explanation for the infrequency with which democratic disputants submit to management by international organizations. Democracies

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[13] For example, nearly all interstate bilateral investment treaties contain mandatory arbitration clauses to resolve conflicts, despite the availability to third-party arbitration and adjudication providers.

may take advantage their own transparency "endowments" to increase the transparency of their settlement negotiations.[14]

8. Conclusion

Extant conflict management research demonstrates that choices made in the bargaining process have a direct and significant impact on the likelihood of continued and future violence. Unfortunately, research on conflict management effectiveness only hints at the reasons why states avoid using the settlement strategies that are most likely to succeed, focusing on management success rather than forum selection. Primary among these explanations is the idea that disputants submit to fora that will be successful at resolving their conflicts. However, the infrequency with which particularly effective fora, such as legalized or institutionalized venues, are implemented indicates that disputants may have other motivations. A second explanation asserts that the motivations to pursue third-party management are strategic and based primarily on expectations about distributional outcomes – a disputant with the ability to invoke the involvement of an intermediary first may be able to obtain a better settlement than it might through negotiation alone (Fang 2010; Wiegand and Powell 2010). Such conclusions rest on a conception of conflict management as a unilateral outside option. I suggest that when conflict management is treated as a voluntary process for both adversaries that such blatant forum shopping is unlikely to occur. Instead, forum selection strategies reflect trade-offs between distributional outcomes and peace-assuring mechanisms, such as transparency. An additional insight gained from this approach is the observation that, contrary to expectations lobbied by skeptics of institutionalist theories, disputants do not enter into settlement negotiations with the

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[14] Mitchell, Kadera, and Crescenzi (2009) make a similar argument, suggesting that democratic disputants may not need to submit to management by international courts because they have domestic institutions that commit them to honest brokering and compliance.
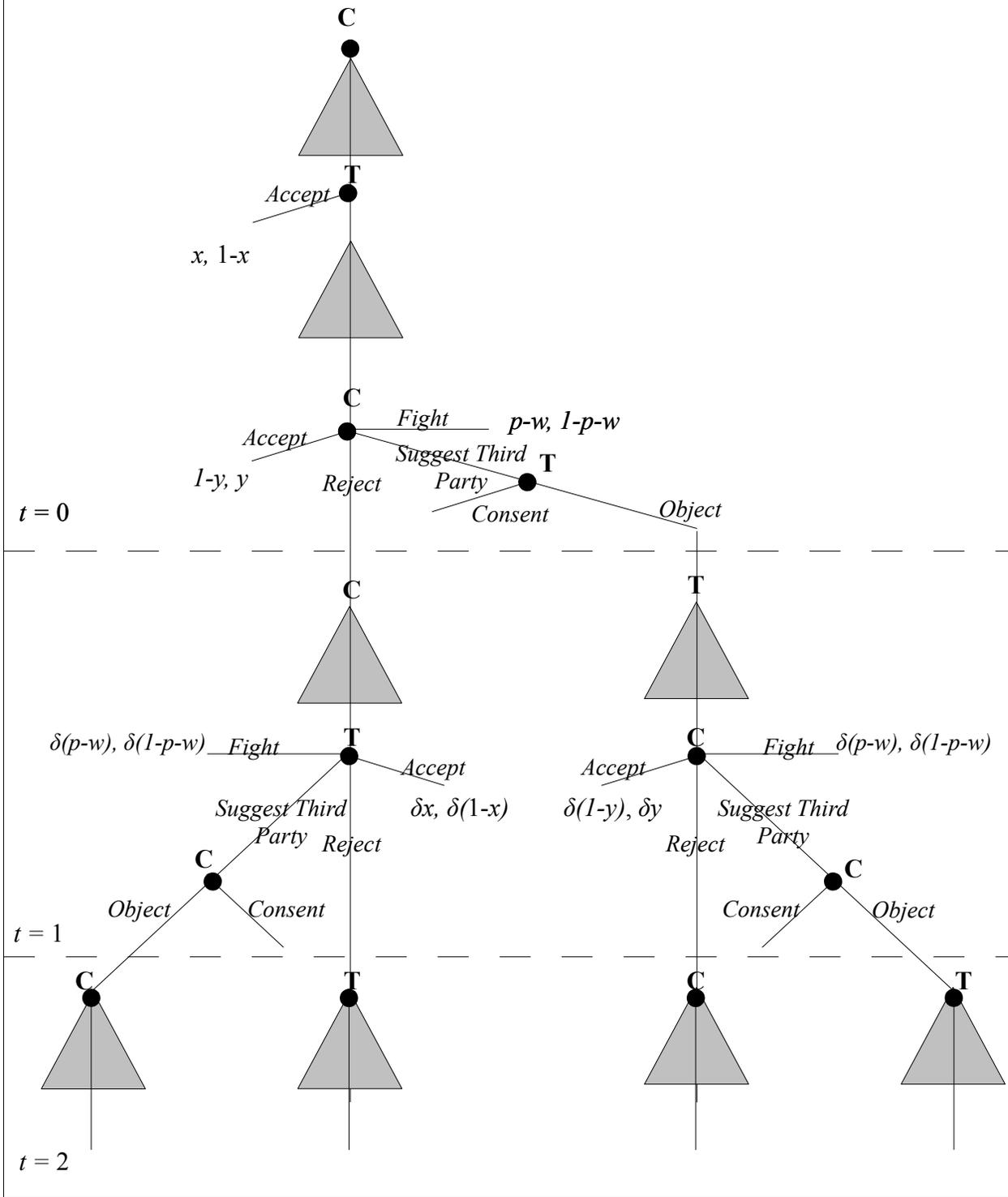
explicit intention of complying with the decision. Though there are substantial consequences for reneging on a commitment decided through third-party management, when non-compliance costs are low, a disputant can use third-party management as a means to capture the issue more efficiently than through war. There is certainly more ground to be covered through additional theoretical and empirical analysis, but what these conclusions demonstrate is that settlement approaches result from strategic interactions that are informed by different mechanisms, such as influence distributional outcomes and compliance with agreements. Isolating the theory to two, key explanatory variables explains the empirical observation that most disputants attempt to settle their disputes bilaterally and provides additional insight into the design of how different fora manage to be effective in resolving interstate conflicts, which align with illustrative cases, such as the refusal by Iceland to submit to ICJ adjudication in the management of the Second Cod War and by Cambodia's more recent insistence on UN involvement in the settlement of its on-going conflict with Thailand.

A second issue addressed by this research regards the lessons gleaned from earlier work on conflict management: in particular, prescriptions to expand the role of international courts and other institutionalized fora should be administered with caution. The consequences of transparency in conflict management, while commitment-enhancing, are also potentially dangerous to disputants who might face belligerent neighbors or dissatisfied constituents. Thus, disputants may avoid peaceful, open-door fora in favor of bilateral negotiations or other, less effective management venues. Without the more attentive monitoring provided by transparent fora, these settlement efforts may be more likely to fail or be subject to violation. One concern is that the presence of highly transparent fora in the conflict management market may actually increase the propensity for violent, interstate conflict. The theory makes no predictions about

disputants' compliance with bilateral agreements, but other research demonstrates that these arrangements are more fragile and disputes that fail to be resolved quickly and effectively are more likely to result in further violence (Diehl, Druckman, and Wall 1998; Hensel 2001; Werner 1999). But, this depends on the reasons why disputants attempt bilateral negotiations in the first place. In some cases, bilateral negotiations can be face-saving, in others, they can be stall tactics to eventual escalations. Therefore, scholars and practitioners should collaborate to discover ways in which such adverse consequences can be avoided. One remedy to the bargain shopping problem may be to allow more competition (Cogan 2008) and to further develop norms of management forum design (Malintoppi 2006). Together, these strategies should result in the convergence of third-party dispositions to issue-division problems and in the design of transparency mechanisms because biased third parties may not be trustworthy when disputants have the option to veto the selection of a forum. Another remedy may be to continue the advocacy of mixed-method approaches that combine transparent and private features (Fisher and Keashly 1991). Ultimately, flexibility in the design of conflict management fora, beginning with forum transparency, should give states the ability to discover effective methods for dispute settlement and conflict prevention.

Figure A1: Model of Transparency and Forum Selection

C

T

Accept

x, 1-x

C

Fight   *p-w, 1-p-w*

Accept

Suggest Third

1-y, y   *Party* **T**

Reject

t = 0   *Consent*   *Object*

C   **T**

$\delta(p-w), \delta(1-p-w)$ *Fight* **T**   **C** *Fight* $\delta(p-w), \delta(1-p-w)$

Accept   *Accept*

Suggest Third $\delta x, \delta(1-x)$ $\delta(1-y), \delta y$ *Suggest Third*

Party *Reject*   *Reject* *Party*

C   **C**

Object *Consent*   *Consent* *Object*

t = 1

C   **T**   **C**   **T**

t = 2

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