Choosing the Ties that Bind: Decision Control and the Pursuit of Binding Conflict Management

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Abstract

International relations scholars have garnered a good deal of evidence indicating that binding arbitration and adjudication are highly effective means for brokering agreements and ending disputes. However, binding third party conflict management is rarely pursued to resolve interstate disputes. While states value the effectiveness of binding negotiations, they are often reluctant to give up enough decision control in order to submit to arbitration or adjudication. Using a bargaining framework, we identify four factors that influence the choice of binding conflict management: the importance of the issue to the disputants, the similarity of the disputants' preferences, the uncertainty about the likely outcome of binding negotiations, and the availability of favorable outside options. An analysis of attempts to settle territorial, maritime, and river claims in the Americas, Europe, and the Middle East from 1816-2001 reveals that when disputants have a greater need to maintain decision control, they are less likely to use binding conflict management.

Typical of most Latin American countries, Colombia and Venezuela have a long history of both disputing and negotiating over their shared border. One such territorial dispute emerged in the Guajira Peninsula in the nineteenth century. Colombia and Venezuela eventually submitted to binding arbitration by the Swiss to demarcate the border, and in 1922 the Swiss issued their ruling, which still holds today. While arbitration was able to settle the land border, a related maritime dispute emerged after World War II when customary maritime boundary law was expanded to include the entire Gulf of Venezuela area. Unlike the previous territorial claim, Venezuela and Colombia did not submit the maritime dispute to arbitration, and sovereignty over the Gulf of Venezuela remains unsettled today.

Why did Colombia and Venezuela agree to arbitration to manage their territorial dispute, but eschew binding negotiations in their maritime claim? The difference between the two disputes is puzzling, particularly because binding conflict management has proven highly effective in brokering agreements and ending disputes (Dixon 1996; Gent and Shannon 2008; Mitchell and Hensel 2007). Since binding arbitration successfully settled the territorial claim between Venezuela and Colombia, one would expect the two countries to also use binding mechanisms to manage their maritime claim. If binding negotiations have the strongest potential to end conflicts, why wouldn't Colombia and Venezuela pursue arbitration or adjudication in both disputes?

The Gulf of Venezuela maritime dispute is not unique. While binding conflict management is effective in ending disputes, it is rarely used. To gain insight into the process of conflict management between Colombia and Venezuela, and to explore why states choose binding negotiations, we investigate the bargaining environment

surrounding issue claims. States value the effectiveness of arbitration and adjudication, but they rarely pursue binding talks because they are reluctant to give up decision control. Binding negotiations, compared with bilateral or non-binding third party talks, offer countries much less authority and autonomy over how a disputed issue will ultimately be distributed. Therefore the decision to pursue binding conflict management involves a tradeoff between effectiveness and decision control. Countries will not pursue binding negotiations when they are particularly concerned with maintaining control over the final decision and outcome of conflict management. Conversely, states undergo binding conflict management when they are more willing to give up decision control over the negotiated outcome of the dispute.

Using a bargaining framework, we identify four factors that influence the willingness of states to surrender decision control to a third party: the salience of the disputed issue, preference similarity, uncertainty, and the availability of outside options. We expect that states will prefer binding conflict management over other forms of conflict management when issues are less salient, disputants have similar preferences, there have been successful agreements between the disputants in the past, and there is power parity. We test our argument by examining the prevalence of binding conflict management versus bilateral negotiations and nonbinding third party intervention in settlement attempts in disputed territorial, maritime, and river claims in the Americas, Europe, and the Middle East from 1816 to 2001. Our results indicate that considerations of decision control play an important role in the willingness of states to pursue arbitration or adjudication to resolve their differences.

Decision to Pursue Binding Negotiations

In an anarchic international system, countries often find it difficult to manage their disputes because they fear the agreements they reach will not be enforced. Yet one means by which countries remedy the enforcement problem is binding conflict management. Binding mechanisms of dispute resolution include arbitration and adjudication, both of which use principles of international law to help states find a solution to their disputes. The two processes differ in the nature of the third party that hands down the decision. Arbitration is carried out by an individual, an international organization, a state, or a panel of states, while adjudication is conducted by an international court. Under the anarchic international system, binding agreements do not have the same force of law as domestic agreements. However, parties pledge in advance to uphold any agreement reached, so submitting to binding negotiations reflects a strong intent by disputants to honor a potential settlement.

Because states garner both reputation and domestic costs when they undergo binding negotiations, we would expect binding agreements to be effective in ending international conflict (Simmons 2002). In fact, a number of studies have shown this to be the case. Binding conflict management helps countries negotiate settlements, comply with agreements, and ultimately end disputes. Gent and Shannon (2008) find that binding negotiations are more effective than non-binding third party or bilateral negotiations in ending territorial claims. Mitchell and Hensel (2007) demonstrate that binding talks are effective in helping countries broker and comply with settlements of river, maritime, and territorial claims. Although he does not consider arbitration, Dixon (1996) shows that adjudication encourages the peaceful settlement of interstate security disputes. Frazier and Dixon (2006) conclude that adjudication is effective in negotiating

settlements among militarized interstate disputants. While these studies demonstrate varying effectiveness of binding negotiations relative to other types of conflict management, all find that binding talks successfully broker agreements and end disputes.

Yet while binding conflict management is effective, it is also rare. For instance, out of 1,004 peaceful settlement attempts in territorial, maritime, and river claims from 1816 to 2001 identified by the Issue Correlates of War project, disputants only pursued binding negotiations 61 times (Hensel 2001). Among 1,178 military and diplomatic interventions in militarized interstate disputes from 1946 to 2000, arbitration and adjudication was used only 37 times, or 3.14% of interventions (Frazier and Dixon 2006). Allee and Huth (2006) document only 30 instances of arbitration and adjudication out of 1,490 cases of territorial dispute negotiations from 1919 to 1995. It seems that although binding talks are an effective form of conflict resolution, countries rarely use them to manage their disputes.

If binding negotiations are effective, why are they not pursued more frequently? While we know relatively little about the factors that compel states to favor binding talks over bilateral or nonbinding negotiations, we have some idea of what encourages states to seek binding conflict management in general. In particular, domestic constraints have been shown to encourage binding negotiations. Allee and Huth (2006) explain that binding conflict management provides domestic political cover and placates domestic audiences who are opposed to settling a conflict. As domestic opposition to conflict settlement increases, countries are more likely to undergo binding negotiations. Simmons (2002) also concludes that states pursue binding conflict management when domestic political constraints prevent them from making concessions through other types

of negotiations. Vaguely crafted and domestically ratified multilateral arbitration treaties prevent states from carrying out arbitration, while specifically designed bilateral treaties encourage arbitration. States negotiate bilateral treaties and then undergo arbitration when domestic political incapacities prevent them from honoring the principles of multilateral agreements.

Allee and Huth (2006) and Simmons (2002) provide plausible arguments of why states turn to binding conflict management when domestic constraints thwart their ability to make political concessions through other forms of conflict management. However, these studies fail to recognize that the decision to arbitrate or adjudicate comes with domestic political costs. Binding negotiations may provide political cover or help remedy domestic incapacities, but leaders may also be domestically punished for choosing to undergo binding international talks. When a leader turns decision-making authority over to an international court or arbitration panel, she potentially faces opposition for her actions from the domestic audience. This is particularly true if binding negotiations result in an unfavorable outcome. For example, in the maritime dispute over the Gulf of Venezuela, George (1988-89:155) notes that Colombia and Venezuela have been reluctant to pursue adjudication in the International Court of Justice, "fearing that an unexpected, binding, unfavorable ruling might eliminate all grounds for a compromise settlement." Moreover, it is not clear that domestic audiences prefer that their governments bring in third parties to help settle disputes. In a 1987 survey that asked Venezuelan citizens how they thought that the Gulf of Venezuela claim should be resolved, 61% favored bilateral negotiation and 29% favored giving Colombia an

ultimatum backed with the threat of military action. Only 10% supported third party diplomatic intervention (Martz 1988-89: 131).

Not only is binding conflict management potentially costly at the domestic level, it can also reap international reputation costs. If a state submits to binding talks but later reneges on the agreement, its reputation in the international arena may be damaged. Leaders are concerned with the reputation costs of shirking a binding settlement, and so they consider the potential outcome of negotiations before pursuing binding conflict resolution (Simmons 2002). If states want to insulate their reputations from the costs of breaking an agreement, they are unlikely to place decision-making authority over the agreement in the hands of a court or arbitration panel.

Binding negotiations offer a number of advantages over other types of conflict management. They are relatively effective in ending disputes, and they provide cover for leaders whose domestic population is reluctant to settle. They also remedy the incapacities of states working under weak border settlement treaties. However, binding conflict management is potentially costly, both at the domestic and international level. Leaders can be punished by the domestic audience for giving up sovereignty to an arbitrating body or international court. States may also suffer international reputation costs for breaking a binding agreement. Because of these costs, states will only pursue binding negotiations if they can afford to give up decision control over the outcome of a dispute. In the following section, we explain how binding conflict management provides less decision control than other types of dispute resolution and examine the conditions under which states are willing to give up decision control.

Decision Control and the Merits of Conflict Management Mechanisms

When deciding to manage a dispute, states have a choice of negotiating strategies. Among the strategies are bilateral talks, non-binding third party conflict management, and binding negotiations. We rely on the procedural justice literature to draw distinctions between the mechanisms of conflict management and to highlight how disputants choose one of the three strategies (Thibaut and Walker 1975; 1978)[1]. We emphasize the concept of decision control as a key factor that compels states to choose one form of conflict management over another. The three types of negotiations have different degrees of decision control that they offer to disputants. Since decision control is more important to disputants under certain conditions, it affects the choice of a binding conflict management strategy.

Decision control refers to the "degree to which any one of the participants may unilaterally determine the outcome of the dispute" (Thibaut and Walker 1978:546). Essentially, decision control is the amount of authority and input that disputants have in crafting an agreement to end a conflict. Note that this differs from process control, which is the amount of input participants have in the procedures by which a dispute outcome will be determined. As Thibaut and Walker (1978: 546) explain, "Control over the process refers to control over the development and selection of information that will constitute the basis for resolving the dispute." While process control may contribute to the choice of conflict management strategies, we focus on decision control because it is the primary factor that differentiates arbitration and adjudication from the other forms of conflict management commonly used in international relations.

[1] Bercovitch and Jackson (2001) provide a good overview of literature regarding choice of international conflict management mechanisms.

Bilateral, non-binding third party, and binding third party conflict management all constitute a process of bargaining, where states choose among outcomes that make one disputant better off at the expense of another (Fearon 1995). Both disputants are potentially made better off by reaching a bargain, or else they would not enter negotiations in the first place. But gains by one disputant in the process of bargaining may result in losses for the other. Because of this, disputants hope to maintain as much decision control over a negotiated settlement as possible. Each disputant would like to craft an agreement that reflects its preferences exactly, but the very nature of bargaining renders this impossible. As they negotiate, both sides offer compromises and make concessions to locate a deal within the bargaining range. The more decision control a disputant has, the better its chances of bringing the agreement closer to its ideal point.

Mechanisms of conflict resolution differ in the amount of decision control that participants are able to preserve during negotiations. In bilateral conflict management, disputants have complete decision control – they jointly craft a bargain to end a dispute. Under non-binding third party management, disputants retain nearly the same amount of decision control that they do in bilateral negotiations. A third party may offer recommendations and propose a settlement, but ultimately, disputants have discretion over the final outcome (Thibaut and Walker 1978:546). Bilateral and non-binding third party conflict management therefore allow disputants to retain a relatively high amount of control over the terms of an agreement.

Conversely, binding arbitration and adjudication require disputants to give up more decision control than that of bilateral or non-binding third party negotiations. Under binding procedures, a third party listens to evidence presented by the disputants

and then renders a decision. The disputants can appeal to the arbitrating body or court for a bargain close to their respective ideal points, but ultimately, the decision of where to locate the bargain rests entirely with the third party. Binding negotiations therefore require disputants to sacrifice more decision control than they would under other types of conflict management.

One might argue that because the international system is anarchic, states are not obligated to uphold binding agreements and therefore can retain as much decision control as they would under bilateral or non-binding third party negotiations. Such a claim misconstrues both the nature of decision control and the actual practice of binding conflict management in international relations. First, the concept of decision control refers to the crafting of terms in an agreement. Binding talks give an arbitrator or international court the sole ability to determine how a bargain is structured. Anarchy means that disputants do not have to uphold a binding agreement, but it does not change the fact that states sacrifice the ability to devise the terms of a settlement when they undergo binding talks.

Second, binding negotiations generate potential domestic and international costs for disputants that they do not suffer under bilateral or non-binding third party talks. Simmons (2002) provides evidence of the costs of binding negotiations in her study of arbitration in Latin America. Latin American countries are more likely to comply with agreements brokered by arbitrators from the Western Hemisphere than by arbitrators from Europe. This indicates that neighboring states enforce binding settlements and that states are more reluctant to suffer the reputation costs of breaking agreements handed down by their neighbors. Moreover, leaders who submit to binding negotiations are more

likely to comply with agreements brokered under their own administrations than their predecessors', demonstrating that leaders are concerned about reputation effects. Also, states with strong rule of law and independent judicial systems are more likely to accept arbitral agreements (Simmons 2002). All of these findings demonstrate that even under the anarchic international system, states are affected by the potential domestic and international reputation costs of breaking binding agreements.

Decision control is therefore an important factor in the choice of conflict resolution procedures because giving up such control can be costly for international disputants. States are accountable for the outcome of conflict management, both domestically and internationally. If a state puts the outcome of an international dispute into the hands of a third party, the leadership may be punished by a domestic audience for giving up decision control, especially if the outcome is unfavorable to the domestic populace. Moreover, if a state reneges on an agreement, it loses credibility within the international community. The potential domestic and international costs of binding negotiations force leaders to carefully consider the conditions under which they are willing to give up decision control.

Although binding conflict management asks disputants to give up decision control, it can be a valuable tool for states seeking to end disputes. Because disputants pledge in advance to honor the negotiated settlement, binding strategies increase the likelihood that participants will reach and comply with an agreement (Mitchell and Hensel 2007). Binding mechanisms are also more likely than bilateral or non-binding negotiations to end disputes (Gent and Shannon 2008). However, the advantages of binding talks come at the loss of decision control. Essentially, leaders who want to

resolve conflicts must carefully consider the potential costs of relinquishing decision control before undergoing binding negotiations.

Conditions that Influence the Choice of Binding Negotiations

To address the question of why binding negotiations are used fairly infrequently, we identify the conditions under which disputants are willing to give up decision control. As noted above, conflict management decisions constitute a bargaining process between leaders. To facilitate our discussion of the decision to pursue binding negotiations, assume that two leaders, A and B, are bargaining over an issue on a one-dimensional continuous policy space. Let x_A and x_B be the ideal policies of A and B, respectively, with $x_A < x_B$, and assume that both leaders are risk averse. If these leaders decide to accept binding conflict management, then a third party will impose an outcome z, such that $x_A \leq z \leq x_B$. Before submitting to binding negotiations, the leaders do not know the exact value of z. Thus, the decision to pursue such a conflict management strategy is a calculated risk, and leaders will not want to enter into arbitration or adjudication if they believe that they are likely to receive an unfavorable settlement. Given this bargaining environment, we identify four factors that influence the choice of binding conflict management: the importance of the issue to the disputants, the similarity of the disputants' preferences, the uncertainty about the likely outcome of binding negotiations, and the availability of favorable outside options.

Salience

We first consider how the importance of a disputed issue influences the choice of conflict management strategy. It is unlikely that leaders will want to tie their hands by using binding mechanisms to resolve important issues. For example, in a 1939

nonaggression treaty, Colombia and Venezuela agreed to establish a Permanent Commission of Conciliation to resolve any controversies between themselves. If the commission was unable to reach a negotiated settlement on an issue, the countries agreed to submit their claims to arbitration or the Permanent Court of International Justice. The agreement however exempted controversies that "concern vital interests, independence, or the territorial integrity of the contracting states" (Area and Nieschultz de Stockhausen 1984: 169). Although they recognized the potential effectiveness of arbitration and adjudication, the leaders of Colombia and Venezuela were reluctant to commit themselves to binding negotiations in highly salient cases.

Leaders should be less likely to sacrifice decision control if the source of the dispute is highly important. As the value of an issue increases, the potential costs of an unfavorable outcome increase both at the domestic and the international level. As Hensel (2001, 86) notes, when leaders face highly salient issues, "the costs of failing to achieve one's desired issue position are much greater, in terms of both failing to accomplish a leader's goals and alienating the domestic selectorate responsible for maintaining the leader in office." Domestic audiences are more likely to punish a leader for a poor settlement to a salient issue than a less notable issue. Moreover, a leader is more likely to renege on an unfavorable decision if the issue is meaningful to the domestic audience, raising the potential for reputation costs.

Unfavorable settlements on salient issues can also lead to costs at the international level. For example, suppose a leader is bargaining over territory that is strategically located or that contains valuable resources. A binding decision that cedes control of the territory to another state can be very costly. Without access to the strategic territory or

resources, the "losing" state will be at a disadvantage in future confrontations with the "winning" state. Moreover, the loss of access to resources may hurt the economic development of the losing state. Given these increased international and domestic costs, the range of policy outcomes that a leader is willing to accept decreases as the salience of an issue increases. Since binding negotiations can potentially result in unpalatable outcomes, a leader will be less likely to give up decision control to a third party when managing disputes over valuable issues. As Bilder (2007: 206) notes, "nations are less willing to agree to binding third-party settlement of very politically sensitive disputes." This logic provides the following testable hypothesis:

H1: As the salience of a disputed issue increases, the likelihood of binding conflict management between disputants decreases relative to other forms of conflict management.

The hypothesis is similar to Hensel's (2001, 86) claim that "policymakers contending over highly salient issues such as territory should be especially hesitant to turn to legally binding third-party involvement (arbitration or adjudication)." However, it diverges from a later argument by Allee and Huth (2006) that leaders prefer legal dispute mechanisms over bilateral settlement when faced with domestically salient issues. According to Allee and Huth (2006), legal mechanisms provide leaders with domestic political cover to help them avoid punishment if a negotiated settlement is unpopular with the domestic population. Such a preference for binding negotiations over bilateral settlement assumes that the latter will result in an outcome equally unfavorable to the domestic audience. However, it is not clear why this should be the case, since leaders maintain decision control in bilateral negotiations. If leaders prefer to avoid unfavorable

outcomes on salient issues, they should want to maintain control over any decision made in these cases. The only way for leaders to avoid the possibility of an unfavorable outcome is to not enter binding negotiations when faced with a salient issue.

Preference Similarity

The preference similarity of the disputing states should also influence their decision to pursue binding negotiations. If disputants have similar preferences (i.e., x_A and x_B are closer together), the spectrum of potential agreements is narrower. Giving up decision control in this type of situation is less risky because the third party is likely to hand down an agreement that is fairly close to the disputants' ideal points. Thus, it is less likely that binding conflict management will result in an outcome that is highly unpalatable to domestic interest groups that might punish the leader. Disputants with similar preferences should therefore be friendly to relinquishing decision control in favor of the effectiveness of binding techniques. This leads to our next hypothesis:

H2: As disputants' preferences become more similar, the likelihood of binding conflict management between disputants increases relative to other forms of conflict management.

Uncertainty

Uncertainty about the likely outcome of arbitration or adjudication should also influence the choice of conflict management strategy. As noted above, disputants do not know with certainty what policy, z, will be imposed by the third party in binding negotiations. Let the density function f(z), with mean z_m and variance σ^2, represent the disputants' beliefs about z. Since leaders are risk averse, the expected utility for accepting binding negotiations decreases as σ^2 increases, holding z_m constant. When

disputants are uncertain about the outcome that will result from binding negotiations, they fear that the agreement will be far away from their ideal point. Decision control is valuable here because the disputants want as much chance as possible to pull the outcome toward their ideal point. As uncertainty about the potential outcome of binding conflict management increases, disputants prefer decision control over the risk of attaining an unfavorable outcome.

Given their reluctance to give up decision control in situations with great uncertainty, states rarely give arbitrators or adjudicators *carte blanche* decision-making ability. Disputants have the ability determine the issue on which the third party is to hand down its verdict. Generally, states are only willing to submit a territorial claim to arbitration if previous negotiations have led to some agreement about the disputed boundary. As the noted nineteenth century international law scholar John Bassett More noted, "Governments are not in the habit of resigning their functions so completely into the hands of arbitrators as to say, `We have no boundaries; make some for us'" (quoted in Schoultz 1998: 117).

While we cannot directly measure uncertainty, we can determine situations in which there may be more or less uncertainty about potential bargaining outcomes. Resolving a disputed issue in international relations generally requires a number of settlement attempts. Many of these settlement attempts lead to some agreement among the parties, even if the main issue is not fully resolved. These agreements are beneficial because they can help states come closer to identifying a mutually acceptable bargaining space. The concessions made by leaders in these previous agreements narrow the set of

potential decisions that could be handed down by a third party during binding negotiations.

In this way, previous agreements on the issue at hand decrease uncertainty, and increase the willingness of disputants to give up decision control. On the other hand, disputes in which previous settlement attempts have not been successful do not have the advantage of reduced uncertainty. Thus, unsuccessful settlement attempts do not increase the willingness of leaders to give up decision control.[2] This logic supports a third hypothesis:

H3: As the number of previous successful settlement attempts surrounding an issue increases, the likelihood of binding conflict management between disputants increases relative to other forms of conflict management.

Favorable Outside Options

The existence of favorable outside options should also affect the willingness of leaders to give up decision control and accept binding conflict management. If a state can achieve a favorable outcome outside of binding conflict management, then it will be less likely to risk an unfavorable outcome through arbitration or adjudication. In international relations, powerful states enjoy more favorable outside options than weak states. Powerful states are likely to achieve military victory on the battlefield and can thus more credibly threaten to resolve a dispute militarily. These military advantages also provide them with bargaining power during bilateral negotiations. Since powerful states are better able to guarantee themselves favorable outcomes through negotiations or military conflicts, they will be more reluctant to give up decision control. Given this,

[2] In addition to our claim about the reduction of uncertainty that results from successful agreements, Hensel (2001) argues that previous successful settlement attempts can also build trust between disputants, which can increase their willingness to enter into binding settlement attempts.

when a state enjoys a strong power advantage over a fellow disputant, it will prefer to settle its disputes through means other than binding conflict management.

Weaker states benefit from arbitration and adjudication because these forums place them on a more level playing field with more powerful states. Unlike the outcome of most international negotiations, which are highly influenced by the relative power of states, binding conflict management decisions are based, at least in part, on legal principles. Thus, arbitration and adjudication open up potential favorable outcomes to weak states that would not otherwise be available. These factors can be seen in Britain's initial reluctance to enter into arbitration to resolve the disputed boundary between Venezuela and British Guiana in the 1890s.

In 1896, American diplomat Henry White reported to U.S. Secretary of State Richard Olney that British Prime Minister Lord Salisbury believed that compulsory arbitration in territorial disputes would have negative repercussions for a major power like Great Britain. Salisbury expected that "claims to territory might—and probably would—constantly be made by countries having nothing to lose and hopeful of gaining some accession to territory through the submission of such claims to arbitration" and that "important Powers might find themselves deprived through arbitration, of portions of their territory, arbitrators being usually inclined to favor a weak power" (quoted by Schoultz 1998: 121). While it might be an exaggeration to state that arbitrators overtly favor weak powers, the process of arbitration can benefit weak states because it potentially results in outcomes that the powerful state would never agree to in bilateral negotiations. Given this, powerful states are often reluctant to give up decision power to

an arbitrator or adjudicator to resolve a dispute with a much weaker state. This leads to the following hypothesis:

H4: As power asymmetry in a dyad increases, the likelihood of binding conflict management between disputants decreases relative to other forms of conflict management.

According to our theoretical framework, the main characteristic that separates binding negotiations from other forms of conflict management is the level of decision control maintained by the disputing states. The willingness of leaders to cede decision control should therefore be a primary factor in decisions to pursue binding conflict management. We expect that leaders will be more willing to give up decision control when issues are less salient, disputants have similar preferences, previous settlement attempts have reduced the uncertainty surrounding the issues at stake, and when no state enjoys a significant power advantage. In the next section, we test these hypotheses by examining peaceful settlement attempts in territorial, maritime, and river claims.

Empirical Analysis

To test our theoretical argument, we examine attempts by states to peacefully settle disputed claims. Previous analyses of the decision to pursue binding conflict management have generally focused on territorial claims (Allee and Huth 2006; Hensel 2001; Simmons 2002). We expand the domain of analysis to include a wider range of issue areas: territorial, maritime, and river claims. We rely on data from the Issue Correlates of War project (Hensel 2001). These data are useful because they allow us to generalize our findings about binding negotiations across three different regions and a fairly long temporal period. Moreover, these data have reliable indicators of dispute

salience, a crucial variable for testing our theory. Our analysis examines attempts to peacefully settle claims either through bilateral negotiation or third party diplomatic intervention. Following Hensel (2001), we conceptualize a claim as a contention between two or more states over the type of issue in question. A territorial, maritime, or river claim requires an official state representative to "make clear that his or her government lays claim to specific territory or maritime areas that are presently occupied, administered, or claimed by one or more other specific states" (Hensel 2008). Using the Issue Correlates of War (ICOW) data set, we identify 1,004 peaceful settlement attempts in 204 claims in the Americas, Europe, and the Middle East from 1816-2001.[3] The sample includes 567 attempts in 109 territorial claims, 282 attempts in 66 maritime claims, and 155 attempts in 29 river claims. Of these settlement attempts, 695 were bilateral negotiations, 217 involved a third party in a non-binding capacity, and 42 involved a third party with binding decision capacity. Thus, as noted above, binding negotiations are much rarer than other forms of conflict management. Table 1 presents a breakdown of the settlement attempts by type and issue area.

[TABLE 1 ABOUT HERE]

The dependent variable in our analysis is the type of peaceful settlement attempt pursued: bilateral, nonbinding third party, or binding third party. Bilateral settlement attempts include negotiations between the claimants that do not incorporate the involvement of a third party state, organization, or individual. A nonbinding third party settlement attempt includes a third party actor that does not have final authority to impose

[3] We exclude functional and procedural settlement attempts, as they are not aimed at resolving the claim. At this point, the ICOW data set only includes territorial claims in the Americas and Western Europe, maritime claims in the Americas and Europe, and river claims in the Americas, Western Europe, and the Middle East. We had to exclude 104 of the 1,004 settlement attempts from our empirical analysis due to missing values on one or more of our independent variables.

a binding decision regarding the claim. Examples of such settlement attempts include good offices, mediation, and multilateral negotiation. Finally, a binding third party settlement attempt invokes the use of a third party actor to issue a decision that is binding upon the claimants. The two general types of binding negotiations are adjudication and arbitration. As noted above, these strategies are different in terms of the nature of the third party. Adjudication requires an international court, while arbitration involves other types of international actors, such as states, individuals, or international organizations.

According to our theory, disputants are more willing to give up decision control and accept binding negotiations when their preferences are similar. Ideally one would prefer a measure of the similarity of preferences on the specific issue involved in the claim; however, such a measure is not available (and it is unclear how one would construct such a measure). One would expect, though, that states with similar preferences on general foreign policy issues also have similar preferences on the specific territorial claims examined here. Given this, we use Signorino and Ritter's (1999) S score of alliance portfolio similarity to measure the preference similarity of the claimants.

To operationalize the salience of the territorial claim, we use the measure of salience from the ICOW project (Hensel 2001). This variable ranges from zero to twelve and incorporates the salience of tangible issues, such as strategic location and resource value, and intangible issues, such as homeland and identity ties. We also argue that previous successful settlement attempts reduce the uncertainty around the issues at stake in the territorial claim and thus should increase the willingness of claimants to give up decision control to a third party arbitrator or adjudicator. Therefore, we include a variable indicating the number of previous settlement attempts concerning the territorial

claim in the past five years that have lead to a signed agreement between the claimants. To examine whether it is the success of the previous attempts that leads the claimants to pursue binding negotiations, we also include a variable indicating the number of unsuccessful settlement attempts in the same five year period.

Claimants with strong outside options should not be willing to give up decision control to a third party. Therefore, a state with a strong relative power advantage is less amenable to a binding third party settlement. Given this, we expect that adjudication and arbitration is less likely than other types of settlement attempts in dyads with high power asymmetry. Using the Correlates of War Composite Index of National Capabilities, we measure power asymmetry as the stronger state's share of the dyad's total capability. This measure ranges from .5 (parity) to 1 (all capabilities held by one state).

In addition to the theorized variables, we include two additional variables that potentially affect leaders' preferences over different conflict management strategies. Allee and Huth (2006) argue that democratic leaders are more likely than nondemocratic leaders to pursue binding third party settlements because such settlements provide them with domestic political cover. Consequently, we include a variable indicating whether both states in a dyad are democratic. We consider a country democratic if it receives a score of 6 or above on the Polity IV democracy-autocracy scale. Finally, one might expect that the choice of settlement attempt type is affected by previous military conflict on the issue, so we include a measure of the number of militarized interstate disputes (MIDs) directly related to the particular claim in past five years.

Results

To test our hypotheses, we estimate a multinomial logit with the type of settlement attempt (bilateral, nonbinding third party, binding third party) as the dependent variable. Small-Hsiao and Hausman tests indicate that the IIA assumption of the multinomial logit model is not violated. The results of the analysis can be found in Table 2. Given the nature of multinomial logit models, coefficients indicate the effect of a change in the independent variable on the likelihood of one of the outcomes relative to a baseline category. To allow one to make comparisons between all categories, we present the coefficients for both binding and nonbinding third party negotiations with bilateral negotiations as the baseline category, as well as binding negotiations with nonbinding negotiations as the baseline category. A positive coefficient indicates that an increase in the independent variable increases the probability that a given outcome will occur relative to the baseline category.

[TABLE 2 ABOUT HERE]

In general, the results support the theory. First, consider the effect of salience on the type of settlement attempt pursued. As the salience of the claim increases, the likelihood of a binding third party settlement attempt decreases relative to both bilateral and nonbinding settlement attempts. Substantively, as Table 3 indicates, if one holds all continuous variables at their mean values and joint democracy at its modal value, an increase in salience from its minimum value (0) to its maximum value (12) decreases the probability of binding conflict management from .173 to .016. Simulations using Clarify indicate that this difference is statistically significant at the .05 level (King, Tomz, and Wittenberg 2000). Thus, settlement attempts in territorial claims are much less likely to include a third party in a binding role if the territory is more salient to the disputants.

This supports our theoretical argument that leaders are unwilling to give up decision control and risk an unfavorable outcome if an issue is strategically important internationally or salient to their domestic populations.

[TABLE 3 ABOUT HERE]

We also find some support for Hypothesis 2, which expects that states are more likely to accept binding third party conflict management when they have similar foreign preferences. Greater preference similarity, as measured by S scores, increases the likelihood of binding third party settlement relative to nonbinding third party settlement. But preference similarity does not have a significant effect on the likelihood of binding third party versus bilateral negotiations. Our results indicate that if claimants invite a third party to participate in a settlement attempt in a territorial claim, they prefer binding negotiations when their preferences are similar. However, the same cannot be said with confidence if one includes bilateral settlement attempts in the mix. Overall, an increase in preference similarity increases the likelihood that a settlement attempt will be binding. If one increases preference similarity from its minimum to its maximum value, the probability of binding conflict management increases from .013 to .060. This change is statistically significant at the .10 level ($p \approx .06$).

According to Hypothesis 3, successful previous settlement attempts decrease uncertainty surrounding the issues at stake and thus increase the likelihood that leaders give up decision control and agree to binding conflict management. The empirical results find strong support for this hypothesis. The number of previous successful attempts has a positive and statistically significant effect on the likelihood of a binding third party settlement attempt relative to both nonbinding and bilateral settlement attempts. Thus,

the overall likelihood that a settlement attempt includes binding negotiations increases as the number of previous successful settlement attempts increases.

To gauge the substantive effect of successful settlement attempts, we calculated the predicted probability of binding conflict management holding all other continuous variables at their means and joint democracy at its mode. For example, if there are no previous successful settlement attempts, the predicted probability of binding negotiations is .036. However, this probability increases to .052 in the case of one previous successful attempt and .075 in the case of two previous successful attempts. Unlike the case of successful attempts, the multinomial logit results indicate that the number of unsuccessful settlement attempts decreases the likelihood of binding conflict management. Unsuccessful attempts likely indicate that uncertainty remains about the disputed claim. This supports the argument that the decrease in uncertainty from successful settlement attempts increases the willingness of claimants to give up decision control and accept binding third party settlement.

The results also provide some support for Hypothesis 4, which concerns the relationship between power asymmetry and binding conflict management. As the stronger state's capabilities increase relative to the weaker side, binding settlement attempts become less likely relative to bilateral negotiations. On the other hand, power asymmetry does not have a statistically significant effect on the likelihood of binding third party settlement attempts versus nonbinding settlement attempts. The results also indicate that power asymmetry decreases the likelihood of nonbinding third party intervention relative to bilateral negotiations. Power asymmetry has a significant effect on the decision to include a third party intermediary in a settlement attempt, but has no

significant effect on the role played by the third party. Given the outside options available to states with a significant power advantage, they are less likely to accept the involvement of third parties. This supports previous findings by Hensel concerning territorial claims in the Western Hemisphere (2001). Despite this caveat, the overall likelihood of binding conflict management decreases as the power asymmetry in a dyad increases. Holding all continuous variables at their means and joint democracy at its mode, an increase in power asymmetry from its minimum value (≈.5) to its maximum value (≈1), the predicted probability of binding negotiations decreases from .117 to .023. Simulations using Clarify indicate that this change is statistically significant at the .05 level.

In our statistical analysis, we find no significant effect of joint democracy on the type of settlement attempt pursued. This finding runs counter to Allee and Huth's (2006) argument that democratic leaders have a greater incentive to pursue binding third party settlements in order to provide domestic political cover. However, our results are in line with previous findings by Hensel (2001) and Simmons (2002) that regime type has no effect on the decision to pursue arbitration or adjudication. Finally, we find that both binding and nonbinding third party conflict management are more likely than bilateral negotiation as the number of recent MIDs increase. However, recent militarized conflict has no effect on the choice between binding and nonbinding third party settlement attempts. This indicates that after militarized disputes, states are more likely to invite third parties to help resolve their claims rather than rely on bilateral negotiation.

The Gulf of Venezuela Maritime Claim

The territorial and maritime disputes between Colombia and Venezuela highlight the importance of concerns about decision control when states choose to pursue binding conflict management. In contrast to the previous territorial dispute, higher issue salience and greater uncertainty concerning the outcome of binding conflict management have prevented Colombia and Venezuela from pursuing arbitration or adjudication to resolve their maritime dispute in the Gulf of Venezuela. The presence of valuable extractable resources increases the salience of any boundary dispute. The discovery of significant petroleum fields in the Gulf of Venezuela during the 1960s raised the stakes of the maritime dispute for both sides. When Colombia and Venezuela agreed to arbitrate the territorial dispute in the Guajira Peninsula in the early twentieth century, oil did not play an important role. However, the high stakes of the "petrolized" maritime conflict has made both sides reluctant to give up decision control because an unfavorable decision would result in the inability to maintain or gain access to a valuable natural resource.

In addition to the salience of the claim, uncertainty about the outcome of binding conflict management has reduced the incentive to pursue binding conflict management. The maritime dispute arose as international maritime boundary law was extended to the Gulf of Venezuela. In this particular case, there is great uncertainty over where the maritime boundary line should extend from the territorial boundary, as international law provides four different means of delimiting the border, all of which would significantly benefit one country over the other (George 1988-89: 155). Given this, Colombia and Venezuela have been unwilling to give up decision control to an arbitrator or adjudicator because they do not have clear expectations as to how such a third party would rule and do not want to be forced to accept a highly unfavorable ruling. This contrasts with the

territorial boundary case, in which most of the boundary had been determined and only a small portion was disputed. Moreover, a previous arbitration ruling by Spain in the nineteenth century and a number of bilateral negotiations generated precedents that narrowed the range of potential outcomes from arbitration (Monroy Cabra 1989; Sureda Delgado 1995). Thus, different levels of issue salience and uncertainty led Colombia and Venezuela to give up decision control and pursue binding conflict management for the previous territorial dispute, but not for the current maritime claim in the Gulf of Venezuela.

One might wonder if the difference between the two disputes results from the type of issue. That is, territorial claims may be more likely to be resolved through binding conflict management than maritime claims. However, the maritime dispute is accompanied by a related territorial dispute over the Monjes islands. Colombia and Venezuela have been also been unwilling to resolve this territorial claim through binding negotiations because any ruling on the ownership of these islands would have a direct impact on the maritime boundary in the Gulf of Venezuela. Therefore, the same concerns about decision control that prevent the two countries from resolving the maritime claim though binding conflict management also prevent them from doing so for the territorial claim over the Monjes islands.

Conclusion

While binding negotiations are successful in helping countries end conflicts, they are rarely used. Our analysis indicates that countries value the effectiveness of binding talks, but they are reluctant to pursue binding conflict management because of the potential domestic and international costs of giving up decision control. When states

value decision control, they prefer bilateral or non-binding mechanisms of dispute management. This ensures that the potential outcome of a dispute does not rest solely with a third party.

Our findings provide new insights about the decisions of states to undergo binding conflict management. While previous research concludes that disputants are likely to submit salient claims for a binding decision, we find the opposite. Countries prefer to maintain decision control when salient issues are at stake, and are consequently less willing to undergo binding talks. Powerful countries are also unlikely to hand binding authority to a third party because they have more attractive outside options. On the other hand, more certainty among disputants about the likely agreement increases their affinity for binding negotiations. In short, while binding dispute management is effective, countries only pursue it when the potential costs of sacrificing decision control are low.

We show that countries are generally unwilling to use a highly effective form of conflict management – binding negotiations – to settle salient disputes. At first this seems a rather pessimistic finding for policymakers who genuinely want to resolve important conflicts. However, it is possible for countries to structure the process of negotiations so as to minimize the backlash of relinquishing decision control. For instance, in the Gulf of Maine case, the U.S. and Canada minimized the costs of giving up decision control by agreeing in advance to require the International Court of Justice to terminate its boundary delimitation within a specified geographical area (Robinson, Colson, and Rashkow 1985: 585). This reduced the possibility of a highly unfavorable outcome for either side. Countries often seek binding negotiations to achieve the largest potential favorable agreement, but in doing so, they raise the costs of sacrificing decision

control and minimize the likelihood that they will enter arbitration or adjudication. A more advantageous approach might be for disputants to use incremental or piecemeal binding negotiations to settle portions of their claim, thus decreasing the costs of giving up decision control (George 1988-89). Less ambitious binding agreements may build confidence among domestic audiences and eventually provide enough momentum to settle a dispute in its entirety.

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Table 1. Peaceful Settlement Attempts by Type and Issue Area

	Issue Area			
Settlement Type	Territory	River	Maritime	Total
Bilateral Negotiations	380 (67.0)	92 (59.4)	176 (62.4)	648 (64.5)
Nonbinding Third Party	148 (26.1)	56 (36.1)	91 (32.3)	295 (29.4)
Binding Third Party	39 (6.9)	7 (4.5)	15 (5.3)	61 (6.1)
Total	567 (100.0)	155 (100.0)	282 (100.0)	1,004 (100.0)

Source: Issue Correlates of War project. Percentages in parentheses.

Table 2. Type of Peaceful Settlement Attempt in Territorial, Maritime, and River Claims (Multinomial Logit)

	Binding vs. Nonbinding	Binding vs. Bilateral	Nonbinding vs. Bilateral
Salience	-0.322**	-0.174*	0.148*
	(0.090)	(0.074)	(0.059)
Preference Similarity	2.286*	1.241	-1.045*
	(0.932)	(0.870)	(0.518)
Successful Attempts	0.337*	0.396**	0.058
	(0.142)	(0.119)	(0.092)
Unsuccessful Attempts	-0.256*	-0.246*	0.009
	(0.120)	(0.120)	(0.050)
Power Asymmetry	-1.691	-4.256**	-2.565**
	(1.222)	(1.149)	(0.675)
Previous MIDs	0.228	0.622**	0.394**
	(0.195)	(0.240)	(0.132)
Joint Democracy	0.241	0.168	-0.073
	(0.409)	(0.379)	(0.244)
Maritime Issue	-0.027	0.092	0.119
	(0.459)	(0.466)	(0.292)
River Issue	-1.445*	-0.630	0.815*
	(0.660)	(0.625)	(0.361)
Constant	0.238	0.789	0.551
	(1.391)	(1.300)	(0.791)
N		900	

*p<.05, **p<.01. Robust standard errors clustered on claim in parentheses.

Table 3. Predicted Probability of Binding Conflict Management

	Minimum Value	Maximum Value	Change in Probability
Salience	0.173	0.016	-0.157 (-0.326, -0.038)
Preference Similarity	0.013	0.060	0.047 (-0.003, 0.085)
Successful Attempts	0.036	0.360	0.324 (0.070, 0.686)
Power Asymmetry	0.117	0.023	-0.094 (-0.194, -0.026)

Note: Other variables were set at their mean values, except joint democracy, which was set at its modal value. Simulated 95% confidence intervals are in parentheses.