

## **The Choice of International Institutions: Cooperation, Alternatives and Strategies**

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### Abstract:

We develop a framework that explains the choice of institutions to address international cooperation problems. We begin with boundedly rational actors who make institutional choices based on the properties of the cooperation problem they face and the menu of international institutions available to them. If the institutional status quo offers an appropriate venue for the prevailing cooperation problem, then actors will either *use* a focal institution or *select* a readily available alternative; if no suitable venue is available in the institutional status quo then costlier and riskier strategies of institutional *change* and *creation* will be pursued. The framework further allows us to incorporate international organizations as actors affecting the menu for institutional choice, to combine elements of rationalist and constructivist institutional accounts, and to address distributional and power considerations inherent to the choice of international institutions. A set of empirical articles follows and builds on this framework to advance our understanding of the choice of institutions in different international issues.

## I. Introduction<sup>1</sup>

The Kosovo crisis confronted the Western allies with an urgent problem, for which a variety of institutional solutions were tried. The United Nations (UN) provided a clear focal point for coordinating an international response and UN Security Council Resolutions 1160 (March 1998) and 1199 (September 1998) addressed “the need to avert the impending humanitarian catastrophe.” Because Russia and China were determined to block any resolution authorizing the use of force through the UN, however, the Western allies needed an alternative venue to coordinate joint action. They chose NATO even though the Kosovo mission went beyond that institution’s primary mandate to defend member states, who were not threatened by what was basically a domestic Serbian affair.<sup>2</sup> However, the use of NATO was problematic not only in terms of international law<sup>3</sup> but also in terms of NATO’s own institutional arrangements. NATO’s integrated command structure meant that any of the 19 Council members could veto any decision, including even individual targets. To circumvent this hopelessly inefficient arrangement for conducting a bombing campaign, participants agreed to “cast-aside some of the

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<sup>1</sup> Earlier versions of this paper were presented at workshops on “Forum Shopping and Global Governance” in Florence (23-24 April 2004) and Miami (28-29 January 2005), the University of Chicago’s Program on International Politics, Economics and Security (PIPES) (12 May 2005), and at the 101<sup>st</sup> Annual Meeting of the American Political Science Association (APSA) (30 August-2 September 2005). Thanks to the Robert Schuman Centre for Advanced Studies at the European University Institute and the Center for Transnational and Comparative Studies at Florida International University for their support. For helpful comments on the project and on earlier drafts, we would like to especially thank David Lake, Anne Holthoefler, Lora Viola, other participants in this symposium, and also David Andrews, Mark Axelrod, Sam Barkin, Jim Caporaso, Scott Cooper, Christina Davis, Henry Farrell, Lloyd Gruber, Miles Kahler, Barbara Koremenos, Charles Lipson, Sidney Tarrow and participants in the PIPES Workshop.

<sup>2</sup> To be sure, NATO had already been used to enforce the Dayton Accords in Bosnia, but that was under UN authorization (UNSCR 1031, 1203), as were its air verification operations over Kosovo (1199).

<sup>3</sup> The selection of NATO over the UN was a clear violation of UN Article 53, as pointed out not only by Chinese and Russian critics but also by Secretary-General Annan. See “UN Secretary-General Kofi Annan on NATO Air Strikes March 24 1999” (Washington DC: US Information Service 1999); “Statement by the Chinese Ambassador to the UN, 24 March 1999” in P. Auerswald and D. Auerswald (eds.) *The Kosovo Conflict: A Diplomatic History Through Documents* (Cambridge, Kluwer International Law, 2000) p. 727, and; “Statement by the Russian President, 24 March 1999,” *Ibid.* p. 737.

bureaucratic shackles that have limited NATO's flexibility" by delegating decision making to the Quints Group (US, UK, France, Germany and Italy). Later, when that arrangement proved still too unwieldy, the Quints Group approved targets and then allowed the US to decide target selection.<sup>4</sup> Finally, the inability of European leaders to limit American influence reinvigorated European discussions regarding their need to create an independent European security organization—although the difficulty of crafting new institutions continues to impede such creation.<sup>5</sup>

The Kosovo example illustrates how in the anarchic but variably institutionalized international system, actors confront multiple institutional options. Which institutions do they choose (if any), and how and why do they do so? Institutional choice is now more than just a starting point for analysis and becomes the dependent variable to be explained in the context of alternative options. Institutional IR theory has frequently addressed itself to explaining how given institutions operate and how they shape outcomes, but it has not systematically addressed the choice of institutions from among multiple extant and hypothetical alternatives.<sup>6</sup> What explains the ways in which institutions come into play in international relations given multiple institutional options?

Answering this question will integrate and advance the institutional research program. This paper begins that process by spelling out some general expectations about the conditions under which alternative institutional strategies come to be pursued. We assume that international actors are boundedly rational and choose institutional strategies in response to the cooperation problem being addressed and the institutional status quo.

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<sup>4</sup> P. Webster, "Alliance general cleared to bomb at will," *The Times*, 3 April 1999. Disagreements within the Quints Group over escalation ultimately led the group to formally delegate control over intensification to Secretary-General Solana.

<sup>5</sup> We thank Lora Viola for putting together the details of this example.

<sup>6</sup> Duffield 2003.

The greater the suitability of status quo institutional arrangements to the cooperation problem at hand, the more likely actors are to work within existing institutions.

Conversely, the more deficient the institutional status quo, the more likely actors are to choose costlier and riskier strategies that transform the institutional landscape. Below we develop a series of more specific claims linking cooperation problems, institutional status quos and strategies.

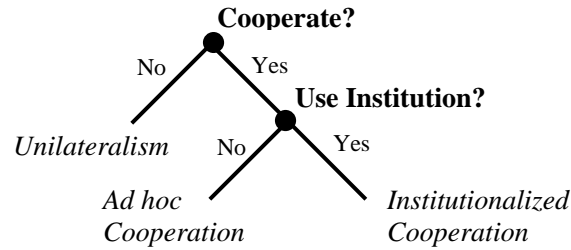
We proceed in four stages. Part II briefly surveys standard approaches to cooperation and institutions. Part III defines and develops the key variables — cooperation problems, institutional status quos, and institutional strategies — used in our analysis. Part IV sets forth a series of conjectures about the relationships among these factors. Part V draws out the implications of this analysis for the institutional research program in international relations. Finally, this paper introduces a symposium on Institutional Choice. It provides a framework that lays out and illustrates the basic elements of problem while the three papers that follow – on standard-setting, human rights and economic institutions, respectively – apply the analysis in diverse institutional and empirical settings.

## **II. Cooperation and Institutions**

Cooperation under anarchy remains a guiding metaphor in IR theory.<sup>7</sup> Absent the compulsion of (but also the protections provided by) a global Leviathan, how can self-interested actors reap gains that can only be realized through joint action? We decompose this into two questions. First, do actors cooperate? Second, if yes, do they institutionalize their cooperation? While recognizing the interdependence of these questions in practice, we present them as sequential choices in Figure 1.

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<sup>7</sup> The classic statement is Oye 1986.



**Figure 1: Standard Accounts of Cooperation**

The three end points of this stylization (unilateralism, ad hoc cooperation, and institutionalized cooperation) are not outcomes, but labels for the institutional strategies (No; Yes, No; Yes, Yes) being pursued. These strategies roughly correspond to those emphasized respectively by offensive realism, defensive realism/decentralized cooperation, and mainstream institutionalism. Before building out from the bottom-right branch to elaborate the alternatives for institutionalized cooperation, we briefly review each of these standard accounts.

#### Unilateralism and *Ad Hoc* Cooperation

*Unilateralism* represents the absence of cooperation. It corresponds most closely to offensive realist theory, which derives from the structural fact of anarchy the core proposition that states seek not merely to be secure or to survive, but to maximize their relative power. Relentless power rivalry and relative gains concerns substantially inhibit cooperation.<sup>8</sup> *Ad Hoc Cooperation*, by which we mean non-institutionalized bilateral and/or multilateral cooperation based on interest and convenience, is consistent with the defensive, modified structural and contingent variants of realism.<sup>9</sup> Similarly, decentralized cooperation theory, more commonly associated with the liberal tradition, builds on "evolution of cooperation" and "folk theorem" results to emphasize ad hoc

<sup>8</sup> Mearsheimer 2001; on relative gains see especially the articles in Baldwin 1993.

<sup>9</sup> Waltz 1979; Krasner 1983; Keohane 1983; Glaser 1994/1995. See also Barkin and DeSombre 2000.

cooperation. By showing that repeated play makes decentralized cooperation possible,<sup>10</sup> it identifies conditions such as favorable payoff structures, long time horizons and small numbers of players that promote cooperation<sup>11</sup> as well as other factors, such as distribution, enforcement and uncertainty that impede cooperation.<sup>12</sup>

### Institutionalized Cooperation and Beyond

Both modified structural/contingent realism and decentralized cooperation theory shade into the institutionalist node relatively quickly. Modified structural realism developed into neoliberal institutionalism, wherein regimes are partially decoupled from power and exercise autonomous causal effects.<sup>13</sup> Cooperation theory turned naturally to consideration of the ways in which institutions could be used to promote and sustain cooperation under anarchy.<sup>14</sup> From the demonstration that decentralized cooperation can be sustained in anarchy, it is a relatively straightforward move to examine the ways in which institutions can respond to and shape this process. In particular, the institutional design literature points to the variation in international institutions and the implication that different institutional arrangements are necessary to address different types of cooperation problems.<sup>15</sup>

This paper builds on existing literature in focusing on those institutions which are "explicit arrangements, negotiated among international actors, that prescribe, proscribe, and/or authorize behavior."<sup>16</sup> But we move beyond traditional theories of "institutionalized cooperation" which implicitly focus on a single (optimal) institution to

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<sup>10</sup> Axelrod 1984; Fudenberg and Maskin 1986.

<sup>11</sup> Oye 1986; on the number of players, see also Kahler 1992.

<sup>12</sup> Koremenos, Lipson and Snidal 2004, 6.

<sup>13</sup> Krasner 1983; Keohane 1984.

<sup>14</sup> Oye 1986; Axelrod and Keohane 1986; Stein 1990.

<sup>15</sup> Koremenos, Lipson and Snidal 2004; see also Martin 1992.

<sup>16</sup> Koremenos, Lipson and Snidal 2004, 2.

emphasize the potentially rich range of institutional alternatives available to states.<sup>17</sup> Thus we focus on international institutional choice as an unfolding process regarding *which* institution to choose.<sup>18</sup> We analyze institutional choice in terms of institutional strategies ranging from the unproblematic “use” of an existing focal institution, to “selection” from a fixed but plural menu of institutional alternatives, to “change” of an existing institution, to the “creation” of a new arrangement. These different alternatives make institutions an object of choice and politics and allow us insight into issues of power and distribution.

However, we depart from the standard institutionalist literature in two ways that we note here and expand on later. First, in place of the standard rationality assumption we substitute a weaker assumption of bounded rationality. In addition to being a more realistic assumption given the inherent uncertainty of institutional choice, bounded rationality provides a means to bridge the analysis towards some important considerations raised by constructivism. Second, while states are typically central actors in international institutional choice, our analysis is open to the role of other actors. In particular, IOs are sometimes partially autonomous actors that play an important role in these institutional decisions. For that reason, we present the analysis mainly in terms of “actors” rather than “states,” although in some cases it is clear that states are dominant.

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<sup>17</sup> For important exceptions see Spruyt 1994 and Lake 1999.

<sup>18</sup> The institutional design approach looks at variation across institutions but not at variations in terms of the choice of an institution for a particular problem. Rational design, of course, does consider “which” institution (in terms of key defining properties) will be designed but it implicitly focuses either on the hypothetical “optimal” design or on explaining the properties of the prevailing equilibrium institution without explicit comparison to alternative institutions.

### **III. Cooperation Problems, Institutional Status Quos, and Institutional Choice**

We develop an integrated framework that explains institutional choice in terms of the properties of the cooperation problem and of the institutional status quo. We argue that as the suitability of the institutional status quo for addressing a given cooperation problem increases, status quo-preserving strategies such as institutional use and selection are more likely; the lower this suitability, the more likely costlier and riskier strategies such as institutional change and creation become. Before developing this argument, however, we address a few conceptual preliminaries regarding the central elements of our analysis (cooperation problems, status quos, and strategies).

#### Nature of the Cooperation Problem

We begin with an exogenously given "cooperation problem." We treat this as a "new" issue which has appeared on the international scene – recent examples would include climate change, avian flu, money-laundering – but it could be a long-standing problem that has recently become salient or that has changed over time. Given the impossibility of accommodating the full complexity of real-world dilemmas in our basic framework, and partly building from the "rational design" project, we identify some key (and tightly inter-related) elements of cooperation problems that affect the choice of institutional strategy.<sup>19</sup>

Issue Characteristics involve the nature of the problem with respect to which institutionalized cooperation is being contemplated. This includes a potentially wide range of features that shape how actors respond: Is the issue (a variant on) one of long standing, or is it newly arisen? Did it emerge gradually, or suddenly? Is it a highly

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<sup>19</sup> See Koremenos, Lipson and Snidal 2004, 13-20. We draw on them for a number of the elements of a cooperation problem but our emphasis on issue characteristics and on the distribution of capabilities (power) is different from theirs. We are grateful to Barbara Koremenos for valuable suggestions.

technical issue demanding expertise, or is it a highly political issue? Is it complex, or relatively simple? How high are the stakes raised by the problem?

Interests (including time preferences) determine the structure of institutional choice and bargaining problems. Our analysis does not focus on the strategic setting per se (e.g., PD-enforcement problems versus Coordination problems) but on the overall efficiency gains from cooperation and the corresponding problems of distribution. Dealing with institutions at a fairly abstract level, we connect efficiency and distributive concerns to institutional choice through the capability of different actors to affect outcomes. Finally, while states are central actors, our analysis also potentially covers nonstate actors such as firms and NGOs, and we pay special attention to the role and interests of IOs.

Uncertainty (and risk) is a third central variable affecting institutional choice. While the rational design project emphasizes several types of uncertainty – about the state of the world, about behavior and about preferences – we focus here on uncertainty about the state of the world coupled with uncertainty about the impact of alternative institutional choices.<sup>20</sup> The importance of uncertainty in institutional choice also leads us to a bounded rationality approach in place of the optimizing approach (where uncertainty is subsumed under risk) which is more standard in the international cooperation literature.

Transactions costs, including search and bargaining costs, play an important role in institutional choice. We argue that use of existing institutions is privileged in part because of its inherently lower costs whereas more adventuresome policies of

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<sup>20</sup> See also Abbott and Snidal (2004) who address uncertainty about domestic politics (i.e., about a state's own preferences) in addition to other forms of uncertainty. They emphasize institutional arrangements whose primary purpose, in the first instance, is to reduce uncertainty so that more concrete steps towards cooperation can be instituted.

institutional change and creation occur only when significant additional costs (and risks and uncertainty) can be justified.

Finally, we characterize cooperation problems in terms of group characteristics including the number of actors as well as their heterogeneity in terms of both preferences and capabilities. While number is fairly straightforward, its impact comes through the difficulty of large-n collective action and therefore may depend on the extent to which prior institutional developments, leadership, or other factors attenuate the collective action problem. Capability heterogeneity is especially important when one or a few actors are sufficiently powerful that they can overcome the collective action problem. Preference heterogeneity is especially consequential when it generates distributional problems.

#### Status Quo Institutions

Because we are interested in the choice of institutional strategies, we focus on situations where the status quo is at least moderately institutionalized. For this reason, as noted in our earlier definition and illustrated “above the line” in Table 1, we include situations where the institutional status quo ranges from the broadest-based international organizations to legalized agreements (whether or not managed by an IO), but we exclude informal institutions “below the line” such as norms and customary principles.

<p>General purpose IOs that cover Multiple Issues (UN, OECD, WB)</p> <p>Issue specific agencies, sometimes inside other IOs (FAO, WHO, WTO)</p> <p>Legalized Agreements managed by an IO (FATF, OECD Anti-Bribery)</p> <p>Legalized Agreements without delegation (Helsinki Final Act, Nonbinding Forest Principles)</p> <hr/> <p>Informal Institutions – not included (Norms, Customary International Law)</p>
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**Table 1: A Rough Typology of Institutions**

The institutional status quo refers to the pre-existing and potentially relevant institutions as a new cooperation problem emerges. There is no "institutional clean slate" and every problem arises against a backdrop of prior institutionalization.<sup>21</sup> We characterize this variety of possible institutional environments in terms of the number of extant institutions and a few of their most relevant properties.

We can begin with a census of the number of institutions in an issue-area. Some issue areas are densely populated with institutions, others relatively (or absolutely) barren. To the extent that the issue-area is refined geographically (e.g., North Sea fisheries, rather than just fisheries) or substantively (e.g., marine oil pollution, rather than the environment), this will influence the effective number of extant institutions constituting the status quo. Other delimiters will have similar consequences.

The number of potentially relevant institutions depends not only on "objective" factors such as substantive issue coverage, but also on the norms, perceptions and

<sup>21</sup> Raustiala and Victor 2004, 296.

strategic choices of actors.<sup>22</sup> Sometimes institutions are proposed as solutions to problems that are not obviously relevant to their core functions. The clearest example is the WTO, not only because trade implicates a wide range of other issues but also because the WTO dispute settlement mechanism is a potentially powerful institutional tool for addressing a host of problems. For these reasons, some states and NGOs have tried to make the WTO a relevant institution for addressing non-trade issues such as environment, corruption or labor standards.

While the WTO has resisted the incorporation of what it sees as extraneous functions,<sup>23</sup> other IOs have sought to expand their roles beyond the narrow definition of their core activities. The OECD has recently been positioning itself as a key player in a wide-range of issues including energy security, health, education and digital governance.<sup>24</sup> Symposium Paper B develops a constructivist account of such dynamics in his discussion of the “aperture” and “foreclosure” effects of organizational culture, showing that norm entrepreneurs within the World Bank drove variation in its (un)availability as a forum within which states might seek payments financing.<sup>25</sup> In all of these examples, IOs themselves are not passive components of the institutional status quo; they are actors that play an important role in shaping the institutional menu available to other actors.<sup>26</sup>

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<sup>22</sup> For a discussion of the importance of cognitive factors in determining linkage among issues see Haas (1980).

<sup>23</sup> This opposition can come from the IO itself for reasons of bureaucratic culture and mission, or from member states operating through IOs for other reasons. See Abbott and Snidal (2004) for a discussion of why the WTO as a “hard law” institution resists the incorporation of issues such as combating corruption where “soft law” approaches are more appropriate. In addition, some member states would have resisted such a move as an infringement on their sovereignty or because their governments benefited from bribes.

<sup>24</sup> Donald Johnston, “Look no further for home for global bodies,” *Financial Times*, 27 November 2005.

<sup>25</sup> Symposium Paper B.

<sup>26</sup> See generally Barnett and Finnemore 2004.

“Relevant properties” represent the second main dimension along which we characterize the institutional status quo. We have in mind the extent to which the design features of available institutions recommend them as solutions to the cooperation problem at hand. We focus on membership rules and scope (in terms of the issues covered by the institution) as illustrative design features that are centrally important to institutional choice.<sup>27</sup> These attributes partially determine whether an institution lies in the status quo in the first place, since the cooperation problem is defined in terms of joined sets of actors and issues. Four such institutions satisfied these requirements in the area of financial accounting standards through the 1980s, as Symposium Paper D demonstrates.<sup>28</sup> Conversely, an institution whose membership does not include the relevant actors is unlikely to be immediately seen as a potential candidate for addressing a cooperation problem: Mercosur will be quite irrelevant, at least in a direct sense, to a trade dispute involving Japan and the US. Similarly, a functionally delimited institution has to operate in the issue-area involved, or be amenable to linkage to it, in order to play any sort of role. It would be hard to imagine the World Health Organization (WHO) forming a relevant part of the institutional landscape when it comes to technical standards for high-definition television.<sup>29</sup> Of course, issue (and institutional) spaces can be redefined; trade arrangements, for example, can be linked to human rights concerns.<sup>30</sup> Finally, the availability of institutions as solutions to cooperation problems depends also

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<sup>27</sup> In the spirit of cumulation, we draw on the rational design project (Koremenos, Lipson and Snidal 2004) for these two basic design rules. Other institutional design features (control, centralization and flexibility) identified in that project are also important and may need to be taken into consideration in specific empirical settings.

<sup>28</sup> Symposium Paper D.

<sup>29</sup> As we emphasize below, however, sometimes institutions are used for purposes that initially seem foreign to them and so they are not part of the institutional status quo ex ante. For example, the decision to lodge the Global Environmental Facility partially in the World Bank was not wholly obvious at the time.

<sup>30</sup> Symposium Paper C.

on their normative and legitimacy properties. Logics of appropriateness may well trump (or define) questions of fit and functionality in determining the suitability of an institution for solving a particular problem.

Of particular importance is whether the status quo includes a “focal” institution which is widely accepted as the “natural” forum for dealing with a particular cooperation problem. This may be for reasons of habit, cognitive limitation, socialization (norms of appropriateness, possibly promulgated by IOs themselves), organizational culture, or simply a generic satisficing decision style. It may well reflect past and expected future effectiveness. For example, the EU represents a "focal institution" for a host of problems, especially economic ones, arising among its member states. The World Health Organization (WHO) is the obvious first stop for human health issues associated with avian influenza<sup>31</sup> just as the WTO is focal for a range of global trade-related matters. Again, the focalness of an institution will depend partly on its “objective” properties but also on the perceptions and understandings of the actors.<sup>32</sup> Whatever its origins, the existence of a focal institution has important consequences for institutional strategy.

Thus there is wide variation across cases in the status quo level of institutionalization of international life. The fit between issues and institutions may fluctuate substantially over time as existing issues change and new ones arise.<sup>33</sup> Some emerging issues fit “naturally” into an existing focal institution; others might be handled

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<sup>31</sup> Garrett 2005.

<sup>32</sup> There are obvious observational problems here and the response “you know one when you see it” is unsatisfying even if often accurate. For our purposes, the problem is attenuated because the focal institution is a default and situations where there is no focal institution (so that other institutional options come into play) are more readily apparent. The missing category of institutionalized cooperation is then issues which would have been dealt with had there been a focal institution but which do not warrant the creation of a new institution. The most important (though counterfactual) instances would be cases where an entrepreneurial IO might have raised an issue that otherwise lies dormant.

<sup>33</sup> Baumgartner and Jones 1993; Baumgartner, Jones and MacLeod 2000.

in any of several institutional forums; while still other emerging issues do not fit readily into any existing arrangement. Institutional fit may well vary within issue-areas across the institutional dimensions that we focus on: an institution that is suitable in one dimension, such as membership, may be less suitable in another dimension, such as scope. Finally, while we take the initial institutional landscape as largely exogenous, it can also be influenced by the actors – especially by IOs themselves.

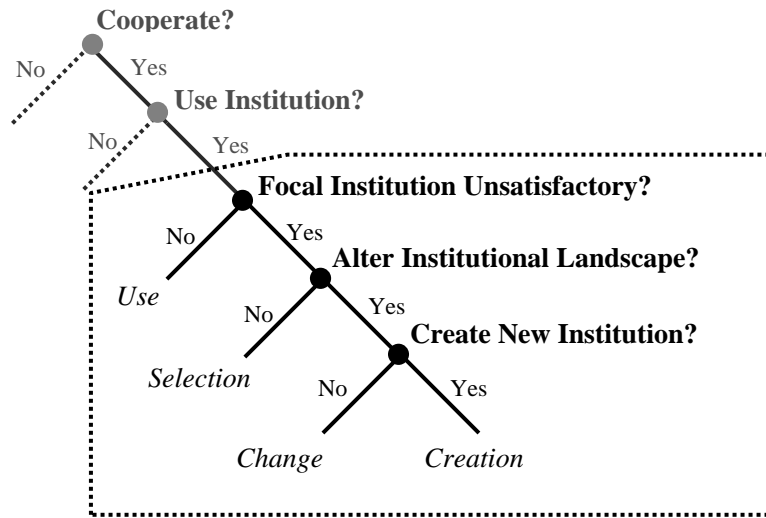
### Institutional Choice

Institutional choice denotes the collective choice over institutions – not individual actor strategies over institutions but their aggregate outcome. We emphasize how exogenous and structural factors shape the collective outcome. Of course, collective choice depends on individual strategies and our discussion always takes those into account implicitly and usually explicitly. For example, when we discuss how distributional issues make use of a focal institution less compelling, the underlying logic is that the actors who fare poorly have incentives to upset the focal institution and, if they have the capability, will push the issue into an alternative, changed or newly created institution. Similarly, collective choice may depend on non-material factors such as shared understandings of the appropriateness or legitimacy of putative focal solutions.

While unilateralism and *ad hoc* cooperation are always potential strategies for institutional circumvention in the anarchic international system, we focus on situations where joint action through institutions is "on the table." Thus our analysis builds on the "institutionalized cooperation" branch of Figure 1. Often there is a focal institution; sometimes there are multiple obvious alternatives available. If all extant options are

unsatisfactory, then one of them can be changed to handle the problem or a new institution can be created.

We depict a stylized collective institutional choice process in Figure 2. While the graytone part of the tree is a reminder of the background alternatives of anarchy that are omnipresent in international politics, we emphasize the variety of choices for institutionalized cooperation represented by the dark line parts of the decision tree in the box.<sup>34</sup> These options, which we elaborate below, can be most fruitfully understood in relation to one another.



**Figure 2: Choices within Institutionalized Cooperation**

*Institutional Use.* By institutional use we mean the relatively unproblematic activation of a single existing institution. This is linked tightly in our account to the existence of a “focal institution” which provides a satisfactory solution to the cooperation

<sup>34</sup> The possibility of abandoning institutionalized cooperation is always a possibility, especially for more powerful states, and such “off-the-path” alternatives often help shape institutional choices. Nevertheless, abandonment is a relatively infrequent occurrence -- presumably because institutionalization is a more efficient way to solve cooperation problems. Even powerful countries that could abandon institutions have incentives to change or replace them instead.

problem at hand<sup>35</sup>, in terms of its technical properties and/or of its perceived legitimacy and appropriateness for the task. The former condition pertains when design properties such as membership and scope correspond closely to the problem at hand and when the institution provides a relatively efficient and uncontested means for handling the issue without raising distributive questions that would lead some actors to challenge the focal institution. The second condition pertains when, by virtue of strategic, social or cultural dynamics an institution is positioned (or positions itself) as the “natural” forum for dealing with an issue, as has often been the case with the IMF in the area of payments financing during the postwar era.<sup>36</sup> In either case, the “focal institution” represents a background condition rather than an object of political choice and the institutional landscape is taken as a given of political life.

***Institutional Selection.*** Sometimes two or more institutions are plausible candidates to handle a cooperation problem. These multiple options pose the problem of institutional selection, i.e., the choice of one institution from a fixed but plural menu of alternatives. For example, states cooperating on human rights sometimes use regional organizations and sometimes use the global UN system to achieve their goals.<sup>37</sup> Private actors seeking to resolve internet domain name disputes confront four separate venues within which to do so, all of which fulfill the same functions (albeit often with starkly different results for complainants and defendants).<sup>38</sup> Trade disputes involving North

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<sup>35</sup> We use the word “satisfactory” because we do not assume that institutions are optimal.

<sup>36</sup> Symposium Paper B. It is also interesting to note that the potentially-focal World Bank long stayed out of the picture by virtue of its organizational culture: foreclosure of alternatives may also produce focalness in institutions remaining available.

<sup>37</sup> See generally Helfer 1999.

<sup>38</sup> Mueller 2001.

American states might be brought before either the NAFTA or the WTO.<sup>39</sup> Financial accounting standards could, through the 1980s, be developed within the UN, the OECD, the European Community, or the International Accounting Standards Committee (IASC).<sup>40</sup> Thus the strategy of institutional selection comes closest to traditional conceptions of “forum shopping”, which emphasizes actors’ incentives to gain advantage by exploiting jurisdictional overlaps.

***Institutional Change.*** Institutional change entails modification of an existing institution. Examples abound, ranging from successive treaty modifications in the EU to the transformation of the General Agreement on Tariffs and Trade (GATT) into the World Trade Organization (WTO), the Organization for African Unity (OAU) into the African Union (AU), and the Conference for Security and Cooperation in Europe (CSCE) into the Organization for Security and Cooperation in Europe (OSCE). Recent debates over UN reform exemplify a process of institutional change – while there is broad recognition that the organization is inadequate to address a range of contemporary problems, there is also little serious discussion of abolishing or replacing it entirely. Institutional change may take many forms, from the reworking of an institution’s basic architecture (possibly in response to distributional conflicts)<sup>41</sup> to changes in membership and scope provisions. The latter, for example transformation of preferential trade agreements (PTAs) to include human rights provisions,<sup>42</sup> or any kind of modification to adapt to new issues, represent among the most common and important manifestations of institutional change.

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<sup>39</sup> Busch 2005; Ortiz Mena 2005.

<sup>40</sup> Symposium Paper D.

<sup>41</sup> Symposium Paper D.

<sup>42</sup> Symposium Paper B.

***Institutional Creation.*** Institutional creation involves the design of entirely new institutions.<sup>43</sup> Familiar examples involve the initial creation of large scale IOs like NATO or the UN, but these are relatively rare events. More typically, creation occurs on a more modest scale through new institutional arrangements governing relatively smaller issues and sometimes connected to and even rooted in existing institutions. A great many of the intergovernmental organizations (IGOs) created in the last half-century represent such “emanations”.<sup>44</sup> For example, UNEP was created within the UN system to address emerging environmental issues in the 1970s. This provides a way to take advantage of the umbrella properties of the overall institution while avoiding its pathologies and tailoring its specific activities to different issues. It also lowers transactions and bargaining costs since creating an agency within an existing organization may be much easier than creating an entirely new organization.

While we have set forth these four choices as distinct alternatives, they overlap and coexist in practice. This is true quite commonly of the strategies of selection and change. For example, the inclusion of Trade-Related Intellectual Property (TRIPs) provisions inside the WTO simultaneously represents a case of institutional change (undertaken to the GATT via the Uruguay Round) and of selection (of the GATT/WTO versus the World Intellectual Property Organization (WIPO)).<sup>45</sup> Symposium Paper D

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<sup>43</sup> Several points of clarification are in order here. First, the broader concept of “institutional design” covers both creation of new institutions and change of existing institutions (Koremenos, Lipson and Snidal 2004, 6). Second, even the grandest instances of creation are not strictly *de novo* since it is hard to imagine creating an institution that didn’t rely on informal norms of the international system, on deep structural institutions such as sovereignty, as well as on embedded mutual expectations among actors. Our focus on formalized institutions does not require such an overly-comprehensive conception of the status quo. Finally, use or selection of an existing institution to handle a new problem is likely to change an institution in some (perhaps unanticipated) ways. While recognizing that the world is not as sharply categorized as our concepts, imposing such distinctions is important for theoretical clarity.

<sup>44</sup> Shanks, Jacobson and Kaplan 1996.

<sup>45</sup> We are grateful to Christina Davis for drawing this example to our attention.

shows how institutional choice in the area of financial accounting standards occurred in linked stages, with initial institutional selection followed by a distributionally-driven strategy of change.<sup>46</sup> Symposium Paper C’s analysis of human rights provisions inside preferential trade agreements (PTAs) could be read as simultaneously involving selection of PTAs (over existing human rights agreements, HRAs) and change to the PTAs themselves.<sup>47</sup> Distinguishing change and creation may also prove difficult in practice. Our general guideline is to define terms as clearly as possible: selection in terms of “picking” an institution from an unaltered institutional landscape, change in terms of “modifying” an arrangement previously in place, and creation in terms of the establishment of an institutional arrangement that is relatively autonomous from preexisting institutions. The line between these alternatives is not always clear, but we draw the distinction sharply here to highlight key differences.

### The Process of Institutional Choice

We take a slightly unconventional approach in developing our analysis of the problem of institutional choice presented in Figure 2. Although we treat our actors as strategic, we start with the decision theoretic problem facing an individual actor thinking through its institutional preferences. If all actors are roughly similar (e.g., in interests and capability), then our actor is representative and actors collectively would have the same institutional preferences.<sup>48</sup> We use this as a baseline against which to evaluate the consequences of differences in interests and capabilities in bargaining among states.

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<sup>46</sup> Symposium Paper D.

<sup>47</sup> Symposium Paper B.

<sup>48</sup> Of course, a key difference between decision theory and game theory is that a decision theoretic actor can directly choose its preferred outcome. In a game theoretic setting, outcomes are not individually accessible so that even if all actors prefer something (e.g., joint cooperation over joint defection in Prisoners’ Dilemma), the collective choice is not assured. We discuss this in terms of collective action problems below.

When different actors prefer different institutional arrangements then the outcome will depend partly on the relative power and strategies of different actors and partly on the relative difficulty of achieving alternative institutional outcomes.

We also use a slightly unconventional depiction of actors as boundedly rational.<sup>49</sup> Actors turn to institutions when the underlying problem is complex and cannot be managed through ad hoc arrangements. Moreover, institutions usually govern long run circumstances which cannot be fully anticipated and institutional rules – especially ones that involve substantial change to the status quo or delegation of authority to IOs – create great uncertainties of their own.<sup>50</sup> In these circumstances, bounded rationality is a more realistic assumption than that actors have full knowledge of the “optimal” outcome. Bounded rationality also indirectly captures constructivist and sociological insights regarding choice as guided by norms, culture and organizational processes in addition to instrumental goal-seeking.<sup>51</sup> Finally, bounded rationality is less idealistic than standard institutionalist views (in the sense that actors do not always find the optimum) and more sensitive to the limits of decision-makers. Therefore, we assume boundedly rational actors (satisficers) who have a much more limited view of the available alternatives and cannot always look all the way down the tree.

The bounded rationality assumption leads to a different interpretation of institutional choice along the tree in Figure 2. In standard decision theoretic analysis (and optimal design theory), actors are synoptic searchers (optimizers) able to canvass the

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<sup>49</sup> The classic statement of bounded rationality is Simon 1957. Bounded rationality emphasizes the limited ability of decision-makers to solve complex problems and argues that they solve such problems through heuristics such as satisficing or search routines. Thus bounded rationality entails a joint statement about the nature of the actors and of the problem they confront.

<sup>50</sup> Note the seeming paradox here. Institutional choice involves substantial uncertainty but, once adopted, institutions often reduce uncertainty among the actors.

<sup>51</sup> Barnett 1998; Checkel 2005; Odell 2002; Schimmelfennig 2001; Weaver 2005.

whole range of possible institutional strategies in light of their knowledge of the entire payoff structure.<sup>52</sup> They fold the decision tree back from its terminal outcomes to determine their best institutional choice given the available alternatives.<sup>53</sup> Unlike optimizers, boundedly rational satisficers fold the tree forward, considering alternatives further down the tree only when earlier options fail to satisfy a threshold requirement for institutional acceptability, defined either in cost-benefit (consequential) or cultural (appropriateness) terms. They seek satisfactory institutional solutions, not perfect ones.

Bounded rationality has different implications for actors' willingness to undertake more adventuresome institutional choices than do stronger rationality assumptions.<sup>54</sup> The bounded rationality assumption has the substantive implication of introducing a strong status quo bias into our predictions, with use and selection expected to be more prevalent than change and creation. Synoptic optimizing agents treat alternatives such as creation and change as risky alternatives characterized by probability distributions over (known) possible outcomes. If there is risk aversion and a significant probability of failure (with lower payoffs than use or selection) then rational actors will not venture further down the tree to change and creation. In general, however, change and creation would be predicted more frequently under an optimizing model than under a satisficing model. While the extent to which actors are optimizers versus satisficers is ultimately an empirical question, the distinction offers leverage on the conditions under which we should expect

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<sup>52</sup> The institutional design literature implicitly uses a synoptic approach in evaluating the existing equilibrium as representing a roughly optimal outcome in terms of design features (Koremenos, Lipson and Snidal 2004).

<sup>53</sup> See Stokey and Zeckhauser (1978: Chapter 12) for a standard account of backward-unfolding of decision trees. Although outcomes are not portrayed in Figure 2, they could be represented by payoffs at terminal nodes, with the names of strategies moved instead to their respective terminal branches.

<sup>54</sup> Another implication of this paragraph is that our analysis could be developed in terms of stronger optimizing assumptions. However, bounded rationality does not necessarily lead to the same consequences as pure rationality with risk (Bendor, Kumar and Siegel, 2004), but we do not explore those differences here.

full-fledged institutional change and creation versus institutional choice based on “ordering from the menu” offered by existing status quo institutions.<sup>55</sup>

Using this "forward-folding" approach, and taking institutionalized cooperation as given (i.e., working within the box in Fig. 2), we can then stylize a sequential choice process involving a series of questions about institutional choice. The first is whether a focal institution offers a satisfactory solution to the cooperation problem at hand. This involves assessing the advantages and disadvantages of using the focal institution. Advantages include economizing on search, transactions and bargaining costs. Disadvantages include the possibility that the some of the institution’s characteristics (e.g., membership, scope, etc.) are suboptimal for the new issue and that its distributional consequences are biased against the actor. If the advantages of the focal institution outweigh its disadvantages, the actor will pursue a strategy of institutional use.<sup>56</sup> “If it works,” US Ambassador John Bolton has recently said of the UN, “we’ll use it.”<sup>57</sup> If there is no focal institution, or if a seemingly focal institution is unsatisfactory or illegitimate, satisficers move to the next node in the tree to consider whether alternative institutions provide a sufficiently suitable solution to a cooperation problem.<sup>58</sup> This is the strategy of selection, i.e., the choice of one institution from a fixed but plural menu of alternatives. If there is no suitable alternative institution, actors consider the possibility of adapting an existing institution to deal with the problem by pursuing the strategy of

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<sup>55</sup> Jacoby 2004.

<sup>56</sup> Pure satisficing might not even engage this much scrutiny of the alternatives, although the emergence and salience of a new issue probably would engage some scrutiny. However, if an entrepreneurial IO pioneered an issue successfully, states might never engage the issue of alternative institutional venues.

<sup>57</sup> Frederick Kempe, “The UN’s Bolton Moment,” *Wall Street Journal*, 29 November 2005.

<sup>58</sup> Again, John Bolton has recently suggested as much with respect to the UN. See Colum Lynch, “Bolton Admonishes UN,” *Washington Post*, 23 November 2005.

institutional change. If no existing institution can be satisfactorily adapted, institutional creation is the only remaining alternative.

Although we focus on the ultimate institutional choice, we would also expect differences in search procedures down the tree under bounded versus optimal rationality. Individual optimizing predicts direct movement towards institutional outcomes, although these may be complicated by problems of bargaining and equilibrium selection in the collective case.<sup>59</sup> By contrast, bounded rationality predicts a search process only when the status quo is unsatisfactory and, even then, with a bias towards the next available alternative regardless of whether an alternative further down the tree would produce a better outcome. Thus we would expect to see a more evolutionary form of institutional development where actors first try an intermediate solution, and move on only if and when that proves unsatisfactory. Symposium Paper D provides an example of this when states first select the International Accounting Standards Committee (IASC) as an institutional solution to dilemmas surrounding establishment of financial accounting standards but, upon discovering its distributional implications, powerful states transform that body into the International Accounting Standards Board (IASB), which is more in line with their interests.

When actors are similarly situated in terms of preferences and capabilities, we should expect them to follow similar decisional processes. In this case, the preferences of the “representative actor” also indicate the likely collective preferences.<sup>60</sup> When actors are differentially situated, however, they will differ over preferred institutional choices. For example, actors who are distributionally favored by a focal institution will seek to

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<sup>59</sup> For a detailed analysis of why institutional change is difficult and incremental change more likely even under rational optimizing, see Abbott and Snidal (2005).

<sup>60</sup> As noted earlier, collective action problems may impede states from achieving their preferred outcome.

maintain it whereas actors who are disfavored will pursue strategies of selection, change or creation. The ultimate outcome will depend on their relative capability and, not surprisingly, powerful actors will be more likely to get their favored institutional outcome.

Actors with greater capability are also generally more inclined to substantial institutional action when the status quo is unfavorable. In part, this is because they have better information about more adventuresome institutional choices (i.e., are less bounded) but they are also better able to absorb the risk of more adventuresome choices. In addition, their participation helps overcome the collective action problems inherent in bigger institutional changes and they can usually shape new arrangements to maximize their own payoff. However, more powerful actors often are already be favored by the status quo institutions and, in those cases, will be reluctant to abandon them. This relation between the distribution of capability and the distributive properties of alternative institutions is crucial in the more detailed analysis of institutional choice below.

Finally, this section has treated international institutions as objects of choice but international organizations are also actors that make choices. Sometimes IOs behave with substantial independence and autonomy, especially in how they operate as organizations.<sup>61</sup> Existing IOs may play a crucial role in institutional choice by making themselves available for handling emerging issues, as the Association of Southeast Asian Nations (ASEAN) has done with respect to environmental haze, terrorism and the SARS outbreak.<sup>62</sup> Other times, IOs may resist incorporation of new issues or any institutional

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<sup>61</sup> Abbot and Snidal, 1998; Barnett and Finnemore, 1999, 2005.

<sup>62</sup> Severino 2003, 479; see generally Symposium Paper B.

adaptation necessary to handle them. When we discuss institutional choices in more detail below, we will also consider the role that IOs may have in shaping the institutional menu available to states.

### Summary

Our core contention is that actors choose institutions in response to cooperation problems and the institutional status quo. This section has laid some conceptual foundation for each element. We began by identifying key parameters of the cooperation problem. Then we discussed the institutional status quo as the set of available institutional alternatives at the time the cooperation problem arose. We emphasized the number of alternatives and the design features of membership and scope. Finally, we characterized institutional choice as a forward-folding decision process undertaken by satisficers. We thus relax the optimality assumption adopted in most of the literature in order to create space for theorizing institutional strategies, the task to which we now turn.

### **IV. Explaining Institutional Choice**

We argue that institutional choice depends on the nature of the cooperation problem and on the attributes of the institutional status quo. In developing our argument, we employ the forward-folding (satisficing) decision model introduced in the last section to examine the factors which push actors farther down the decision tree. We proceed sequentially down the tree, as would the actors, offering conjectures about the properties of cooperation problems and the institutional environment that might favor progressively more dramatic institutional choices. Our goal is to identify a few key factors, although we recognize that other variables and interactions among variables also affect

institutional choice. The points we cover are summarized in Table 2, which the reader may wish to consult for a preview of what follows.

### General Factors

Two general factors shape institutional choice. First, decisional costs – including transactions and bargaining costs – increase down the tree. For a given cooperation problem, the use of a focal institution is usually the least costly resolution.<sup>63</sup> Selection is costlier, since it requires consideration of (and possibly bargaining or debating over) multiple alternatives and therefore represents a more “roundabout” method for the production of collective choices.<sup>64</sup> Change and creation entail additional costs associated with a modification of the institutional landscape itself, although which of these two is most costly might depend upon particular circumstances.<sup>65</sup> This general relationship of increasing decisional costs serves to limit movements down the decision tree, as we elaborate below.

Second, risk and uncertainty increase the further one proceeds down the tree along the use-selection-change-creation continuum. Risk and uncertainty increase both because the impact of these increasingly dramatic institutional choices is harder to anticipate, and because the politics of collective choice are inherently less predictable as the scope of choice increases down the tree. Insofar as actors are risk (or uncertainty) averse, for example because they face domestic re-election constraints, we expect this to

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<sup>63</sup> Indeed, “use” captures the standard view that institutions lower transactions costs (Keohane, 1984; North 1990) but which also presupposes that the institution is given. The development of institutions (e.g., “change” and “creation”) often entails high transactions costs – even if the ultimate institutional choice lowers transactions costs for further interactions.

<sup>64</sup> Goldberg 1974; Majone 1989, 96.

<sup>65</sup> Where existing organizations have a stake in the status quo and some ability to raise the costs of changing it, à la bureaucracies in Moe's (1990) account, change will be more costly than creation (see also Mann 1984 and Pierson 1996; Pollack 1997). We capture this separately by considering the attitude of existing IOs to different institutional choices.

promote safer strategies of use and selection over riskier strategies of change and creation.<sup>66</sup> Again, our use of a bounded rationality approach emphasizes that states do not have full knowledge of various institutional consequences and are inclined to stick with the devil they know provided available outcomes are above some threshold.<sup>67</sup>

These general factors (costs and risks) reinforce the status quo bias built into our account of institutional choice.<sup>68</sup> All other things being equal, institutional use is the most commonly pursued strategy, selection next most common, and change and creation least common. Starting with use as the default institutional choice and examining alternative strategies as (potentially very important) deviations moves our analysis toward a fuller account of institutional choice in IR. Thus we organize our discussion around the institutional status quo, including the possible role of IOs, and the nature of the cooperation problem, including distributional and capability (or power) considerations. Our focus is implicitly on states as the primary choosers of international institutions (as they are) but the analysis can also be interpreted in terms of NGO, firm and IO strategies when applicable. Finally, while discussion is organized around relatively consensual (efficiency) choices by actors moving down the decision tree (or not), differences among actors are captured in the discussion of the distribution of interests and capability.

### Criteria for Institutional Use

*Status Quo Conditions.* Institutional use requires the existence of a focal institution in the status quo, which raises the question of when a status quo institution is likely to be focal.

Most obviously, this will hold where an existing institution has worked well for similar

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<sup>66</sup> Duffield 2003, 418.

<sup>67</sup> We do not emphasize the distinction between risk (probabilities over known possibilities) from uncertainty (unknown possibilities and/or probabilities). However, this distinction underlies the difference between bounded and optimizing approaches and provides important avenues for future theorizing.

<sup>68</sup> Abbott and Snidal (2005) offer a detailed discussion of why there is a status quo bias in general.

problems (defined both functionally and subjectively) in the past. The focal institution needs to have the correct basic properties – especially in terms of membership and scope but also whatever other institutional design features are necessary – to address the problem at hand. Questions of appropriateness and framing also matter: Symposium Paper B shows how the World Bank staff wields its technical expertise in crafting loans to gain autonomy from its member states and to implement its preference for financing projects rather than payments imbalances. These preferences remove the Bank as an institution operating in the institutional status quo, thus leaving the IMF to serve as the focal institution.<sup>69</sup> Whether reinforced by past successes, promulgated/reinforced by norm entrepreneurs, instantiated by organizational cultures, or simply shared by epistemic communities, norms may influence which institution is seen as appropriate for addressing any given problem.<sup>70</sup>

Focal institutions have important advantages for tackling new issues. They avoid the start-up costs of institutionalization and bring related expertise to the problem. They also incorporate established political arrangements for convening actors to solve a problem, and they may implicitly set aside other considerations (e.g., by circumventing new bargaining over distributional issues) that make cooperation more difficult. The focal institution is not necessarily optimal for addressing the new problem but, given the higher costs of institutional alternatives lying further down the tree, actors have an incentive to accept “good enough” solutions rather than seek perfect ones. However, distributional considerations are also important since actors who fare poorly under an existing institution will argue against its focalness for new issues.

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<sup>69</sup> Symposium Paper B; on this “mask” and “shield” dynamic see also Burley and Mattli 1993.

<sup>70</sup> Symposium Paper B; Hafner-Burton and Pollack 2000, 2002.

IOs can influence their own “focalness” for a problem. On the one hand, an entrepreneurial IO may take the lead in identifying an issue, proposing solutions and presenting itself as the “natural” place for the international community to address it. The WHO has recently done this with respect to the international control and regulation of tobacco (which involves trade and tax issues as well as health ones). On the other hand, an IO that might otherwise seem focal for a problem might resist handling it --perhaps because the problem is too difficult and the IO wishes to avoid failure, or because the new issue will interfere with its existing operations. Finally, complex problems are sometimes addressed by arrangements based on a consortium of existing institutions, such as the "regime complex" surrounding plant genetic resources.<sup>71</sup>

*Cooperation Problem.* The nature of the cooperation problem also shapes the relative attractiveness of institutional use. Issues that arise incrementally out of earlier ones already successfully dealt with by the focal institution would seem the likeliest candidates for use. Focal institutions will be used especially when stakes are low and it is not worth incurring the additional costs of more elaborate institutional choices. Short time horizons favor use since one can move directly from problems to producing outcomes (within institutions), without the intermediate delays inherent in (re-)defining the institutional framework itself. Finally, the collective action problems of pursuing alternative institutional strategies make use the "default strategy" as the number of actors increases. In summary, institutional use is most likely when the existing focal institution offers a satisfactory solution to a new problem as compared to the more costly and uncertain institutional alternatives further down the tree.

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<sup>71</sup> Raustiala and Victor 2004.

Distributional considerations and contestation over “focalness” also influence the decision to use an institution. Mild distributional problems encourage actors to coordinate around (use of) a focal institution to obtain the efficiency gains of cooperation without being caught up in distributional battles over institutions. Uncertainty over the distribution of gains may also encourage use of the existing institution, although uncertainty could raise calls for institutional change to minimize its impact.<sup>72</sup> But when distributional considerations loom large, “losers” will contest and try to circumvent the focal institution whereas “winners” will try to maintain it. The ability to do so depends on the distribution of capacity. Powerful actors, especially those with “go-it-alone” power,<sup>73</sup> may be able to disrupt the focal institution and force movement to their preferred alternative institution down the tree. Less powerful “losers” will be unable to force such change even in coalition, as illustrated by the inability of the Group of 77 to exact significant institutional change in the major international economic institutions. By contrast, winners are advantaged by the focalness and stability of existing institutions so that weak winners may prevail over somewhat stronger losers given the costs and risks of more dramatic institutional change.<sup>74</sup>

In sum, “use” represents the modal institutional choice in IR since it allows actors to gain the benefits of cooperation on a new issue without engaging in more costly forms of institutional choice. We have identified factors that militate in favor of this strategy.

Where these conditions fail to hold, and especially when distributional differences

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<sup>72</sup> Koremenos (2001, 2005) discusses the design of flexibility provisions to “contract around” uncertainty. This example reminds us that the boundaries between our categories are not as sharp in practice as we are trying to draw them in theory.

<sup>73</sup> Gruber 2000.

<sup>74</sup> Are powerful or weaker states more likely to seek institutional change? On the one hand, the institutional status quo is likely to already favor the powerful; on the other hand, powerful actors will have the largest say in institutional change and creation. Thus rising powers should be more likely to pursue institutional change and declining powers to support status quo institutions.

dominate efficiency considerations, actors will consider moves further down the decision tree to alternative – but costlier and riskier – institutional possibilities.

### Criteria for Institutional Selection

*Status Quo conditions.* Institutional selection is likeliest when multiple extant institutions could handle the problem, but none is “focal.” Such a condition might hold where actors have fairly dense institutional relations across a number of issues that may be functionally, technically, geographically, normatively or politically linked to the issue at hand.<sup>75</sup> In this case, two or more institutions may have properties -- e.g., in terms of membership and scope – that would be satisfactory for the new issue. Symposium Paper D’s account of the institutional status quo for financial accounting standards through the 1980s, for example, describes four separate venues –the UN, the OECD, the EU and the IASC—with the properties suitable for handling cooperation dilemmas arising in that issue-area.<sup>76</sup> As with use, norms of appropriateness may also guide the selection process, opening or foreclosing selection possibilities.<sup>77</sup>

IOs themselves may take the initiative to shape actors' sense of selection possibilities -- either to deflect attempts to employ them or to "bring in business" by making themselves available for the emerging issue. IOs may open or close themselves for business as a function of norms emanating from their internal cultures or because new issues are a better or worse “fit” with their organizational structure.<sup>78</sup> With multiple

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<sup>75</sup> Aggarwal 1985, 1998; Young 2002; Alter and Meunier 2006. Institutional overlap may also occur for reasons of “bad” design or because actors who fare badly under one institution have created a counter-institution (e.g., UNCTAD as a less developed country counter to institutions perceived as biased toward developed country interests). However, we take the set of institutions as given and do not try to explain the status quo institutional landscape here.

<sup>76</sup> Symposium Paper D.

<sup>77</sup> Symposium Paper B.

<sup>78</sup> For example, Abbott and Snidal (2002) discuss why the “hard law” WTO was not as suitable a forum for dealing with international bribery as was the “soft law” OECD. Symposium Paper B similarly documents

institutions in the status quo, this may lead to inter-institutional competition on the supply-side, though there are also many examples of “peaceful coexistence” among jurisdictionally overlapping institutions.<sup>79</sup> On the demand side, individual actors may “forum shop” to locate the issue in an institutional arrangement that favors them distributionally.<sup>80</sup>

*Cooperation Problem.* The contours of the cooperation problem shape the decision to select or to move still further down the decision tree. Selection is most likely with moderate stakes sufficient to justify the additional search, transactions and bargaining costs of institutional selection, but not so great as to promote strategies of change or creation. Similarly, time horizons need to be long enough to justify a more “roundabout” strategy, but not so long as to warrant the more time-consuming and still more costly processes of change or creation. Finally, selection processes are manageable even with moderately large numbers of actors since the limited number of alternatives simplifies collective action and bargaining problems.

Distributional differences can also lead to institutional selection. Indeed, a prime reason for the absence or breakdown of a focal institution is that some actors are dissatisfied with its distributional consequences and have sufficient capability to reject it. This leads to efforts to locate the issue in alternative institutions and raises selection problem corresponding to traditional conceptions of forum shopping.<sup>81</sup> Such efforts will be most successful when led by powerful actors, as the United States managed to do with

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how changes in the World Bank’s organizational culture shaped states’ opportunities to select it for their balance of payments financing.

<sup>79</sup> Symposium Paper B; Werle 2001.

<sup>80</sup> Baumgartner and Jones 1993; King 1997; Davis 2003; Jupille 2004; Mattli 2004.

<sup>81</sup> For recent analyses of forum shopping in IR and international law see Alter & Meunier 2005, Busch 2005, Davis 2003, Helfer 2004; Ortiz Mena 2005.

intellectual property rights. An existing institution will provide an acceptable outcome if it offers enough of what the powerful state could achieve through outside options such as unilateralism while avoiding the costs of bargaining and possible disruption of such action. But if the available alternatives have markedly different distributional consequences and none represents a mutually acceptable bargaining compromise, then competition over selection will be intense and selection may break down.

In this regard, it is worth noting that powerful actors may raise selection as a strategy to disrupt a focal institution in order to move an issue outside of the institutionalized framework. This is arguably the “Bolton strategy” in increasing competition with the UN.<sup>82</sup> Related examples include US efforts to move issues such as telecommunication and internet standards from the purview of IOs to the market. Although such strategies are not the focus of this analysis (i.e., they are outside the box of Figure 2), these outside options play an important role in strengthening powerful actors and in delimiting the set of viable institutional choices.

In summary, selection is advantaged insofar as handling the cooperation problem inside an existing institutional arrangement involves lower costs and uncertainty than institutional change or creation. The move from use to selection is in some ways less momentous than the move from selection to the remaining strategies, since the first two strategies both accept the institutional status quo, while the others endeavor to change it. Change and creation require more significant investments in institutional production not required of the first two strategies. We expect that relatively strict conditions would be required to justify such investments.

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<sup>82</sup> Ruth Wedgwood, “Give the United Nations a Little Competition,” *New York Times*, 5 December 2005, p. A23.

## Criteria for Institutional Change

*Status Quo Conditions.* Sometimes the status quo includes no institutional alternative that can deal effectively with the cooperation problem at hand while an existing institution might be modified to address it.<sup>83</sup> Institutional change thus starts with alternatives "off the shelf" (in the status quo), but modifies the institutional landscape in response to actors' needs. The most general status quo condition favoring institutional change, then, is the prior existence of institutions characterized by substantial, but not complete, incongruity with the cooperation problem at hand. Existing institutions may have suitable scope but need to be modified in the membership dimension, or vice versa. While they may initially have been created for other purposes, they may be amendable to suit new problems insofar as they embody fungible rather than specific assets.<sup>84</sup>

An important factor shaping the prospects for institutional change is the relation between change and the effectiveness of the designated institution for its current tasks. If the proposed change "crowds out" or impinges on existing functions -- perhaps by straining limited organizational resources or because the appropriate arrangements for handling the new issue are inconsistent with those appropriate for its current issues -- then institutional change is a less attractive alternative. This concern has surfaced with respect to proposals to use the WTO to handle "trade-related" issues such as human rights and the environment that some fear will interfere with its effectiveness on traditional trade issues. However, Symposium Paper C among others demonstrates the broad

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<sup>83</sup> Normally we think of this as a problem that no existing institution has all necessary features to address some problem. For example, there might be no institution that both encompasses the right membership *and* possesses the appropriate enforcement mechanism. But it could also be the case that a candidate institution has too many features (e.g., it has the right membership but they don't want a strong enforcement mechanism for the emergent issue).

<sup>84</sup> Wallander 2000.

possibilities for incorporating a variety of “new” provisions (such as human rights protections) into existing regimes.<sup>85</sup>

For these and other reasons, IOs themselves might be active players in processes of institutional change. In some cases, IOs may position themselves in new areas of operations. This may result from a desire to expand organizational goals—as with the “creeping competence” of the EU—or from a “battle of ideas” within an IO where internal norm entrepreneurs successfully redefine an organization's purpose.<sup>86</sup> In other cases IOs will actively resist incorporation of the new issue if it is not consistent with its organizational culture or will interfere with its activities. Nielson and Tierney systematically demonstrate the ways in which the World Bank’s culture intervened first to resist and then, under member state pressure, to embrace organizational changes designed to permit greater sensitivity to the environmental implications of Bank lending.<sup>87</sup>

*Cooperation Problem.* When will cooperation problems lead to institutional change? It requires a relatively high stakes cooperation problem to justify the costs and risks of institutional change, as where an important new issue with significant domestic consequences arises abruptly on the policy agenda. Time horizons will also have to be relatively long to justify the longer process of change. Finally, actors must also be willing to tolerate some risk to open the Pandora's Box of change, though this is presumably mitigated through grounding in an existing institution.

When the emerging issue is relatively harmonious, efficiency considerations should predominate so institutional change will be reasonably consensual. Collective

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<sup>85</sup> Symposium Paper B.

<sup>86</sup> Pollack 1994, 2000; Symposium Paper B.

<sup>87</sup> Nielson and Tierney 2003.

action problems nevertheless may be significant, but can be mitigated if an existing IO is supportive of overcoming them. But when an issue entails serious distributional issues, possibly aggravated by uncertainty over the likely consequences, institutional change will be contentious. This makes collective action more difficult to orchestrate and may lead the IO to resist change. One possible solution is for small, fairly homogenous groups of actors to solve the problem through club or local public good solutions – provided they are able to define such boundaries.<sup>88</sup> This is one reason given by Symposium Paper C for the attachment of human rights provisions to regional trade agreements, rather than to the WTO.<sup>89</sup> Otherwise, change may require substantial degrees of resource heterogeneity where a hegemon or a preponderantly powerful subgroup provides leadership in changing the institution over the objections of others. According to Symposium Paper D it was preponderant bargaining power that allowed the Anglo-Saxon camp to change the International Accounting Standards Board (IASB) in line with its clear preferences in the area of financial accounting standards.<sup>90</sup> Of course, distributional outcomes are likely to favor the lead group.

### Criteria for Institutional Creation

*Status Quo Conditions.* *De novo* creation is the result of substantial gaps in the institutional status quo.<sup>91</sup> No extant institution is "focal" and none even seems suitable for modification. This may reflect the absence of institutions in the issue-space (for example, with respect to newly arisen problems), at least with respect to the set of actors (membership) or the particular issue (scope) in question. The institutional gap may

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<sup>88</sup> Ostrom 1990.

<sup>89</sup> Symposium Paper B.

<sup>90</sup> Symposium Paper D.

<sup>91</sup> The extreme case is where prior institutions have been destroyed by war so the institutional status quo is effectively a blank slate (e.g., Ikenberry 2000).

reflect normative assessment that existing institutions are, for whatever reason, illegitimate or otherwise inappropriate to the task at hand. Or perhaps institutional change would be too costly in terms of the reduced functionality of existing institutions with regard to their current activities. Whatever the case, the substantial risks and costs of institutional creation mean that it is likely to be undertaken when no alternative institutions are available.

The absence of suitable IOs suggests that they will not be important actors in institutional creation. However, insofar as IOs (or their backers) aspire to manage an emerging issue – as the International Telecommunications Union (ITU) has with respect to the internet issues handled by the newcomer ICANN –they may interfere with the smooth creation of new institutions. Alternatively, IOs that recognize that they are not well-suited for a new task may provide a setting within which to launch a new organization. Now the creation of a new institution will be done with its relationship to existing IOs firmly in mind. Thus the Global Environmental Facility (GEF) was established as an independent agency but with the World Bank responsible for its financial management, UNDP responsible for technical assistance and UNEP responsible for scientific guidance and seven other IOs contributing to the management of specific projects.<sup>92</sup> The GEF illustrates how new institutions may be created “within” existing ones, yet with substantial independence of their own. This allows the new institution to be adapted to the new problem while minimizing agency losses by maintaining substantial control through existing and known institutional arrangements.

*Cooperation Problems.* Because institutional creation is difficult and costly, actors will pursue it only when the stakes are high -- as in the sudden emergence of a

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<sup>92</sup> See [http://www.gefweb.org/What\\_is\\_the\\_GEF/what\\_is\\_the\\_gef.html](http://www.gefweb.org/What_is_the_GEF/what_is_the_gef.html), last accessed 12/17/05.

serious problem. Moreover, time horizons must be relatively long since creation usually takes time to accomplish. Actors must also be willing to tolerate the potentially substantial risks of opening the Pandora's Box of institutional creation, unmoored as it is from existing institutions. While the GEF case shows how principals may structure creation to minimize such consequences, often the ultimate effectiveness of an institution rests on its achieving some autonomy, so that states, for example, ultimately cannot avoid sovereignty costs if they are to achieve their other goals.

Distributional and power considerations will be at the fore of institutional creation. The GEF illustrates how the United States and other G-7 members defined the global environmental issue, located it in an institutional structure that they controlled and, more generally, preempted the more ambitious North-South plan subsequently outlined as Agenda 21 at the 1992 Rio conference. In particular, the United States was keen to involve the World Bank to ensure that there would be careful financial oversight of environmental funds by an agency itself subject to close American scrutiny. Finally, collective action problems are severe in the case of creation, making it best undertaken by small groups of the like minded (*k*-groups) or under powerful or even hegemonic leadership. The impact of distributional considerations in inhibiting creation may be mitigated, however, because the absence of alternative institutions means that “losers” (now only in a counterfactual sense) are less readily identifiable and because the absence of alternative institutions eliminates an important resource for organizing opposition to creation.

## Summary

Table 2 provides a stylized summary of these arguments, and should be read with caution. Columns represent the different institutional choices arranged with “bigger” choices (i.e., those further down the tree of Figure 2) shaded more darkly. Rows represent the independent variables divided into three general categories. The top section includes the general factors of costs and risk/uncertainty which increase with -- and therefore inhibit -- larger forms of institutional change. The middle section reflects the role of status quo institutions both as providing the initial institutional environment within which institutional choice occurs as well as the sometimes central roles of existing IOs in institutional choice. The bottom section outlines key factors that promote more dramatic institutional choices. These effects are not simply additive and interactions among factors needs to be kept in mind. In particular, distributional differences provide incentives for pushing institutional choices further down the tree – but only if it is powerful actors that are behind such choices. Finally, the table does not incorporate the normative and legitimacy considerations which play an important role in enabling and promoting different institutional choices.

A few very basic points emerge from the foregoing discussion. First, the problem of institutional choice is interesting when actors cannot move automatically to the institutional optimum. We incorporate this by modeling decisionmakers as bounded rather than synoptic, although an alternative specification could assume that optimization is hindered by certain costs (e.g., search, bargaining). Second, making this move reverses a number of traditional theoretical priorities. The status quo takes on much greater importance; movements away from it represent, if not puzzles, then at least phenomena

of particular interest. Third, we point up some possible explanations by identifying features of the institutional status quo (including the role of any existing IOs) and of the cooperation problem (including the distribution of interests and capability) that affect movements down the tree. The broadest implication is that more severe circumstances, defined as some combination of insufficient institutionalization and significant cooperation problems, drive the pursuit of costlier and riskier strategies.

## **V. Conclusion**

Two decades of sustained work on institutionalized cooperation have yielded substantial progress. We understand a great deal about how international institutions ameliorate the problem of cooperation under anarchy, both in general and in terms of specific dilemmas and design features. This paper builds out from this frontier by elaborating the variety of institutional choices – use, selection, change and creation— available to actors in the international system. Bounded rationality, risk aversity and the transactions costs of greater institutional choice generate a status quo bias towards using an existing focal institution. But institutional choice also responds to properties of the cooperation problems and of the institutional status quo. Where existing institutions work satisfactorily for the problem at hand, simple use is the obvious strategy. If alternative institutions are available or can be adapted to the problem, then selection and change become more prominent alternatives. Greater stakes, longer time horizons and the distributive interests of the powerful in changing the status quo promote more adventuresome institutional choices, including creation of new arrangements.

The analysis contributes to four promising theoretical avenues for the study of international institutions. First, it includes efficiency considerations but also joins recent

efforts to take power and distributional issues seriously as important determinants of institutional choice.<sup>93</sup> Second, it includes state-centric approaches but treats international organizations themselves as meaningful actors that shape the menu from which states, firms, NGOs and other actors make their choices.<sup>94</sup> Third, bounded rationality is developed as a realistic modification to the standard institutionalist assumption of synoptic rationality and this creates possible connections to constructivist approaches.<sup>95</sup> The fourth and potentially most important theoretical advance lies in integrating otherwise disparate accounts of institutional use, selection, change and creation. Specifying the conditions under which actors will pursue alternative institutional strategies defines scope conditions for the choice of any individual institutional strategy even as it brings them together within a single institutional choice framework.

The challenge of applying this framework is taken up in the papers that follow in this symposium. Symposium Paper C analyzes the increasingly prevalent strategy of institutional change to include human rights provisions inside preferential trade agreements (PTAs) in the face of an institutional status quo densely populated with existing human rights agreements (HRAs). The author finds that cooperation problems (especially state preferences over enforcement and distribution) and the properties of the institutional status quo (the insufficiency of HRAs as solutions to these dilemmas) generate this outcome. Symposium Paper D shows how exogenously-changing cooperation problems (the widened scope of financial standard-setting dilemmas attendant to globalization) led in the first instance to a dynamic of institutional selection

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<sup>93</sup> Krasner 1991; Morrow 1994; Gruber 2000; Barnett and Duvall 2004.

<sup>94</sup> Barnett and Finnemore 2004.

<sup>95</sup> Katzenstein, Keohane and Krasner 1998; Fearon and Wendt 2002; Jupille, Caporaso and Checkel 2003; Wendt 2001; Zürn and Checkel 2005. For an exception see Checkel 2005.

(of the International Accounting Standards Committee, IASC) over other extant options (UN, OECD, EC), and how this quickly gave rise to distributionally-driven strategies of institutional change. Symposium Paper B's analysis of "shopping with the sisters" (the IMF and the World Bank) for payments financing explains variations in states' payments financing strategies with reference to the status quo shaping power of internal organizational culture. Such changes on the "supply side" (i.e., within IOs) can generate aperture and foreclosure effects, reshaping the status quo and substantially, to that extent, shaping institutional strategy choices. While these analyses show how our institutional choice framework (emphasizing cooperation problems and institutional status quos as determinants of strategies) applies across very different substantive problems and can accommodate very different methodological approaches, three cases obviously cannot provide a comprehensive test of the arguments developed here. What the cases do offer is preliminary validation that the framework advances understanding of institutional choice across a wide range of different circumstances.

Finally, a better understanding of institutional strategies offers insight into questions of policymaking and global governance. As new cooperation problems emerge, states and IOs face real issues about to address them. Understanding the menu of choices that is available, the motivations that different actors have for different institutional strategies and the limits imposed by the costs and risks of bigger institutional choices may ultimately help improve those choices.

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	USE	SELECT	CHANGE	CREATE
<b>Costs</b>	<b>FACTORS INHIBITING BIGGER INSTITUTIONAL CHOICES</b>			
	Increasing costs →			
<b>Risk and Uncertainty</b>	Increasing risk/uncertainty →			
<b>Institutional Status Quo</b>	<b>STATUS QUO INSTITUTIONS</b>			
	Focal Institution w. "right" properties	Multiple Alternative Institutions	No Satisfactory Institution; One can be adapted	No institution willing and able to handle new issue
<b>IO Role</b>	Entrepreneurial in raising issue; supportive	Possible inter-IO competition; forum-shopping	IO support	Possibly supportive from outside
<b>Cooperation Problem</b>	<b>FACTORS PROMOTING BIGGER INSTITUTIONAL CHOICES</b>			
	Increasing stakes →			
<b>Stakes</b>	Longer time horizon →			
<b>Time Horizon</b>	Decreasing $n$ ; Increasing Asymmetry →			
<b>Number</b>	Increasing Distributional Differences →			
<b>Distribution</b>	Powerful actors satisfied → Powerful States Take Lead			
<b>Capability Distribution</b>	→			

**Table 2: Summary of Key Factors Affecting Institutional Choice**

