

## **International Institutions and Compliance with Agreements**

Sara McLaughlin Mitchell  
Department of Political Science  
341 Schaeffer Hall  
University of Iowa  
Iowa City, IA 52242  
(319) 335-2471 (Office)  
(319) 335-3400 (Fax)  
sara-mitchell@uiowa.edu

Paul R. Hensel  
Department of Political Science  
Florida State University  
Tallahassee, FL 32306-2230  
(850) 644-7318 (Office)  
(850) 644-1367 (Fax)  
phensel@garnet.acns.fsu.edu

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**Abstract**

The ultimate litmus test of compliance theories occurs in situations where states' interests are directly opposed, such as competing interstate claims over territory, maritime areas, and cross-border rivers. This paper considers the extent to which the involvement of international institutions in the settlement of contentious issues between states bolsters compliance with agreements that are struck. Institutions may influence the prospects for compliance *actively* and *passively*. Active institutional involvement in the conflict management process increases the chances for compliance with agreements, particularly for binding institutional activities, relative to the active involvement of non-institutional third parties. More passively, joint membership in peace-promoting institutions enhances the likelihood that states will comply with peaceful agreements to resolve contentious issues. Empirical analyses demonstrate the relevance of international institutions for resolving contentious interstate issues both actively and passively, although the results suggest that institutions are more effective conflict managers when they choose binding settlement techniques.

**Keywords: compliance, international organizations, institutions, territory, maritime, rivers**

Institutions figure prominently in the theoretical landscape of Political Science, shaping political outcomes and influencing political behavior. Institutional analysts address a multitude of questions including how institutions form, how they define roles or establish norms, how institutions structure incentives, and why certain institutions succeed while others fail. The wide array of institutionalisms (e.g. historical, rational choice, new, sociological, and neoliberal) in the discipline attests to the important role institutions play in politics.

Yet in the scholarly community of international relations, the influence of institutions (IOs) on interstate interactions is heavily debated. Three prominent views can be found in the academic literature, identifying a *positive*, *negative*, or *null* relationship between international institutions and interstate cooperation. The positive view, put forward by institutionalists, emphasizes the importance of institutions (or regimes more broadly) in mitigating the effects of anarchy and enhancing the prospects for cooperation among states. Neoliberals argue that institutions facilitate cooperation by decreasing transaction costs, reducing uncertainty, and increasing the flow of information among member states (Keohane 1984; Abbott and Snidal, 1998). The negative view identifies situations where institutions may reduce the likelihood of cooperation, and may even increase the chances for militarized conflict. This line of research is represented most clearly by alliance theories that identify situations when alliance members are likely to use militarized force against each other (Bueno de Mesquita 1981; Ray 1990). A negative relationship is also implied by research showing that shared membership in preferential trade agreements encourages the use of economic sanctions by exacerbating social power structures (Hafner-Burton and Montgomery 2006). Finally, the null theoretical position, occupied most prominently by realist scholars, views international institutions as epiphenomenal. Realists argue that states join IOs and comply with their edicts only when it suits their self-

interests. Furthermore, if relative gains concerns are paramount (Grieco 1988; Mearsheimer 1994/95), states will not cooperate with other states when their primary security concerns are compromised.

Many difficulties arise when trying to assess these competing theoretical perspectives. First, we must be able to identify the divergence in state preferences when states bargain over a particular issue. Much of the literature on cooperation assumes a mixed-motive situation, such as the Battle of the Sexes (Morrow 1994), where states would like to cooperate, but disagree about the particular outcome or solution to their competition. When relative gains concerns are paramount, then such situations often become extremely conflictual, resembling the Prisoner's Dilemma game (Snidal 1991). Scholars often examine historical cases to find support for their arguments, with realists typically focusing on situations where states' interests are extremely divergent (e.g., U.S.-Soviet relations in the Cold War) and institutionalists focusing on situations where states' interests are fairly similar (e.g., cooperation within the European Union).<sup>1</sup>

Analyzing compliance with agreements raises additional issues. There is some debate about the depth of cooperation in international regimes, because in many cases agreements that are reached do not call for behavior that is much different from what states likely would have done anyway (Downs, Rocke, and Barsboom 1996). Other theorists link bargaining and enforcement, and demonstrate that long shadows of the future and repeated interactions might make enforcement easier, but bargains harder to strike (Fearon 1998). These types of arguments suggest that the set of signed agreements observed in international relations is not random, but rather is over-sampled on the shallow end of the cooperation spectrum, which explains why we observe high rates of compliance in international agreements (Fortna 2004; von Stein 2005).

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<sup>1</sup> See also Mearsheimer (1994/95) and Keohane and Martin (1995).

These critiques stand in contrast to managerial approaches, which view noncompliance as stemming from ambiguities in treaties, insufficient state capacity, or shifting international and domestic environments (Chayes and Chayes 1993).

The ultimate litmus test of cooperation and compliance theories occurs in situations where states' interests are directly opposed, such as competing interstate claims over territory, maritime areas, and cross-border rivers. In this paper, we consider the extent to which the involvement of international institutions in the settlement of contentious issues between states bolsters compliance with agreements that are struck. States may be reluctant to turn to global or regional institutions to help resolve highly salient issues. Yet we expect that states are more likely to comply with any settlements that are reached with the help of such institutions, especially if these settlements are reached through arbitration or adjudication.

Using a rationalist bargaining model, we argue that IOs influence the prospects for compliance *actively* and *passively*. Active institutional involvement in the conflict management process increases the chances for compliance with agreements, particularly for binding institutional activities, relative to the active involvement of non-institutional third parties. More passively, joint membership in peace-promoting institutions enhances the likelihood that states will comply with peaceful agreements to resolve contentious issues, even when these institutions are not directly involved in the conflict management process. Our research suggests a newfound optimism for the role of international institutions in resolving contentious issues in world politics, although it makes clear that success depends on *how* IOs intervene.

### **Contentious Issues in World Politics**

Unlike the realist description of world politics as a struggle for power (Morgenthau 1967) or a struggle for security in an anarchic interstate system (Waltz 1979), an issue-based approach

views world politics as an arena in which states contend over many different types of issues (Keohane and Nye 1977; Mansbach and Vasquez 1981; Diehl 1992; Hensel 2001). From this perspective, state leaders choose among various cooperative or conflictual foreign policy tools to pursue their goals over issues, ranging from taking no action to peaceful conflict resolution (in the form of bilateral or third party negotiations) to militarized conflict. How states choose among these foreign policy tools has been an important focus of previous research. Hensel's (2001) analyses suggest that militarized conflict and bilateral negotiations are more likely over highly salient issues, while binding third party conflict resolution is less likely.

The present paper examines the factors that make peaceful conflict resolution more or less likely to *succeed*. When do states comply with agreements to end their contentious issues? To what extent does the decision to involve international organizations in the resolution of contentious issues influence the prospects for compliance with any settlements that might be reached? The importance of these questions can be illustrated by the recent International Court of Justice (ICJ) ruling over the border between Nigeria and Cameroon. On October 10, 2002, the ICJ issued a comprehensive decision defining the path of the Nigeria-Cameroon border, including a controversial award of the Bakassi Peninsula to Cameroon. Because this area contains valuable offshore oil and fishing resources, and because most of the Peninsula's residents consider themselves Nigerian and had argued vigorously against being transferred to Cameroon, Nigeria announced its rejection of the award on October 23. Although much more powerful than Cameroon, Nigeria quickly ruled out the possibility of war over the territory, and UN officials soon arranged a series of meetings between Nigerian and Cameroonian diplomats to resolve the matter. Carrying out part of the ICJ award, Nigeria and Cameroon exchanged 33 villages along with other portions of the border in December 2003, although full resolution of the

territorial settlement did not occur until August 2006 when Nigeria withdrew 3,000 troops from Bakassi and formally ceded the northern part of the peninsula in an August 14<sup>th</sup> ceremony.<sup>2</sup>

This case highlights theoretical disagreements between neorealists and institutionalists. Neorealists would suggest that Nigeria's leaders should have rejected the ICJ ruling if losing the disputed territory was not seen as being in their security interests -- while Cameroon's leaders should accept the ruling, since gaining the disputed territory would be in their best interests. In contrast, institutionalists would suggest that both Nigeria and Cameroon should accept the ruling, especially if they wish to avoid the reputational costs that would be incurred if one or both sides reneged on the ICJ judgment. The theoretical argument developed in this paper moves beyond the question of *whether* IOs matter for compliance and considers more carefully *how* IOs might bolster compliance with agreements (Martin and Simmons 1998).

### **Institutions and Compliance**

Our theoretical argument focuses on the *active* and *passive* effect of international institutions on compliance. IOs have an active effect on interstate bargaining when they help states resolve contentious issues directly as third parties and support parties' compliance with agreements. The active involvement of IOs in the conflict management process includes both facilitative intervention in the form of good offices, mediation, conciliation, and fact-finding, and binding intervention in the form of arbitration or adjudication (Abbott and Snidal 1998). IOs also influence interstate bargaining more passively through the pressure they exert on member states to settle their disagreements peacefully. In this context, even though IOs do not directly serve as mediators, they lengthen the shadow of the future and raise reputational costs for treaty violation.

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<sup>2</sup> See BBC News 08/14/2006; Deutsche Presse-Agentur 7/16/2004.

Theoretically, we assume that two states disagree over some issue in world politics, that both sides prefer reaching an agreement as close as possible to their ideal point, and that both sides prefer striking a bargain peacefully to obtaining what they want through militarized force. States have many options in this bargaining process, including doing nothing, bargaining bilaterally, or seeking out assistance from third parties. To understand how international organizations influence bargaining over contentious issues, it is useful to consider how they alter strategic decision-making. “For IGOs to influence dispute behavior, they must impinge on the causal processes that lead states to fight. An evaluation of the utility of IGOs as a means for promoting peace necessarily involves linking the capabilities and actions of IGOs with the decision calculus of states in conflict” (Boehmer, Gartzke, and Nordstrom 2004, 6). Concurring with this argument, we proceed by identifying several factors that influence compliance with agreements, describing how the active or passive involvement of IOs influences decisions about compliance. While we recognize that bargaining and enforcement are interrelated processes (Fearon 1998), we focus our discussion on the active and passive effects of IOs on compliance, or whether states comply with the terms of agreements that are struck.

We begin with a well-known bargaining model in world politics, Fearon’s (1995) rationalist explanations for war. Fearon seeks to explain the central puzzle of war, namely why states fight wars given that fighting is costly. He argues that the occurrence of war can be explained by private information (and incentives to misrepresent it), commitment problems, and issue indivisibilities. First, he notes that states often have private information about their capabilities, resolve, or value for the issue at stake (or issue salience), which can produce bargaining failures because both sides calculate reasonable chances for winning a military contest, which “will certainly shrink and could eliminate any *ex ante* bargaining range” (Fearon

1995, 391). Second, states may be unable to agree to a peaceful bargain because they cannot credibly promise to comply with the terms of the agreement in the future. Offensive and first strike advantages narrow the bargaining range, and may create temptations to defect or renegotiate any deals previously struck (Werner 1999). Finally, war may occur because some issues are so important to both sides that a feasible bargain does not exist.<sup>3</sup> We assume that private information, commitment problems, and issue indivisibilities increase chances for noncompliance because one or both disputants will face greater temptations for renegeing on any agreement reached.

Boehmer, Gartzke, and Nordstrom's (2004) theory links international institutions and rationalist bargaining models. They argue that "IGOs will have the greatest impact on dispute behavior in a limited number of ways related to mandate, member cohesion, and institutional structure (p. 7)." Like Fearon (1995), they emphasize the informational part of the bargaining model, concluding that information asymmetries are reduced by IOs that have clear mandates for security, strong internal member cohesion, and strong institutional mechanisms for sanctioning and enforcement. In other words, private information about competitor states is best revealed by IOs that can employ effective costly signaling, which they argue is strongest in cohesive, security-based IOs that are highly institutionalized, such as NATO. This theoretical argument

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<sup>3</sup> Fearon's (1995) theory emphasizes private (or incomplete) information and commitment problems. The ability of two adversaries to find an acceptable bargain also depends on reciprocity, the shadow of the future, audience and reputation costs (both domestic and international), the costs of fighting, resolve, transactions costs, etc. We integrate many of these factors into our theoretical argument below. See Powell (2002) and Reiter (2003) for reviews of the bargaining literature.

and supporting empirical evidence is important because it suggests that the effect of IO memberships on compliance varies depending on institutional structure. However, IOs employ a variety of strategies as conflict managers and some tools may work better than others. Involvement by a cohesive and structured IO may work best when the tools employed by the organization entail the greatest reputational and renegeing costs, which we argue occurs when IOs engage in active and binding forms of conflict management.

### Active IO Involvement

When we describe *active* IO involvement in the conflict management process, we refer to situations where IOs help to resolve conflicts directly as third parties. To determine if active IO involvement improves the chances that contending parties will comply with agreements to resolve contentious interstate issues, we must consider how the active involvement of an international organization alters the dyadic bargaining process.

First, because private information creates incentives for states to misrepresent their true interests in the bargaining process (Fearon 1995), active IO involvement can help to mitigate this uncertainty through the provision of objective information about each side's capabilities, resolve, and interests (Abbott and Snidal 1998). IOs typically collect independent information about a disputed issue when they intervene as active conflict managers, increasing the flow of unbiased information among member states (Keohane 1984, 94). Furthermore, international institutions establish patterns of legal liability or accountability, and "like contracts, help to organize relationships in mutually beneficial ways...Contracts, conventions, and quasi-agreements provide information and generate patterns of transaction costs: costs of renegeing on commitments are increased, and the costs of operating within these frameworks are reduced." (Keohane 1984, 89; Mitchell 1994) Information collected by IOs in the process of active conflict

management reduces the disputants' privately held information about capabilities and resolve, which improves the chances that both sides will carry out an agreement.

Furthermore, IOs are most likely to collect detailed information as conflict managers when they utilize binding forms of settlement, arbitration or adjudication. Both are legalistic procedures that require the contending parties to present the facts in the case, and often times such procedures involve compilation of independent information by judges or arbitrators. Binding procedures are almost always conducted by organizations that have "sophisticated administrative and intelligence-gathering capabilities", making them more effective "information arbitrageurs" (Boehmer, Gartzke, and Nordstrom 2004, 12). Thus while active IO involvement in general should decrease privately-held information and bolster compliance with agreements, the effect should be strongest for binding forms of IO settlement.

Second, active IO involvement decreases commitment problems in the conflict resolution process, which will produce more frequent settlements with high rates of compliance. International institutions mitigate commitment problems in several ways. IOs can offer greater legitimacy in reaching an agreement than states serving as third party mediators, whose involvement and decisions are likely to be seen as more political and less legalistic in nature (Pevehouse 2002). IOs may be convenient scapegoats and allow leaders to save face (Rovine 1976; Boehmer, Gartzke, and Nordstrom 2004, 9), especially when the settlement is politically unpopular at home (Abbott and Snidal 1998, 22-23) or the disputing countries have otherwise cordial relations. For example, Denmark was willing to make territorial concessions to West Germany in the North Sea conflict once the case came before the International Court of Justice, concessions that would have been politically impossible to make in bilateral negotiations (Fischer 1982, 271). Furthermore, guarantees by institutional third parties can be helpful for

mitigating the security dilemma that arises in contentious dyads, increasing the likelihood that agreements will be carried out. For example, Walter's (1997) credible commitment theory of civil war resolution suggests that negotiations are most successful when third parties are willing to verify and enforce demobilization. Active IO conflict managers may also produce credible settlements by pledging to uphold an IO-based decision by force, providing resources for monitoring and enforcement, tying aid decisions to compliance, or withholding IO benefits, all of which raise the costs of non-compliance (Abbott and Snidal 1998).

The Bakassi Peninsula case illustrates the importance of active IO involvement for monitoring compliance with agreements. Even though Nigeria initially rejected the ICJ's decision to award the disputed territory to Cameroon, it eventually agreed to abide by the ruling due largely to the active efforts of UN officials to ensure compliance. The UN Secretary General, Kofi Annan, facilitated talks between the presidents of Nigeria and Cameroon in June 2006, which culminated in Nigeria's military withdrawal and handover of the disputed territory two months later. The United Nations had ample resources at its disposal to help the parties reach a settlement and ensure that both sides carried out its terms. However, IO resources should be brought to bear most readily in situations involving binding settlement. Non-compliance with judgments rendered with the assistance of IO-supported courts or arbitration commissions should impose heavier costs on the institution than non-compliance with settlements reached through non-binding techniques (e.g. mediation, fact-finding, good offices). Binding settlements are integral to states' support for international law and the rule of law broadly speaking, and lack of enforcement and monitoring in these cases would raise great doubts about the overall efficacy of the institution to promote international peace and order.

In addition to mitigating commitment problems, active IO involvement also increases the prospects for compliance by raising reputation costs for renegeing (Simmons 2000). When states are resolving contentious issues with the assistance of international institutions, they are more likely to comply with agreements struck due to consideration for their reputation in future bargaining situations. Keohane (1984, 94), for example, contends that: “A government’s reputation therefore becomes an important asset in persuading others to enter into agreements with it. International regimes help governments to assess others’ reputations by providing standards of behavior against which performance can be measured, by linking these standards to specific issues, and by providing forums, often through international organizations, in which these evaluations can be made.” Duffield (1992, 836) makes a similar argument in his study of the size of conventional forces in NATO. Not only does compliance reinforce the tendency for other states to comply with the same agreement, it also “may increase the willingness of states to enter into further, mutually beneficial arrangements.” In other words, decisions to comply with one agreement influence a state’s reputation and thus the chances that it will be able to strike favorable bargains in the future. When IOs intervene actively as conflict managers in world politics, they make it easier for states to evaluate other states’ reputations.

Reputation costs for noncompliance may be particularly acute when important regional or global institutions, such as the European Union, Organization of American States, or the United Nations, become directly involved in a dispute resolution process. Such institutions deal with a wide variety of issues, giving them leverage to provide greater linkages across issues (Keohane 1984; Martin and Simmons 1998). If these institutions are viewed with legitimacy by member states and are highly cohesive, the chances for compliance increase (Boehmer, Gartzke, and Nordstrom 2004). Furthermore, non-compliance with an institutional settlement, especially a

binding judgment, may call into question a state's respect for the international legal order and the rule of law. "Treaties enhance the reputational effects that may inhere in general policy declarations, precisely because they link performance to a broader principle that underlies the entire edifice of international law: *pacta sunt servanda*—treaties are to be observed" (Simmons and Hopkins 2005, 623). In this regard, binding settlements reached with the active assistance of IOs entail general principles of obligation, or diffuse reciprocity (Keohane 1986).

In conclusion, our theoretical argument suggests that peaceful bargains should be more likely to be carried out when IOs participate as active conflict managers. These active effects of institutions should be strongest for attempts to settle contentious issues through the binding techniques of arbitration and adjudication. We expect higher compliance rates for binding agreements, especially if they are reached in an institutional setting, because the reputation costs for renegeing are higher, the perceived legitimacy of the institutional decision is greater, and decisions reached through institutional arbitration or adjudication are more likely to be supported by both the leaders and members of the involved institutions.<sup>4</sup>

**Hypothesis 1 (Active):** States are more likely to comply with agreements settling their contentious issues when these agreements are reached with the help of international institutions than when they are reached bilaterally or with the help of non-institutional third parties.

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<sup>4</sup> This hypothesis might seem to follow from the definition of binding settlement, yet states in an anarchic international system may reject a binding award. For example, in 1986 the United States rejected the ICJ's binding judgment in *Nicaragua v. United States*. It should also be noted that the null hypothesis for Hypothesis 1a is the lack of a systematic difference between binding and other settlement techniques (including bilateral settlement), rather than a significant and negative impact for binding judgments relative to other techniques.

**Hypothesis 1a (Active):** States are more likely to comply with legally binding awards than with agreements reached through bilateral negotiations or non-binding activities, especially if an international institution issued the award.

### Passive IO Involvement

We now consider the *passive* involvement of IOs in the conflict management process. Shared IO memberships represent one third of the so-called Kantian tripod for peace: democracy, economic interdependence, and international organizations (Russett and Oneal 2001). Joint membership in regional or global institutions increases the chances that member states will cooperate with one another and depresses the likelihood of militarized conflict. Many international organizations encourage peaceful conflict management among signatories. For example, the charter of the Organization of American States (OAS) calls for controversies between members to be settled peacefully (Article 3) and specifically urges the use of direct negotiation, good offices, mediation, investigation and conciliation, judicial settlement, or arbitration to resolve conflicts (Article 24). Similar articles can be found in numerous charters or treaties associated with both regional and global institutions, ranging from the League of Nations and United Nations to the Arab League, African Union, and ASEAN.

Passively, IOs influence compliance in dyadic bargaining by increasing interaction opportunities, lengthening the shadow of the future, and raising the reputation costs for renegeing on agreements. The greater the number of shared IO memberships in a dyad, the larger the number of dyadic interaction opportunities. These interactions have the potential to promote dyadic cooperation if they enlarge the shadow of the future, align member states' preferences, encourage empathy, teach reciprocity, and improve recognition abilities (Axelrod 1984). This is similar to Russett and Oneal's (2001, 37) claim that international organizations "reduce uncertainty in negotiations by conveying information. They may encourage states to expand

their conception of the interests at stake, promoting more inclusive and longer-term thinking; shape general norms and principles of appropriate behavior; or encourage empathy and mutual identification among peoples.”

Shared membership and increased interactions in IOs brings member states’ preferences closer together, which reduces the chances that disputants will seek to renegotiate agreements previously struck (Werner 1999). While there is some evidence that states with similar interests create and join IOs in the first place,<sup>5</sup> there is also ample evidence to demonstrate that IOs promote similarities among member states. For example, IOs promote democratization of member states (Pevehouse 2002), and they socialize states to adopt new norms and practices by virtue of their authority status (Barnett and Finnemore 1999). As the number of shared IO memberships increase, the effects on member preference alignment are amplified, which reduces further the temptation to renege on peaceful settlements.

Even if states’ particular ideal points for contentious issues are not altered, IOs may influence the strategies states employ to resolve them. IOs that emphasize peaceful conflict resolution techniques in their charter are better equipped to socialize member states to be more open to peaceful settlement techniques and to view settlements reached through peaceful means with greater legitimacy. Furthermore, because democracies have stronger norms of peaceful conflict resolution and third party conflict management (Dixon 1994; Mitchell 2002), their strong presence in peace-promoting IOs should encourage frequent and successful peaceful settlement of contentious issues.

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<sup>5</sup> Two states in a dyad are more likely to have joint IGO memberships if they are democratic, if they have extensive trade ties, if they are wealthier, and if they are military allies (Russett and Oneal, 2001, 216).

Repeated interactions in IOs also raise the stakes for future interactions, which may make some agreements hard to strike, but bargains that are reached very durable (Fearon 1998). States are less likely to defect from an agreement in the short run if they anticipate many future interaction opportunities and they value the payoffs from those interactions. These interaction and shadow of the future effects are amplified as the number of shared dyadic IO memberships increase. In other words, if a state cheats its IO partner on one agreement, this could have ripple effects on its relations with that state in other organizations. Reneging on agreements also engenders broader reputation costs, even if the disputing IO members seek to resolve things on their own. Abbott and Snidal (1998, 26) describe this feature of IOs: “They increase the prospect of continued interaction, often across issues, and generalize reputational effects of renegeing across members of the organization.” Thus the reputational costs extend beyond the conflicting dyad, and influence the prospects for successful negotiation with other states as well.

**Hypothesis 2 (Passive):** States are more likely to comply with agreements settling their contentious issues when they share memberships in more international institutions that explicitly promote pacific settlement of conflicts among member states.

### Selection Effects and Baseline Probability for Compliance

Any study of compliance must consider the possibility of selection effects, whereby the prospects for compliance may appear to be inflated if states only reach agreements that they intend to carry out (von Stein 2005). If this is true, then the potential reputational costs that states face for noncompliance with agreements that are reached with the help of institutions could make them less likely to involve institutions in the dispute resolution process. In other words, there could be a *selection effect* in that states agree to settlements only when they are willing to comply with the outcome (Downs, Rocke, and Barsoom 1996). A similar logic can be found in formal models of cooperation in international politics (Fearon 1998; Leeds 1999),

which suggest that while some states (such as democracies) can make more credible commitments, they are less willing to form agreements that may not be upheld.

In the context of contentious issues, these arguments suggest that it will be difficult to resolve the most salient claims, but this may be reflected in the reluctance of states to turn over disputes to institutionalist settlement. Because states value their reputations in such institutions and because they are more likely to comply with a settlement facilitated by an IO, they should be reluctant to involve international organizations in the first place.<sup>6</sup> The data analysis reported below fits this pattern, as institutions were involved in only ten percent of the peaceful settlement attempts in our data set.<sup>7</sup>

Our focus on compliance does not fully consider the supply side issues involved in third party conflict management. In other words, why and when do third parties get involved in the management of issue claims? What factors make some third parties more attractive to disputants than others? Such questions have been addressed by recent scholarship on the management of issues, though.

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<sup>6</sup> Alternatively, it is possible that only the most contentious cases involve third party dispute resolution, because the less troublesome issues are resolved quickly without the need to involve third parties. In this case, the selection effect would understate the effect of institutions on compliance because only the hard-to-resolve cases would reach IO dispute resolution.

<sup>7</sup> Institutions were involved in 57 of 556 peaceful settlement attempts that attempted to settle the underlying issues directly, including 30 of the 247 agreements that are analyzed in this study as well as 27 of 309 attempts that failed to produce a treaty or agreement. Institutions were also involved in 40 of 561 “procedural” or “functional” negotiations related to these territorial, maritime, and river issues, although these types of attempts are not studied in this paper.

With respect to the management of territorial claims in the Western Hemisphere since 1816, Hensel (2001) finds that binding techniques are used most often over claims involving evenly matched claimants, although factors like democracy and claim salience have not had a systematic impact; at least in Latin America, there is a long tradition of binding arbitration being used even by non-democratic adversaries and over highly salient territories. Non-binding third party efforts are more likely when the dispute is more salient, there are a high number of previous failed settlement attempts, there has been recent militarized conflict, the parties share membership in more IOs, and they are evenly matched. Bilateral settlement by the parties themselves is more likely if there is power asymmetry, if the claimants are democratic, if the issue is highly salient, and if previous efforts to resolve the issue have failed. Focusing on decisions to send territorial claims to binding judgment since 1919, Allee and Huth (2007) find that such decisions are most likely when at least one of the claimants faces strong domestic political opposition, when both claimants have ethnic ties to the territory, and to a lesser extent when both claimants are democratic and when they have engaged in frequent armed conflict.<sup>8</sup>

Other analyses employing data from the Issue Correlates of War project also focus on supply side factors influencing conflict management activities by specific states or IOs, rather than demand side factors influencing the general decision to use third parties. Hansen, Mitchell, and Nemeth (2007) find that conflict management by IOs is more likely if the disputants share memberships in multiple IOs, if the issue at stake is more salient, and if the disputants are evenly matched and more democratic. Crescenzi et al (2007) examine decisions by potential state mediators and find that mediation is more likely when the global democratic community is

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<sup>8</sup> Allee and Huth's results seem to differ somewhat from Hensel's because of case selection. Allee and Huth are focusing on the post-World War I era, during which democracy and claim salience appear to be associated more closely with the use of binding techniques. Hensel's analyses, while only focusing on the Western Hemisphere, go back to 1816, and thus include a number of cases where non-democratic states used binding arbitration.

strong, the number of shared IO memberships increase, the potential mediating state is democratic and powerful, and when the potential mediating state has strong trade and alliance ties to the target state defending the issue status quo.

Taken together, these supply-side and demand-side studies offer important insight into decisions by claimants to turn to third party techniques of various types and decisions by various types of third parties to become involved. For example, there may be a connection between democracy and certain types of third party activity, at least since World War I. It is also clear, though, that non-democratic adversaries have also frequently turned to binding techniques and that neither binding techniques nor IO involvement are limited to claims of low salience, which might suggest that states only turn to such techniques over relatively trivial issues; several studies find that claims of higher salience are even *more* likely to be handled through binding techniques and/or IO involvement.

Duplicating these studies' analyses lies beyond the scope of the present paper's focus on compliance with agreements, but we adopt three strategies to account for the possibility of selection effects. First, we employ Heckman selection models to capture a possible connection between the processes of reaching agreements and complying with agreements that are reached. Second, we control for issue salience to assess the baseline probability of compliance (Fortna 2004), as agreements reached over less salient issues may experience higher rates of compliance than those intended to resolve highly salient issues. Third, we include a measure of foreign policy similarity to ensure that the observed effect of institutions is independent of any possible effect of similar foreign policy preferences.

## Research Design

We test our hypotheses using data on contentious issues from the Issue Correlates of War (ICOW) project.<sup>9</sup> The ICOW project collects data on contentious territorial, maritime, and river issues. Territorial claims involve questions of sovereignty over a specific piece of land, maritime claims involve disagreement over the ownership or usage of a maritime area, and river claims concern the usage and/or navigation of a river that crosses state boundaries. Territorial claims are coded by the ICOW project from 1816-2001, whereas maritime and river claims are collected from 1900-2001 (Hensel 2001; Hensel et al 2007).<sup>10</sup>

The ICOW project records all attempts to manage or settle the issues involved in a claim. The coding of *peaceful* attempted settlements includes negotiations meant to settle part or all of the issues under contention (“substantive” settlement attempts), negotiations over procedures for future settlement of the claim (“procedural” settlement attempts, such as a treaty submitting the claim to arbitration by a specific third party or an agreement to meet for new negotiations at some specific time), and negotiations over the use of the claimed area without attempting to settle the question of ownership (“functional” settlement attempts, such as a treaty of free

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<sup>9</sup> The ICOW data and documentation are available at <<http://www.icow.org>>.

<sup>10</sup> Each issue type requires evidence of explicit contention between official representatives of two or more nation-states over the issue in question. Extensive news searches are conducted using a variety of sources including the *New York Times*, the *London Times*, Lexis-Nexis, Facts on File, Keesings Contemporary Archives, JSTOR, and numerous books. For cases that qualify under ICOW coding rules, an extensive chronology of events is created, and attempts to manage or settle the claims are identified and coded. The codebooks at <<http://www.icow.org>> provide more details about coding procedures.

navigation along a disputed river border). Coded settlement attempts may involve bilateral negotiations, negotiations with non-binding third party assistance (inquiry, conciliation, good offices, or mediation), or submission of a claim to binding arbitration or adjudication. Our analysis focuses on only those agreements that deal with the substantive issues at stake, omitting procedural and functional settlement attempts.

### Operationalization of Variables

The primary dependent variable in this study is whether or not claimants comply with any agreements reached to resolve contentious issue claims. To control for possible selection effects, we also consider whether a given settlement attempt produces an agreement. An agreement occurs when a given settlement attempt produces a treaty or agreement signed by both sides. After an agreement is signed, each signatory may choose to carry out its terms, or may refuse to comply. For example, the terms of an agreement over a territorial claim generally involve a specific disposition of part or all of the claimed territory, which may mean that one side is recognized as sovereign over the entire territory (and the other side is abandoning its claims) or that the two sides reach a compromise over the division of the territory between them. Compliance thus means that both sides carry out the terms of the agreement, such as transferring the territory or dropping one's claim; the failure by one or both to do this means that the agreement has not been complied with. Compliance is similar for maritime and river claims, where both states must decide whether or not to carry out the terms of a given agreement. Substantive agreements over maritime claims typically recognize one or both states' sovereignty over a maritime zone and/or rights to the usage of the disputed maritime zone (e.g. fisheries), while substantive agreements over river claims typically settle questions over one or both states' rights to navigate the river in question or exploit its resources, whether in general terms or with

respect to specific dams, irrigation projects, or pollution. The ICOW data set codes an agreement as being complied with when both signatories carry out its terms within five years or within the specific time frame stipulated in the agreement, if this time frame is longer than five years. Also, the ICOW project requires that compliance continue for at least five years (or for the time frame specified in the agreement), so agreements that work briefly but are soon rejected are not considered to represent compliance.

The *active* impact of international institutions is measured for our purposes by the identity of the third party (if any) that is involved in a given settlement attempt. If a settlement attempt involves arbitration, adjudication, mediation, inquiry, conciliation, or good offices by an international institution or its representatives (such as the League of Nations, United Nations, International Court of Justice, or Organization of American States), then that attempt and any agreement that it produces are considered to have institutional involvement. The active impact of institutions is measured with a dummy variable, indicating whether the settlement attempt and/or agreement in question involved the binding or non-binding assistance of a qualifying institutional third party. We use another dummy variable to distinguish between binding and non-binding settlement attempts. Binding attempts include arbitration and adjudication, where the claimants agree in advance that they will accept the award or decision that is produced. Non-binding attempts include good offices, mediation, inquiry, conciliation, and multilateral negotiations; in each case the parties did not begin the attempt with a specific legal commitment to accept whatever final agreement is reached.<sup>11</sup>

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<sup>11</sup> The inclusion of a variable for binding settlement may seem tautological, since the parties are by definition supposed to carry out the agreement. And yet in the anarchic realm of international politics, this is not the case. In the Western Hemisphere, 12 of the 83 binding settlement

The *passive* effect of institutions refers to the impact of shared membership in international institutions, even if the institutions themselves are not involved in the settlement attempt. This is measured as the count of multilateral institutions calling for the peaceful settlement of disputes that both claimants have signed and ratified. Peaceful conflict management practices should be influenced most strongly by IOs that explicitly promote such practices in their charters. Membership in qualifying institutions is measured through the ICOW Project's Multilateral Treaties of Pacific Settlement (MTOPS) data set, which records the signature and ratification of all multilateral treaties and institutions at either the global or regional level that explicitly call for the pacific settlement of political disputes among members.<sup>12</sup>

When attempting to study this passive influence of institutions, though, it is vital to distinguish institutional influences on conflict management from general foreign policy similarities that might be indicated by membership in the same institutions. Our analyses use Signorino and Ritter's (1999) *S* score to capture the general similarity of states' foreign policy preferences. This variable measures the extent to which two states share similar alliance

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attempts (14%) produced no agreement. A similar pattern holds when examining compliance.

18 of the 71 cases (25%) where agreements were reached through binding settlement involved non-compliance by one or both sides.

<sup>12</sup> Version 1.4 of the MTOPS data set includes 58 distinct treaties or institutions that explicitly call for pacific dispute settlement; treaties that only call for settling disputes over economic matters or over the interpretation of the treaty's terms do not qualify. This data set is available at <<http://data.icow.org>>, including documentation that lists the excerpts of the treaty or charter that call for the pacific settlement of disputes.

portfolios; higher  $S$  values represent more similar preferences. Controlling for this similarity measure will allow us to investigate whether any apparent impact of institutions can be explained by the general similarity of states' interests rather than by the institutions themselves.

Beyond the impact of institutions, we believe that the salience of a given issue is likely to affect the way that issue is managed. Hensel (2001) reports strong evidence that the salience of territorial claims affects the means that are chosen to attempt to resolve the claims, with highly salient claims being more likely to be managed through military conflict or bilateral negotiations and less likely to be submitted to a binding third party decision. In this paper, we expect that claim salience will also affect compliance; *ceteris paribus*, states should be less likely to comply with unfavorable settlements when the issue is more salient. Salience is also designed to capture potential selection effects; states should be more reluctant to sign agreements or comply with unfavorable settlements when the issues at stake are highly salient. Within the ICOW territorial, maritime, and river claims data sets, the salience of each specific issue is measured through numerous indicators, each addressing an aspect of the claimed issue that increases its general value to one or both states (Hensel 2001; Hensel et al 2007). The ICOW Project combines six indicators of salience for each issue type to create an overall index of salience.<sup>13</sup> Each of these

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<sup>13</sup> Territorial claim salience is based on indicators for homeland territory (versus colonial or dependent territory), prior exercised sovereignty, contiguity, presence of valuable resources, strategic location, and ethnic ties. Maritime claim salience captures homeland maritime areas, strategic location, fishing and oil resources, and links to territorial claims. River claim salience is based on indicators for homeland territory, navigational value of the river, level of population served by the river, fishing or other resources, hydroelectric power generation, and irrigational value of the river.

six indicators may contribute one point to the salience index for each claimant state to which it applies, producing a total range from zero to twelve.

We also consider the content of the agreement in question. We believe that not all agreements are equally likely to be complied with, and that (*ceteris paribus*) a stronger state is less likely to comply with an agreement that favors the weaker state in the dyad. The ICOW data on attempted settlements includes a measure of the balance of concessions favoring the challenger and target state in a claim, ranging from major or minor concessions by the challenger to relatively even concessions or minor or major concessions by the target. We combine major and minor concessions, creating a dummy variable to indicate whether the stronger state in the dyad makes greater concessions than its weaker opponent.<sup>14</sup>

Finally, we examine the impact of the claimants' democracy levels, which might help account for compliance with agreements. A burgeoning literature suggests that while democracies may be reluctant to sign agreements, they are extremely likely to comply with any agreements that they do reach (e.g. Gaubatz 1996; Leeds 1999). We measure joint democracy with dummy variable that equals one if both the challenger and target states score six or higher on the Polity IV index of institutionalized democracy (Jagers and Gurr 1995). We turn now to a discussion of our empirical analyses.

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<sup>14</sup> We measure relative capabilities by comparing the COW Composite Index of National Capabilities (CINC) scores (version 3.01) for each state (Singer, Bremer, and Stuckey 1972). In order to measure capabilities consistently, our specific measure uses the proportion of the dyad's total capabilities accounted for by the stronger state of the two, and can range from 0.50 (the two claimants are exactly equal in capabilities) to 1.0 (the stronger state has all of the dyad's capabilities).

## Empirical Analyses

Table 1 presents a Heckman selection model of attempts to settle contentious issues. This model, also known as a censored probit model or a probit model with sample selection, uses a two-stage estimator to allow statistical consideration of non-random selection procedures (Heckman 1979; Reed 2000). Such a selection model is useful for studying phenomena that are only observed for cases that meet some selection criteria, particularly when the selection process might be systematically related to the primary phenomenon of interest. The censored probit model estimates the impact of each covariate on both the selection process and the outcome process, and also estimates the correlation between the two processes' disturbances.

The first stage of the Heckman model, the selection stage, begins with the set of negotiations over contentious issues and investigates the impact of a set of covariates on the probability of reaching agreement. Observations where agreements are reached are then selected into the second stage of the model, which investigates the impact of a set of covariates on compliance with the agreement.

Hypotheses 1 and 1a addressed the *active* effect of international institutions, suggesting that states should be more likely to comply with agreements that are reached with the assistance of institutions, and that this effect should be strongest for agreements that are reached through binding techniques. These hypotheses are tested with several dummy variables: one denoting whether a given settlement attempt involved an institutional third party or another third party, leaving out bilateral negotiations as the referent group for comparison, and one denoting whether the settlement attempt involved binding arbitration or adjudication rather than non-binding third party activities or strictly bilateral talks. If our hypotheses are supported, then we should see significant and positive effects of both institutional involvement and binding third party

activities, with the greatest prospects for the success of negotiations coming when institutions are involved with binding activities and with somewhat lower prospects for success for non-binding institutional activities.

Our results offer little evidence that the assistance of third parties increases the prospects for reaching agreement in the first stage of the model ( $p < .79$ ) relative to the referent category of bilateral negotiations, or that agreements reached with the assistance of institutional third parties are systematically more likely to be complied with by both sides ( $p < .66$ ). Institutional third parties are much more effective than other types of third parties, though, as seen in the significant and negative impact of other (non-institutional) third parties on both agreement ( $p < .001$ ) and compliance ( $p < .10$ ). Furthermore, we need to bear in mind that these first two variables include both binding and non-binding activities by the third parties in question. Distinguishing between these different types of activity reveals that binding settlement techniques are much more likely than other techniques to produce agreement in the first stage of the model ( $p < .001$ ), and that agreements produced by binding techniques are significantly more likely to be carried out by both sides ( $p < .02$ ).

Ideally, we would be able to test the combined impact of both the type of third party and the type of settlement activity with an interaction term, allowing us to distinguish the effect of binding institutional activity from other types of settlement attempts. This proves to be impossible statistically, though, because both claimants complied with all nine cases of binding settlements by institutions in our data set -- making an interaction term a perfect predictor statistically. While such an interaction term cannot be added to our selection model, though, we can evaluate the combined impact of both the type of third party and the type of settlement activity by assessing the marginal impact of each variable on agreement and compliance.

Table 2 presents the marginal impact of each statistically significant variable from Table 1 on the predicted probability of both agreement and compliance. The first column presents the predicted probability that a given settlement attempt will produce an agreement, while the second column presents the predicted probability of compliance in the second stage of the model given that an agreement was reached in the first stage. These predicted probabilities allow us to assess the marginal impact of each variable, while controlling for both possible selection effects and the effects of the other variables in the model.

With respect to reaching agreement, non-binding activities by non-institutional third parties are substantially less likely to produce agreement, with less than half the probability of agreement that is seen for the baseline category of bilateral negotiations. Non-binding activities by institutions are about as effective as bilateral negotiations. Binding activities are much more likely to produce agreement, though, with a .93 predicted probability of agreement for binding activities by non-institutional third parties and a .988 predicted probability for institutions (more than twice the predicted probability of the baseline category). Similar results are found for compliance with agreements that are reached, with non-binding activities by institutions producing similar results to bilateral negotiations and non-binding activities by other third parties being much less successful. Binding decisions by non-institutional third parties are more than twice as likely to be carried out as agreements reached through bilateral negotiations (an increase of predicted probability from .325 to .739), and binding awards by institutions are even more successful (with a predicted probability of .854).

Taken together, these results support both Hypothesis 1 and Hypothesis 1a. Institutional third parties are much more effective than other third parties, and while non-binding institutional activities are no more or less successful than bilateral negotiations, binding activities by

international institutions are more likely to produce agreements that are carried out by both parties. These results are consistent with our argument that IOs reduce private information and commitment problems, while raising reputational stakes for renegeing on agreements. They also demonstrate that these effects are strongest for binding institutional settlements, which involve more extensive information gathering and very significant costs for non-compliance, as violation with a binding IO judgment could create doubts about a state's commitment to international law in general. Furthermore, IOs reduce commitment problems in binding settlements by using their extensive resources to monitor parties' compliance with judgments, as the Bakassi Peninsula case illustrates.

Hypothesis 2 suggested that compliance would be more likely between states that shared more ties through peace-promoting institutions. Table 1 suggests strong support for this passive effect of institutions, as agreements are more likely to be struck ( $p < .03$ ) and compliance rates are significantly higher ( $p < .02$ ) when the number of shared institutions increases. Shared institutions have quite an important substantive impact on the predicted probability of success as well; moving from the minimum to maximum values of shared institutions in this data set produces an increase of .147 in the probability of reaching agreement, and an increase of .246 that nearly doubles the probability of compliance with any agreements that are reached.

General foreign policy similarity, as measured by the *S* score for similarity of alliance portfolios, significantly increases the probability of reaching agreement in the first stage of the model ( $p < .001$ ); moving from the minimum to maximum values in this data set more than doubles the predicted probability of agreement from .228 to .531. This variable does not have any systematic impact on compliance with agreements ( $p < .60$ ), though. This suggests that the impact of shared institutions discussed above is capturing an important effect that is conceptually

distinct from simply sharing closer foreign policy preferences. The impact of general foreign policy preferences appears to be felt primarily in states' willingness to reach an agreement initially; once an agreement is reached, other factors appear to play a much greater role in decisions over whether or not to carry out the terms of the agreement.

The control variables in the model did not have much of a systematic effect on compliance. Relative capabilities had little impact on compliance ( $p < .64$ ). Consistent with our issue-based approach, highly salient issues make agreements more difficult to reach ( $p < .001$ ) and to carry out ( $p < .001$ ). Jointly democratic dyads are neither more nor less likely to carry out agreements when we consider the impact of institutional involvement and shared institutions ( $p < .36$ ), although jointly democratic dyads are significantly less likely to reach agreement in a given round of negotiation ( $p < .01$ ). This is consistent with research on credible commitments, which suggests that democratic leaders are more likely to be punished domestically for foreign policy failures and thus less likely to make commitments in the first place (Hensel, Allison, and Tures 2007). Although concerns might be raised about a possible interconnection between democracy, shared institutional commitments, the use of certain kinds of settlement attempts, and foreign policy similarity, an analysis of the data suggests that these concerns are not warranted; none of the correlations between these variables is as high as .25.

Table 3 presents a list of non-compliance cases for all third party settlement attempts. Some interesting patterns emerge in this data. First, the identity of the third party manager clearly matters. Many cases of non-compliance involve conflict management by non-major powers, such as Canada, Portugal, and Brazil, and regional organizations, such as the OAS. Major powers and global organizations have more resources to bring to the mediation table, which enhances their success rates. Second, many of the cases involve highly salient issues that

have witnessed a large number of failed efforts to resolve the contentious issues (e.g. Falklands, Beagle Channel, and Belize). Thus there seems to be a tendency for third parties to go to the “hot spots”, which reduces their chances for success.

An important part of selection models is the *rho* parameter, or the correlation between the two dependent variables' disturbance terms. This parameter misses conventional levels of statistical significance ( $\rho=0.78$ ,  $p<.38$ ), suggesting that there is no systematic relationship between the unobserved factors that influence both agreement and compliance. Several of the covariates have different effects on the two stages in our model -- most notably, joint democracy and foreign policy similarity have significant effects on reaching agreement but no systematic impact on compliance with agreements -- but there does not seem to be an additional connection between unobserved factors such as states' resolve, risk propensity, or willingness to settle the claim. Scholars have made valuable points about the need to consider the possibility of selection effects in studying compliance, but it does not appear that such selection effects systematically affect compliance in any way that is not already addressed by the covariates in the model.

Finally, one potential objection to these results concerns a possible temporal effect. There has been a substantial increase in the number of international institutions since the beginning of the twentieth century, and particularly since the end of World War II. Most of the institutions that have attempted to settle contentious issues in our data set have been created in the past century, as have most of the pacific settlement institutions that are used to calculate the shared institutions variable. We can examine the possibility of temporal effects by adding dummy variables for specific historical eras. Adding such a temporal dummy variable for the twentieth century does not change the results meaningfully; the temporal variable itself is not statistically significant in either the agreement or compliance analyses, and the only significant

effect that changes is a slight reduction of the significance level of the shared institutions variable for the compliance equation ( $p < .06$  instead of  $p < .02$ ). A temporal dummy for the post-1945 period significantly reduces the probability of both agreement ( $p < .01$ ) and compliance ( $p < .001$ ), but the only change in the effects presented in Table 1 involves the non-institutional third parties variable (now  $p < .18$  instead of  $p < .10$ ); while negotiations have been less successful overall during this period, the same factors (institutional and otherwise) affect the prospects for success. Even though more institutions have been available to states as time has passed, then, the impact of these institutions has not changed substantially. States' decisions about the use of institutions as active third parties and the passive effects of states' shared membership in pacific settlement institutions are both more important than the simple existence of such institutions in the regional or global system.

### **Conclusion**

The growth in the number and influence of international institutions over the past century has been staggering. While scholars recognize the existence of this expanding set of institutions in world politics, they disagree about the influence of regional and global institutions on state behavior and interstate interactions. This disagreement is apparent when we consider the variation in theoretical arguments relating institutions and compliance, ranging from positive to negative to nonexistent. In this paper, we examine bargaining between states over contentious issues (territory, maritime, and river), and the role that international institutions play in helping to resolve such issues. We argue theoretically that states are more likely to comply with agreements settling contentious issues when the agreements are reached with the involvement of international institutions (an *active* effect of institutions) and when the claimants share a stronger web of regional or global institutions that promote peaceful conflict resolution (a *passive*

institutional effect). Using a rationalist bargaining model, we argue that active IO involvement in the conflict management process enhances compliance by reducing states' private information, mitigating commitment problems, and raising reputation costs for noncompliance. IOs promote compliance passively by increasing interaction opportunities, lengthening the shadow of the future, and raising costs for renegeing on agreements.

Our analyses show that institutions have a significant and positive effect on compliance, although we have demonstrated that some forms of institutional involvement are more effective than others. In particular, binding forms of institutional involvement in the conflict management process are always effective in producing lasting agreements in the cases analyzed herein, while non-binding management activities such as mediation or good offices do not fare as well. These results are consistent with recent work on the durability of agreements in the aftermath of interstate and civil wars. Fortna (2004) finds that third party involvement enhances the durability of peace only when third parties commit significant resources; explicit guarantees of peace, monitoring, and the placement of armed forces increase the duration of peace. Similarly, Walter (1997) finds that civil war settlements with explicit guarantees by third parties are successful. International organizations managing conflict over contentious issues need to focus their efforts on not only getting the disputants to the bargaining table, but convincing them to accept binding forms of settlement and using resources to monitor compliance with agreements.

However, our analyses do suggest that among possible third party conflict managers, IOs enjoy higher success rates. IOs experience moderate rates of success when employing non-binding conflict management techniques (similar to success rates for bilateral negotiations), while non-binding activity by other third parties significantly lowers the chances that parties will strike and comply with agreements. Non-institutional third parties fare better when employing

binding techniques, although the probabilities of reaching agreement and compliance are lower than those produced by IO binding involvement. This lack of efficacy for non-IO third party conflict management is consistent with our theoretical argument because these third parties (typically states) do not have the machinery and resources to collection information and help the parties carry out agreements, and their involvement may be perceived as biased in favor of one side. In short, IOs are better equipped than other third party conflict managers to reduce the deleterious effects of private information, commitment problems, and reputation costs in the bargaining process; thus the international community should focus more efforts on promoting IO membership and empowering these institutions. In other words, encouraging virtuous circles in world politics (Russett and Oneal 2001) will both reduce the chances for militarized conflicts between states and strengthen the sanctity of contracts.

Our evidence does not support the realist claim that institutions are epiphenomenal. Most realists would not be surprised to see that agreements over more salient issues are less likely to be carried out by both sides, but institutionalist factors--particularly the passive effect of institutions--remain highly significant when controlling for the impact of salience. Furthermore, shared foreign policy preferences cannot account for these observed effects of institutions. The similarity of alliance portfolios does not have a statistically significant effect on compliance, but the passive institutional effect remains highly significant after controlling for this similarity.

Although the analyses reported in this paper have been limited to territorial, river, and maritime claims in the Americas, there is reason to believe that these findings apply globally. Further insight about the global impact of institutions can be found in the activities of two prominent institutions, the International Court of Justice (ICJ) and its predecessor, the Permanent Court of International Justice (PCIJ). These two institutions have issued legally binding awards

in approximately thirty cases involving territorial, river, or maritime issues.<sup>15</sup> Consistent with our empirical analyses of cases in the Americas, both parties accepted the PCIJ and ICJ rulings in the vast majority of cases (93%). Compliance has been the typical result in cases involving two Western democracies, as well as in such non-European cases as the 1962 award in the Cambodia-Thailand dispute over the Preah Vihear area or the 1986 award in the Mali-Burkina Faso frontier dispute case. One exception is the 1997 decision regarding the Hungary-Slovakia river dispute over the Gabčíkovo-Nagymaros dam project (which Hungary has not yet carried out as of this writing). There are also several cases where the losing party initially attempted to challenge the ruling, such as the 1992 award in the El Salvador-Honduras land, island, and frontier dispute case. That award has generally been carried out by both sides, although El Salvador appealed a decade later on the basis of newly discovered documents that affected small portions of the earlier settlement; the ICJ rejected this appeal in 2003. In each of these cases, though, the ruling was ultimately accepted.

While the ICJ has been criticized for its handling of heavily politicized cases such as the 1986 Nicaragua-U.S.A. decision or the 2004 Palestine-Israel case, both the ICJ and PCIJ have been very successful at ending territorial, river, and maritime issues from around the world, which is quite consistent with this study's arguments about the value of institutions for compliance, particularly with respect to binding awards. This is not to say that these institutions are a perfect solution to any problem, as they have totaled only thirty awards or decisions over these types of issues in some eight decades of operation. Yet these two prominent institutions

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<sup>15</sup> A complete list of these cases is available in a Web appendix to this paper at <<http://garnet.acns.fsu.edu/~phensel/comply.html>>.

have a very successful record when appropriate cases have been submitted for their consideration.

Furthermore, focusing on actual ICJ/PCIJ cases may miss potential out of Court effects, where the mere threat of being sued increases the chances that parties will reach and comply with agreements bilaterally (Powell and Mitchell 2007). If, for example, two claimants accept the compulsory jurisdiction of the World Court, their ability to sue may encourage earlier settlement out of Court. Thus the small number of historical binding settlements may not only reflect the unwillingness of states to submit salient claims to third party settlement, it may also reflect a positive effect of institutions, where peaceful settlement works more efficiently because the parties prefer reaching agreement through bilateral negotiations. It will be interesting to explore this further in a region like Europe, where a regional institution exerts a strong influence over member states. Our analyses also suggest the need to explore the mechanisms by which institutions foster compliance more carefully. We focus on a very specific set of passive institutions, those that promote peaceful dispute settlement in their charters. Other institutions, such as regional trade agreements, may be well-positioned to supply active and binding conflict management as well.

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**Table 1: Selection Model of Reaching Agreements and Compliance**

Variable	Estimate (Robust S.E.)
<b>Outcome: Compliance</b>	
Institutional Third Party	- 0.10 (0.23)
Other Third Party	- 0.50 (0.29)*
Binding Settlement Attempt	1.40 (0.60)**
Shared Institutions	0.08 (0.03)**
Alliance Similarity	- 0.26 (0.47)
Concessions by Stronger Side	- 0.09 (0.19)
Issue Salience Index	- 0.11 (0.03)***
Joint Democracy	- 0.25 (0.27)
Constant	0.46 (0.79)
<b>Selection: Reaching Agreement</b>	
Institutional Third Party	0.04 (0.16)
Other Third Party	- 0.74 (0.16)***
Binding Settlement Attempt	2.29 (0.17)***
Shared Institutions	0.03 (0.02)**
Alliance Similarity	0.57 (0.16)***
Capability Disparity	0.21 (0.35)
Issue Salience Index	- 0.10 (0.02)***
Joint Democracy	- 0.42 (0.13)***
Constant	- 0.07 (0.39)
Rho (S.E.):	0.78 (0.48)
Log Likelihood:	- 464.31
Improvement ( $X^2$ ):	53.48
Significance:	$p < .001$ (8 d.f.)
N (2 <sup>nd</sup> stage):	547 (242)

\*  $p < .10$ , \*\*  $p < .05$ , \*\*\*  $p < .01$

**Table 2: Predicted Probability of Agreement and Compliance**

Variable	Probability of Reaching Agreement Prob. (Change)	Probability of Compliance Prob. (Change)
<b>Type of Settlement Attempt:</b>		
Bilateral settlement attempt	.470	.325
Non-binding - Other third party	.209 (- .261)	.138 (- .187)
Non-binding - Institution	.488 (+ .018)	.307 (- .018)
Binding - Other third party	.930 (+ .460)	.739 (+ .414)
Binding - Institution	.988 (+ .518)	.854 (+ .529)
<b>Shared Institutions:</b>		
0 (minimum)	.434	.265
11 (maximum)	.581 (+ .147)	.511 (+ .246)
<b>Alliance Similarity:</b>		
-0.435 (minimum)	.228	---
1.0 (maximum)	.531 (+ .303)	
<b>Issue Salience:</b>		
1 (minimum)	.696	.571
12 (maximum)	.266 (- .470)	.147 (- .424)
<b>Joint Democracy:</b>		
0 (minimum)	.470	---
1 (maximum)	.311 (- .159)	

Note: This table shows marginal effects on the probability of reaching agreement in a peaceful settlement attempt and the probability of compliance with an agreement in the second stage of the model, given that an agreement has been reached in the first stage. The table includes only those variables whose effects were statistically significant in Table 1. For purposes of calculation, all other variables are held at their mean or modal values, using the MFX command after HECKPROB with Stata 9.1.

**Table 3: Non-Compliance Cases for the Western Hemisphere**

1) Other Third Party, Non-Binding Agreement

- 1875 Chaco Central (Territorial): Argentina vs. Paraguay, Good Offices by Brazil
- 1881 Patagonia (Territorial): Chile vs. Argentina, Mediation by US
- 1936 Courantyne (Maritime): Netherlands vs. UK, Multilateral Negotiations by Brazil
- 1960 Lauca Diversion (River): Bolivia vs. Chile, Inquiry by claimants
- 1981 Sapodilla Cays (Maritime): Guatemala vs. UK, Good Offices by OAS

2) Other Third Party, Binding Agreement

- 1829 St. Croix-St. John Rivers (Territorial): US vs. UK, Arbitration by Netherlands
- 1888 Goajir-Guain'a (Territorial): Venezuela vs. Colombia, Arbitration by Spain
- 1890 Maroni (Territorial): Netherlands vs. France, Arbitration by Russia
- 1905 Teotecacinte (Territorial): Nicaragua vs. Honduras, Arbitration by Portugal
- 1911 El Chamizal (Territorial): Mexico vs. US, Arbitration by Canada
- 1971 Beagle Channel (Maritime): Argentina vs. Chile, Arbitration by UK
- 1976 Beagle Channel (Territorial): Argentina vs. Chile, Arbitration by UK
- 1994 Palena/Continental Glaciers (Territorial): Chile vs. Argentina, Arbitration by Brazil

3) International Organization, Non-Binding Agreement

- 1916 Gulf of Fonseca (Maritime): El Salvador vs. Nicaragua, Advisory by Central American Court
- 1916 Gulf of Fonseca (Maritime): El Salvador vs. Honduras, Advisory by Central American Court
- 1979 Beagle Channel (Territorial): Argentina vs. Chile, Mediation by Vatican
- 1979 Beagle Channel (Maritime): Argentina vs. Chile, Mediation by Vatican
- 1995 Falklands (Maritime): Argentina vs. UK, Mediation by United Nations & Spain
- 1995 Falklands (Territorial): Argentina vs. UK, Mediation by United Nations & Spain
- 2000 Ranguana & Sapodilla (Zapotillo) (Territorial): Guatemala vs. Belize, Mediation by OAS
- 2000 Sapodilla (Zapotillo) Cays (Maritime): Guatemala vs. Belize, Good Offices by OAS
- 2000 Belize (Territorial): Guatemala vs. Belize, Good Offices by OAS

4) International Organization, Binding Agreement

None