

Credible Commitments and Negotiations over Territory

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Abstract: Recent research describes commitment problems as an important obstacle to international cooperation. This research has generally conceived of a leader's credibility in terms of "voluntary defection," or an adversary's fear that the leader will choose to renege on an agreement. We focus instead on credibility in terms of "involuntary defection," or the risk that a treaty will not be ratified or implemented by the relevant domestic actors. This paper examines the impact of policy ratification constraints on the management of territorial issues, focusing on the outcome of peaceful negotiations over territory. We suggest that when both leaders face substantial ratification constraints, negotiations will be less likely to produce agreements, due to the fear that failed agreements will increase the risk of removal from office. Yet agreements that are reached despite these constraints -- if each leader feels satisfied that the counterpart will be able to deliver ratification -- will be much more likely to be carried out, suggesting paradoxically that the most constraining political systems are the least likely to block the ratification of treaties. We find empirical support for these propositions using territorial claims data from the ICOW project, and conclude by discussing implications for future research.

Many tools are available to nation-states for managing their disagreements, ranging from militarized conflict to bilateral negotiations with the adversary, talks with the non-binding assistance of one or more third parties, and submission of the disagreement to a binding third party decision. Armed conflict seems to make the most headlines, and has received the lion's share of scholarly attention, but peaceful efforts to settle differences are much more common -- even for issues that are perceived as highly conflictual in nature such as territorial claims. The Issue Correlates of War (ICOW) territorial claims data set (Hensel et al. 2008) indicates, for example, that the average territorial claim since 1816 has led to an average of 1.1 militarized disputes over the claim, but 5.3 peaceful settlement attempts such as bilateral negotiations, mediation, or adjudication. Indeed, less than half of all claimed territories (44.3%) have led to even a single militarized dispute, and barely one in eight that have ended (12.7%) did so through armed conflict.

These figures suggest that much more attention needs to be paid to the peaceful settlement of territorial claims. We seek to account for the success of such peaceful efforts by presenting a simple theory of conflict and cooperation between nation-states that disagree over some contentious issue. This theory considers the credibility of leaders' commitments as influences on their management of contentious issues, focusing on two aspects of this

management: the ability to reach agreement in negotiations over the issues at stake, and the ability to carry out any agreements that are reached. After presenting the theory and suggesting hypotheses about negotiations, we test these hypotheses empirically using data on territorial claims from the ICOW project, finding strong support for most of our expectations. States are much less likely to reach agreement in their negotiations when one or both are highly constrained, as they must act strategically in light of the political risks that would be entailed in an unsuccessful agreement. Yet when constrained states are able to reach agreement despite these political risks, the resulting agreement is much more likely to be successful at ending the claim. We conclude by discussing implications for future research in this area.

Theoretical Development

In order to understand the peaceful management and ending of contentious issues between nation-states, we present a simple theory that is based on the notion of the two-level game (Putnam 1988). This theory is meant to apply in situations where two nation-states disagree over some contentious issue that each considers to be important enough that armed conflict is a realistic possibility, such as disagreement over the ownership of a valuable territory. Successfully settling the issue will require appropriate actions at both the international level and the domestic level.

In the international level of this game, the two states' leaders attempt to settle the issue. This could be done peacefully through some form of negotiation, perhaps with the assistance of third parties. For peaceful negotiation to work, both sides must be willing to negotiate, and both must ultimately be willing to reach and implement an agreement that settles the issue in some way. Alternatively, either side could attempt to settle the issue in its favor through unilateral military action, or both could maintain the status quo by declining to take any action over the issue for the moment.

The domestic level of the game emphasizes that such international negotiations do not take place in a political vacuum. Rather, each side is likely to face some sort of domestic political constraints that may influence the outcome of the international level of the game. In the domestic level, each leader must face the relevant domestic political actors to gain their support

and (depending on the system) ratification of his or her preferred policies at the international level, which means that not all agreements that both leaders find acceptable will ultimately be implemented. For example, Bolivia and Paraguay attempted seventeen rounds of negotiations between 1878-1928 in their territorial claim over the Chaco Boreal region, and not a single one of these was successful. Eight of these rounds failed to produce an agreement, but the other nine reached agreements that failed for other reasons; four of these agreements failed to achieve ratification in one or both legislatures, and five others were simply never carried out. Perhaps not surprisingly after these diplomatic failures, just four years later the two states began the Chaco War, costing tens of thousands of lives over three years of fighting. (Hensel 2001)

The present paper is the first stage in a larger research project that investigates the impact of this domestic-level game on the management of contentious issues. In this paper we consider how the existence of such domestic political constraints affects the outcomes and consequences of international negotiations over issues. Future papers will consider the impact of these same processes on the decision to begin armed conflict over the issue and on other details of the negotiation process, such as the decision to use certain types of settlement techniques (e.g. bilateral negotiations, mediation, or arbitration) or the impact of various third parties. We begin by examining the role of credible commitments in international cooperation, considering the impact of both voluntary and involuntary defection on the ability to make these commitments, before presenting and testing specific hypotheses about how these factors affect the outcome of negotiations over territory.

Credible Commitments and Cooperation

The academic literature on international cooperation identifies a number of obstacles that can impede cooperation (e.g., Jervis 1978; Axelrod and Keohane 1985; Grieco 1988; Powell 1991; Morrow 1994). For example, the existence of anarchy in the international system means that there is no international Leviathan to monitor each side's compliance with agreements or to sanction those who might later choose to defect from an agreement. An inability to resolve these monitoring and sanctioning concerns can be a serious obstacle to cooperation, as leaders do not want to leave themselves bound by an agreement that a partner might secretly violate. Anarchy

also creates an incentive for leaders to consider distributional concerns, focusing on relative rather than absolute gains from a potential agreement. It can be difficult to accept an agreement that benefits a potential enemy as much as or more than oneself, especially when the stakes are high enough that losing over this issue might be detrimental to a state's overall security.

Such concerns are often addressed under the heading of commitment problems, which refer to the difficulties leaders face in convincing their negotiating partners that their commitments are credible and they will not subsequently renege on the terms of an agreement.¹ With international anarchy and the absence of enforceable contracts in world politics, leaders must recognize that their counterparts may at any time choose to renege on an agreement should s/he believe that doing so would advance the state's interests, making cooperation difficult to achieve. This problem is even more difficult to resolve when the object of contention can change the balance of military forces or bargaining leverage between two states, as with a strategic piece of territory that gives whichever side possesses it a major military advantage; having obtained such a territory in an agreement, what is to stop a state from abandoning the agreement and seeking to exploit its newfound military advantage in pursuit of further gains?

Such commitment problems need not pose insurmountable obstacles to international cooperation, though. For example, a third party may be able to play a guarantor role to address monitoring and sanctioning issues following an agreement (e.g. Walter 1997; Dai 2002; Mattes and Savun 2009). A number of scholars have also suggested that more credible commitments can be made by leaders who face greater audience costs, which involve domestic political actors punishing a leader who makes but then breaks a commitment. Such work has typically argued that democratic leaders face higher audience costs than their authoritarian counterparts, because they can be removed from office more easily by a dissatisfied audience. Consideration of such audience costs has produced useful insights into the effectiveness of sanctions (Martin 1993), alliance survival (Gaubatz 1996), international crisis behavior (Fearon 1994, 1997; Eyerman and Hart 1996; Schultz 1998; Smith 1998), and general levels of conflict and cooperation (Leeds

¹ Commitment problems are only one broad class of obstacles to cooperation. For example, Fearon (1995) also discusses incentives to misrepresent private information and indivisible issues as obstacles to peaceful settlement of problems, while Morrow (1994) addresses issues of monitoring, sanctioning, distribution, and information. Limitations of time and space leave these other obstacles beyond the scope of this paper, though.

1999).² Indeed, democratic audience costs are argued to be so great that later leaders find themselves bound by their predecessors' commitments, producing policy stability even after changes in leadership (e.g. Gaubatz 1996; Leeds 1999; Lipson 2003).

In the absence of any meaningful domestic political constraints on leaders, the key to cooperation is reaching an agreement that both sides' leaders consider to be in their states' interests, and that each believes the other will carry out. This international-level concern with voluntary defection and credible commitments has helped explain why many states find cooperation difficult to achieve. Such factors do not tell the entire story, though, and there is another entire class of obstacles that impede international cooperation. In this paper we focus on obstacles that stem from the domestic political systems in one or both of the states that are attempting to negotiate a settlement of their issues.

Involuntary Defection and Credible Commitments

Domestic constraints on leaders add a different concern for leaders who are attempting to negotiate an agreement, as highlighted by the domestic level of a two-level game. Even if both sides' chief negotiators believe that they have resolved the distributional problems that so often plague negotiations, and even if both believe that the other side will carry out the agreement, there is a risk that the agreement will not be ratified in one or both states' domestic political systems. Putnam (1988) refers to this problem as "involuntary defection," in contrast with the more familiar "voluntary defection" where a leader purposefully decides to renege on a commitment.

Rather than a conscious decision by the executive, involuntary defection involves the leader's inability to deliver the agreement, perhaps through a failure to achieve ratification by the legislature or implementation by the appropriate body. In most political systems there is some sort of mechanism for the ratification and implementation of policies, although the details of this mechanism and its political power relative to the chief executive may vary substantially across systems. Democratic legislatures are probably the best known type of ratification mechanism, but authoritarian systems may allow the dominant political party or the military to block policies,

² Weeks (2008) has recently offered an important extension of this argument by addressing differences in audience costs between different types of authoritarian regimes.

which is essentially a ratification hurdle that must be cleared; Putnam (1988: 436-437) discusses the military, bureaucratic agencies, interest groups, social classes, or even public opinion as well as legislative bodies.³ Of course, the ability of these actors to modify or block policies varies substantially across broad categories of political systems; some democratically elected governments may face little risk of a weak legislature overriding the leader's policy choices, while some authoritarian leaders may face almost daily challenges from other actors within government or society that limit their ability to implement their desired policies.

This ratification problem raises quite different concerns over credibility when leaders are attempting to negotiate an agreement. For negotiations to be successful at producing an agreement, each negotiator must believe that the opponent is making a credible commitment not to renege on the agreement, but he or she must also believe that the opponent is credible with respect to getting the agreement implemented in its domestic political system. Along these lines, Putnam (1988: 439) suggests that a leader's credibility during a given round of negotiations is closely linked to the prospects for delivering the agreement: "in any two-level game, the credibility of an official commitment may be low, even if the reputational costs of renegeing are high, for the negotiator may be unable to guarantee ratification."

Following Putnam (1988: 437-441), more powerful ratification constraints reduce the size of the domestic "win set" of possible agreements that can be approved and carried out by the relevant actors. A highly constrained leader has a much smaller win set than a relatively unconstrained leader, who can essentially sign any desired agreement with little risk of rejection at home. So if two relatively unconstrained leaders are negotiating over an issue, there may be a large set of possible agreements that either could accept and implement -- but if one or, especially, both face major constraints, there should be a much smaller overlap between the two states' domestic win sets, and agreement will be much more difficult to reach.

Audience costs -- discussed above with respect to voluntary defection -- are also important in our explanation of involuntary defection as an obstacle to cooperation. Audience costs faced by leaders have been summarized by one scholar as "criticism or loss of authority if they are judged to have performed poorly by the relevant audiences" (Fearon 1994: 580-581; see

³ In many ways this is similar to the notion of "veto players" within political systems, or actors whose approval (individually or collectively) is required for any change to the political status quo (e.g. Tsebelis 2002).

also Smith 1998). To the extent that the relevant audiences are concerned with the success of a government's foreign policy, these audience costs can be an important consideration for leaders. In Fearon's (1994: 580-581; 1997) discussion of crisis behavior, these costs are paid if a leader backs down after initially escalating a crisis in such a way as to "engage the national honor," which carries with it a risk of removal from power by a dissatisfied domestic audience. Bueno de Mesquita and Siverson (1995: 842 ff) suggest that leaders make foreign policy decisions with an eye toward remaining in political power, selecting policies that they expect "to minimize the opportunities available to those seeking to remove them from power." Smith (1998) suggests that voters want to remove incompetent leaders, and that they can only perceive leaders' competence through their actions and performance. Leaders who are highly incompetent should be unlikely to make international threats, because their behavior in a crisis would only confirm their incompetence; leaders who make threats and carry them out successfully are judged to be competent. Poor leaders may try to increase their domestic success by making threats, but if their bluff is called, their poor leadership will be revealed and they will be punished. This electoral punishment for called bluffs allows leaders' threats to be credible rather than "cheap talk," as incompetent leaders who go against type and make threats risk losing power should their bluff be called.

Along these lines, we believe that a leader's handling of an important contentious issue is seen as an important signal of effectiveness. Foreign policy failures -- such as losing the contentious issue (e.g. allowing the adversary to acquire the disputed territory) or committing to an agreement that is rejected by the adversary -- signal that the leader is not very effective.⁴ To the extent that the leader is chosen by a systematic selection procedure (such as democratic elections or designation by a dominant party), then, that leader faces a great risk of being removed from power if he or she is viewed as ineffective.⁵

As a result of these constraints, leaders who are concerned with remaining in power should be careful to avoid agreements that are seen as carrying a high risk of rejection, in order

⁴ This suggestion is consistent with the work of Colaresi (2004), who finds that unreciprocated cooperation with a rival -- another form of unsuccessful foreign policy -- increases the risk that a leader will be removed from power.

⁵ Alternative political systems that lack such procedures include hereditary leadership, leaders taking power through coups or similar irregular activities, and systems that share power between an elected or appointed official and one of these alternative types. For now we do not distinguish between elected and appointed officials, or between any of these alternative types, but such distinctions should be considered in future extensions of this basic approach.

to avoid the perception of ineffectiveness.⁶ This means that they must act strategically in negotiating over important issues. While attempting to maximize the state's interests by reaching a treaty that accomplishes most or all of their original goals, strategic leaders must also take care to ensure that the resulting agreement has a good chance of implementation by the adversary's domestic political system. An agreement to acquire the entire claimed territory might be desirable in principle, but if the agreement fails ratification in the adversary, then the leader has delivered a signal of incompetence that should lead the selectorate to question his or her continuation in office (and this signal would be even stronger if the agreement had less favorable terms for the state even before it failed to achieve ratification).

Hypotheses

The basic outline of our theory has already been sketched out. At the international level, the two states' leaders attempt to negotiate a peaceful settlement of their territorial claim, in order to settle it without the costs and risks of militarized conflict. During these negotiations, each leader is concerned with achieving his or her preferred policy goals with respect to the issue, leading to a preference for acquiring (or holding onto) the entire territory over compromising to acquire only part of the territory and losing the entire territory.⁷ Drawing from the literature on voluntary defection and credible commitments, each leader evaluates a potential agreement in light of the chance that the opposing state will carry out the agreement once it is signed.

Each leader also prefers to remain in power, though, consistent with most political science research. Drawing from the idea of involuntary defection, each leader must also evaluate a potential agreement in light of the chance that it will be able to be ratified and implemented in both states' domestic political systems. Failure of an agreement through either voluntary or involuntary defection will cast doubt on the effectiveness of the leader, raising the possibility that the leader will be removed from office.

⁶ As the diversionary conflict literature points out, a leader who is seen as ineffective may choose to initiate armed conflict against an outside party for the purpose of "gambling for resurrection" (see, e.g., Downs et al. 1994; Mitchell and Prins 2004). This is beyond the scope of the present study's focus on negotiations, although it would be worth considering in the future.

⁷ It is possible that a leader might prefer maintaining the status quo over a contentious issue to ending the claim because of the political benefits that s/he receives from the protracted disagreement, which may help to stifle domestic dissent and increase the leader's ability to pursue other political goals. This possibility is left for future research, though.

The preceding discussion suggests a series of hypotheses on the success or failure of cooperation between states. We begin with our primary focus in this paper, which is the role of domestic constraints and the risk of involuntary defection. The above discussion suggests that leaders facing higher levels of political constraints should have a more difficult time getting their preferred policies ratified and implemented. Recognizing this, a foreign leader negotiating with such a constrained leader should be more cautious about signing agreements, because of the greater risk that the agreement will be rejected domestically in the constrained state -- thereby signaling his or her own foreign policy ineffectiveness to the relevant domestic audience.

While agreement should thus be more difficult to reach when at least one of the leaders faces high levels of domestic constraints, though, there should be an important benefit with respect to implementation. Because the leaders should be cautious about reaching agreements when there is a substantial risk of ratification failure, they should only sign agreements that they believe will be ratified and implemented by both sides. Assuming that their assessments are generally accurate, this should mean that agreements that are reached in the face of high levels of domestic political constraints should be more successful than those that are reached in the absence of such constraints.⁸

This discussion suggests the following hypotheses:

Hypothesis 1a: *Agreement in negotiations between two states is less likely when one or, especially, both states face high levels of domestic political constraints.*

Hypothesis 1b: *Implementation of an agreement is more likely if it was reached despite high levels of domestic political constraints in one or both states.*

While the political system of the negotiating partner can offer insight into the likely outcome of a treaty or agreement that is being considered, leaders might also learn from the past. Most relevant, recent interactions with the same partner over the same contentious issue would seem to offer useful insight into the prospects for peaceful settlement of the issue. Reaching

⁸ This suggestion is consistent with the experience of the United States Senate, which in over 200 years of operation has ratified approximately 90% of the treaties that have been submitted for ratification. Over 1500 treaties have been ratified while only 21 have been rejected by a Senate vote, 43 failed to enter into force because the Senate added amendments or reservations that were considered unacceptable by at least one of the signatories, and 85 have been withdrawn from consideration. (U.S. Senate 2009)

agreement should be more difficult when the issue has already accumulated a history of failed negotiations, as the negotiating leaders fear that any future agreement might meet the same fate.

As with the first set of hypotheses, though, agreements that both sides are able to reach in an environment marked by recent failed negotiations should be more likely to be carried out. Signing an agreement in such an environment likely indicates that each side's concerns from these recent episodes have been addressed in the negotiations, the major potential obstacles to compliance that have been highlighted by the past failures have been removed, and each leader believes that both sides will carry out the agreement. This suggests the following hypotheses:

Hypothesis 2a: *Agreement in negotiations between two states is less likely when there is a recent history of failed negotiations over the same issue.*

Hypothesis 2b: *Implementation of an agreement is more likely if it was reached despite a recent history of failed negotiations over the same issue.*

The influence of the domestic audience on a leader's handling of an issue is not likely to remain constant over time, which may have important implications for domestic constraints on policy choices. Research on public opinion generally suggests that (at least in the United States) the public generally treats foreign policy issues as confusing or uninteresting, and public opinion is best described as "latent" -- having the potential for expression, but only if activated by an international crisis, war, or other serious event (e.g. Holsti 1996; Powlick and Katz 1998; Stimson 1991). The domestic audience is thus more likely to be concerned with domestic political, economic, or social matters than with foreign policy, meaning that such matters have a larger impact on the leader's prospects for remaining in office. And when the audience pays little attention to a foreign policy issue, political constraints seem likely to have little influence on the leader's handling of a contentious issue, unless the leader dramatically mishandles the issue (such as by ceding a potentially valuable territory to the adversary).

While domestic attitudes toward foreign policy issues may be latent in most situations, though, external events may change this by bringing a particular issue to the forefront and "activating" the audience's latent interest in the issue. A particularly relevant example is deadly armed conflict. If a militarized confrontation over an issue leads to fatalities on one or both sides, the issue is likely to become much more menacing. The spilling of blood seems likely to

be an important threshold that draws the attention of domestic political audiences who otherwise pay little attention to foreign policy, creating pressure on leaders to ensure that their countrymen's blood was not shed in vain. In such a situation, the public and other governmental actors -- such as those responsible for policy ratification or leader selection -- may become more intensely interested in the matter, making a compromise solution more difficult to accept. Leaders should thus anticipate a greater risk that agreements will be rejected when they follow deadly conflict.

As with the earlier hypotheses, though, agreements that both sides are able to reach in an despite recent deadly conflict should be more likely to be carried out. Leaders who negotiate strategically and are able to sign an agreement in such an environment are likely satisfied that each side's concerns from these recent episodes have been addressed in the negotiations, and each leader believes that both sides will carry out the agreement. This suggests the following hypotheses:

Hypothesis 3a: *Agreement in negotiations between two states is less likely when there is a recent history of fatal armed conflicts over the same issue.*

Hypothesis 3b: *Implementation of an agreement is more likely if it was reached despite a recent history of fatal armed conflicts over the same issue.*

Considering Voluntary Defection

Although this paper is primarily concerned with the role of involuntary defection in cooperation, a meaningful analysis will require us to consider the role of voluntary defection as well. Unless we consider the role of factors that might prompt leaders to choose to renege on agreements, it will be difficult to draw confident lessons about the role of ratification constraints in the negotiation process. We thus consider the role of voluntary defection in terms of issue salience, relative power, and third party involvement.

The value of the issue at stake offers a plausible measure of the temptation for states to defect. When the issue is valued more, a state should -- *ceteris paribus* -- have more incentive to renege on an agreement, perhaps to hold onto a territory that it was supposed to cede or to occupy more of a divided territory than it was supposed to. Realizing that the adversary has this incentive, each side should find it more difficult to reach agreement, out of concern for the

credibility of the other's commitments. We should thus expect negotiations over more salient (or valuable) issues to have a lower likelihood of reaching agreement, as well as a lower likelihood of agreements being implemented, than negotiations over less salient issues.

Relative power considerations are likely to be an important consideration for voluntary defection. Agreement in negotiations should be much more likely when there is a great disparity in relative capabilities between the two negotiating states, as the stronger side is likely to have greater bargaining leverage due to its substantial military and/or economic advantage. Implementation should depend on how well the terms of the agreement reflect the distribution of relative capabilities; an agreement that gives the most benefits to a much stronger state should have a high likelihood of implementation, but an agreement that gives the most benefits to a weaker state should face a much higher risk of renegeing by the stronger state that has not received benefits consistent with its capabilities.

Finally, third parties may be able to play an important role in reducing the risk of voluntary defection and increasing compliance with agreements (e.g. Beardsley 2008; Gartner and Bercovitch 2006; Hansen et al. 2008; Mitchell and Hensel 2007; Mitchell et al. 2009; Werner 1999). If a third party plays an active role in the negotiation process, it may be able to offer guarantees to each side that the other will carry out the terms, perhaps using the third party to separate the adversaries, monitor compliance with the agreement, and if needed punish any violation. With this sort of guarantee, the parties should be able to make more credible commitments in the negotiation process, which should increase the likelihood of both reaching an agreement and carrying it out.

Research Design

These hypotheses are tested using territorial claims data from the Issue Correlates of War (ICOW) research project (Hensel et al. 2008). A territorial claim is defined by ICOW as involving explicit statements by official governmental representatives of at least two nation-states claiming sovereignty over the same specific territory. The data set is currently complete

for all claims to territory in the Americas and Western Europe from 1816-2001, covering 191 dyadic claims, and work is underway on the remaining regions of the world.

This paper's theory is not limited to territorial issues exclusively, and it is certainly general enough that it could be applied to additional types of issues. It is important to bear in mind, though, that it is not intended to cover all possible issues over which states might disagree. For this theory to be relevant, the issue must be considered important enough that the leaders on each side seek to achieve a favorable settlement but worry about the risk of either armed conflict or an adversary's decision to renege on an agreement. Furthermore, the issue must be seen as important enough that other relevant domestic actors on each side must pay at least some level of attention to the issue, so that the ratification agent would consider rejecting an agreement it considered unacceptable and the selectorate would consider the leader's handling of the issue a relevant signal of leadership effectiveness. While territorial issues generally fit this description, many other issue types may not; it would be more difficult to imagine armed conflict being likely over, or selectorates paying much attention to, disagreements over such issues as trade barriers or policies on climate change.⁹

Methodology

The analyses are conducted using Heckman probit analysis, which uses a two-stage selection model to study interrelated phenomena where the outcome of the first stage determines whether the second stage is even reached. The first stage of the Heckman model, the selection stage, begins when two states attempt to settle a contentious issue peacefully, and involves the question of whether or not they are able to reach an agreement in these negotiations. For cases in which an agreement is reached, the second stage of the Heckman model investigates whether or not each state carries out the terms of the agreement and thereby ends the claim.

Measurement

Dependent Variables

⁹ Further analysis reveals that the basic findings about constraints and negotiation success hold when river claims and maritime claims, two other ICOW issue data sets that include dozens of armed conflicts, are added to the territorial claims reported here. Comparable data sets on less visible or less salient issues are not available, though, to determine whether the same basic findings hold for these issues as well.

Our key dependent variables involve attempts to settle territorial claims peacefully. The focus is on substantive efforts to settle the underlying territorial issue, rather than "functional" or "procedural" talks that seek to demilitarize a claimed territory, share its resources until a final settlement can be reached, or lay the groundwork for future negotiations. We consider both bilateral negotiations, in which the claimants are the only participants in the talks, and non-binding third party activities like good offices or mediation. Submission of claims to binding arbitration or adjudication follows a different procedure, though, where each claimant seeks to convince the arbiter or court that their case is correct rather than seeking to reach some mutually acceptable agreement with the adversary itself. This approach is sufficiently different from negotiations that our theory seems unlikely to apply, so we leave such binding efforts out of our analysis. These decisions produce a total of 528 rounds of peaceful negotiations over the territorial claims in this study, including 380 rounds of bilateral negotiations and 148 with non-binding third party assistance.

The first dependent variable indicates whether or not the negotiators are able to reach an agreement. A successful round of negotiations, according to this measure, produces a treaty or agreement between the two parties over the final disposition of the issue under contention. Negotiations that fail to settle an issue and only reach agreement on lesser concerns -- such as agreeing to meet again for further consultations (a "procedural" agreement), or to demilitarize the disputed territory until a final agreement can be reached (a "functional" agreement) -- are not considered to have produced an agreement for our purposes. Just over one-third (36.1%) of the negotiations in our data set produced such an agreement, as can be seen in Table 1.

If an agreement is reached, we employ a second dependent variable to measure whether or not the agreement was successfully carried out. After an agreement is signed, each signatory may choose to carry out its terms, or may fail to comply -- whether this means voluntary or involuntary defection. Because we are focusing on attempts to settle the territorial issue that is at stake, and because we are only considering agreements that address the main substance of the claim, the best measure of success is whether or not the agreement ended the claim. We code an agreement as being successful when it leads to the end of most or all of the claim; agreements that settle the majority of the claim but leave a small portion of the border for future study (often

due to new information that is discovered during the final negotiations) are considered to be successful for these purposes. Exactly half (50.0%) of the agreements in our data set were successful under this measure.

Political Constraints

The key independent variable in this study is the presence of high levels of political constraints in one or both states involved in a territorial claim. Constraints are measured using the Polity IV data set, with two distinct constraints being necessary before a state can be considered to impose high constraints on its leaders. First, the presence of a substantial policy ratification constraint is coded from Polity IV's executive constraints (XCONST) variable, requiring a value of at least 5 ("a legislature or party council often modifies or defeats executive proposals for action") on a 7-point scale. Such a value indicates that the chief executive faces regular challenges from another political actor and that policy initiatives -- such as treaties over an important contentious issue -- may be modified or defeated entirely.

Additionally, the leader must face a substantial leader selection constraint, as measured with Polity IV's executive recruitment (EXREC) variable. Executives are considered to face a substantial risk of defeat and removal from power if they were selected via competitive election or via designation (e.g. by the dominant party in a single-party system); the alternative includes executives who took office based on heredity or via self-selection (e.g. by a coup), as well as transitional systems that do not fit neatly into these categories and dual systems in which at least one of the shared executives was selected via some procedure besides competitive elections or designation.¹⁰ To ensure the robustness of our results, we also run the analyses separately with only electoral systems considered to have substantial leader selection constraints, as well as without any selection constraint (in which case the existence of political constraints is based entirely on the presence or absence of substantial ratification constraints).

[Table 1 about here]

¹⁰ For now we do not add further distinctions between the size of selectorates in different systems, nor do we use distinctions among different types of authoritarian systems or measures of the number of access points within a given political system, but future work might benefit from such considerations.

Table 1 shows the frequency of strong ratification constraints in political systems with different leader selection processes, as identified by the Polity data set. This table is limited to the observations used in this paper's analyses, with each case representing one country involved in one substantive negotiation over territory in the ICOW data set. Systems where the leader is elected typically include such constraints, with 84.4% of elected leaders being constrained, although this still leaves approximately one in six leaders less constrained. Designated leaders are much less likely to face strong ratification constraints, with only one in nine (11.9%) being constrained under this definition. The remaining Polity categories lie somewhere between these extremes, with 28.2% facing strong ratification constraints, but these regime categories are not considered to represent substantial leader selection constraints.

[Table 2 about here]

The requirement of both ratification and leader selection constraints produces a list of constrained leaders that is similar to, but by no means identical to, typical measures of political democracy. Table 2 compares this paper's conception of political constraints with a standard measure of political democracy, which subtracts a state's Polity IV index of institutionalized autocratic characteristics from its index of institutionalized democratic characteristics; values of seven or higher (on a scale of 10 to -10) are considered democratic. The top portion of this table indicates that every state in this paper's data set that is coded as democratic using the Polity index also has strong ratification constraints, although 20.3% of nondemocratic states also have such constraints. The middle and bottom portions of the table indicate that most democracies (91.5%) are coded as highly constrained in the dual sense used in this paper, which requires both ratification constraints and either electoral or designated leader selection, although thirty democracies are not (due to being coded by Polity with some other form of leader selection, such as a dual executive or some other form that is not strictly electoral in nature). Over forty cases (6.5%) that are coded as nondemocratic by the Polity index -- likely because of the presence of

one or more autocratic characteristics that reduces the total score on the index -- nonetheless have both ratification constraints and electoral leader selection, and (as seen in Table 1) 27 states with designated leaders also feature strong ratification constraints.¹¹

Recent Interactions

Testing Hypotheses 2a and 2b requires data on recent efforts to manage the same issue. We measure failed negotiations as peaceful settlement attempts that failed to reach agreement, ratification, or implementation (i.e., all such attempts that did not produce an agreement that was carried out by both claimants). We measure armed conflict as any fatal militarized dispute over the specific issue. Both forms of interaction are taken from the ICOW data (Hensel et al. 2008) and are specifically measured as the number of qualifying events in the previous ten years, using a weighted score to indicate how recently each event occurred. Events in the most recent year before the observation contribute a value of 1.0 to the weighted score. Earlier events' weights decline by ten percent each year (e.g., an event ten years earlier contributes a value of 0.1), and the weighted values for all events in the past decade are added together to produce the final score.

Voluntary Defection

We use the ICOW measure of issue salience (Hensel et al. 2008) to measure the value of each claimed territory to the claimants. This measure incorporates six indicators of attributes that increase the value of territory, with each indicator contributing one point to the salience index for each claimant that qualifies (thus producing a scale from 0-12). The six indicators are measures of whether the claimed territory is known or believed to contain valuable economic resources, a strategic location, a permanent population, ethnic or religious ties to each claimant, a history of sovereignty by each claimant, and whether it is claimed as part of the state's homeland

¹¹ One reviewer suggested that there may be a substantial selection bias in our sample because democratic or constrained states may be much less likely to become in territorial claims, which would lead them to be underrepresented in our data. Further investigation revealed this fear to be unfounded, though. 38.4% of the cases in our sample are considered to have strong constraints, and 34.4% are considered to be democratic; in the entire Polity data set (looking only at states in the Western Hemisphere and Western Europe, the regions included in this study) 33.5% of states were constrained and 30.2% were democratic. Our sample thus slightly overrepresents constrained or democratic states, although this is a relatively small difference.

rather than a dependency.

The relative capabilities of the claimants are measured using the Correlates of War project's Composite Index of National Capabilities (CINC), which reflects each state's share of the total capabilities in the entire international system. For the purposes of this paper, this measure is converted to a dyadic score by dividing the stronger state's CINC score by the total of both states in a given claim. This measure can range from 0.5, indicating exact parity between the two claimants, to 1.0 for a situation in which the stronger state possesses all of these capabilities. As noted earlier, relative capabilities are only considered in the analyses of reaching agreements; we expect that the impact of capabilities on carrying out agreements that are reached will depend on the nature of the agreement with respect to the stronger state in a dyad.

Relative capabilities are also combined with the content of agreements (as measured by the ICOW project) to determine whether a given agreement is "unfair" with respect to the dyad's relative capabilities. An agreement in which the stronger side gains greater concessions from the weaker side can reasonably be considered "fair" from this perspective, as can an agreement in which two relatively even states reach a relatively even balance of concessions. We consider an agreement to be unfair with respect to capabilities if a weaker state (as measured using the CINC score described above) gains greater concessions, or if a substantially stronger state -- i.e., one with at least three times the overall CINC score of its adversary -- settles for a compromise outcome with relatively even concessions by each side.¹²

Empirical Analyses

Table 4 presents the results of a Heckman probit analysis of negotiation success, where the selection stage examines whether or not a round of negotiations produces an agreement and the outcome stage examines whether or not this agreement is carried out. Table 5 supplements these results by examining the marginal impact of the domestic political constraints on negotiation success.

[Tables 4 and 5 about here]

¹² The results remain consistent with alternative measures, whether using a 2:1 rather than 3:1 ratio or treating all compromises as fair and only consider agreements to be unfair if they involve greater concessions by the stronger state in the dyad.

Three separate models are presented in these two tables, varying only in the measurement of political constraints. Model I measures substantial political constraints by the presence of strong policy ratification constraints and either electoral or designated leader selection. Model II broadens this to include all systems with strong policy ratification constraints, regardless of how leaders are selected. Model III then offers a comparison with the typical Polity IV-based measure of democracy, defined as any system with a polity score of 7 or higher.

All three models are statistically significant ($p < .001$). Furthermore the rho coefficient is statistically significant in Models I ($p < .05$) and II ($p < .01$), although not in Model III ($p < .34$). This suggests that a Heckman selection model is appropriate -- at least for the two models based on specific political constraints, if not for the one with the broader measure of democracy -- which is not surprising considering the selection-based logic of our theory.

Hypotheses 1a and 1b address the impact of high levels of political constraint on negotiation success, suggesting that negotiations would be less likely to lead to agreement when one or (especially) both states in the dyad are highly constrained, but such agreements would be more likely to be carried out. The evidence is consistent with this hypotheses in all three models. Agreement is significantly less likely and compliance significantly more likely ($p < .01$) in all three models when either one or both states are highly constrained.

The predicted probabilities in Table 5 indicate that these results have a great substantive impact as well as statistical significance. All three models predict agreement in approximately half of all negotiations, and the ending of the territorial claim in about half of all agreements, when neither side faces substantial political constraints. All three predict a substantial drop in the probability of agreement when one state is constrained, and a further drop in agreement when both are constrained. Model II, where constraints are measured by ratification constraints only, predicts about half the probability of agreement when moving from neither to both being constrained (a decrease from .493 to .252), while Model I (ratification constraints plus elected or designated leader selection) and Model III (democracy) predict even greater drops in probability when both are constrained. Turning to the probability of an agreement ending the claim, Model II predicts a relatively small increase from .516 to .604 when moving from neither to both constrained. Models I and III predict nearly a fifty percent increase in the probability of

compliance when both are constrained and a somewhat smaller increase when only one is. In short, all three models -- with three different conceptions of the role of leader selection in constraining negotiating behavior -- produce similar results, with generally high levels of both statistical and substantive significance when one or (especially) both states are constrained. The central portion of this paper's theoretical story is thus strongly supported.

Hypotheses 2a and 2b suggest that agreements should be less likely, but compliance more likely, in riskier situations marked by recent negotiation failures over the same issue. These hypotheses are also supported. A greater history of negotiation failures significantly reduces agreement ($p < .01$) and increases the probability of ending claims ($p < .$) in both Models I and II, which are based explicitly on ratification constraints. The results are consistent but slightly weaker in Model III, which is based on the general Polity-based measure of democracy; negotiation failures reduce agreement ($p < .02$) and have a weaker effect of increasing the ending of claims ($p < .08$). Across these three models, though, a greater history of negotiation failure has the expected effect, producing strategic negotiating behavior as described by our theory.

Finally, Hypotheses 3a and 3b suggest that agreements should be less likely -- but compliance more likely -- when recent fatal conflict has "activated" the domestic audience over the issue. There is little support for Hypothesis 3a, as the result misses conventional levels of statistical significance in all three models (ranging from $p < .25$ to $p < .30$). When an agreement is reached despite a history recent fatal conflict, though, it is significantly more likely ($p < .03$) to end the territorial claim in question. As Table 5 indicates, all three models predict that the probability of ending claims more than doubles when moving from no fatal conflict to the maximum value in the study, with predicted probabilities greater than .98 in all three. This is highly consistent with our theoretical story.

It should be noted that the ideal way to evaluate the impact of fatal conflict activating the domestic audience would be through an interaction term in the model. That is, the impact of this variable would seem likely to depend at least partially on the existence of substantial domestic constraints on the leader. A highly constrained leader should pay much greater attention to the domestic audience's views on the issue and should negotiate more strategically when recent conflict has activated the audience, while a relatively unconstrained leader should be more free

to pursue his or her preferred policy regardless of the interests of the public. Unfortunately, an interaction effect is impossible to test in this model, because of both the small number of cases and the lack of variation in these cases' outcomes. There are only 180 agreements in the second stage of the Heckman model, only six of which followed recent fatal conflict and featured at least one constrained negotiator -- and all six of these agreements successfully ended the claim. These cases thus behave exactly as our theory would suggest, but the model will not run because the interaction term is a perfect predictor of the dependent variable.

The remaining variables in the model examine the impact of factors associated with voluntary defection by leaders, or reasons that leaders might make a conscious choice to avoid agreement in the first place or to renege on any agreement that might be reached. Negotiations over more salient territory produce weak effects in the expected direction in two of the three models for agreement and two of the three models for ending claims, although only one of these coefficients reaches the conventional $p < .05$ significance level. Relative capabilities only have a borderline ($p = .10$) impact on agreement in two of the three models, although unfair agreements systematically reduce compliance ($p < .05$) in all three. Finally, negotiations with non-binding third-party assistance are not significantly more or less likely to produce agreement, although such agreements are significant more likely to end the claim in question.¹³ In short, at least after considering the impact of the political constraints that we expect to affect involuntary defection, there is some evidence that factors that might be expected to influence voluntary defection have the expected effect on negotiation success.

We conclude the analyses by assessing the robustness of the main results. The central finding about political constraints' impact on negotiation success remains consistently strong under a variety of circumstances. One followup involves adding the ICOW river and maritime claims data to the territorial claims analyzed in Table 4; the key result for political constraints does not change in direction or significance. The main results also hold up if any of a number of alternative measures of political constraints or recent interactions over the issue are used, although the other results are not always as robust across different model specifications.

¹³ This is not too surprising, considering that Mitchell and Hensel (2007) have found non-binding third party activities by international organizations to be no more successful than bilateral negotiations at producing compliance with agreements, and non-binding third party activities by other states to be substantially less successful.

Discussion

This paper has presented a simple theory of negotiations over contentious issues that emphasizes the role of domestic political constraints. This theory suggests that substantial policy ratification constraints in one or both of the negotiating states' political systems should make agreements more difficult to reach, at least to the extent that the leaders are accountable through substantial leader selection constraints. Because of strategic behavior by leaders, though, agreements that are reached in the presence of such constraints should be more likely to be carried out by both sides.

Empirical analysis on territorial claims in the Americas and Western Europe since 1816 supports this expectation. Agreements are less likely to be reached when one or (especially) both of the negotiating states face high levels of ratification constraints. Yet as expected, agreements that are reached in the presence of such constraints are more likely to be carried out by both sides. These results hold after considering the risk of voluntary defection by leaders, as indicated by the salience of the issue at stake, the balance of relative capabilities, the content of the agreement, and the involvement of third parties.

These results suggest another element of domestic politics that may have an important impact on states' negotiation behavior. While research has generally emphasized broad regime categories (typically comparing democracies against all other regimes), this study have identified distinct political constraints that are not present in all democracies but that are found in some more autocratic systems. These distinct constraints have had a very strong and systematic impact on the outcome of negotiations, which remains robust in the presence of a number of alternative tests. Future researchers could benefit from considering this in their own work, so we conclude by discussing potentially useful directions for future research to follow up on and extend these analyses.

One potential extension of this basic theory involves the conditions under which states are most likely to begin negotiations over a contentious issue, rather than evaluating the success of negotiations once begun as we have done here. It seems likely, for example, that leaders concerned with the possibility of removal from power would weigh the risks of negotiation failure against the risks of armed conflict. In the most dangerous situations -- those where the

issue at stake is highly salient, or where there is a history of recent armed conflict and/or failed negotiations -- leaders might be more likely to pursue peaceful negotiations (remembering that starting negotiations does not guarantee success; they can always refuse any possible settlement terms that they do not consider worthwhile).

A second possible extension involves distinguishing between bilateral negotiations and third party techniques of various types. This paper has treated all non-binding third party techniques together, leaving out only binding arbitration and adjudication, but there are likely to be important differences between third party activities that are primarily meant to facilitate communication (good offices), fact finding commissions (inquiry), non-binding efforts to facilitate solution (mediation), and multilateral negotiations where the third party has a direct interest in the issue. There may also be important differences between intergovernmental organizations and states (Mitchell and Hensel 2007) or between biased and neutral mediators (Kydd 2003, 2006), and this paper's basic theory might be able to lend additional insight into which of these types of techniques or third parties should be most frequently used or most successful in different situations (see also, e.g., Gartner and Bercovitch 2006; Greig 2005).

A third extension involves considering the details of agreements that are reached. The so-called "Schelling conjecture" (Schelling 1960; Milner 1997; Tarar 2001) suggests that the relative size of two negotiators' win sets should have an impact on the terms that are reached. A leader facing greater domestic ratification constraints should presumably be able to demand more favorable terms in any agreement that might be reached. Furthermore, such a leader's negotiating partner should presumably be willing to agree to this demand in the interest of improving the prospects for ratification (thereby reducing the risks of being seen as ineffective for reaching an unsuccessful agreement). This basic theory might thus be able to offer insight into the content of agreements as well as their success rate.

Finally, it could be useful to study the impact of negotiations on leader tenure. This theory has suggested that leaders should be punished when they appear to be ineffective in their management of an important contentious issue. Whether or not they actually are punished in this situation has been beyond the scope of the present project, but future work could investigate this. Bueno de Mesquita and Siverson (1995) and Chiozza and Goemans (2003) have found that war

performance and crisis initiation can have an important influence on leader tenure, and this theory suggests that management of contentious issues could play a similar role.

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Table 1: Summary of Variables in Model

A. Selection stage: Reach agreement (N=496 valid observations)

<u>Variable</u>	<u>Range</u>	<u>Mean (S.D.)</u>
Reach agreement	0 - 1	0.36 (0.48)
Both constrained	0 - 1	0.17 (0.37)
One constrained	0 - 1	0.43 (0.50)
Recent negotiation failures	0 - 6.61	0.94 (1.31)
Recent fatal conflicts	0 - 2.51	0.07 (0.30)
Issue salience	1 - 12	7.18 (2.43)
Capability imbalance	0.50 - 1.0	0.80 (0.16)
Third party assistance	0 - 1	0.27 (0.44)

B. Outcome stage: Ending claims (N=180 valid observations)

<u>Variable</u>	<u>Range</u>	<u>Mean (S.D.)</u>
End most/all of claim	0 - 1	0.50 (0.50)
Both constrained	0 - 1	0.08 (0.28)
One constrained	0 - 1	0.39 (0.49)
Recent negotiation failures	0 - 6.42	0.67 (1.11)
Recent fatal conflicts	0 - 2.20	0.07 (0.28)
Issue salience	1 - 12	6.86 (2.70)
Unfair agreement	0 - 1	0.40 (0.49)
Third party assistance	0 - 1	0.25 (0.43)

Table 2: Leader Selection Processes and Ratification Constraints

<u>Leader Selection Process</u>	Strong ratification constraints?	
	No	Yes (%)
Elected	68	368 (84.4%)
Designated	200	27 (11.9%)
Other	270	106 (28.2%)

Table 3: Comparison of Constraint Measures*A. Constrained: ratification constraint and any leader selection process*

<u>Is state constrained?</u>	Is state democratic?	
	No	Yes
No	538	0
Yes	137 (20.3%)	354 (100%)

B. Constrained: ratification constraint and elected or designated leader

<u>Is state constrained?</u>	Is state democratic?	
	No	Yes
No	604	30
Yes	71 (10.5%)	324 (91.5%)

C. Constrained: ratification constraint and elected leader

<u>Is state constrained?</u>	Is state democratic?	
	No	Yes
No	631	30
Yes	44 (6.5%)	324 (91.5%)

Note: Democratic status based on Polity IV polity score, with scores of 7 or higher considered democratic.

Table 4: Heckman Probit Analysis of Negotiation Success

	Model I: Ratification, elected or designated leaders	Model II: Ratification, any leader selection	Model III: Democracy (Polity score 7+)
Variable	Coefficient (S.E.)	Coefficient (S.E.)	Coefficient (S.E.)
<i>Outcome: End Claim</i>			
Both constrained	0.93 (0.25)***	0.57 (0.20)***	0.96 (0.26)***
One constrained	0.44 (0.15)***	0.33 (0.16)**	0.54 (0.14)***
Recent negotiation failures	0.13 (0.08)**	0.15 (0.08)**	0.11 (0.08)*
Recent fatal conflicts	0.81 (0.43)**	0.81 (0.42)**	0.81 (0.43)**
Issue salience	- 0.05 (0.04)*	- 0.05 (0.03)*	- 0.03 (0.03)
Unfair agreement	- 0.28 (0.12)**	- 0.26 (0.12)**	- 0.30 (0.12)***
Third party assistance	0.35 (0.19)**	0.27 (0.19)*	0.30 (0.18)**
Constant	0.87 (0.23)***	0.85 (0.24)***	0.71 (0.22)***
<i>Selection: Agreement</i>			
Both constrained	- 0.80 (0.19)***	- 0.65 (0.16)***	- 0.86 (0.21)***
One constrained	- 0.43 (0.13)***	- 0.44 (0.14)***	- 0.40 (0.13)***
Recent negotiation failures	- 0.14 (0.06)***	- 0.15 (0.06)***	- 0.13 (0.06)**
Recent fatal conflicts	0.16 (0.22)	0.12 (0.23)	0.16 (0.23)
Issue salience	- 0.03 (0.03)	- 0.04 (0.03)*	- 0.05 (0.03)**
Capability imbalance	0.52 (0.35)*	0.52 (0.34)*	0.50 (0.40)
Third party assistance	- 0.03 (0.14)	0.03 (0.15)	- 0.03 (0.15)
Constant	- 0.11 (0.35)	- 0.02 (0.35)	- 0.05 (0.36)
	N: 496 (180)	N: 496 (180)	N: 496 (180)
	X ² = 32.36	X ² = 28.43	X ² = 40.16
	(7 d.f., p<.001)	(7 d.f., p<.001)	(7 d.f., p<.001)
	Rho = -0.95 (p<.05)	Rho = - 0.95 (p<.01)	Rho = - 0.98 (p<.34)

***p<.01, **p<.05, *p<.10 (one-tailed tests; robust standard errors in parentheses).

Table 5: Predicted Probabilities of Negotiation Success*A. Selection Equation: Reaching agreement*

	Model I	Model II	Model III
<u>Variable</u>	<u>Predicted Probability of Reaching Agreement</u>		
Constrained states in dyad:			
Neither	.480	.493	.463
One	.314	.323	.312
Both	.197	.252	.171
Recent negotiation failures:			
0 (minimum)	.363	.376	.357
0.94 (mean)	.314	.323	.312
6.61 (maximum)	.096	.094	.109
Recent fatal conflicts:			
0 (minimum)	--	--	--
0.07 (mean)	--	--	--
2.51 (maximum)	--	--	--
Issue salience:			
1 (minimum)	--	.412	.419
7.18 (mean)	--	.323	.312
12 (maximum)	--	.260	.238
Capability imbalance:			
.50 (minimum)	.261	.270	--
.80 (mean)	.314	.323	--
1.0 (maximum)	.352	.361	--
Third party assistance?			
No	--	--	--
Yes	--	--	--

B. Outcome Equation: Agreement ends most/all of claim

	Model I	Model II	Model III
<u>Variable</u>	<u>Predicted Probability of Agreement Ending Claim</u>		
Constrained states in dyad:			
Neither	.479	.516	.472
One	.577	.539	.653
Both	.724	.604	.711
Recent negotiation failures:			
0 (minimum)	.453	.509	.457
0.67 (mean)	.479	.539	.472
6.42 (maximum)	.608	.692	.532
Recent fatal conflicts:			
0 (minimum)	.436	.493	.426
0.07 (mean)	.479	.539	.472
2.20 (maximum)	.986	.993	.987
Issue salience:			
1 (minimum)	.718	.776	--
6.86 (mean)	.479	.539	--
12 (maximum)	.232	.266	--
Unfair agreement?			
No	.479	.539	.472
Yes	.293	.351	.258
Third party assistance?			
No	.479	.539	.472
Yes	.671	.713	.646

Note: The top half of this table shows marginal effects on the probability of reaching a substantive agreement in a peaceful settlement attempt; the bottom half shows marginal effects on the probability of ending most/all of the claim in the second stage, given that an agreement has been reached in the first stage. The table includes only those variables whose effects were statistically significant in Table 2. For purposes of calculation, all other variables are held at their mean or modal values, using the MFX command after HECKPROB with Stata 10.1.