Agency in Conflict Resolution as a Manager–Lawyer Issue: Theory and Implications for Research

Adrian Borbély

Institute for Research and Education on Negotiation (IRENE), ESSEC Business School, Paris and Singapore

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Correspondence
Adrian Borbély, Institute for Research and Education on Negotiation (IRENE), ESSEC Business School, Avenue Bernard Hirsch, 95000 Cergy Pontoise, France; e-mail: adrian.borbely@essec.edu.

Abstract

Agency theory is often used, through the principal–agent framework, to explain organizational barriers to conflict resolution, i.e., the internal reasons why parties in conflict lean so much toward adjudication, despite the availability of more efficient negotiated settlement methods. Framing business conflict resolution as a professional service, a knowledge-intensive field in which lawyers assist the other functions of the firm in resolving difficulties encountered with other organizations, leads scholars to reconsider classical agency assumptions. This contribution proposes a manager–lawyer agency framework of conflict resolution, which recognizes the influence lawyers exert over their clients and induces a focus on the micro-interactions among decision-makers, in-house legal counsels and attorneys as they coproduce response to conflict. From this theoretical effort, one may draw numerous paths for future research aiming to provide Alternative Dispute Resolution promoters with an increased understanding of within-party agency interactions.

Agency theory, via the principal–agent framework, has led research to identify factors, linked with the internal organization of a party in conflict, that constitute organizational barriers to conflict resolution (Arrow, Mnookin, Ross, Tversky, & Wilson, 1995). These factors push parties into over-relying on litigation and away from negotiated options, thereby negatively impacting the fit between the conflict and the chosen resolution

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mechanism and, consequently, the satisfaction clients may derive from conflict resolution (Sander & Goldberg, 1994). The principal–agent framework primarily focuses on the incentive structure contained in the contract between a principal and its agents and the impact this could have on the latter's behaviors and actions (for a review: Eisenhardt, 1989). In the field of conflict management, this translates as a client–attorney model that casts light on the issues of motivation alignment and information diffusion between clients (e.g., companies) and their law firms (e.g., Mnookin, Peppet, & Tulumello, 2004). These issues appear to be only a subset of the within-party factors that may contribute to the limited recourse to Alternative Dispute Resolution (ADR)[1] observed in most Western countries (Floch, 2007).

Business conflict resolution[2] may be analyzed as a professional service setting, as decision-makers interact with lawyers to produce an appropriate response to a particular conflict; lawyers provide understanding of the legal implications of the situation, assistance in negotiated settlement efforts and defend the company's interests in the course of legal proceedings. Specialized professionals and the intellectual services they produce have long received a specific treatment in social science, with examples ranging from management control (Raelin, 1985) to transaction costs theory (Bowen & Jones, 1986). Professionals rely on specific knowledge to perform their services; as their clients do not master this knowledge and thus would be unable to produce the service themselves, theory has to accommodate the fact that agents may in fact control the agency relationship. This led Sharma (1997) to question the principal–agent core assumptions and to suggest a specifically tailored principal–professional agency framework. Transposing these ideas in conflict resolution, our contribution proposes a manager–lawyer framework, which aims to provide researchers with a new theoretical foundation for researching the impact on companies' conflict resolution practices of the way people within corporations in conflict are organized; in particular, by studying how the legal and decision-making functions of the firm interact, conflict management research may offer practice new levers to counteract the detrimental effects of the agency structure of a party in conflict.

Starting from the management literature stream on professional services, this article first details the manager–lawyer agency framework, before providing a comparison with the traditionally used principal–agent framework. This will reveal the need for research to include in its focus the role decision-makers need to play in coproducing conflict resolution with lawyers in order to maximize their satisfaction; such a comparison also brings about new theoretical reflections pertaining to lawyers' behavior in conflict resolution. These considerations make it possible to suggest, in the last section, numerous paths for future research in our field.

[1]In this paper, we consider that Alternative Dispute Resolution (ADR) comprise all negotiated methods to deal with conflict (direct negotiation, mediation, etc.) and therefore exclude arbitration. This approach, common in Europe, relies on the fact that arbitration and litigation, despite the public–private difference, share the same adjudication philosophy (a neutral gives his ruling that parties need to implement).

[2]This paper will focus on conflicts companies encounter with other organizations (clients, suppliers, competitors). The proposed framework might apply in other conflict settings, such as employer–employee conflicts and labor relations.

A Manager–Lawyer Agency Approach to Barriers to Conflict Resolution

Reflections pertaining to professional services provide a new avenue for research to address agency in business conflict resolution and to increase our understanding of the way corporations around the world resolve their inter-organizational conflicts and consider ADR in their reflections. Much like the client–attorney approach is an adaptation of the principal–agent issue (e.g., Pratt & Zeckhauser, 1985), our manager–lawyer framework derives from the literature on professional services and, in particular, leans on the principal–professional issue isolated by Sharma (1997).

The manager–lawyer agency framework we propose first takes into consideration that advice in conflict resolution is a knowledge-intensive service provided by lawyers to lay principals. The tasks lawyers perform are based on a specific field of knowledge about laws and procedures, that they master and that distinguishes them from their clients and the rest of the population. Their tasks are ordered by managers who are seldom law school graduates and therefore, even if they have experience in negotiation, may not master the legal aspects of their conflict and therefore be unable to perform a solid contextual analysis of the available conflict resolution alternatives. In France, for example, management graduates do not acquire much knowledge about conflict resolution during their initial training (Borbély, 2010a) and only few of the organizational agents trained in ADR belong to functions other than legal (Vaugon, Naimark, & Perez-Nückel, 2009). Consequently, conflict resolution may often be perceived by corporate decision-makers as a highly technical field. Theory needs to acknowledge that the central knowledge to produce conflict resolution services is largely in the hands of agents and difficult to acquire for their clients. As a result, lawyers may impose their approach to reflections pertaining to the service production (Dingwall, 1983) and even determine how much of their service is necessary (Wolinsky, 1993). For their clients, oversight is complex because, to them, ''the agent's behavior is opaque and there is a great deal of ambiguity as to the true contribution of the agent's efforts on the observed outcome'' (Sharma, 1997: 770). In other words, the knowledge-intensiveness of conflict resolution generates power in favor of law professionals (Fox & Urwick, 1973), who may therefore overpower their clients and take control of the agency relationship (Shapiro, 2005). The agent's power position undermines the principal–agent approach, commonly used in conflict management research, centered on the financial incentives imposed by principals on agents (Eisenhardt, 1989). These incentives require clients to understand how agents work so that to apply monitoring. Although valid for executive compensation (Garen, 1994), this may prove largely inefficient in knowledge-intensive services such as conflict resolution. Such settings therefore call for a different agency approach, based on a behavioral stance and focusing on the exchanges among principals and agents in their entirety (Sharma, 1997).

The manager–lawyer framework takes into consideration the fact that clients of legal services have an active role to play in the production of conflict resolution services. Managers will not simply subcontract conflict resolution to lawyers and apply incentives and monitoring (Eisenhardt, 1989); they will interact with them at different stages of

the service production, at the very least to exchange information (Mills & Morris, 1986) and to take various decisions all along the conflict's life cycle. Sharma (1997) introduces the notion of ''coproduction of service'' to imply that clients' attitudes, behaviors, and actions will play a significant role in the quality of the delivered intellectual services. Because the knowledge necessary to produce the legal assessment of conflict situations is generally held by lawyers only, managers may be tempted to take a rather passive stance, accept legal advice without skepticism and let lawyers take control of conflict resolution operations. Such interaction schemes are often observed in practice: Seymour (1992) wrote that ''cases are not settled sooner because lawyers, who benefit most from litigation, are in control – not the clients who pay the bills.'' The expression of lawyers' opportunism, i.e., their tendency to lean toward litigation (Gilson & Mnookin, 1994), will therefore be greatly facilitated by the naturally passive positioning of their clients. Conversely, client involvement may therefore serve as an oversight tool to limit possible opportunistic moves by agents. In other words, agency theorization should not be about how principals make lawyers work satisfactorily (focus on contract) but about how they should work together to produce a sound response to conflict (focus on exchanges and coproduction). Theory needs to acknowledge the fact that lawyers do not resolve their clients' conflicts alone; they necessarily coproduce with decision-makers a response that is adapted to the peculiarities of the situation.

This notion of service coproduction draws scholar attention on the micro-exchanges that take place between the legal and managerial functions of the firm in the course of the resolution of a conflict, as these interactions may unveil the exact power distribution among actors and multiple decision biases that constitute organizational barriers to conflict resolution (Arrow et al., 1995). Both managers and lawyers will intervene at most stages in the conflict. Additionally, their level of involvement will vary as conflict unfolds and different dispute resolution methods are applied: mediators will address decision-makers directly, whereas judges will confer control of the litigation process to lawyers. In other words, it suggests that the interaction scheme between managers and lawyers may not only be a consequence, but also one of the determinants, in the choice of dispute resolution method. In addition, it implies a dynamic approach to the agency relationship between managers and lawyers in service coproduction, as their interaction schemes may co-evolve with the conflict.

The manager–lawyer framework does not ignore the lawyers' strong pro-litigation stance (Gilson & Mnookin, 1994). It suggests that their opportunism expresses itself because of the knowledge barrier and the passive stance it induces on the part of principals. Our model proposes that incentives imposed on lawyers may have a limited effect on opportunistic behavior on their part (Mills & Moberg, 1982) and that the active involvement of managers in conflict resolution may have a much more significant impact. In other words, by inspiring a constructive dialogue with lawyers and participating in their intervention, managers will inhibit lawyers' opportunism, leading to higher levels of client satisfaction. Pragmatically speaking, clients that just transmit cases to lawyers and ask them to ''deal with it'' should not complain upon receiving a purely judicial response and having to bear all corresponding costs. On the contrary, appropriately involved managers may draw lawyers into considering all interests at stake and

into suggesting, whenever appropriate, a negotiated approach to resolve the difficulty. Active involvement admittedly means physical participation but also knowledgeable engagement, leading research to wonder how experience and knowledge about conflict resolution mechanisms may enable clients of legal services to apply proper pressure on their agents and therefore obtain maximum satisfaction in conflict resolution.

The importance of knowledge manifests itself also in the definition of the main agency fault line delineating principals from agents. In the manager–lawyer approach, as well as in other professional settings, one needs to consider that agents are not necessarily independent contractors (e.g., attorneys); they may very well be on the organization's payroll (e.g., in-house lawyers; Raelin, 1985). Consequently, the agency line does not necessarily match the organization's boundary, as it corresponds to the knowledge barrier between lay decision-makers on the one hand and the specialized professionals from whom they request advice on the other (Sharma, 1997). The notion of agent is therefore redefined to make room for in-house professionals. Not only does it lead to adopt a new approach to clients (who could also be internal clients, i.e., other functions of the same company), it raises the question of the agent self-interest assumption. The manager–lawyer framework assumes that agents are not inherently purely opportunistic but instead have mixed motives, torn in ''the implicit tension between the calling to serve and the imperatives of doing business'' (Sharma, 1997: 766), thus leading research to look for agent motivators beyond mere financial gain.

What Is New? A Comparison With the Principal–Agent Approach

The manager–lawyer prism entails significant shifts from the classical agency approach of conflict resolution, the client–attorney model. These shifts have to do on the one hand with the general narrative of agency in a corporation in conflict and on the other hand with the approach research should have toward lawyers in conflict resolution. Table 1 summarizes the main differences between the two frameworks and underlines the focal points our model brings to conflict management research.

Comparing Frameworks

Our aim is not to contest the validity of the principal–agent approach but to point out that it addresses only part of the difficulties created by the agency structure in conflict resolution. The client–attorney framework focuses on how the contractual relationship between a disputant and its external attorneys may impact the counsel's willingness to resolve disputes swiftly (e.g., Mnookin & Susskind, 1999; Mnookin et al., 2004). It shows how clients can manipulate attorneys' incentive structures in order to align interests and obtain the best possible service (Lempereur & Scodellaro, 2003), thereby defining the agency problem in pure economic terms and ignoring other potentially relevant behavioral determinants. Existing theory generally describes litigators that ''rarely cooperate to resolve disputes efficiently; instead, shielded by a professional ideology that is said to require zealous advocacy, they endlessly and wastefully fight in ways that enrich

Table 1
Differences Between Agency Frameworks

	Client–Attorney framework (based on the principal–agent issue)	Manager–Lawyer framework (based on the principal–professional issue)	New focal points and research questions in conflict management
Grand issue	How to make agents work (contract)	How to work with agents (exchanges)	Coproduction and micro-exchanges
Power instrument	Incentives	Knowledge	Distribution of knowledge about conflict resolution
Blame Attribution	Agent	Shared	Principal's impact on decision
Principal's behavior	Ignored	Impacts the agent's behavior	Involvement and knowledge of principals
Time dimension	None: static	Potentially dynamic	Impact of time and conflict's unfolding
Power distribution	Principal > Agent	Principal < Agent	Influence of legal advice on principals
Agency fault line	Between two organizations (agent is always external)	Between two functions of the organization (agent may be in-house)	Role of in-house legal counsels, torn between principal and agent
Agent motives	Pure opportunism	Mixed motives	Look for agent motivators other than financial gain

themselves but rarely advantage the client" (Gilson & Mnookin, 1994: 511). By doing so, the client–attorney model casts most if not all the blame for dysfunctional decisions on lawyers, defined as opportunistic and guile-driven agents (Eisenhardt, 1989): because attorneys earn much more with trials than with quick settlements, they would be liable for the overall societal disregard for ADR. Describing attorneys as purely opportunistic and blaming them in full for the lack of quantitative development of ADR within Western societies may prove simplistic, if not plainly incorrect, as it completely ignores the impact client behavior may have on within-party interactions.

Through the client–attorney framework, one is led to consider that decision-makers simply subcontract conflict resolution to legal agents, who are under their monitoring, and therefore ignore the impact client behavior may have on these operations. This approach does not aim to provide guidance into the micro-interactions among the different actors and therefore is contained to a macro, static level. Conversely, the manager–lawyer approach calls for a close look at the everyday exchanges between managers and lawyers, the information that is exchanged, instructions given and, more generally, the way managers' behaviors impact agents' actions. Additionally, the client–attorney contractual approach does not appear dynamic, i.e., subject to the impact of time and the sequence of the conflict. In other words, the coproduction-centered manager–lawyer framework leaves room to take into consideration that, as conflict unfolds, exchanges among actors may evolve, whereas the contractual approach of the client–attorney issue may be static over the entire lifespan of the conflict.

Furthermore, the client–attorney framework disregards the agency structure that exists within the client of conflict management services (the principal). When organizations reach a certain size, top management does not deal with every single conflict by themselves but delegates conflict management to subordinates, generalist managers or in-house legal counsels. Like any other, these agency substructures may encompass their own difficulties with regard to information diffusion and decision-making (Pratt & Zeckhauser, 1985). In particular, the internal legal function of the firm (legal or litigation department) is ignored, despite the fact that it counsels management, acts as an intermediary with attorneys, and may in the process play a significant role in the treatment of conflicts. Research needs to address how these internal agency relationships, induced by the decoupling between the manager responsible for the activity that created the conflict and the person managing its resolution, may impact the organization's proneness to try to find negotiated settlements.

The client–attorney framework also leads research to assume that clients are in a position of power over legal agents, much like a majority shareowner over the firm's management: principals implement monitoring systems to control the agents' processes and/or results and are assumed to sit "in the driver's seat" (Shapiro, 2005: 267). Such an approach relies on a very Weberian approach to power, founded solely on authority and ability to influence interests (Blau, 1963) and that overlooks the fact that the knowledge-intensiveness of conflict resolution strongly hinders the effectiveness of client monitoring (Dingwall, 1983). Therefore, the principal–agent framework does not factor in the influence agents exert over principals in the production of intellectual services and consequently appears ambivalent on the issue of power. In fact, it leaves the following paradox unsolved: since principals are considered to be in control of the relationship, how could they be so easily manipulated by opportunistic agents? The exact power balance, resulting from the opposite influence exerted on each other by principals (incentives, involvement) and agents (knowledge), may be a direct determinant of the organization's ADR-proneness.

The main reproach one may raise toward the principal–agent approach therefore concerns its vision of the power imbalance and blame attribution in negotiation and conflict resolution. This does not mean that we should entirely abandon the client–attorney framework in conflict management, as it provides knowledge about one agency relationship among others. It should *a minima* incite conflict management scholars to question this approach's core assumptions, compare it with a coproduction-centered manager–lawyer approach and test their validity with regard to barriers to conflict resolution (Arrow et al., 1995).

A New Approach Toward Lawyers in Conflict Resolution

When compared with the client–attorney model, our manager–lawyer framework induces research to adopt a very different approach toward lawyers in conflict resolution. Not only does it refrain from focusing the blame on the sole attorneys, it casts light on the theoretical ambivalence of in-house lawyers, those law professionals that are on the organization's payroll. It also prompts research to look for other agent

motivators than financial guile (Sharma, 1997). In particular, in most European countries, awareness and experience in ADR may not be sufficiently diffused among lawyers, thereby impacting their willingness to advocate for these options.

Assessing the In-House Legal Counsels' Role in Conflict Resolution

Professionals may be defined as people who "apply in their work a body of knowledge and techniques acquired through training and experience, have a service orientation and distinctive ethics, and have a great deal of autonomy and prestige in modern economy" (Sharma, 1997: 763). Lawyers undoubtedly constitute a profession (Abbott, 1988) but this assertion does not suffice to clearly draw the law profession's boundaries. More precisely, theory needs to acknowledge the existence of in-house legal counsels, the law professionals that are on the client organization's payroll. As shown in Figure 1, they offer theoretical challenges, as their role as professional agents, induced by their knowledge in law, is to be coupled with the fact that they also belong to the disputing organization (principal).

Professions may cross organizational boundaries. Some professionals (lawyers but also accountants, designers, etc.) are employed by their client organization, while others are independent service providers. Social science generally recognizes that in-house professionals occupy a peculiar position with regard to the rest of the organization, as they are characterized by the strong ties they entertain with their independent counterparts (Raelin, 1985) and, at the same time, by the fact that they generally operate in an organizational silo (Schütz & Bloch, 2006), i.e., rather isolated from their coworkers. They may therefore be institutionally closer to their fellow independent colleagues than the rest of their organizational hierarchy.

Additionally, the jobs of an attorney and of an in-house legal counsel are quite similar when it comes to providing legal advice in conflict resolution, to various clients in one case and to their sole employer in the other case. Their activity is based on the knowledge they have acquired side by side in law school. They share similar work practices (e.g., writing legal memos), a common vocabulary, and comparable deontological obligations. They all are repeat-players in conflict resolution, whereas disputes may be a much rarer occurrence in a manager's course of work. Of course, only attorneys may plead in court but in-house lawyers may assist them in preparing for trial proceedings. In addition, besides the fact that one word ("lawyers") is used in American English to refer to all law professionals, whereas most European languages[3] use two separate words ("attorneys" and "in-house legal counsels"), one could mention recent reflections that have taken place in France pertaining to the possible unification of the legal profession, which aimed to turn "in-house legal counsels" into "in-house attorneys" (Darrois, 2009).

In order to better understand the resistances companies may have toward ADR, research clearly needs to address the specific role in-house lawyers play in within-party reflections pertaining to conflict resolution. The in-house lawyers' position differs from

[3]This is true in French, German, and Spanish. All these languages use the term "jurist" to designate specifically in-house legal counsels and distinguish them from "attorneys," who by definition work in law firms.

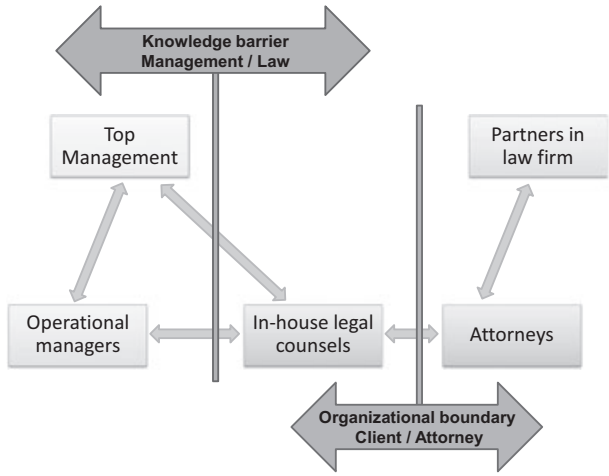

Figure 1. Positioning of in-house counsels in different agency frameworks.

the attorneys': as organizational members, they may be deeper immersed in the variety of interests of their employer and will certainly be seized earlier in the conflict than external service providers. They also do not share the attorney's incentive structure. It remains that their training and knowledge field may predispose them to exert some form of pressure toward legal and judicial solutions. The fact that they are both organizational agents and legal professionals may give them a specific role in conflict resolution. Empirical research is necessary not only to confirm this duality but also to unveil the different elements that may influence it. Theory immediately suggests looking at two of these elements. First, professional experience: considering the very legalistic training lawyers receive in many countries, like France (Lempereur, 1998), in-house lawyers may be considered as pure legal agents when they graduate from law school, before becoming more management-oriented as their career progresses. Second, the quality of the coproduction (Sharma, 1997) and in particular the integration of the legal function within the organization's decision-making spheres may also determine whether in-house lawyers will be more or less prone to advise ADR solutions to their hierarchy.

Based on the definition of professions and their treatment in theory and practice, the manager–lawyer agency approach considers that in-house lawyers are professional agents, side by side with attorneys. The main agency line is therefore drawn at the knowledge barrier, i.e., inside companies who have internal legal counsels. It remains that, because of their belonging to the client organization, in-house lawyers should not be theoretically merged with attorneys. More research is necessary to assess their specific impact on conflict resolution.

The Manager–Lawyer Framework and Knowledge About ADR

The manager–lawyer framework is characterized by an approach toward agent motivators that goes beyond the obvious incentive argument stating that attorneys may prefer

litigation, so that they can bill a maximum amount of hours (Gilson & Mnookin, 1994). Consequently, it makes it possible to deal with lawyer ''opportunism'' without entering the debate about their motives. Such a discussion, as it touches on lawyers' deontology, envenoms theoretical and practical discussions about the role lawyers might play in the development of ADR. The economic rationale of the client–attorney approach restricts consideration for agent motivators to incentive and financial issues, concealing other potentially important motivators.

One of these motivators may lie in the fact that the lawyers' field of knowledge may not cover all the process alternatives available to produce the requested service. Contrary to virtually all writings about professions and knowledge-intensive services, which assume that the professionals' field of knowledge covers the entire field of the service requested from them, lawyers in most European countries, when asked for advice on the resolution of a conflict, may have too limited an awareness about negotiation and mediation to advise them up to their full potential. Conflict resolution scholars tell us that it is the law professionals' duty to advise their clients about the best venue to resolve disputes (Menkel-Meadow, Love, & Schneider, 2006), and a vast majority of French future managers consider lawyers to be experts in negotiation and ADR (Borbély, 2010b). Therefore, one barrier to conflict resolution may lie in the gap between the expected and real range of alternatives considered by lawyers in their legal advice. In other words, the issue lies in the fact that, when advised to engage in judicial proceedings, clients of conflict resolution services expect that their lawyers have thoroughly reviewed and objectively rejected negotiated options.

Based on lawyers' training, theory is led to assume that this is not necessarily the case. In most countries[4], law schools equip future legal counsels with a purely legal approach toward conflict, with little to no input from psychology or the economics of conflict (for France: Lempereur, 1998). Some lawyers are not trained in negotiation and mediation at all. Others receive only a couple weeks of such training in the midst of several years of learning about laws and trial procedures. Some experienced lawyers state that they still lack awareness about mediation and sometimes discovered this method rather late in their career. Many still request information and training in ADR. All of this confirms the fact that ADR may not be initially part of their knowledge field. In other words, lawyers across the world may best be defined as experts in rights-based, as opposed to interests-based, conflict resolution (Brett, Goldberg, & Ury, 1990). In those conditions, theory needs to doubt the fact that lawyers, when they provide legal counsel in conflict settings, treat all available process alternatives on an equal grounding. This calls for two direct implications. First, comparative work is necessary in order to assess to what point U.S.-based research and reflections are transposable in countries in which lawyers' education significantly differ. Second, this may have immediate public policy

[4]Actually, the U.S.A. and Canada may stand as the only exceptions to this statement, as North American law and business schools offer intensive, sometimes generalized, ADR training to future legal counsels and managers. In order to be exhaustive, theory needs to take into consideration that this is not the fact in most other countries.

implications: in order to develop ADR, countries need to reflect about the current limitations in the training of their legal professionals.

The fact that ADR brings attorneys less value than full-fledged trials (Gilson & Mnookin, 1994) may be only one motivator for their pro-litigation stance. Research is needed to draw a comprehensive list of these motivators. As already developed, one of these motivators may be that lawyers may simply be more confident with the tools they know best. Their lack of training in ADR, coupled with the fact that ADR profoundly alters their interaction pattern with their clients and represents a sharp qualitative move from their customary litigation narrative (Rubinson, 2004), may explain, in part, their preference for trial procedures. The manager–lawyer framework thereby incites research to engage in a wider reflection on lawyers' motivators, as others may be uncovered in the future.

These reflections about the place of ADR with regard to the knowledge field of lawyers have two immediate consequences for theory and research. First, they play in favor of placing in-house lawyers within the professional agent category because, despite the fact that they do not share the incentive system of attorneys, they may be initially formatted to have the same pro-litigation stance (something that would require empirical testing). Second, it leads to question how principals, through their involvement in the coproduction of conflict resolution, may counter this situation, especially through appropriate training. Research may be interested in delving into the awareness of ADR within the managerial functions of the firm, which may be able to compensate for the lawyers' natural tendency to favor adjudication, should they acquire sufficient knowledge about negotiated dispute resolution (Borbély, 2010a).

An Agenda for Research

As argued earlier, relying on the manager–lawyer agency framework enables research to approach the issue of organizational barriers to conflict resolution under a new light. This theoretical framework addresses the issue of how the internal organization of a party may impact the way it will resolve conflict and its proneness to have recourse to ADR methods. Our effort, we claim, offers conflict resolution academia with a valid alternative to the principal–agent framework, capable of revealing significant knowledge for research and potentially useful to ADR practitioners, who, through a better understanding of their clients, may be more efficient at marketing their services in the business world. To achieve such an objective, numerous paths for future research need to be followed.

First, in coherence with Seymour (1992) and Gilson and Mnookin (1994), when they relate lack of recourse to ADR with agent behaviors, the manager–lawyer framework suggests that legal agents may overpower their clients. Power has many definitions; for example, Bachrach and Baratz (1962) approach power as the influence A may have not only in the drafting of decisions that affect others but also in influencing social and institutional practices so that to limit consideration for information and alternatives that are detrimental to A's position. In conflict resolution, that would transcribe as lawyers not only strongly advocating in favor of litigation but also influencing their clients'

perceptions as to the attractiveness of negotiated alternatives. This approach toward power shows how challenging it may be to assess it objectively, as power may be subject to definitional issues as well as response biases when empirically studied. As lawyers, like most professionals, rarely have management control objectives (Raelin, 1985), one is left addressing the issue of power through either the perceptions participants have about the principal–agent dynamics (do clients feel they are in control of their conflict's fate?) or an analysis of the influence legal advice may have on them (do they simply follow it or does it lead to extensive discussion among principals and lawyers?). Since overpowering agents may freely press toward litigation (Gilson & Mnookin, 1994), the power exerted by principals may create a more balanced field for ADR, leading research to try correlating the distribution of power within a party in dispute with its conflict resolution practices. To affirm their power, managers have at their disposal certain levers to counterbalance agents' influence, like their knowledge and experience of conflict resolution. Research should therefore assert, for example, whether lawyers' influence is more constrained when decision-makers are repeat-players in conflict, as opposed to first-timers.

Second, the manager–lawyer framework encourages research to focus on the quality of the service coproduction and the principal's behavior in such settings. The notion of coproduction induces research to concentrate on the micro-interactions between lawyers and managers and to approach these actors as an ad hoc decision-making group, which aims to produce a series of decisions all along the conflict life cycle. The manager–lawyer framework enables to combine decision-making research with agency assumptions in the search for the specific within-party decision biases that impact proneness toward ADR. Considering that decision-making process impacts the value of the decision (e.g., Dean & Sharfman, 1996), to what extent do different decision-making practices impact the level of consideration for ADR and client satisfaction? Bazerman (2002) describes a theoretically perfect decision-making process grounded on the pooling of distributed information and thorough reflections on all available alternatives. In conflict resolution, information is unevenly distributed (Mnookin & Susskind, 1999). The notion of coproduction leads to inquire whether managers express their deep interests, true bottom lines, and utility curves to their legal agents and whether lawyers bring an objective view over the pros and cons of the different dispute resolution methods. Research still needs to examine what happens within a party at such a micro-level, in terms of the quality of information exchange and alternative consideration. Some decision-makers, when they instruct lawyers, only provide information pertaining to the legal aspects of the case, whereas others engage in a dialogue that covers all the firms' interests. Conversely, some principals delegate to lawyers the definition of the conflict resolution strategy, whereas others draft the strategy themselves, based on the evaluation elements provided by lawyers. All of these call for a careful analysis of these micro-exchanges, as the richness of that dialogue may be directly correlated with consideration for and recourse to ADR.

The manager–lawyer approach, when combined with decision-making and Bachrach and Baratz's (1962) definition of power, puts in the forefront the notion of prediscussion preferences, each actor's initial idea of the ''perfect decision'' (Gigone & Hastie,

1993). Agency theory tells us that lawyers may have a strong preference for adjudication over negotiated options (e.g., Gilson & Mnookin, 1994). They may therefore try to get their way with such preference instead of letting the group pool all information in order to build consensus (Stasser & Titus, 1985). The analysis of micro-exchanges among managers and lawyers (meetings, memos) should therefore serve to assess the reality of these prediscussion preferences and the way they are expressed, in order to understand exactly how the lawyers' expected pro-litigation stance impacts decision-making processes.

Third, the level of involvement of the principal in conflict resolution also raises interesting research focuses, as the manager–lawyer framework dictates that coproduction may directly impact the quality of the decision. Most of traditional agency writings end up blaming agents for the lack of use of ADR. To complete the picture, research should look at the principal's share of responsibility, starting from the assumption that uninvolved principals that just delegate conflict management to lawyers should not complain if, in return, they receive a purely legal treatment of the case and have to endure systematic litigation. Although litigation may be run without the clients' presence, it is impossible to mediate without them. To be integrative, negotiated efforts require the clients' active participation, as negotiations between legal agents are generally limited to the legal aspects of the case (Galanter, 1985). Our framework leads to question whether higher level of principal involvement is only a consequence of the choice of dispute resolution mechanism or whether it may also be one of its causes. When strategizing response to a conflict, more involved principals may bring a more balanced approach to the legal aspects of the conflict and, consequently, wider consideration for negotiated alternatives. For research, the main difficulty lies in the construction of valid scales to evaluate managers' involvement, as it is a subjective concept that may only be imperfectly quantified. Some proxies may be uncovered, like the frequency of lawyer–manager meetings or, in companies that have in-house lawyers, the involvement of a management representative next to the in-house lawyer (e.g., Legal Director) driving conflict resolution efforts. The manager's awareness and knowledge about conflict resolution may also be correlated with the quality of their involvement in conflict resolution. In France, but that may be true in other countries, freshly graduated managers do not have a clear understanding of conflict resolution (Borbély, 2010a), which suggests that research looks at the effect of professional experience and continuous training on their behavior.

Fourth, the quality of conflict resolution service production may be directly correlated with the integration of the legal function within the firm. Companies differ based on the way lawyers and decision-makers are organized to work together. In some settings, management never interact with lawyers unless when facing open conflict. In other cases, lawyers are directly integrated in all firms' decisions and are regularly kept up on all aspects of the business, which may give them a more management-oriented approach toward conflict and enable them to be seized at an earlier point in time, before positions crystallize and litigation becomes inevitable. The notion of coproduction and its impact on service quality (Sharma, 1997) leads us to hypothesize that companies in which the law and management functions are integrated with each other will have a

more ADR-prone approach. On a related note, some companies have recourse to the same lawyers (attorneys or in-house legal counsels) from contract drafting to the subsequent conflict resolution efforts. Others use different lawyers for contract negotiations and conflict resolution, making conflict resolution lawyers work on only part of the history of the contract, which would, one could assume, lead them toward a more legalistic approach.

A final issue concerns in-house lawyers, a population that has not yet received much interest in conflict management research. As argued earlier, they offer theoretical challenges, as they are at the same time members of the client organization and delivering legal services pertaining to the resolution of disputes, placing them at the crossroads of the nonlegal interests of the firm and the legal ins and outs of the situation. They may therefore swing between a purely legal role and a more managerial impact. Some in-house legal counsels define themselves as ''negotiators'' that rarely deal with legal proceedings, while others compare themselves to ''internal attorneys'' who mainly deal with trials and arbitration procedures. In-house lawyers may therefore have a specific impact on conflict resolution, different from external attorneys (they do not have the same incentive structure) but also strongly influenced by their professional status and their knowledge in law. Research may want to gather more data about how these two possible roles may play out in conflict resolution. Careful attention may also be drawn to the motivators that influence the roles in-house counsels will play in conflict resolution. Above all, considering that, in most countries, in-house lawyers receive a purely legal training, as they accumulate professional experience, they may become closer to principals and less of the agents they have initially been trained to be. Length of professional experience may be directly correlated to openness toward negotiated dispute resolution. One may additionally attempt to correlate the presence of lawyers within an organization, together with the core characteristics of these legal departments, with the amount of cases resolved through negotiated methods by the organization.

Conclusion

Considering conflict resolution as a professional service raises numerous possible reflections pertaining to our field's agency approach. It led us to propose a manager–lawyer framework of conflict resolution, which casts a different light on organizational conflict resolution practices and enables research to unveil new barriers to conflict resolution. In particular, it reveals the fact that the agency issue in conflict resolution is much more complex than a simple incentive issue. Many factors may influence a company's satisfaction with its conflict resolution practices, including the active and knowledgeable involvement of clients (organizational decision-makers), the specific impact of in-house lawyers, when they exist, and the quality of information exchanged with law professionals. These micro-exchanges may be considered as dynamic by research, calling for qualitative observation at different points in the conflict's lifespan. This stream of research needs to rely on valid constructs, which remain to be created, in order to collect empirical evidence to assess the overall utility of such a framework on the questions raised in

business conflict management. All of this also calls for reflections pertaining to the generalization of the manager–lawyer framework to other types of conflicts: personal conflicts, employer–employee, and labor relations issues.

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Adrian Borbély is a PhD candidate in Organizational Behavior at ESSEC Business School in Paris, France. He is an associate researcher with ESSEC-IRENE, the Institute for Research and Education on Negotiation. His research focuses on how corporations define their conflict resolution strategy and the impact within-party relationships may have on their proneness to use ADR. He is a lawyer by training and a trained and experienced mediator.