

The Role of Justice in Historical Negotiations

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Keywords

distributive bargaining, distributive justice, durability of agreements, integrative outcomes, inter-governmental negotiation, problem solving, procedural justice.

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Abstract

This study explores the role of justice in eleven historical cases of inter-governmental negotiation. Building on results obtained in several recent studies on justice in negotiation, we examine a set of hypotheses about relationships among negotiating process (as distributive bargaining or problem solving), justice (as procedural and distributive), outcomes (as compromise or integrative), and the duration of the agreements. The process variables were coded from negotiators' statements with categories from the bargaining process analysis system. The justice variables were coded with a system developed in recent studies on peace agreements. Similar to the results obtained by Hollander-Blumoff and Tyler (2008: 473) in a simulated legal setting, we find correlations between procedural justice, problem solving, and integrative outcomes. Similar to the results obtained by Druckman and Albin (2011: 1137) on peace agreements, we find a strong relationship between distributive justice and the durability of the agreement. In these cases, problem-solving processes were shown to mediate the relationship between procedural justice and integrative outcomes. The findings suggest that justice plays an important role across a variety of negotiation settings. We present these results as heuristic, suggesting avenues for further research on larger and more diverse samples of cases.

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Overview

Does justice make a difference in the outcomes of international negotiations? If negotiators have open access to information related to their discussions and a fair opportunity to be heard, will their talks conclude with an integrative outcome and will the outcome remain in force for a longer time than if they do not? This study addresses these questions by exploring relationships among justice, negotiating process, outcomes, and the durability of the agreements. The analyses build on the findings reported by Albin and Druckman (in press), Druckman and Albin (2011), Hollander-Blumoff and Tyler (2008), and Wagner (2008). The Wagner study, conducted with the same historical cases used in our analyses, reported strong relationships between negotiation processes and outcomes. This study adds justice (procedural and distributive) and durability variables to those analyses. The Hollander-Blumoff study, conducted in a simulated legal context with law students, showed that procedural justice increased opportunities for problem solving, leading to integrative agreements. The Albin-Druckman studies found strong relationships among both distributive and procedural justice and the durability of peace agreements, considered in terms of violations that occur over a postagreement period of 5 years. This study adds problem-solving processes and outcomes to those analyses. It also contributes a new data set to the justice and negotiation literature. Conducted in a similar theoretical and methodological framework to the existing studies, this study correlates assessments of process, justice, outcome, and durability in eleven historical cases of inter-governmental negotiations.

The study relies on U.S. negotiators' reports of discussions with their counterparts, printed in the *Foreign Relations of the United States* series of declassified Department of State material, as a primary data source. The discussions were analyzed with content analysis systems developed for coding bargaining process and procedural justice variables and then correlated with analyses of the extent to which the agreements reflected certain outcome types and distributive justice characteristics. In addition to exploring relationships between the bargaining process, justice, and outcomes, the analyses include correlations between these variables and durability of the outcome.

We organize the examination of the relationships among these variables in the form of a set of hypotheses. Sources for the hypotheses are discussed in the next section followed by definitions of the variables. Both internal and external validity considerations are then entertained: with regard to the former, the logic of statistical evaluation of hypotheses is discussed; on the latter, the number and representativeness of the sample of cases are considered. Details of the cases and the content analysis categories are presented in the next section followed by the results obtained for each hypothesis. The article concludes with a discussion of the implications of the findings for further research.

Hypotheses

This study extends the analyses performed by Wagner (2008) on eleven cases of historical international negotiations. She reported strong relationships between negotiation

processes and outcomes. Specifically, the more problem-solving (distributive bargaining) activities during the process, the more likely outcomes were integrative (compromise or asymmetrical). In this study, we add two types of justice variables, procedural or process justice (PJ) and distributive or outcome justice (DJ). The question asked is: What role is played by justice considerations in the relationship between process and outcome? This question has also been addressed in recent research on negotiation.

With regard to PJ, Hollander-Blumoff and Tyler (2008) found that joint (dyadic) PJ increased the disclosure of information, providing opportunities for value creation. These opportunities led to higher levels of joint outcome in which resources were more equally divided between the bargainers. These results were obtained in the context of simulated bilateral negotiations over legal issues. Law students played roles of lawyers, homeowners, and contractors. A similar finding was obtained in the context of agreements to end civil wars. Albin and Druckman (in press) showed that PJ increased the chances that outcomes would emphasize principles of equality, which, in turn, bolstered the durability of those agreements.

Together, the two studies suggest an interplay—in the form of reciprocal relationships—among PJ, information disclosure, and outcomes as integrative, equal, and durable. A fair and transparent process encourages (and is reinforced by) the disclosure of information needed for improved joint outcomes. A question asked in this study is whether procedurally just negotiation processes in the historical cases also co-occur with integrative agreements that endure. The relationships among these variables are depicted in Figure 1. These relationships are the basis for a set of hypotheses, beginning with a set derived from the studies reviewed just above.

H1: The more significant PJ principles are during the negotiation process, the more likely negotiators will use problem-solving processes.

H2: The more significant PJ principles are during the negotiation process, the more likely that the outcome will be integrative.

H3: PJ mediates the relationship between problem-solving processes and integrative outcomes.

H4: The more significant PJ principles are in the process, the more durable are the agreements.

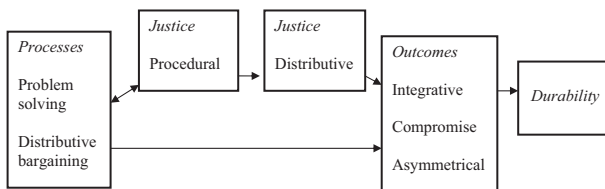
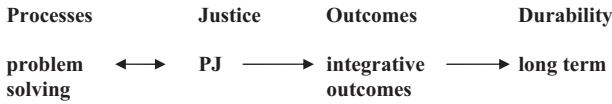


Figure 1. Variables and relationships examined.

These hypotheses can be summarized by the following path:



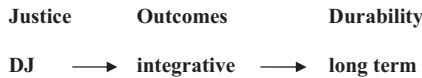
With regard to DJ, Druckman and Albin (2011) found that the quality of peace agreements and their durability were influenced by the distributive principle of equality. When equality principles were central to the agreements, the agreements were more forward looking and implementation occurred with few violations or breaches of the terms. The relationship among equality, outcome, and durability held in both more- and less-intense conflict environments. A question asked in this study is whether distributively just outcomes in the historical cases also co-occur with integrative agreements that endure.

These findings can be stated as hypotheses to be evaluated in other negotiation contexts.

H5: The more significant DJ principles are in the outcome, the more integrative are those outcomes.

H6: The more significant DJ principles are in the outcome, the more durable are the agreements.

These hypotheses can be summarized by the following path:



Wagner’s (2008) study explored the process-outcome relationship further by examining the relationship between process during various stages of the negotiation and the outcomes. In many of the cases she examined, negotiators used higher percentages of problem-solving statements initially than the overall percentage of problem solving. She also found that cases with sustained problem solving—those in which the negotiators maintained problem solving into the second part of the negotiation—usually concluded with integrative outcomes. These relationships suggest a formula-details progression in which negotiators begin with problem-solving exchanges to identify the key terms of exchange on which to base the agreement, followed by distributive bargaining at the end to establish the details through which the formula will be implemented. In their interview study, Zartman and Berman (1982) label this progression as going from diagnosis to formula building to identification of details. Druckman’s (1986) examination of base rights talks identifies a related pattern.

These findings contrast with research results obtained by Olekalns, Brett, and Weingart (2003), in which their simulated negotiating groups begin with distributive bargaining and transition to problem solving. They suggest that the “[early] distributive phase signaled that no one was going to be taken advantage of” (2003: 206). In the historical cases, Wagner (2008) examines, by contrast, the negotiators in most cases had preexisting relationships with their counterparts and anticipated continuing these relationships following the talks. They were therefore not establishing their resolve or

toughness for the first time at the beginning of the talks. These differences suggest that different strategies may be employed in simulated versus historical cases, further highlighting the value of the current research. Thus, strategies may be contingent on the context, which includes prior relationships among the negotiators.

The progression is explored further in this study by adding procedural and distributive justice variables. If problem solving is correlated with PJ, as posited by the first hypothesis, then we would expect to find frequent reference to PJ principles early in the process. However, this may apply less to the principle of voluntary agreement, which would be expected to appear in later phases of the talks. We discuss this further below in the section on Defining Distributive and Procedural Justice. The discussion above suggests the following hypothesis:

H7: Most PJ principles are discussed during the first half of the negotiations rather than during the second half.

This relationship can be extended to outcomes. The identification of the key terms of exchange on which to base the agreement—namely the formula (Zartman & Berman, 1982)—during the initial stages is expected to structure the trade-offs to be incorporated into the agreement. The anticipated progression from higher percentages of problem-solving statements and discussion of PJ principles to distributive bargaining over the details (that respect the formula) to be included in the outcome may set the stage for fair agreements. This can be stated as a final hypothesis:

H8: If more PJ principles are used during the first half of negotiations than the second half, then outcomes have greater DJ.

Distributive Bargaining, Problem Solving, and Justice

Distributive bargaining and problem solving are often regarded as contrasting processes in negotiation. They have been shown to correlate with outcomes: distributive bargaining processes usually lead to compromise outcomes or impasses, problem-solving processes often produce integrative outcomes (see Pruitt & Carnevale, 1993; for a review of studies). The distinction applies as well to complex international negotiations (e.g., Hopmann, 1995), a setting in which process-outcome relationships have also been demonstrated (Irmer & Druckman, 2009; Wagner, 2008). Only a few studies have, however, investigated the role played by justice (as distributive or procedural) or fairness. Building on the earlier and recent literatures, we discuss these concepts in the paragraphs to follow.

The examination of a negotiation through the lens of its “process” considers negotiators’ cognitive approaches and biases in their search for an agreed outcome. Distributive bargaining and problem solving are two process lenses. Negotiators with a distributive bargaining lens often view the talks with a fixed pie bias (Bazerman & Neale, 1983), leading them to assume that anything that benefits the other party will reduce the total possible gains available for them. In their attempt to explain these biases, analysts have built on the research that explores framing effects (Kahneman & Tversky, 1984)—to

understand a negotiator's sensitivity to losses—and on the work that explores the endowment effect (Kahneman, Knetsch, & Thaler, 1990)—to understand why negotiators may be more averse to giving things up than they are eager to acquire them. This body of work has explored factors that influence positions and movement from them in attempts to reach settlements. Negotiators are construed as distributive bargainers when they offer concessions from their original position or “contend” and try to persuade the other to concede (Pruitt, 1991). Distributive bargainers begin with opening, incompatible positions from which they attempt to converge on a final, unspecified point. The convergence usually follows negotiators' statements about an inability to change their position and/or the superiority of their position. These statements are often accompanied by threats and/or promises, particularly if the other party is not willing to concede and, ultimately, concessions or traded accommodations with the other's position.

In contrast to the distributive bargaining approach, problem solving relies on disclosure of information and preferences to facilitate the identification of each party's needs and interests. Walton and McKersie (1965) note the importance of information exchange to build integrative agreements in negotiation. Each party must know the other's needs if they are to identify joint benefits, with the outcome from a problem-solving process expected to result in greater joint gains (Fisher, Ury, & Patton, 1981; Lax & Sebenius, 1986; Mnookin, Peppet, & Tulumello, 2000). In the setting of international negotiation, Wagner (2008) found that a problem-solving process correlates with outcomes that integrate each party's needs, while a distributive bargaining process results in compromise outcomes. This distinction is between an outcome in which none of the parties perceive losses or sacrifices of interests and an outcome in which the parties perceive equal (or near-equal) losses or sacrifices. It is reflected in the way that the agreements from our sample of cases were coded. An outcome was judged in terms of the extent to which concessions were made, as roughly equal (compromise), unequal (asymmetrical), or as an agreement that did not depend on concessions from initial positions (integrative).

Other research paths have conceptualized negotiators as complex actors motivated by social concerns (Pruitt & Carnevale, 1993), including fairness motivations. Research using the “ultimatum game” suggests that negotiators are concerned primarily with distributive fairness in outcomes (Bazerman & Neale, 1983; Guth, Schmittberger, & Schwarze, 1982; Thaler, 1992). The research on fairness in international negotiation has focused primarily on outcome or distributive justice (e.g., Druckman & Harris, 1990; Hopmann, 1995), with limited attention to the role of fairness in the negotiation process (exceptions are Albin & Druckman, *in press*; Hollander-Blumoff & Tyler, 2008; Kapstein, 2008; Welsh, 2004).

Attention to the role of fairness has contributed theories for why PJ matters to individuals: because they view a fair process as a way to achieve fair outcomes (Thibaut & Walker, 1976), they care about their status in society and the level of procedural justice afforded to them offers cues about this status (Tyler & Lind, 1992), and it conveys information relevant to uncertainty reduction (Lind, 2002; Van den Bos & Lind, 2002). But while these and related studies comment on negotiators' concern for procedural justice, they do not address the question of whether PJ affects the negotiated outcome.

As noted above in the section on hypotheses, Hollander-Blumoff and Tyler's (2008) study is an exception. They found that procedural justice encouraged the acceptance of negotiated agreements, as well as leading to the opportunity for increased problem solving including the disclosure of relevant information. Although these findings are correlational, they suggest that procedural justice encourages more beneficial agreements, perhaps through the disclosure of value-creating opportunities that facilitate coordination and greater acceptance of the agreement. The authors also noted the problem of extrapolating their results to a real-world setting. By exploring similar hypotheses in a real-world setting, our study addresses the extrapolation issue.

Another exception, also noted earlier, is the study by Albin and Druckman (in press). They found that PJ influenced the durability of agreements when equality provisions were emphasized in those agreements. By durability, we refer to the period during which the agreement is implemented, and the length of this period varied from less than a year to 62 years. Breaches and violations during this period indicate a less durable treaty or executive agreement. Durability is included as a variable in this study.

Defining Distributive and Procedural Justice

The distinction between distributive and procedural justice in negotiation refers to the difference between outcomes and processes. Each type of justice is defined in terms of principles. Four principles of distributive justice (DJ) discussed in the literature include the following: *equality* of distribution of resources or burdens among the negotiators (Deutsch, 1985); *proportion* of distribution of outcome relative to negotiators' inputs, referred to also as equity (Adams, 1965); a *compensatory* distribution of resources to indemnify undue costs or burdens (Piaget, 1948); and the distribution of resources based on parties' *needs* in proportion to the strength of that need (Burton, 1986). In their study of peace agreements, Druckman and Albin (2011) found that when the distributive principle of equality was emphasized in agreements, the agreements were more durable.

Four types of procedural justice (PJ) are discussed in the literature. Transparency refers to openness and accessibility of information related to the decision-making process and its outcomes (Heald, 2006). It is similar to Leventhal, Karuza, and Fry's (1980) idea of accuracy. Fair representation is the extent to which parties, interests, and affected stakeholders are represented in the negotiation. It is similar to Leventhal et al.'s (1980) idea of representativeness and to Thibaut and Walker's (1976) concepts of voice and process control. Fair treatment and fair play is the opportunity for participating parties to be heard and to influence the process (Lind & Tyler, 1988). It is similar to Leventhal et al.'s (1980) dimension of consistency across people and time. It may also be construed as a measure of interpersonal justice. Our preference for the terms transparency, fair representation, and fair treatment derives from the use of these particular terms in earlier work on justice in international negotiation (Albin, 2001; Albin & Druckman, in press; Druckman & Albin, 2011).

Voluntary agreement is the extent to which proposals are accepted by the participants voluntarily, rather than being imposed by one party on another. The key point for this principle is that it indicates an absence of coercion in the negotiation process,

particularly in asymmetrical power negotiations. As discussed by Barry (1996) and by Albin (2001), it refers to proposals made and responded to during the negotiation process but also includes acceptance of a final agreement. An example comes from the Mozambique peace talks: the mediators protected the parties from outside pressure, allowing them to freely accept or reject any proposed terms (Hume, 1994). The other PJ principles are generally associated with activities that take place at the beginning of a negotiation, while evidence of the voluntary agreement principle would be expected to appear toward the end of a negotiating session. For this reason, in connection with H7, we separate voluntary agreement from the other PJ variables in our examination of whether more PJ principles are discussed during the first half of the negotiations than during the second half. Further, it may be the case that correlations between PJ and outcome variables are due largely to voluntary agreements rather than the other three principles: The reasoning is that voluntary agreements may be a consequence rather than a symptom of PJ. Thus, the correlation between PJ and outcomes would be attenuated when voluntary agreement is removed from the index. This alternative hypothesis is evaluated and reported in the section on Results.

Albin and Druckman (in press) found a relationship between the DJ and PJ principles. Durable outcomes were more likely to occur when adherence to PJ principles led to equality outcomes.

The Cases

This study uses a data set assembled by Wagner (2008) that is unique in the field of negotiation analysis. It consists of eleven cases of negotiations involving the United States during and in the decade after World War II. Conversations among the negotiators in these cases are archived in the U.S. State Department's *Foreign Relations of the United States* series. This bound compendium contains declassified cables to and from U.S. embassies, internal State Department memos, and other written records regarding foreign affairs. These data were supplemented by additional declassified cables and memos (deposited in the U.S. Archives) that were related to the cases but not documented in the compendium.

The choice of these particular cases was based on a number of considerations. One consideration is the extent to which they represent a larger sampling of negotiations during this period. It is argued that the compendium presents the major issues and events in U.S. foreign policy during this historical period. The particular cases chosen are a cross-section of the set of cases in the compendium. They were selected following a review of all the cases, beginning with the most recent volume and working backwards to 1938, at which point the inclusion of more cases would have made the organizing and coding tasks unmanageable. All bilateral and small multilateral cases involving discreet issues that concluded with at least a partial agreement were reviewed.

A second consideration is the extent of documentation for the cases. The cases chosen are among the best documented in the compendium, including the quality of record keeping and the length of the records. Other cases were considered for inclusion but discarded because of insufficient records. A third consideration is variety in terms of

Table 1
Negotiation Cases

Parties	Topic	Dates	Documents*
U.S.–Turkey	Trade	1938–1939	72
U.S.–U.K.–Switzerland	Trade	1942	75
U.S.–Mexico	River Water Division	1942–1944	121
U.S.–Portugal	Airfield Tenancy	1946	63
U.S.–France–U.K.–Benelux	London Conference (future of Germany)	1948	263
U.S.–France–U.K.–Germany	Basic Law for Federal Republic of Germany	1948–1949	185
U.S.–Iran	Aid to Iran	1950	108
U.S.–Saudi Arabia	Airfield Tenancy	1950–1951	115
U.S.–Japan	Administrative Agreement	1951–1952	194
U.S.–Republic of China	Mutual Security Treaty	1954	185
U.S.–U.S.S.R.–U.K.–France–Austria	Austrian State Treaty	1946–1955	1,124

Note. *This figure includes the number of pages in *Foreign Relations of the United States* (FRUS) on the cases (see Wagner, 2008, for FRUS volumes and page numbers for each case) plus the number of pages of declassified documents obtained from the U.S. Archives.

topic, geography, and structure. An attempt was made to include negotiations with partners/opponents from several regions—Central America, Europe, the Middle East, and Asia. Topics included trade, water, laws, aid, security/base rights, and sovereignty. Both bilateral and small multilateral cases are included in a sample that ranges from the late 1930s to the mid-1950s (see Table 1). Fourth, an attempt was made to avoid a selection bias: the choices were made independent of the hypotheses being evaluated or the variables being measured.

Despite a careful attempt to meet these criteria and include all relevant cases, questions arise about the relatively small number of cases available for analysis. These questions turn on issues of internal and external validity. With regard to the former, a challenge is posed to the use of statistical analysis for evaluating hypotheses. Known also as a degrees of freedom problem (e.g., Campbell, 1975), the challenge is one of the amassing sufficient instances to evaluate hypothesized causal relationships. Recognizing this problem, we frame the study as correlational rather than causal and rely for the most part on nonparametric correlations.^{1,2} With regard to external validity, the challenge is one of inferring from the results obtained with a small sample to a larger universe of cases. Despite our attempts to select a set of representative cases, the universe is largely undefined, and the cases are limited to those in which the United States participated. Recognizing this problem, we make the modest claim that our results apply to similar cases that occurred during this historical period. More broadly, the analyses

¹See Gauthier (2001) for an interesting argument about how the non-parametric Spearman correlation coefficient (ρ) can be a useful tool for exploratory analysis of trends in the field of environmental forensics.

²Another challenge is attaining statistical significance with small numbers of cases. The smaller the n , the harder it is to obtain a significant statistical ratio or correlation. A larger ratio or correlation is needed for significance with a smaller n .

are regarded as being exploratory rather than confirmatory. The statistical tests are used as convenient ways to organize and present the data. They do reveal patterns that separate the cases on the key hypothesized variables. As such, the analyses are heuristic, suggesting avenues for further research on larger and more diverse samples of cases. We return to these issues in the discussion section.

Features of the Cases

The number of negotiating parties, topics addressed, and the relationship between the parties vary in the negotiations examined. All of the cases involved the United States and one or a few other nations. Seven of the cases are bilateral, one is tripartite, two involved four countries, and one involved five countries. Previous agreements influenced some of the talks; others considered the issues for the first time. All talks ended with at least a partial resolution. Table 1 lists the cases, topics, years during which each case was negotiated, and the number of pages of documentation used for each case (from *Foreign Relations of the United States* as well as declassified documents obtained from the U.S. Archives). The key issues involved with each negotiation are summarized in the following paragraphs. For further details on the cases, see Wagner (2008).

The oldest case involved negotiations on a U.S.–Turkey trade agreement, which began in 1938. The talks focused primarily on the goods for which concessions would be granted and their accompanying tariff levels. Another trade agreement, the war trade agreement between the United States, the United Kingdom, and Switzerland, was negotiated in 1942. In this case, the United States and United Kingdom needed assurances that the goods they exported would not be used to manufacture Swiss exports to Germany, while the Swiss had to obtain transit permits from the Germans and Italians to export goods, limiting the items they could promise to export.

The negotiation over natural resources is that of the U.S.–Mexico river water division case, which began in July 1942. These talks focused primarily on the number of acre-feet of Colorado River water the United States would deliver annually to Mexico, with the eventual agreement settling close to the mid-point of their opening offers.

Four cases involved governance issues after World War II. With regard to the future of Germany, the research involves the negotiations for the London Conference, during which agreement was reached to combine the three western German zones, and the Basic Law of Germany, which involved talks during the drafting of the “Basic Law of the Federal Republic of Germany.” A final European postwar case involved the Austrian State Treaty negotiations to re-establish Austria as an independent nation. Governance issues in postwar Japan were the focus of the negotiations leading to the Administrative Agreement between the United States and Japan.

The negotiations between the United States and Portugal and United States and Saudi Arabia focused on the renewal of airfield base rights agreements. And the final two cases examine negotiations on mutual defense agreements between the United States and Iran and the United States and the Republic of China (ROC).

Method

This section is divided into three parts: coding procedures for measuring the process and outcome variables, procedures for assessing distributive and procedural justice, and the durability measure.

Process and Outcome

The cases had been content analyzed previously to ascertain whether problem solving or distributive bargaining dominated the negotiation process, and to what extent the outcome reflected an integrated, compromise or asymmetrical distribution of value (Wagner, 2008). Coding schemes developed originally by Walcott and Hopmann (1978; see also Hopmann, 2002) provided bases for the codes that were developed to match negotiator statements with the theorized negotiation processes. Each recorded statement, or “utterance,” received one code.³ The outcomes consisted of written agreements that were divided into paragraphs or articles, and each article received one code. After coding each statement and outcome article, the percentage of negotiator statements that indicated each process type and the percentage of agreed articles that indicated each outcome type were calculated by case. Table 2 summarizes the coding scheme used to distinguish problem solving from distributive bargaining statements as well as three outcome types and provides examples of each category.

The coding was conducted before the cases were evaluated in-depth, to minimize any accompanying biases. A second coder was informed of the definitions of each type of process and outcome and coded a sample of statements from the case documentation. The first and second coders’ appraisals of whether a statement was problem solving or distributive bargaining matched at a rate of 73%, with a categorizing reliability of .79 and reliability of the unitizing process of .05 (Guetzkow, 1950). The first and second coders’ appraisals of whether an outcome article was integrative or represented a compromise or asymmetrical arrangement—based on a random sample of 20% of the articles—matched at a rate of 89%, with a categorizing reliability of .98 and reliability of the unitizing process of .05 (Guetzkow, 1950).

Distributive and Procedural Justice

Using a coding system developed and applied to peace agreements by Druckman and Albin (2011), the statements were judged for the significance of the role that principles of procedural justice played in the process and the role of distributive justice in the outcomes. As noted above, the procedural justice principles include transparency, fair representation, fair treatment and fair play, and voluntary agreement in a negotiation process. Distributive justice principles include equality, proportionality, need, and compensatory justice in the outcome.

³See Donohue and Roberto (1996) for another study that assigns one code per “utterance,” rather than dividing “thought units.”

Table 2

Process and Outcome Coding Scheme

Distributive-Bargaining Statements

- (1) *Distributive Bargaining Debate*: actor restates a position, indicates inability to move from position, provides reasons for own position, or debates other's reasoning with no recognition of others' needs.

Examples: Minster Okazaki reiterated with considerable emphasis that, whatever may be the substance of Article XXII, it will be virtually impossible for the Japanese Government to agree to any mention therein of a "combined command" or "combined commander".

General Noiret pointed out that the French believed in only one of the two possible solutions regarding Wuerttemberg-Baden.

- (2) *Threaten/Promise/Pressure ("Threaten")*: actor predicts adverse consequences if a certain action is not taken, promises positive rewards for desired action, or otherwise pressures other to accept actor's position.

Examples: [General Clay] observed that the Military Governors and the German Delegation had gone very far and he would very much like to have the entire matter settled at this time.

Shah spoke most emphatically of need of United States to decide role expected of Iran in event of war...if United States expects Iran to oppose possible Soviet invasion he should be so informed with out delay.

- (3) *Accommodate*: actor accepts other's position under some level of protest or offers to accept other's position on one point if some point of actor's position is accepted.

Examples: Koenig continued on that, while the Military Governors could veto on the ground that it did not conform to the London Accord, he nevertheless suggested that the Military Governors not [let] the draft break down and that he would be willing to consider listing certain changes and modifications with the assurance that his government would be willing to consider them.

The Swiss were asked to submit a list of quotas which they required, and these would be considered on the assumption that the Swiss accepted our conditions regarding exports....

Problem-Solving Statements

- (1) *Problem-solving Debate*: actor acknowledges the legitimacy of other's perspective, asks for clarification of that perspective, or provides reasons for own position with recognition of other's position.

Examples: Foreign Minister Yeh said as he understood it, the Department [of State] wanted language which would prevent the Chinese Government from removing all its troops from Formosa.

Ambassador Rusk then inquired whether the principal difficulty for the Japanese Government with respect to Article XXII lies in the mere mention of a "combined command" or in the retention of language indicating that the United States shall be the one to establish such a command.

- (2) *Reframe/Brainstorm ("Reframe")*: actor brings things in or out of discussion, brainstorms multiple options or suggests possible offers, indicates direction in which actor is willing to move or identifies terms of justice or exchange.

Examples: Minister Okazaki showed to the members of the U.S. Delegation a redraft of that Article utilizing the formula that "nothing in this Agreement shall preclude" the taking of the necessary measures by the two Governments.

Ambassador Rusk stated that the legal advisers on his Delegation had suggested the possible deletion of the Article titles in the final text of the Administrative Agreement and inquired whether this might not be helpful....

- (3) *Cooperate*: actor indicates a willingness to work with other negotiator to find a solution.

Examples: Mr. Robertson asked whether the Foreign Minister could suggest any language which would meet the Chinese objections while taking care of the essential U.S. requirements.

Table 2
(Continued)

Mr. Robertson agreed and said that we wanted complete reciprocity of language...It was our desire and objective to treat the Chinese Government as an equal and draft the treaty on a strictly equal basis....

Outcome Types

- (1) *Integrative*: increased value outcomes; improve upon and incorporate the positions of all negotiators.

Examples: Turkey proposed that the trade agreement be in force for 1 year, but the United States does not want to renegotiate it so soon. The agreement, dated April 1, 1939, states that either government could terminate it on December 31, 1939, 1940, or 1941, after which it would continue in force until 6 months from the day on which one government notified the other of its intention to terminate it.

Iran proposed that the United States conduct a survey of Iranian needs, in the belief that it would convince the United States of the Shah's need for more aid. The United States thinks a survey should be conducted to recommend projects to be financed by the Eximbank. The agreement indicates that Iran will receive technical personnel from the United States and accord them the necessary facilities to observe the progress of assistance furnished pursuant to the agreement.

- (2) *Compromise*: include something from each negotiator's positions, but also leave out elements of their positions.

Examples: The United States proposed delivering 900,000 acre-feet of water from the Colorado river annually. Mexico proposed 2,000,000. The agreement calls for 1,500,000 acre-feet to be delivered annually.

The United States wanted to call the head of its training program in Saudi Arabia "commander, DAF [Dhahran Airfield]." Saudi Arabia wanted to call the head of the training program "chief, training mission." The agreement calls for the head of the U.S. training program to be called "head of Mission."

- (3) *Asymmetrical*: one negotiator gains at the other's expense; agreement emphasizes one negotiator's positions over another's.

Examples: The Swiss want relief from the recent reduction to five percent of the permissible enemy (Axis powers) content in their exports, but the UK and United States do not want to discuss such a reduction. The agreement does not address this issue, so the five percent requirement remains in force.

The ROC proposed establishing a Council to hold consultations on the implementation of the Treaty, as necessary. The United States proposed that the Parties, through their Foreign Ministers or their deputies, would consult from time to time regarding implementation of this Treaty. The U.S. proposal was adopted verbatim.

Each instance of procedural justice in the process and distributive justice in the outcome was assessed as to whether it represented a "highly significant" (without which the process or outcome would have been fundamentally different), "important" (influenced some main aspects), or "marginal" (played some role, but not a core aspect of the process or outcome) element in the negotiation. Numeric values of 1.5, 1, and 0.5 were assigned for each of the assessments, respectively. The numeric assessments for procedural and distributive justice types were added together to develop a "total procedural justice" and "total distributive justice" score.

Reliability of the PJ and DJ coding judgments was calculated with Cronbach's alpha. A second coder was informed of the definitions for the four PJ variables and reviewed the original case documentation to assess the importance of procedural justice. A

Table 3
The Data Set: Variables by Cases

Variable Case	PS%						PJ		DJ		Actual Years**
	PS%	1st 1/2	Barg%	Integ%	Comp%	Asym%	Total	1st 1/2	Total	Duration*	
Japan	60.5	70	39.5	74	22	4	5.5	0.75	1.75	2	8
Basic	38.7	35	61.3	20	60	20	6	0.6	0	2	41
Iran	38.5	33	61.5	20	40	40	2	0	1.25	1	4
Swiss	38.5	31	61.5	25	50	25	2.5	0.5	2.75	2	>1
Turkey	38	52	62	18	64	18	2	0.66	1.5	1	8
ROC	34.5	37	65.5	11	56	33	2.5	1	1.5	1	25
Saudi	28.2	34	71.8	0	70	30	1	0.5	2.25	3	57***
London	27.4	25	72.6	0	100	0	2.5	0.5	1.5	2	>1
Mexico	24.2	33	75.8	20	80	0	4	0.75	3.75	3	62***
Austria	24.1	24	75.9	0	71	29	2	0	2.5	3	53***
Portugal	23	34	77	0	67	33	.5	0	1	2	1.5

Notes. Variables are (L-R): total percentage of problem-solving statements; percentage of problem-solving statements during the first half of the negotiation; total percentage of distributive-bargaining statements; percentage of integrative outcome articles; percentage of compromise outcome articles; percentage of asymmetrical outcome articles; total procedural justice score; proportion of procedural justice statements in first half over second half of negotiation; total distributive justice score; duration of agreement (scaled); actual years in force.

*Duration: 1 = agreement is not in force; 2 = agreement replaced with successor agreement; 3 = agreement remains in place today.

**These values represent the actual number of years the agreement was/has been in place.

***Agreement remains in place today.

Cronbach’s alpha of .86 for judgments made by the two independent coders suggests that the PJ codes are reliable. The alpha coefficient for the DJ principles is .92, indicating strong reliability for these variables as well.

Durability

The durability variable consisted of the actual number of years that each agreement remained in place. This variable is assessed in terms of each agreement’s implementation history, beginning with the date of the agreement’s entry into force and extending until the parties developed a successor agreement or announced that they would no longer recognize the agreement. Variation in the type of duration—the parties have withdrawn, succeeded with new agreements, still in place—is captured on a three-point scale, with 1 being “not in force,” 2 being “transformed/successor agreement in place,” and 3 being “remains in force.” The complete data set is shown in Table 3.

Results

The results are presented in relation to the eight hypotheses. Correlations between the variables are shown in Table 4.

Table 4
Spearman Correlations

	PS				PJ			PJ w/o	DJ		
	Total PS	1st ½	Barg%	Integ%	Comp%	Asym%	Total	1st ½	Voluntary	Total	Duration
Total PS											
PS 1st ½	.51*										
Barg%	-.100***	-.50*									
Integ%	.80***	.36	-.73***								
Comp%	-.79***	-.52*	.80***	-.66**							
Asym%	-.08	.01	.09	-.21	-.37						
PJ Total	.51*	.22	-.47*	.66**	-.12	-.58**					
PJ 1st ½	.38	.64**	-.34	.46*	-.15	-.42	.66**				
PJ w/o	.68**	.46	-.65**	.80***	-.37	-.50*	.92***	.74***			
Voluntary											
DJ Total	-.18	-.34	.20	.19	.25	-.35	.12	.21	.04		
Duration	-.14	-.35	.26	.02	.52*	-.35	.27	-.08	-.10	.71***	
Actual Years	-.16	.15	.17	-.05	.29	-.06	.14	.34	.16	.34	.56**

Notes. Variables are (L-R and top to bottom): total percentage of problem-solving statements; percentage of problem-solving statements during the first half of the negotiation; total percentage of distributive-bargaining statements; percentage of integrative outcome articles; percentage of compromise outcome articles; percentage of asymmetrical outcome articles; total procedural justice score; proportion of procedural justice statements in first half over second half of negotiation; total procedural justice score without the “voluntary agreement” variable; total distributive justice score; duration of agreement (scaled); actual years in force.

* $p < .10$; ** $p < .05$; *** $p < .01$.

H1: The more significant PJ principles are during the negotiation process, the more likely negotiators will use problem-solving processes.

A correlation of .51 ($p < .10$) between PJ and the overall problem-solving percentage was obtained, providing modest support for the hypothesis.⁴ When we remove the voluntary agreement variable from the PJ index, we obtain an even stronger (and statistically significant) correlation between problem solving and procedural justice: .68 ($p < .05$).

H2: The more significant PJ principles are during the negotiation process, the more likely that the outcome will be integrative.

The PJ-integrative outcomes correlation is .66 ($p < .025$), providing support for the hypothesis. Even stronger support for the hypothesis is obtained when the voluntary agreement variable is taken out of the PJ index: the PJ (without voluntary agreement)-integrative outcome correlation is .80 ($p < .01$).

⁴Levels of significance are reported, both in the text and in Table 4, for one-tailed Spearman correlation coefficients (rho).

Also relevant in this regard is the correlation between PJ and asymmetrical outcomes. Asymmetrical outcomes reflect the preferences of one negotiating party over the other(s) and can be regarded as the opposite of integrative outcomes. The $-.58$ ($p < .05$) correlation between PJ and asymmetrical outcomes supports this hypothesis.

H3: PJ mediates the relationship between problem-solving processes and integrative outcomes.

Mediation effects were assessed with Sobel's z test (MacKinnon, Lockwood, Hoffman, West, & Sheets, 2002; Sobel, 1982). A nonsignificant z for the path going from problem solving to integrative outcomes (DV) through PJ indicates lack of support for this hypothesis. In these cases, PJ does not mediate the relationship between problem-solving and integrative outcomes. However, post hoc analyses serve to clarify the mediating variable. The path from PJ (IV) to integrative outcomes (DV) is shown to be mediated by problem-solving processes for this sample. This path attains borderline significance at $.10$ (a slightly stronger result was obtained with Goodman's z). This result provides some support for problem solving (rather than PJ) as a mediating variable.

The importance of the problem-solving variable is evident also in partial correlations. The problem-solving/integrative outcome correlation reduces from $.80$ ($p < .005$) to $.67$ ($p < .025$) when controlling for procedural justice. The procedural justice/integrative outcome correlation reduces from a significant $.66$ ($p < .025$) to a nonsignificant $.44$ when problem solving is controlled. These results suggest that problem solving accounts in large part for the relationship between PJ and integrative outcomes.⁵

H4: The more significant PJ principles are in the process, the more durable are the agreements.

A correlation of $.27$ between PJ and duration indicates a lack of support for this hypothesis. Nor does PJ influence the relationship between DJ and durability: A partial correlation of $.69$ ($p < .05$) between DJ and durability occurs when controlling for PJ.

H5: The more significant DJ principles are in the outcome, the more integrative are those outcomes.

This hypothesis is not supported. A nonsignificant correlation of $.19$ between DJ and integrative outcomes indicates a very weak relationship between these variables.

H6: The more significant DJ principles are in the outcome, the more durable are the agreements.

A correlation of $.71$ ($p < .01$) between DJ and durability indicates strong support for this hypothesis. The correlation is virtually the same when controlling for compromise

⁵Further support comes from the results of both factor analysis and multidimensional scaling (MDS). A first factor, accounting for 45% of the total variation, shows strong positive loadings for problem solving, integrative outcomes, and PJ. Strong negative loadings were obtained for distributive bargaining processes and compromise outcomes. Similarly, the MDS results distinguish between a problem-solving-integrative agreement-PJ cluster and a distributive-bargaining-compromise cluster.

Table 5
Procedural Justice and Negotiation Stage

	First half of negotiation	Second half of negotiation
Transparency	4	2
Fair representation	4	0
Fair treatment/Fair play	6	2
Voluntary agreement	2	9

outcomes. The correlation of .52 ($p < .10$) between durability and compromise outcomes reduces to .49 ($p < .10$) when controlling for DJ. Further, the relationship between DJ and durability is not mediated by any of the other variables measured in this study.

H7: More PJ principles are discussed during the first half of the negotiations than during the second half.

The frequencies of PJ statements discussed by stage are shown in Table 5. More statements were made during the first than the second half of the talks for transparency (4 vs. 2), fair representation (4 vs. 0), and fair play (6 vs. 2). This pattern is reversed for statements about voluntary agreements: most were made during the second half (2 vs. 9). PJ principles were discussed more often in the later stages in only three cases (Iran, Austria, and Portugal), and these statements were primarily about voluntary agreements. As indicated in Table 4, the proportion of PJ statements made during the first half correlated with the percentage of problem-solving statements made during the first half: a correlation of .64 ($p < .025$) indicates that PJ and PS statements occurred together. Thus, the pattern across the cases provides support for the hypothesis.

Voluntary agreements occurred, as expected, during the latter phases of the talks in most the cases, including those that were primarily problem solving and those that were distributive. However, the coded significance of this principle varied from marginal to highly significant. In four cases, the question of whether one or both of the parties would accept an agreement was a key element of the talks and was raised at the end of the talks. These cases suggest that further examination of this variable in studies about procedural justice would be warranted.

H8: If more PJ principles are used during the first half of negotiations than the second half, then the outcomes have greater DJ.

A nonsignificant correlation of .21 between the proportion of PJ statements made during the first half and DJ in the outcomes indicates a lack of support for this hypothesis.

Discussion

The set of analyses performed in this study are considered as an approach to organizing information from archival documentation of conversations held among historical actors. As we noted earlier, these analyses are heuristic in the sense of providing insights for further evaluation. They describe the relationships among variables created for a particu-

lar data set and, by so doing, extend the number of cases and settings in which justice hypotheses are explored.

The results are mixed with regard to support for the set of hypotheses. Some of the findings reinforce earlier findings; others provide new insights. Support for H1 and H2 is consistent with earlier findings reported by Hollander-Blumoff and Tyler (2008) as well as by Albin and Druckman (in press). Support for H6, which suggests a relationship between DJ and durability, is consistent with results reported by Druckman and Albin (2011). And the lack of support for H4 corresponds to Albin and Druckman's (in press) finding that PJ is not directly related to durability; it is mediated by the DJ principle of equality. Thus, the role played by justice variables is generally similar in three contexts: simulated bilateral negotiations over legal issues, agreements to end civil wars, and historical international negotiations. Other findings obtained in this study are new. These include the mediating effects of problem solving in the relationship between PJ and integrative outcomes (found in conjunction with H3), the lack of a relationship between DJ and integrative outcomes (H5), and the prevalence of PJ and problem solving during the earlier stages of most of the cases (H7). The stronger correlations between PJ and problem solving and PJ and integrative outcomes when voluntary agreement is removed from the PJ variable suggest that the other PJ principles—transparency, fair representation, and fair treatment/fair play—are particularly important influences on other aspects of the process and on the outcomes.

Our results extend relationships found by Hollander-Blumoff and Tyler (2008). They showed that PJ played a role in the link between problem solving and integrative outcomes. This study's findings show that the similar relationships among these variables occur in a very different context, with professional negotiators from different countries working on a variety of international problems during an earlier era of history. The extension to the international domain strengthens the external validity of these relationships. In both contexts, contemporaneous legal students and historical professionals, PJ influenced the process-outcome link. A key element in problem solving is the willingness of negotiating parties to explore together a variety of options that can be evaluated in terms of their underlying interests and needs (Irmer & Druckman, 2009). Adherence to PJ principles may provide the conditions for such explorations. The analyses of stages showed that both processes—PJ and problem solving—occurred more frequently during the initial stages of the negotiation process. Fair representation and transparency may set the stage for problem solving, which is encouraged further by fair play during the middle stages and indications that agreements are being entered into voluntarily toward the end of the talks. The problem-solving conversations that developed from these principles may also increase trust, which, in turn, reinforces the problem-solving process. Taken together, the results obtained in both studies suggest that this process may be a general—rather than context-specific—feature of negotiation.

Although both PJ and problem solving occurred during the same early stages of the negotiation process, the mediation analysis suggests that PJ depends on problem-solving processes: The strong relationship between PJ and outcomes is a function of problem-solving processes. This means that integrative outcomes emerge from problem-solving processes set in motion by adherence to the PJ principles. However, without problem

solving, PJ would not lead reliably to integrative outcomes. This is compatible with Hollander-Blumoff and Tyler's (2008) suggestion that procedural justice leads to the "opportunity" for increased problem solving. An implication is that when distributive bargaining processes occur in the context of adherence to PJ principles, distributive outcomes or impasses are likely to emerge. But it is also the case that PJ is more likely to co-occur with problem solving than with other processes. The mediation effect found in this study adds new insights into the respective roles played by PJ and problem solving in producing integrative outcomes. Further analyses would investigate the causal sequence of PJ and problem-solving statements through the course of the discussions.

The idea that PJ exerts influence on outcomes through an intervening process is similar to Albin and Druckman's (in press) finding from analyses of peace agreements. They showed that adherence to PJ principles enhanced the durability of the agreements when it led to equality provisions in the agreements. In that study, equality mediated the relationship between PJ and durability. In this study, problem solving mediated the relationship between PJ and outcomes. Although the findings are different, they converge on the way PJ operates in negotiation. It sets in motion other processes (problem solving) or outcomes (equality provisions) that more directly influence type or durability of agreements. These indirect effects of PJ merit further investigation.

The durability of the historical agreements analyzed in this study was shown to be influenced by the centrality of distributive principles in the outcomes. Durability was not influenced by such features of the process as PJ or problem solving. One reason for this relationship is proximity: outcomes are closer to the postnegotiation period than processes. Another reason is that the outcome is implemented, including aspects of the outcome that involve DJ principles, not the statements made during the negotiation process. This was clearly evident in the earlier study of peace agreements (Druckman & Albin, 2011), where the DJ principle of equality correlated strongly with durability and was largely adhered during the period of implementation.

The role of DJ in these cases is interesting. Contrary to our expectations stated in H5, DJ does not correlate with integrative outcomes or with PJ. This finding may reflect the theme of distribution. Distributive bargaining, in contrast to problem solving, deals largely with the issues of dividing material resources. Solutions to these issues often take the form of compromise, which may involve equal shares (or loses), proportionate shares, or forms of compensation. Thus, the outcome of distributive bargaining processes is likely to be coded either as a compromise or an asymmetrical distribution. The content of that outcome is likely to reflect one or more of the DJ principles selected for analysis in this study. More generally, the contrasting sets of correlations (PJ-problem-solving-integrative, on the one hand, and DJ-durability, on the other) suggest two types of negotiations, one that features connections between processes and outcomes and the other emphasizing the outcome-durability relationship. Of interest are questions about the conditions for one or the other type, and these remain to be investigated.

Although we are sensitive to, and have noted, the limitations of performing statistical analyses with a relatively small number of cases, we are also aware of the benefits that accrue from exploratory analysis. The heuristic or generative feature of this study has been discussed. Another feature worthy of consideration is the trade-off between the

labor needed to code additional historical cases and the likely contribution of those cases to statistical evaluation. Additional historical cases are unlikely to overturn the statistical relationships reported above. At best, the marginal correlation obtained for H1 may change in either direction with the addition of a few more cases. (See Druckman's (1994) discussion of the file drawer problem in meta analyses of bargaining data.) More problematic, perhaps, are the limitations presented by a small number of cases for internal analyses and generality. With regard to the former, comparison between sub-sets of cases—such as those that negotiated trade versus security issues—is largely precluded by the small numbers in each category. With regard to the latter, sampling is an issue: a small sample of cases may not represent a larger universe of historical negotiations. Nonetheless, the analyses conducted on these cases do provide a basis for comparison with other contexts in which justice variables are explored. The comparisons contribute to the objective of cumulating cases for theory development.

The key question posed at the beginning of this article is answered: justice does make a difference in the process and outcomes of international negotiations. In the cases we examined, we found that if negotiators have open access to information related to their discussions and a fair opportunity to be heard, their talks are more likely to be conducted as a problem-solving process and conclude with an integrative outcome. The findings generate a number of interesting questions for further research. Examples include the following: if PJ principles such as fair representation and transparency trigger problem solving, what triggers the introduction of PJ principles? What are the conditions under which PJ does not trigger problem solving, resulting in less optimal outcomes? Could a negotiator use the results of this research to deliberately set up a problem-solving process or are additional contextual elements involved? The variety of contexts involved with the cases used in this study suggest that the results are not context specific, but are there certain types of negotiations in which PJ and/or DJ principles are more likely to occur than others? Answers to these and related questions will further our understanding of the triggers and outcomes of negotiations and will help contemporary legal students and international negotiation professionals to improve their performance.

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