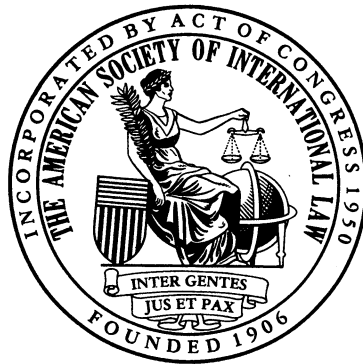


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REVIEW ESSAY

INTERNATIONAL INSTITUTIONS AND THE MECHANISMS OF WAR

Solving the War Puzzle: Beyond the Democratic Peace.

By John Norton Moore. Durham, NC: Carolina Academic Press, 2004. Pp. xxvi, 184. Index. \$40.

A fundamental objective of international law is to minimize the prevalence of war. That ambition sets a formidable task for international institutions. To control the resort to war, global strategies must be attuned to the empirical causes of interstate conflict. The general mission, and one particularly well suited for the academy, is to build conceptual models that explain the mechanisms that drive state behavior and to use those theoretical insights in designing international institutions.

John Norton Moore's *Solving the War Puzzle* raises important issues for fashioning institutions to prevent war. The book presents a detailed argument supporting two strategies—democracy promotion and deterrence. Moore highlights the proper analytic question: what mechanisms motivate states to initiate war? As a methodological matter, Moore does well to ground this inquiry in empirical evidence. He ultimately proposes an “incentive theory,” in which the political and material self-interest of governmental leaders is central to an account of the causes of war. This explanation, however, involves an unduly restrictive view of the reasons for which states wage war. The theory provides a thin conception of human motivation. The theory neither adequately explains the behavioral regularities that Moore identifies nor accounts for other patterns of international armed conflict. Contrary to Moore's analysis, an array of recent theoretical and empirical studies—some of which are used by Moore, and some not—suggests the potential significance of mechanisms that are not grounded in incentives.

Identifying these mechanisms is essential to designing a coherent and effective international

regime. Each mechanism supports democracy promotion (albeit for different reasons), yet some may conflict with particular deterrence-based strategies. At a fundamental level, each mechanism suggests distinct, and often competing, views of how to influence states. Consequently, strategies that exploit one mechanism can stifle the effects of another. Thus, while Moore's general approach is commendable, the broader empirical literature and competing conceptual models pose considerable challenges to his theoretical claims and policy prescriptions. Until the mechanisms, and relationships between them, are better understood, we are unlikely to approach a solution to the war puzzle. Indeed, institutions and actors that pay inadequate attention to these dynamics may hamper, rather than enhance, the prospects of peace.

I. THE ARGUMENT FOR THE “INCENTIVE THEORY”

Moore's “incentive theory” focuses attention on the costs and benefits that accrue to national leaders in their decisions to wage war. Moore uses as his first building block the democratic peace—the fact that democracies never, or hardly ever, go to war with each other. This empirical finding provides an opportune starting point because the democratic peace, as Jack Levy noted, “comes as close as anything we have to an empirical law in international relations.”¹ The difficulty, however, is in establishing a theoretical explanation for that empirical pattern and demonstrating the consistency of the explanation across other findings. Moore contends that the most convincing theory is one focused on the self-interest of individuals who have the political authority to initiate war. He explains that a primary interest

¹ Jack S. Levy, *The Causes of War and the Conditions of Peace*, 1 ANN. REV. POL. SCI. 139, 160 (1998) (citation and internal quotation marks omitted). *But cf.* DEBATING THE DEMOCRATIC PEACE (Michael E. Brown, Sean M. Lynn-Jones, & Steven E. Miller eds., 1996) (reproducing essays disputing the empirical foundations of the democratic peace).

of these individuals is political survival. Changing the cost-benefit calculations of governmental leaders thus provides the key to solving the war puzzle.

In developing this argument, Moore analyzes incentives that operate through national-level structures. He then applies lessons from the national level to the international arena. On the national plane, Moore argues that democratic forms of government have an internal dynamic that renders aggressive wars especially costly for leaders; in contrast, "nondemocratic regime elites believe they can externalize costs while personally obtaining the benefits of any successes" (p. 61). Moore contends that this structural relationship "is likely the most important internal mechanism" responsible for the democratic peace (p. 10). Because nondemocratic states lack such domestic constraints, Moore argues, the international system should employ deterrence-based strategies to make leaders of nondemocratic states internalize the cost of war. The two strategies—democracy promotion and deterrence—are thus predicated on the same mechanism of altering the incentives for aggression.²

Moore's argument turns on his structural explanation of the democratic peace. He accordingly elaborates two lines of analysis defending this position. First, Moore recognizes that, on his theory, "one would expect to find that democracies are, in fact, getting into major war principally, though not exclusively, as a result of aggression by nondemocratic states" (p. 13). This part of Moore's analysis is especially important. Democratic peace scholars find that although democracies rarely, if ever, fight each other, democracies are generally as war prone as other states.³ Therefore, Moore endeavors to show that when democracies engage in war, they do so "principally as defenders rather than aggressors" (p. 13).

² In an important passage, Moore unites the two strands:

[A]nother way to conceptualize the importance of democracy and deterrence in war avoidance is to note that each in its own way internalizes the costs to decision elites of engaging in high risk aggressive behavior. Democracy internalizes these costs in a variety of ways including displeasure of the electorate at having war imposed upon it by its own government. And deterrence either prevents achievement of the objective altogether or imposes punishing costs making the gamble not worth the risk. (P. 43)

³ See, e.g., Zeev Maoz & Bruce Russett, *Normative and Structural Causes of Democratic Peace, 1946-1986*, 87 AM. POL. SCI. REV. 624, 625 (1993).

In this part of his analysis, Moore relies on questionable interpretations of positive international law with respect to aggression and self-defense.⁴ Contrary to conventional understandings of the law, Moore suggests that resort to armed force is permissible in response to (1) the use of force short of an armed attack (pp. 17, 113 n.57); (2) an internal humanitarian crisis (pp. 16-18, 23, 108 n.10); and (3) perhaps even a delict not involving the use of force (such as Egypt's takeover of the Suez Canal) (pp. 21, 24; but see p. 14). Moore also contends that the United States should be classified as a defender, not an aggressor, in several military campaigns because the government acted "in defense of U.S. territory, shipping, or citizens, or engaged in humanitarian intervention or collective defense against aggression" (p. 16). He maintains, despite the consensus of expert legal opinion, that U.S. military action in the Vietnam War constituted an exercise of "lawful defense" (pp. 16, 107 n.5, 108 n.10). He also considers U.S. military interventions in Central America lawful, and he contends that new evidence proves that "it is the dissenting opinion of Judge Stephen Schwebel, rather than that of the majority of the International Court of Justice in the *Nicaragua* case, that has stood the test of time" (p. 16).⁵ Moore's representations of positive law are especially detrimental to his project because the project purports to study state compliance with established—not anomalous or unconventional—conceptions of legal norms against military aggression.⁶

⁴ The fact that Moore deviates from standard accounts of international law is an important caveat for readers, especially those from other disciplines, who are interested in the book for its legal perspective.

⁵ Notably, Moore does not address other conditions that the United States failed, in that situation, to satisfy for the purpose of exercising the right of collective self-defense (for example, whether the relevant military activities amounted to an armed attack; whether the victim state considered the actions an armed attack; and whether the victim state requested assistance at the time). *Military and Paramilitary Activities in and Against Nicaragua (Nicar. v. U.S.)*, 1986 ICJ REP. 14, paras. 229-38 (June 27).

⁶ Moore also makes a related claim that wars initiated by democracies are largely motivated by "value conservation," not "value extension." This distinction sometimes appears to mirror the legal categories of aggression and nonaggression (p. 117 n.17). Yet the current use-of-force regime attaches no legal—and little, if any, normative—weight to such a distinction. Additionally, as an empirical matter, one should not be sanguine even if democracies initiate war primarily due to "value conservation"; empirical studies of prospect theory suggest that states engage in more extreme, war-prone behavior in order to avoid losses than to achieve gains. See, e.g., Miroslav Nincic, *Loss Aversion and the*

As a second line of analysis, Moore argues that his theoretical explanation of the democratic peace—the incentive/structural theory—is consistent with empirical findings that democracies outperform nondemocracies in other vital areas. He discusses studies that show democracy correlates with famine prevention, the absence of genocide, low infant mortality, and environmental protection. He stresses that a common factor across all these phenomena (including the democratic peace) is the existence of a political system that efficiently structures the incentives of leaders to abide by public preferences.

While this structural explanation has an intuitive appeal, it also suffers empirical deficiencies with regard to war. Commentators have identified various counterexamples and discrepancies in the history of warfare. As Bruce Russett and others note, (1) the general populace is often more bellicose than elected leaders and frequently propels them toward war; (2) even when the public disfavors paying the cost of war, it also tends to “rally ’round the flag” once its government uses or threatens force against a nondemocratic state; (3) nineteenth- and twentieth-century imperialism belies the notion that democracies are inherently peaceful; and (4) authoritarian leaders may pay a higher price than their democratic counterparts in the event of unsuccessful foreign ambitions.⁷

Notwithstanding those debates, this second line of analysis by Moore raises fundamental questions about the mechanisms of war. Some social scientists posit other theoretical explanations to account for the democratic peace.⁸ In order to support their conceptual models, however, they invoke the same sorts of studies as Moore does concerning democratic performance with respect to famine, genocide, infant mortality, and the environment.⁹ This incongruity—shared empirical assessments and divergent the-

oretical explanations—begs for deeper analysis of the potential mechanisms at work. While Moore does not precisely identify or systematically compare alternative mechanisms, his book should be credited for engendering such an analysis. Indeed, his use of the burgeoning social science literature exemplifies a valuable approach to addressing these issues and ultimately to evaluating his own claims.¹⁰

II. THE MECHANISMS OF WAR

What are the mechanisms that drive states to use or refrain from using force? An abundance of social science scholarship is relevant to this question. However, conceptual analysis of discrete social mechanisms and interactions between them is lacking. In the following discussion, I identify three mechanisms that lead states to war. The discussion introduces alternative models to Moore’s incentive theory. These models and the empirical support for each of them demonstrate the difficulty in concluding that Moore’s incentive mechanism—or any single mechanism for that matter—deserves the greatest analytic attention or ought to serve as the predominant mode of institutional influence.

At the same time, the alternative models demonstrate the potential contribution of this kind of empirical work to international-regime design. Moore’s incentive theory suggests the proper level of analysis: mechanisms of social influence. Interdisciplinary work that focuses on this dimension holds the promise of identifying cultural and material factors that can affect—positively or negatively—a use-of-force regime. After introducing these models, I examine some of those factors and how they might inform various regime-design proposals.

1. *Projected Norms: Democratic Modes of Conflict Resolution*

An alternative explanation to the incentive/structural account is a liberal internationalist one,

¹⁰ Moore contends that his book makes another contribution by synthesizing “core elements” of realist and idealist theories of international relations—in particular, by “incorporat[ing] . . . the importance of *form of government* from the idealist model and the importance of *deterrence* from the realist model” (p. xix). It is not necessarily idealist, however, to consider form of government an important determinant of state behavior. Indeed, Moore’s assessment of the democratic peace is grounded in a structural—not a norm-based, or idealist—explanation of the reasons that governmental form matters.

Domestic Context of Military Intervention, 50 POL. RES. Q. 97 (1997). Studies also suggest that major wars frequently result from shifts in power, such as conditions in which a major state’s strength declines relative to its potential adversaries. DANIEL S. GELLER & J. DAVID SINGER, *NATIONS AT WAR: A SCIENTIFIC STUDY OF INTERNATIONAL CONFLICT* 68–76 (1998); Jack S. Levy, *Declining Power and the Preventive Motivation for War*, 40 WORLD POL. 82 (1987).

⁷ See, e.g., BRUCE RUSSETT, *GRASPING THE DEMOCRATIC PEACE: PRINCIPLES FOR A POST-COLD WAR WORLD* 30–31 (1993).

⁸ See discussion *infra* Part II.

⁹ See BRUCE M. RUSSETT & JOHN R. ONEAL, *TRIANGULATING PEACE: DEMOCRACY, INTERDEPENDENCE, AND INTERNATIONAL ORGANIZATIONS* 78–79 (2001).

sometimes identified (in underspecified terms) as the “normative model” of the democratic peace. According to this account, the projection of modes of conflict resolution from the domestic sphere into international politics provides the most comprehensive explanation of the democratic peace. The theory holds that states “externalize the norms of behavior that are developed within and characterize their domestic political processes and institutions.”¹¹ Democratic societies cultivate cooperative, peaceful norms for resolving conflicts and inhibit violent, coercive norms. According to the model, robust democracies will successfully employ these norms in conflicts with other democracies and will shift to norms of force in conflicts with nondemocratic states.¹²

A leading study compares empirical evidence supporting the normative and the incentive/structural theories of the democratic peace.¹³ As indicators of structural constraints on leaders, the researchers measure the scope of governmental authority over social and political life, the degree of institutional restraints on executive authority, and the degree of institutional restraints on the national government. In this way, the data can shed light on whether (and to what extent) public influence on political leaders is associated with the likelihood that a state will engage in war. As indicators of democratic norms, the researchers measure the duration of political institutions and levels of internal political violence. Accordingly, the data can indicate whether (and to what extent) democratic culture is associated with the likelihood of a state engaging in war. The study is especially compelling because the researchers, among other techniques, conduct “critical tests” by examining the probability of war (1) when levels of democratic norms are strong and structural constraints are weak and (2) when levels of democratic norms are weak and structural constraints are strong.

The results are illuminating. The study found that “both the normative and structural models are supported by the data [but that] support for the normative model is more robust and consistent.”¹⁴ The study also found that structural constraints “do not prevent states from entering lower-level disputes Normative constraints, on the other hand, help to prevent even the emergence of conflicts. Insofar as democracies only

rarely engage in such conflicts, normative restraints seem to deserve the greater credit.”¹⁵

Notwithstanding these distinctions, both the normative and the incentive/structural models emphasize the internal composition of states, not relationships between states, as the primary factor guiding state behavior. To understand the potential significance of relationships between states, we need to turn to other theoretical and empirical studies.

2. *Relational Norms: Identification and Emulation*

Other explanations of war emphasize cultural and associational processes of interaction between states (or between individuals across states). One variant of this type of explanation concerns processes of identification, and another concerns processes of emulation.¹⁶ Both variants could be considered “actor-oriented” because, as discussed below, they emphasize identitarian features of opposing states and affective relationships among particular actors and reference groups. Notably, both variants also try to explain how normative processes might expand (as well as constrict) the domain in which military force is considered desirable and legitimate.

According to the identification model, the tendency of states to wage war turns substantially on the content of social relations (for example, trust or mistrust, amity or enmity) between states. This model is consistent with the democratic peace and other empirical patterns of interstate hostility. Building on social identity theory, political psychologists conclude that leaders consider democracy a salient characteristic of their nation’s identity and a constitutive feature of a community of states to which they belong. These boundaries of identification help engender the ascription of negative attributes, distrust, and tense relations with outsiders and the ascription of positive attributes, trust, and more cordial relations with insiders.¹⁷ The former set of dynamics increases the prospect of interstate violence; the latter is conducive to peace. In short, democratic leaders—and their publics—are disinclined to support bellicose actions against other democracies but are not so reluctant against nondemocratic states.

¹⁵ *Id.* at 634–35.

¹⁶ Cf. ALEXANDER WENDT, *SOCIAL THEORY OF INTERNATIONAL POLITICS* 325–36 (1999).

¹⁷ Margaret G. Hermann & Charles W. Kegley Jr., *Rethinking Democracy and International Peace: Perspectives from Political Psychology*, 39 *INT’L STUD. Q.* 511, 515–17 (1995).

¹¹ Maoz & Russett, *supra* note 3, at 625.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 624.

These theoretical propositions find empirical support in simulation experiments,¹⁸ historical case studies,¹⁹ and general psychological research on individual and group behavior.²⁰

Empirical studies suggest that processes of identification also explain patterns of war—and not just the democratic peace. First, given the logic of identification, one might wonder whether anything resembling an “autocratic peace” or “non-democratic peace” exists. That is, if actors identify with each other along the axis of democracy and, as a consequence, are less likely to fight each other, we might expect pairs of nondemocratic states to share similar affinities and more peaceful relations. While pairs of nondemocratic states are certainly not free of war, multiple studies suggest, indeed, that nondemocratic states are significantly less likely to wage war against each other.²¹ Second, other identitarian features of nation-states—such as the ethnic and religious composition of potential adversaries—correlate with the outbreak of war.²² Third, pairs of states characterized by a persistent and intense rivalry (such as India and Pakistan; Israel and Syria;

Greece and Turkey; Argentina and Chile) account for a disproportionately large number of all wars.²³ Admittedly, this simple correlation between enduring rivalries and war may not help adjudicate between rationalist/incentive- and culture-based models of war. Tentative research on the origins of adversarial relationships suggests, however, that psychological and social processes are important factors in creating enduring rivals in the first place.²⁴ Research suggests that, in contrast with incentive-based theories of action, rivalries may begin “when a state switches from using a cost-benefit calculus of the stakes at issue to using a negative-affect calculus” in relations with another state.²⁵

The second variant of the relational explanation of war emphasizes processes of emulation. According to the emulation model, the tendency of states to wage war will turn significantly on the institutionalization of symbolically attractive and legitimated forms of military behavior at the global level. The model suggests that, under particular conditions, states will enact globally promulgated scripts regarding practices of military preparation and conflict resolution. John Vasquez, for example, relies on studies finding that newer and peripheral major states behave differently than older and central major states: “Just as it should come as no surprise that male individuals who live in a culture of dueling or a culture of vendetta should have a behavioral profile consistent with those cultures,” Vasquez explains,

so too it should be unsurprising that alliance making, involvement in serious disputes, and participation in war should be the hallmark of major states in the central system. The fact that newcomers to the system behave differently and require a stronger motivation before resorting to force underscores the importance of learning and

¹⁸ In one study, participants were significantly less likely to approve the use of force against a democratic state; they were also significantly more likely to consider the eventual use of force against a democratic state a “foreign policy failure.” Alex Mintz & Nehemia Geva, *Why Don't Democracies Fight Each Other? An Experimental Study*, 37 J. CONFLICT RESOL. 484 (1993).

¹⁹ The most intriguing studies analyze the few arguable cases of war between two democracies. The studies show that in these possible exceptions to the democratic peace, one side's leadership did not consider the other democratic. These studies most directly undercut a structural explanation of the democratic peace. Both states satisfied scholars' formal criteria for democracy. It was the perception of the other state that mattered, not its structural composition.

²⁰ Hermann & Kegley, *supra* note 17, at 517–21.

²¹ See, e.g., Zeev Maoz & Nasrin Abdolali, *Regime Types and International Conflict, 1816–1976*, 33 J. CONFLICT RESOL. 3, 32 (1989) (“What is surprising is that autocratic regimes exhibit very similar patterns: They are disproportionately unlikely to engage in disputes with other autocracies . . .”); Hermann & Kegley, *supra* note 17, at 518–19 (collecting studies). At the same time, pairs of nondemocratic states should not be expected to attain the exceptionally high level of peace experienced by democratic states. That is, the particular form of political governance should not be expected to shape the self-identity of nondemocratic leaders to the same extent as the form of governance shapes the identity of democratic leaders.

²² See, e.g., Errol A. Henderson, *Culture or Contiguity: Ethnic Conflict, the Similarity of States, and the Onset of War, 1820–1989*, 41 J. CONFLICT RESOL. 649 (1997). These correlations are complex. Similarities along some dimensions (religion) may be directly associated with peace. Similarities along other dimensions (ethnicity) may be directly associated with war. *Id.* at 662–67.

²³ GELLER & SINGER, *supra* note 6, at 23–24.

²⁴ See, e.g., Cameron G. Thies, *A Social Psychological Approach to Enduring Rivalries*, 22 POL. PSYCHOL. 693 (2001); Paul R. Hensel, *An Evolutionary Approach to the Study of Interstate Rivalry*, 17 CONFLICT MGMT. & PEACE SCI. 175 (1999).

²⁵ John Vasquez & Christopher S. Leskiw, *The Origins and War Proneness of Interstate Rivalries*, 4 ANN. REV. POL. SCI. 295, 296 (2001) (discussing RICHARD W. MANSBACH & JOHN A. VASQUEZ, IN SEARCH OF THEORY: TOWARD A NEW PARADIGM FOR GLOBAL POLITICS (1981)). As Vasquez and Leskiw explain, “When a state resorts to a negative-affect calculus, it is more concerned about who gets what than about the value of the stakes. In that situation, hostility toward a specific state, rather than the intrinsic value of the stakes, determines one's issue position[, a process] which results in psychological hostility” between states. *Id.*

cultural norms for shaping conflict and violent behavior.²⁶

A growing body of empirical research points to the significance of emulation in state behavior. First, empirical studies suggest that transnational mimicry shapes background conditions that give rise to interstate hostility and mutual insecurity. As Derek Jinks and I have discussed elsewhere, these studies indicate the importance of cultural and associational processes in shaping notions of security, the internal organization of national militaries, and arms buildups.²⁷ Because such emulation is often decoupled from functional considerations (for example, the adopted behavior is not responsive to strategic concerns), the diffusion of these practices is often destabilizing and consequently war promoting. Second, some empirical and theoretical work suggests that the policy objectives in whose name military force is exercised substantially derive from globally institutionalized models of state interest. For example, Martha Finnemore examines how patterns of military force to collect sovereign debts (and to stop human rights atrocities) have tracked global models of legitimate behavior in different historical periods.²⁸ Other empirical research concludes that the emulation of global models of national sovereignty can help explain patterns of peaceful decolonization.²⁹ Finally, one set of studies shows that the outbreak of war correlates significantly with the prevalence of other wars occurring during the same period or in the same region.³⁰ These “epidemiological” patterns of war-

fare might reflect mimicry of behavior. Unfortunately, the existing literature has left theorization about these findings underdeveloped.³¹ A remaining task is to test whether the observed patterns result, in significant part, from states emulating models of behavior institutionalized in the broader social environment or whether other explanations are more convincing.³²

III. INSTITUTIONAL DESIGN

Analysis of the mechanisms of war—incentives, norm projection, identification, and emulation—holds substantial promise for designing international institutions. The analysis can help define future research agendas to assist in building an effective use-of-force regime. The analysis can also help avert design problems that may result from inadequate attention to relationships and differences between the mechanisms. For example, as I elaborate below, the behavioral logic of one mechanism may work at cross-purposes with the logic of another. Additionally, particular mechanisms may be more effective under particular conditions or at different stages of the institutionalization of a norm. Projects that advise international actors to harness one mechanism exclusively—without taking into account these factors—could prove counterproductive and dangerous. So could projects that advocate simply using various mechanisms in tandem. To sharpen these points, let me offer some examples.³³

First, consider strategies for encouraging the spread of democracy. All the theoretical models discussed in Part II are consistent with the proposition that democratic states enjoy a “separate

²⁶ JOHN A. VASQUEZ, *THE WAR PUZZLE* 161 (1993); *id.* (agreeing with the “speculat[ion] that as the newcomers actually become acculturated they will follow a traditional . . . model”) (citation omitted); see also John A. Vasquez, *The Probability of War, 1816–1992*, 48 INT’L STUD. Q. 1 (2004).

²⁷ Ryan Goodman & Derek Jinks, *Toward an Institutional Theory of Sovereignty*, 55 STAN. L. REV. 1749, 1765–80 (2003).

²⁸ MARTHA FINNEMORE, *THE PURPOSE OF INTERVENTION: CHANGING BELIEFS ABOUT THE USE OF FORCE* (2003); see also *id.* at 22 (discussing consistency with institutional theories in “global polity” scholarship). For an earlier study of the potential influence of international models concerning the use of military force, see H. K. Tillema & J. Van Wingen, *Law and Power in Military Intervention: Major States After World War II*, 26 INT’L STUD. Q. 220 (1982).

²⁹ GARY GOERTZ & PAUL F. DIEHL, *TERRITORIAL CHANGES AND INTERNATIONAL CONFLICT* 70, 74–76 (1992); David Strang, *Global Patterns of Decolonization 1500–1987*, 35 INT’L STUD. Q. 429 (1991); David Strang, *From Dependency to Sovereignty: An Event History Analysis of Decolonization 1870–1987*, 55 AM. SOC. REV. 846 (1990).

³⁰ See, e.g., Henk W. Houweling & Jan G. Siccama, *The Epidemiology of War, 1816–1980*, 29 J. CONFLICT

RESOL. 641 (1985); Jan Faber, Henk W. Houweling, & Jan G. Siccama, *Diffusion of War: Some Theoretical Considerations and Empirical Evidence*, 21 J. PEACE RES. 277 (1984).

³¹ See Faber et al., *supra* note 30, at 287 (“the space-time perspective on processes of war outbreaks stresses the need for a theory of action of state-actors”) (citing ANTHONY GIDDENS, *CENTRAL PROBLEMS IN SOCIAL THEORY: ACTION, STRUCTURE, AND CONTRADICTIONS IN SOCIAL ANALYSIS* 49 (1979)).

³² Such studies would need to test normative theories against rational-actor accounts of the data. For example, warring states may be less capable of preventing other states from engaging in separate military conflicts. War in the same region or in the same time period may provide a predatory state with the opportunity to engage in acts of aggression.

³³ For an elaboration of these types of interactions and other contextual considerations, see Ryan Goodman & Derek Jinks, *How to Influence States: Socialization and International Human Rights Law*, 54 DUKE L.J. (forthcoming 2004).

peace." Particular mechanisms might suggest conflicting strategies, however, for promoting democracy. For example, the identification model suggests that some methods of democracy promotion may increase the prevalence of war. In particular, wars between democratic and nondemocratic states may be made more likely by strategies that reinforce the social identity of democratic leaders and collective beliefs about the hostility of outsiders.³⁴ Those unintended consequences might result from efforts to champion a "community of democratic states"—especially when the initiative is expressly tied, as Moore suggests it should be, to notions that such states are inherently more pacific. Notably, the Bush administration has constructed multilateral initiatives around similar forms of identity. The 2001 National Security Strategy frames the purpose of military alliances, such as NATO, in terms of the democratic character of member states.³⁵ According to the identification mechanism, a superior option may be to deemphasize, as a matter of public policy, the democracy-military relationship. Trying to build organizations on the principle that these two features—democracy and military ambition—are intrinsically linked may accentuate and aggravate tensions between group insiders and outsiders. In the case of NATO, such considerations may become increasingly important as Russia slides away from democracy.

Second, consider strategies for operationalizing deterrence. One concern is that some forms of deterrence may interact negatively with non-incentive-based mechanisms. Moore's conception of deterrence includes military threats, international criminal prosecutions, and trade inducements. According to the emulation model, however, the first of these—the use of military force—may have perverse effects. If deterrence strategies help instill or deepen the belief that "modern states" brandish military force to achieve political objectives, other states might aspire to

obtain and exercise similar symbols of power.³⁶ Additionally, emphasizing military threats may conflict with the mechanism of democratic-norm projection. Recall that the empirical evidence suggests that the latter is important not only for war prevention, but also for inhibiting interstate conflicts short of war. The logic of the mechanism assumes that democratic norms of conflict resolution must be cultivated and developed. It also assumes that norms strengthened or weakened in one setting will affect their application in other settings. Hence, honing the skills associated with threatening violence to achieve policy outcomes (as required by military deterrence) may erode the development of cooperative, democratic norms for averting and resolving international crises. Finally, if social effects are important, one would want to compare the option of rewarding desirable behavior (positively framed incentives) with the option of penalizing undesirable behavior (negatively framed incentives).³⁷ Paying leaders not to commit the crime of aggression versus punishing leaders who commit the crime of aggression might make little, if any, difference in a pure incentive model. Some studies suggest, however, that negative incentives may be considerably less effective than positive incentives under conditions in which social norms already inspire voluntary cooperation.³⁸ In this respect, the point would not be to abandon incentive-based mechanisms, but to tailor them more effectively.

Third, under certain circumstances, some mechanisms may be fundamentally incompatible. For example, incentive-based strategies may directly conflict with emulation-based strategies. According to the emulation model, under certain conditions states begin to internalize social norms disfavoring the use of force. Over time, such behavior may be described as "intrinsically motivated."³⁹ Recent empirical studies suggest, however, that

³⁴ Cf. Hermann & Kegley, *supra* note 17, at 516 (discussing potential for war under conditions in which "[p]olitical systems that are not democratic are viewed suspiciously and often are pejoratively classified as an outgroup with a set of derogatory attributes that differentiate them from the community of democratic states").

³⁵ THE NATIONAL SECURITY STRATEGY OF THE UNITED STATES OF AMERICA 25 (2002), at <<http://www.whitehouse.gov/nsc/nss.pdf>> ("The attacks of September 11 were also an attack on NATO . . . NATO's core mission—collective defense of the transatlantic alliance of democracies—remains, but NATO must develop new structures and capabilities to carry out that mission under new circumstances.").

³⁶ Scott D. Sagan, *Why Do States Build Nuclear Weapons?: Three Models in Search of a Bomb*, 21 INT'L SECURITY 54, 83–84 (1996/97); cf. David Kinsella & Jugdep S. Chima, *Symbols of Statehood: Military Industrialization and Public Discourse in India*, 27 REV. INT'L STUD. 353, 355–56 (2001); Dana P. Eyre & Mark C. Suchman, *Status, Norms, and the Proliferation of Conventional Weapons: An Institutional Theory Approach*, in THE CULTURE OF NATIONAL SECURITY: NORMS AND IDENTITY IN WORLD POLITICS 79 (Peter J. Katzenstein ed., 1996).

³⁷ Ernst Fehr & Armin Falk, *Psychological Foundations of Incentives*, 46 EUR. ECON. REV. 687, 694 (2002) (surveying empirical studies of the differential effect of positive versus negative incentives on voluntary cooperation and norms of reciprocity).

³⁸ *Id.* at 694–96.

³⁹ Bruno S. Frey & Reto Jegen, *Motivation Crowding Theory*, 15 J. ECON. SURV. 589 (2001).

using rewards or punishments can “crowd out” intrinsic motives for engaging in appropriate behavior.⁴⁰ An explicit incentive-based policy can suggest that the preferred behavior (for example, forgoing weapons of mass destruction, military aggression, and saber rattling) is not self-evidently appropriate or that the broader social environment does not adequately value self-motivated adherence to the rule.⁴¹ Accordingly, strategies that focus on ratcheting up the severity, certainty, or timing of punishments—such as preventive self-defense as a method of deterrence⁴²—may make the undesirable behavior (for example, developing WMDs) seem more acceptable to actors who care about following community norms. Indeed, in terms of aggregate effects, studies show that if the locus of control shifts from intrinsic impulses to extrinsic motivation, overall levels of socially desirable behavior can decline.⁴³ In addition to these crowding-out effects, the use of explicit incentives can undermine voluntary cooperation by introducing an element of deep distrust into socially produced modes of reciprocal behavior.⁴⁴ That is, actors may enjoy high levels of cooperation on the basis of shared social norms until an explicit incentive (a carrot or stick) is introduced as an instrument for obtaining cooperation.

Fourth, some of the above factors also raise concerns about cycling effects—the prospect of states passing into and out of democratic forms of government. For example, promoting the symbolic importance of a community of democratic states may amplify negative reactions and intergroup hostilities when a democratic regime is toppled. As the most recent *Nuclear Posture Review Report* indicates, anxieties will already be raised when a regime change involves a state that possesses WMDs. In discussing “unexpected contingencies” that might prompt U.S. nuclear strikes, the report notes that “[c]ontemporary illustrations might include a sudden regime change by which an existing nuclear arsenal comes into the

hands of a new, hostile leadership group.”⁴⁵ Such a scenario is even more dangerous if it involves misperceptions by the United States and its allies of the threat represented by the overthrow of a democratic regime.

Another concern about cycling effects involves the unintended consequences of strengthening the military of democratic states. In particular, Moore advocates bolstering the military capacity of democracies to deter nondemocratic states. If some of those democracies subsequently become nondemocratic, however, they will be armed with a stronger, more dangerous military. The associated risks should vary across different mechanisms. The danger posed (and the prospects for controlling it) might depend, for example, on expected social effects of different power balances between states and on the tendency of nondemocratic states to emulate the use of military force and coercion practiced in the wider social environment.

Finally, an appreciation of the different mechanisms can add some corrections to current U.S. efforts to spread democracy in the Middle East and beyond. President Bush has stressed that “because democracies respect their own people and their neighbors, the advance of freedom will lead to peace.”⁴⁶ However, we can be fairly confident, as an empirical matter, that democracies are as war prone as other states. Indeed, the insertion of a few democratic states into a region populated by nondemocracies is somewhat perilous. The solution is not to reject the promotion of democracy; the challenge is to promote the spread of democracy while recognizing the need to devise strategies to minimize these associated hazards. In addition, policy choices may include deciding among alternative forms of democratic governance. That decision may turn on whether democratic structure or democratic culture has greater explanatory power for peaceful relations between states. If a choice is available, participatory forms of democracy, including processes that

⁴⁰ See generally *id.* (surveying empirical studies of interactions between extrinsic incentives and intrinsic motivation); cf. Edward L. Deci, Richard Koestner, & Richard M. Ryan, *A Meta-analytic Review of Experiments Examining the Effects of Extrinsic Rewards on Intrinsic Motivation*, 125 PSYCHOL. BULL. 627 (1999).

⁴¹ Frey & Jegen, *supra* note 39, at 594, 602–05.

⁴² THE NATIONAL SECURITY STRATEGY OF THE UNITED STATES OF AMERICA, *supra* note 35, at 15–16 (discussing quest for better information, allied support, and military efficiency to maximize the benefits of preventive self-defense doctrine).

⁴³ Frey & Jegen, *supra* note 39, at 594.

⁴⁴ Fehr & Falk, *supra* note 37, at 689–704.

⁴⁵ DEP’T OF DEFENSE, NUCLEAR POSTURE REVIEW REPORT 16 (Jan. 8, 2002). The foreword and excerpts from the report itself are available online at <<http://www.globalsecurity.org/wmd/library/policy/dod/npr.htm>>. Although the report itself is classified, it was leaked to the *Los Angeles Times* in March 2002.

⁴⁶ President George W. Bush, State of the Union Address (Feb. 2, 2005), at <<http://www.whitehouse.gov/news/releases/2005/02/>>; see also Mitchell B. Reiss, Revisiting Waltz’s Man, the State and War: New Images for a New Century, Remarks at the Fletcher School of Law & Diplomacy, Tufts University (Oct. 6, 2004), at <<http://www.state.gov/s/p/rem/36915.htm>>.

foster the practice of democratic dispute settlement, may help avoid not only wars, but disputes short of war. Accordingly, fashioning institutions to promote such skills may be more valuable than fashioning institutions to maximize the influence of majority preferences on political leaders. At the very least, such choices of institutional design would be better informed by a fine-grained understanding of incentive- and non-incentive-based mechanisms of war.

Whenever possible, international-regime design should be closely tethered to empirical research and, in particular, consideration of the mechanisms that influence state behavior. Although Moore's work pushes the discussion in that direction, he stops short of the necessary analysis. Considerable empirical evidence suggests that a broad range of cultural and material factors must be taken into account in understanding why states go to war. Uncovering the principal mechanisms and their potential interactions is critical to discerning the true nature of the war puzzle and fashioning international institutions to address major parts of it.

RYAN GOODMAN
Harvard Law School

BOOK REVIEWS

The United States and the Rule of Law in International Affairs. By John F. Murphy. Cambridge, New York: Cambridge University Press, 2004. Pp. ix, 367. Index. \$85, £55, cloth; \$31.99, £19.99, paper.

At the heart of John Murphy's new book, *The United States and the Rule of Law in International Affairs*, is his effort to understand an enduring contradiction in U.S. foreign policy—namely, that the “United States has had considerable difficulty in adhering to the rule of law in its conduct of foreign affairs. However, there also have been occasions when the United States has taken the lead in supporting the rule of law in resolving some of the major international issues” (p. 349).

Murphy himself has long worked in the trenches of public international law, giving valiant and valuable service as an attorney adviser in the Legal Adviser's Office, as a professor and scholar, and as a volunteer on countless projects. Perhaps his most important recent contribution was authorship of an ABA report on the International Criminal Court (ICC), which made a strong case for

the court and helped pave the way for the conclusion of the Treaty of Rome. Indeed, his disappointment with U.S. attempts to water down the Rome Statute during the negotiations and, more recently, with the Bush administration's ferocious attack on the ICC and everything connected with it—is palpable. He states, flatly but sadly: “For the moment, . . . the United States has rejected a revolutionary effort to enhance the rule of law in international affairs” (p. 318). Murphy is similarly unhappy with the U.S. withdrawal from the compulsory jurisdiction of the International Court of Justice (ICJ), and notes rumbling U.S. dissatisfaction with NAFTA and WTO tribunals in the wake of their decisions against the United States. Nevertheless, despite all these concerns about the combative U.S. stance toward centrally important international institutions, Murphy identifies a number of places where the United States has actually worked hard to advance the international rule of law.

That is the great strength of this book. Murphy depoliticizes the record, working his way through issues such as UN dues, the use of force, arms control and nonproliferation, the law of the sea, the ICJ, prosecution of international crimes, and human rights and international environmental law. He is not afraid to criticize, but neither is he hesitant to praise—a refreshingly balanced attitude in an increasingly polarized era. For instance, he declines to criticize the United States, from a legal perspective, for rejecting the many treaties that other countries support, such as the Landmines and Biological Diversity Treaties and the Kyoto Protocol. Such rejections are not, Murphy argues, “deviations from the rule of law” (p. 349). On the contrary, “In the voluntarist system that characterizes the international legal process, each state is entitled to decide whether becoming or remaining a party to a particular treaty is in its national interest” (*id.*). He is profoundly disappointed with the U.S. decision to reject the Treaty of Rome, as noted above, but his disappointment is grounded in personal policy preferences, not legal analysis. He does criticize the United States, however, for “tak[ing] steps that undermine the effectiveness of treaties that it has ratified” (p. 350)—most notably, by withholding UN dues and insisting on reservations to human rights treaties, including the International Covenant on Civil and Political Rights, that deliberately block their domestic effect.

Murphy delivers a similarly evenhanded verdict on U.S. actions against international terrorism. He provides no cover for U.S. treatment of