

Lifting the Fog of War

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New Thinking about War and War Prevention

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For all the crosses on all the hills.

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Foreword

*Richard H. Solomon**

The collapse of the Soviet Union in late 1991 ended a major period in international affairs. Fortunately for the human race the Cold War ended without a nuclear war between the USSR and the United States. The “realist” logic of military deterrence succeeded in containing the life-or-death rivalry between the worlds of Communism and Democracy.

In the quarter century that followed, the dynamics of international relations changed dramatically. While for a decade the United States was the preeminent power in global affairs, a series of developments emerged that today present the US, and the world, with new challenges to their security and economic well-being. Some of these challenges are all too familiar, especially the resurgence of Russia and China as assertive geo-political powers, indicating that the Cold War era concept of deterrence by military means continues to be relevant for security management. But new threats have emerged, for which the US has neither experience nor conception. The terrorist attacks of September 11, 2001 highlighted that deterring or containing the threat of politically motivated suicidal violence is a security challenge for which Cold War-era notions of deterrence have limited relevance. Also challenging is deterring the destructive and elusive effects of “cyber warfare” where the perpetrator is not clearly known nor subject to deterrent threats. High on today’s national security agenda are non-deterrable threats of non-human agency: destructive climate changes and public health pandemics.

Understanding the dynamics of this new era is critical to national security, managing international conflict and preventing war. Indeed, it is increasingly misleading to speak of “war,” which for the public evokes 20th century images of mass militaries

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marching across international boundaries. A more relevant contemporary conception is “conflict prevention and management”—the Congressionally mandated work of the United States Institute of Peace.

Professor John Norton Moore and his students are leading a much-needed effort to rethink the Cold War-era “realist” conception of deterrence as a critical approach to conflict prevention. His “incentive theory” includes “the full spectrum of foreign policy interests that influence a leadership’s decisions about war or peace—an effort most appropriate in a time of increasingly complex multifactorial challenges to national security. His students’ reassessment of the conception of deterrence contained in this volume provides critical perspective for rethinking the conception that helped manage the great interstate rivalries of the Cold War era.

Managing conflict requires more than just conceptual understanding. It also requires restructuring the bureaucratic mechanisms by which leaders assess contemporary threats and develop policies that incorporate the full range of national capabilities for preventing or deterring conflict, or managing the consequences of violence. And if Cold War-era concepts need to be rethought, so to do the policy management procedures inherited from that era. Thus Professor Moore appropriately calls for the creation of a new office in the senior levels of government which through theory-informed research and analysis could inform senior policy makers of “the real-world risks of war.”

Grounding the conceptual and organizational insights in this volume is the political challenge of building public support for unfamiliar approaches to international relations and conflict management. Let us hope that among Professor Moore’s students is a new generation of leaders in security planning and management who understand the requirements of conflict prevention and management appropriate to the turbulent world of the 21st century. We need talent to guide the country through the enduring fog of international conflict.

Preface

John Norton Moore

It was my privilege to be the first Chairman of the Board of the United States Institute of Peace (USIP), and to guide the new Institute from its establishment in 1986 through its first forty-nine meetings of the Board of Directors. During that period the Institute began a major effort to understand the origins of war and modalities for enhancing peace. Indeed, its work led the World in serious inquiry and scholarship about the origins of war. Based on its work in understanding that democracies rarely wage major war against other democracies, which has since become known as “the democratic peace,” USIP further initiated the movement for “rule of law” in governance; a movement which literally swept the World in the early 1990s but has since been challenged by totalitarian pushback.

Subsequently, on returning to scholarly life at the University of Virginia Law School, understanding war and war prevention has been my principal research interest. In pursuing that interest I have taught seminars on “War and Peace” both at the University of Virginia and at Georgetown University; seminars which have functioned as working research seminars exploring the origins of war and modalities for war prevention. The papers in this volume are some of the remarkable student papers written in those research seminars.

For many years the principal theoretical tools in understanding war have been competing theories of international relations. “Idealism,” one of the two major traditional theories, focuses on collective security, third party dispute settlement and cooperative efforts at war avoidance. It is the principal approach of international lawyers and many American statesmen, including Woodrow Wilson. “Realism” and “neo-realism,” a second traditional and for many years more dominant theory, focuses on state interests in an “anarchic” international system; that is, a system lacking centralized security or enforcement and thus subject to an inevitable “security dilemma.” Unlike “idealism” this approach tends to focus on state power and views international law as principally significant only in “low politics” rather than the “high politics” of war and peace. Henry Kissinger was a classic statesman in this tradition, pursuing balance of power as a central concern for national security. More recently, two newer theories, “institutionalism” (sometimes called “liberal institutionalism” or “regime

theory”), and “constructivism,” have emerged as reactions to principal shortcomings of “neo-realism.” Thus, “institutionalism” takes aim at the “realist” view that international law and international institutions play little role in international life and convincingly shows that states frequently pursue their interests through international norms and institutions, even in matters of “high politics.” “Constructivism” takes aim at the “realist” view that the international system is an “anarchic” given and shows that, to some extent at least, the international system is “what states make of it.” That is, “constructivists” show that the international system itself is in significant part “constructed” by state actions and interests.

In understanding the strengths and shortcomings of these principal theories of international relations it is useful to review a helpful heuristic device widely used in international relations and originating in a seminal monograph on war and peace; a monograph written by Kenneth N. Waltz entitled *Man, the State and War* (1954). Professor Waltz, compiling widely held views on the origins of war from historical sources, showed that some believed war was a product of individual leaders, some believed war was a product of form of political system (that is; state “governance”), and some believed war was a product of the international system. This matrix has become known in international relations jargon as “image one”; the individual, “image two”; the state, and “image three”; the international system. In these terms “realism” and “neo-realism” have largely focused on image three, the international system, as the principal mechanism at work in generating war; and particularly the “anarchic” nature of that system creating in turn “a security dilemma” for all states. “Realists” have tended to ignore or downplay images one and two. Indeed, at least one “offensive realist” has even espoused a position denying significance for both individual leaders and form of government even in the face of the powerful statistical evidence of “the democratic peace.”

“Institutionalists” and “Constructivists,” correct in their analysis of central shortcomings of “realism,” have nevertheless still primarily focused on image three, as has “realism,” perhaps because in their criticism of “realism” they principally began with a “realist” framework. In recent years, however, a variety of “idealism” I call “neo-idealism” has also begun to focus on image two; form of government. Indeed, as reflected in the work of Professor Bruce Russett in his major book funded by USIP, *Grasping the Democratic Peace: Principles for a Post-Cold-War World* (1993), this focus on image two has generated strong consensus around the importance of the “democratic peace.” None of the traditional or newer theories of international relations, as discussed above, have focused significant attention on image one. And, with some exceptions, the principal empirical, as opposed to theoretical, analyses of the causes of war, have been primarily within the newer “neo-idealism,” “democratic peace,” strain of the major theories, though “institutionalists” and “constructivists” have also embraced empirical work. Indeed, increasingly, grand theories have been losing ground to less theoretical empirical work focused on smaller aspects of the overall problem of war.

“Realism” which until recently has dominated the field in international relations departments has, I believe, led research astray despite its insights. That is, realists

are surely correct that states matter, power matters and incentives from the international system matter. But they are wrong to the extent that they ignore incentives from images one and two, too cavalierly dismiss international law and institutions, fail to understand the extent to which the international system is shaped by state behavior, fail to offer much focus on non-state-actors such as ISIL, and fail to offer much of interest in dealing with foreign policy concerns such as human rights, economic development and environmental protection. To offer no useful explanation for the horrific genocides in Cambodia or Rwanda is to lose relevance over a central foreign policy concern. Indeed, the work of Professor Rummel in his seminal work on *Death by Government* showing that “democide” (a term broader than “genocide” in including killing of political opponents as well as racial and religious killing) has killed more in the Twentieth Century than all wars combined drives this point home. Nor, in my judgment, does “realism” offer much of real-world utility in predicting or understanding the causes of individual wars. Of course the international system, lacking a central “sheriff,” is “anarchic,” and that characteristic, in turn, is centrally relevant for “war” writ large; that is, an aggregate of wars. But it tells you little of when and why individual wars will occur. It is about as useful in studying the causes of plane crashes as saying that crashes occur because of the law of gravity. While true, such an observation gives us little useful information about the causes of individual plane crashes. For planes fly frequently and only crash infrequently; always with the ever-present reality of the law of gravity. Similarly, sometimes nations are at war and sometimes not, despite the ever present reality of an “anarchic” international system. If we are to understand war at a more useful level we need a better theoretical framework than “realism.”¹

“Idealists” and the newer “neo-idealists,” for their part, are surely correct in understanding that effective collective security can make a difference, that international law and international institutions play a role, and in their optimism that we can reduce the risk of war. They are also importantly adding value in their focus on image two and the “democratic peace.” They too, however, tend to neglect image one, offer no theoretical basis for aggregating all the empirically discovered correlates with war, and exaggerate the potential of third party dispute settlement as the answer to war. Major war (that is with aggregate casualties of 1,000 or above) are not comparable to disputes about contracts to deliver grain but are more akin to the gunman writ large. When confronted with a street thug brandishing a 357 magnum and demanding

1. Realists seem to understand that “structural a-anarchy” alone cannot provide much guidance as to when and where wars may occur, as it is a constant in the system. But they then offer only another structural factor (*i.e.* an image 3 factor) as to whether the international system is “bipolar,” “unbalanced bipolar,” “multipolar,” “unbalanced multipolar,” or controlled by a preponderant “hegemon.” Further, this system feature, like “structural a-anarchy” itself, is also a high-level abstraction providing little guidance as to when or where a war will break out. And to add to the uncertainty as to the effect on war of this image 3 factor, different realist scholars seem to reach differing conclusions as to which of these systems is the more peaceful. *See, e.g.,* JOHN J. MEARSHEIMER, *THE TRAGEDY OF GREAT POWER POLITICS* 334–36 (2001).

“your wallet or your life” it is not likely to help to suggest that you both go to court to determine how much of your wallet or your life the thug should get.

“Institutionalism” and “constructivism,” in turn, are correct in their critique of “realism” as too broadly dismissing international law and institutions and as failing to understand the more fluid nature of the international system as opposed to a fixed DNA of an “anarchic” international system. Though both newer theories are correct, and importantly so, in their critique of realism, neither offers a broader theory for understanding war. Elsewhere I have described these newer theoretical approaches in international relations as “screams against realism.”

Nevertheless, despite the shortcomings of traditional and newer theories, we do need theory; theory which will provide an overall framework to link the many micro pieces of the war puzzle. For these micro pieces, if unlinked, also offer little guidance as to the causes of individual wars. Social reality, including the causes of individual wars, is complex and usually multi-factoral. Theory, then, needs to be able to address that complexity and aggregate all the relevant inputs. Thus, a more useful approach will centrally mine the empirical correlations with war which are increasingly emerging from micro research while providing a theoretical framework enabling their aggregation. Ultimately, good theory should enable us to better understand the causes of war; thus enabling both better prediction and, hopefully, modes of intervention to lessen the occurrence of war.

With this need for better theory in mind, my work at the United States Institute of Peace and subsequently, has led me to develop a newer approach to understanding war. This approach called “incentive theory” also turns out to be a more useful approach across the full spectrum of foreign policy interests; not only in understanding war, but also in understanding economic development, human rights, environmental protection, refugee flows, avoidance of terrorism, and other important foreign policy issues.

The starting point for “incentive theory” is simple. Major wars overwhelmingly are not accidents or regular inevitable events like the movement of planets; rather they are deliberately initiated by decision elites in pursuit of a goal. As such, the central focus of “incentive theory” is the decision for or against war by the decision elites empowered to make such decisions. In turn, that point of decision provides a central point for aggregating the myriad of factors from all three images affecting the decision; the belief system and psychology of the decision elite (image one), the belief system and psychology of principal advisers or groups affecting the decision (image one-and-a-half) (a term I have coined to get sharper focus on the importance of such key advisers or groups in the decision for war), the form of government (totalitarian, authoritarian, electoral democracy or liberal democracy) (image two), and the totality of incentives from interactions with other nations and institutions (image three).

Individual leaders and their ideology, experiences, and psychology matter. Offensive realism is wrong in failing to differentiate between Adolf Hitler and Mahatma Gandhi. In this regard, likely extreme belief systems justifying use of force for extension of values, certain personal experiences, national historical and cultural perspectives,

individual personality type, and, as well, from prospect theory in behavioral economics, whether the setting is one of loss avoidance (triggering willingness to take higher risk) or gain (triggering greater caution) are all relevant inputs for image one.² Similarly, the principal advisers around a decision elite, or groups engaged on the issue, also matter. For example, following the removal of the usual democratic checks on war initiation, as was the effect of the 9/11 attack, it is likely that the decision for the Iraq War was principally driven by a group of high level advisers to President George W. Bush who had networked together prior to the Bush Administration on the importance of removing Saddam Hussein from office. We know from the strong empirical evidence supporting the “democratic peace” proposition (that is, democracies have rarely, if at all, fought major wars against each other) that form of government matters. And there is a great deal of evidence that many different factors affecting the totality of incentives from the aggregate of all other nations, international institutions and international law (that is, image three or the totality of the international system) matter. Thus, security arrangements and clear communication of military and political deterrence against an attack matter. Indeed, NATO may have prevented World War III during the height of the Cold War, in sharp contrast with the absence of effective security arrangements prior to World Wars I and II. Similarly, high levels of bilateral trade, which are a positive incentive imposing a cost if lost in war, matter. Even certain fixed incentives, such as physical contiguity, matter (physical contiguity likely both in generating motivating factors for attack as well as facilitating ease of attack). Moreover, the importance of each of these elements, which may vary from war to war, are likely themselves multi-caused. Thus, with respect to “the Democratic Peace” likely the phenomenon is related to a multiplicity of factors including shared values and belief systems, checks and balances common to democratic systems, leaders selected for competence in factors other than military prowess, ruthlessness, or extreme belief systems, and the ability of totalitarian and authoritarian leaders to externalize costs on others more effectively than democratic leaders, among many other factors in a complex mosaic of differences between liberal democracies at one end of the political spectrum and totalitarian regimes at the other end of that spectrum.

To recapitulate some of the more important correlations with war, we know from the powerful statistical evidence of “the democratic peace” that form of government matters. For democracies rarely if ever wage major war against other democracies. Moreover, despite the conventional wisdom in international relations theory that democracies are no less aggressive in initiating major wars, my own research shows that they are far less aggressive in high-risk settings leading to major wars when measured by the initiation of coercion normative standards of the United Nations Charter, *or* when measured by total casualties as a proxy for risk, *or* when measured by intent

2. An initial approach to conceptualizing the principal inputs contributing to both image one and image one-and-a-half might be a six-part construct of 1) political belief system; 2) personality type; 3) personal experience; 4) national historical and cultural perspectives; 5) whether the setting is a gain or loss setting under prospect theory; and 6) the ability to personalize benefit and externalize cost.

to use force for value extension as opposed to value conservation. This focus on form of government is a classic image two factor. With respect to image three there is powerful evidence, though based both on case studies and the objective measuring system for levels of “deterrence” discussed subsequently and developed in two papers in this volume, that high levels of overall deterrence prevent major international war and that such war tends to occur at low or negative levels of deterrence. As one factor in overall “deterrence” we also know from strong statistical analysis that high levels of bilateral trade between two countries strongly reduces the risk of major war between them. Trade is simply an aggregate of positive incentives which, if lost in war, become a negative discouraging war. Thus, high levels of bilateral trade go along with a strong military, military security arrangements, *effective* collective security, effective communication of will and intent to deter, and other factors in making up the aggregate of incentives from the international system collectively producing some level of “deterrence.” These factors are, of course, image three factors. Finally, there is good case study evidence to suggest that extreme ideologies supporting use of force as a modality of value extension are correlated with high-risk aggression. This was certainly the case with Adolf Hitler in World War II, Stalin, Kim Il Sung, and Mao in the Korean War, Ho Chi Minh in the Vietnam War, Saddam Hussein in the 1990 Gulf War, and Al Qaeda and ISIL leaders in ongoing contemporary struggles against terror. And, as the paper by Michael Mott in this volume suggests, modern psychology now usefully addresses factors contributing to individual risk taking and aggressiveness, something as yet which has played little role in the understanding of war because of the general neglect to date of image one. These latter factors, of course, are image one factors. These likely major factors can today be supplemented by many other more micro correlations from one or another of the “images,” such as prior military experience of the regime elites, their religious belief system, physical contiguity of the countries at war, and many other factors emerging from more micro and empirical research about war.

The strength of “incentive theory” is that it seeks to aggregate all of these factors as applicable in individual cases and it offers a point, the decision for war by a national decision elite, around which these factors can be aggregated. It offers a simple overarching theory, but it then enables incorporation of a myriad of empirically proven inputs. The deductive theory (simple and thus meeting the useful test of Occam’s Razor) is needed to provide the point for aggregation and analysis. The rest is left to empirical truth. Known correlations, of which there are now many, are placed into the model and given appropriate weight. Myths, deliberate omissions of important correlates out of stubborn adherence to some deductive theoretical constructs, and outright false beliefs about war, have no place and are omitted. Importantly, though “incentive theory” uses the decision point in image one as the point for aggregating inputs from all images (or even new images if existing images are more contextually subdivided in the future), “incentive theory” is emphatically not a theory that wars occur simply because of image one or inputs solely relating to the individual. To the contrary, it uses the point of decision for or against war

(which is the real-world origin of war rather than the movement of planets or random events), to aggregate factors from all the images and it asserts, unlike other theories, that all of the images are potentially relevant in analyzing the causes of war and the risk of individual war. It is the aggregate of incentives for the decision elite which then produce war or no war. Similarly, “incentive theory” is not simply an offshoot from economic theory. Rather, it is rooted in full social context and seeks to include all relevant disciplines. Perhaps, however, given that incentives are the core mechanism for both physical and social evolution we should not be surprised to find that incentives matter in decisions for war or elsewhere in foreign policy.

But does not “incentive theory” assume rationality of decision elites in making their decision for or against war under the aggregate of incentives from all image sources? Yes and no. Yes, in recognition that the decision for war, including a thoroughly evil aggressive attack, in case after case seems to be based on a series of assumptions reflecting incentives at the point of decision. There are few, if any, cases of modern major war being initiated by the mentally ill. That is likely explained by the difficulty of a truly mentally ill leader staying in power very long in a modern state of whatever political variety. Moreover, if wars are simply random or not driven by decision elites making what they believe are rational decisions under the circumstances of the totality of incentives at the time of decision, then no theory is going to be any better than “incentive theory.” But no, in yet another advantage for “incentive theory” over traditional and newer theories, “incentive theory” takes into account image one with respect to the individual decision elite and those around them. As such, it is able to importantly weight extreme belief systems affecting decision when other principal theories largely neglect image one. One example that has always seemed to me to make this point is that of Pol Pot’s continuing military attacks against Vietnam from Cambodia based on his ultra-radical belief system, despite Vietnam at the time having one of the largest battle-hardened armies in the World. When Vietnam ultimately got tired of these aggressive attacks against them they ultimately invaded Cambodia and wiped out Pol Pot’s far less capable army. Ultra-radical belief systems of a decision elite may be capable of overriding incentives others would regard as more than adequate to deter. That, in turn, suggests the importance of including image one in any framework of analysis about war. In the contemporary world it may suggest special attention should be paid to the obviously radical belief system of ISIL concerning setting aside by force the existing state system, and the ultra-radical belief system of the current leader of North Korea, a rogue nuclear power.

“Incentive theory” has other advantages, as well. In addition to providing greater utility on the problem of war, many of its principal inputs also correlate with other major foreign policy interests. Thus, democratic forms of government correlate in the aggregate with higher levels of economic growth, enhanced human rights and quality of life, enhanced environmental protection, lower corruption and refugee flows, and less participation in terrorism. Realism, in contrast, has little to say about these other important foreign policy goals. Moreover, the fact that “the democratic

peace” correlates with so many of these other major goals reinforces that its weighting on war is also important.

“Incentive theory” also provides a framework facilitating sharper governmental analysis for appraising the risk of war in a particular crisis setting, and when the risk gets high, of applying measures which might lessen that risk. I believe the United States would be well served to create a small new office within the Central Intelligence Agency or the Office of the Director of National Intelligence which would have two roles. First, it would pursue the correlations from all images through continuing empirical research; striving through time to build a theoretical model based on “incentive theory” (or a better theory when one is found) which would become better and better in assessing the real-world risk of war. Second, this office would systematically apply this model to crises and other settings of concern, and convey an early warning to the national security policy apparatus about settings presenting high or increasing risk. A second task force or office would be created on an interagency basis within the National Security Council that would be the recipient of these risk warnings. That NSC Task Force/Office would have studied a tool kit of measures to damp down risk and would then address, as a national policy, measures to deal with the specific warning coming from the CIA/DNI office. Presumably, recommendations from this NSC policy entity would be sent to the President for decision after clearance through the interagency process. The intelligence community, of course, already engages in risk assessment; an inherently difficult task. A model which could, through time, enable better and better risk assessment based on the best scientific evidence available about war, however, would certainly be an important national asset. Even more importantly, likely it is the second step of linking a warning capability with a policy mechanism focused on making recommendations for reducing the risk of war (a mechanism only episodically or peripherally present today) which offers the best payoff to the Nation. Both better prediction, and better understanding of measures to reduce risk—thus enabling better policy response, require a better theory for understanding war. “Incentive theory” is at least incrementally better in this task than our current theoretical toolkit.

Since the superb papers in this volume came from my “War and Peace” seminars at Virginia and Georgetown, not surprisingly the authors are at least aware of “incentive theory,” and many are pursuing that theory in their analysis. Of particular note, the papers by Anthony Stenger and Geoff Fasel develop what I believe is the most sophisticated effort at a more objective scoring system for “deterrence,” a term I have been using in “incentive theory” to reflect the entire aggregate of incentives from image three, both positive and negative, not just military deterrence. Political scientists in their Polity series, as well as Freedom House in its ranking system for democracy and the rule of law, have long devised effective systems for measuring levels of democracy and democratic freedoms. Surprisingly, to my knowledge there has never been a comparable effort at objectivizing another obviously critical component of the war equation; that of deterrence, or the aggregate of incentives from image three. Possibly this again results from being led astray by the “realists” with

their preoccupation with “power.” Power, of course, is a component of deterrence, but only one component. The will to use that power and clear communication of that will is also critically important. That is, deterrence, with all of its pieces, is a more useful input than power. Just to provide a few examples, the United States was clearly more powerful than North Korea before North Korea’s decision to unleash the Korean War, yet United States communication of its determination to defend Korea was not only not communicated to Stalin and North Korea, it was not even known to the American military and foreign policy establishment prior to the decision by President Truman following the North’s Soviet assisted invasion. Similarly, the United Kingdom and United States clearly were much more powerful than Saddam Hussein’s Iraq but again a failure of communication led to his miscalculation in attacking Kuwait. When measured against a gestalt contextual analysis of major wars the objective scoring system generally correlates well with the conclusions from the more contextual but less systematic analysis. In one case, however, perhaps showing the importance of maximum contextual analysis, I believe the more complete gestalt analysis was superior. Thus, the objective system scored deterrence against Germany as increasing after Russian mobilization on the eve of World War I. But knowledge of the “Schlieffen Plan” and Germany’s two front war problem in World War I called for the opposite conclusion in the more complete contextual analysis. Once Russia mobilized, the Schlieffen Plan suggested that Germany had to attack and win in the West before taking on Russia in the East. This example, in turn, tells us that assessing “deterrence” is not always easy, and sometimes what might seem as a measure enhancing deterrence might work the other way. Indeed, United States economic sanctions against Japan, in the face of a hugely powerful Japanese navy, may have lessened, rather than increased, deterrence before the Pearl Harbor attack. Most importantly, whether based on this objectivized deterrence system, or simply scoring war by war from overall context, “incentive theory” is correct in providing an important input for deterrence, or the totality of incentives from the international system. For high levels of deterrence seem to prevent war and wars seem to be associated either with low levels of deterrence or negative levels of deterrence.

I would also call particular attention to the paper by Michael Mott, one of the editors of this volume, who wrote on “Psychology and the War Decision.” Because image one has tended to be neglected in traditional approaches to the decision for war, less has been written exploring this important component at the level of variations in individual psychology, as opposed, for example, to the effects of belief in a radical utopia to be forcefully imposed, or the insights of Prospect Theory and other insights from Behavioral Economics. Michael, who came to the seminar with graduate work in psychology, has, I believe, done seminal work in developing a first stage complexity in understanding this component of image one. His paper shows, using modern psychological theory, how wrong it likely has been to ignore individual psychology in the decision for war, and more broadly in understanding foreign policy behavior.³

3. A recent book, also focusing on image one, explores experiences of national leaders with respect to their propensity for war. See MICHAEL C. HOROWITZ, ALLAN C. STAM, & CALI M. ELLIS, *WHY LEAD-*

The paper by Andrew Kagen on “A Pattern in the Decision-Making Process of Autocracies Going to War” also provides strongly suggestive evidence as to the importance of individual leaders (image one) and their principal advisers (image one-and-a-half) in the decision for war. This paper explores the decision of the French King Louis XVI and his foreign minister, the Comte de Vergennes, to intervene in the American Revolution, the decision of Emperor Franz Joseph of the Austro-Hungarian Empire and his ministers and Army Chief of Staff to go to war against Serbia (triggering World War I), and the decision by Emperor Hirohito of Japan and his Prime Minister and Army and Navy Chiefs to attack Pearl Harbor.

The paper from Davis Brown, an international relations PHD, who has gone on to do seminal work in the relevance of religious beliefs of national leaders and country populations, does the kind of outstanding work which good scholarship (and good theory) requires in empirically testing our theories.

Finally, the paper by Margaret Kelly, on “Shark Attacks and the ICC” is a beautiful case study as to why international law and international institutions can, at least in many significant ways, have an important real world effect. Margaret, a Princeton Graduate before attending the University of Virginia Law School, and also one of the editors of this volume, writes with an extraordinary gift. Oh, to use the English language like Margaret!

I would be remiss if I did not also thank Professor Robert F. Turner, who has been my frequent co-teacher in the War and Peace seminar at Virginia, and who served as the first President of the United States Institute of Peace. Bob’s extraordinary knowledge of the Vietnam War, and his service in multiple branches of the United States Government, have greatly contributed to the papers in this volume.

The real work in compiling these papers, and herding the cats to make the project come to fruition, has been that of Michael Mott, Margaret Kelly, and Judy Ellis. Orchids to them!

All of the papers in this volume reflect extraordinary work in pressing the state of human knowledge about war. I believe this volume not only showcases outstanding student work, but more importantly, the volume advances mankind’s knowledge of the causes and modes of controlling war. That has been the genesis and motivation for its publication.

Addendum to Preface

Incentive Theory: A Closer Look

There is no good short name for what I have termed “Incentive Theory.” Unfortunately, the term by itself does not capture the theory’s focus on *decision* or its insistence

ERS FIGHT (2015). It seems likely that political beliefs of national leaders, particularly extreme beliefs supporting expansion of values through aggressive use of force, will also correlate with increased propensity for war.

on taking into account *all factors affecting decision*—including the interaction between decision elites of both the war-initiating and the target state. The following outline presents this as “DecInCo Theory,” with a fuller explanation. Note that “DecInCo” has been deliberately created as a non-word to avoid the potential confusion resulting from use of the phrase “Incentive Theory.” Emphatically, this approach is not simply yet another “economic” approach to understanding war and foreign policy.

DecInCo Theory: Decision — Incentive — Complexity

1. Focus: Point Of Decision

- Wars are *not* accidents!
- Focus on the decision for or against the use of force in a particular case.
- A decision made by the *decision elites* of the state: not by some vague formula such as “states as agents” or “states as billiard balls colliding.”

2. Consider: all Incentives Affecting the Decision

- From Image One: the decision elites
- From Image-One-and-a-Half: key advisors
- From Image Two: constraints/opportunities from form of government
- From Image Three: external inducements from the international community—nations, international organizations, etc.

3. Complexity

- Interactions between incentives from *all* images
- Interactions between *the relevant international actors/decision elites*

Greater Color on Aggregate Incentives:

A Closer Look at Images One, One-and-a-Half, Two, and Three

Image One: National Decision Elite

- Political belief system
- Personality type (the Five-Factor Model) & “dark triad”: Machiavellianism, sub-clinical narcissism, and sub-clinical psychopathy)
- Personal experience
- National, historical, and cultural perspectives
- Whether the setting is a gain or loss setting under prospect theory (*See generally*, Daniel Kahneman, *Thinking, Fast and Slow* (2011))
- Ability to personally benefit and externalize cost

Image One-And-A-Half: Key Advisors

- Political belief systems
- Personality types (the Five-Factor Model) & “dark triad”: Machiavellianism, sub-clinical narcissism, and sub-clinical psychopathy)
- Personal experiences
- National, historical, and cultural perspectives
- Whether the setting is a gain or loss setting under prospect theory
- Ability to personally benefit and externalize costs

Consistency of advice from key advisors?

Are key advisors collaborating or “ganging-up” on the decision elite?

Image Two: Constraints/Opportunities from Form of Government

- Democratic checks on decision elites versus totalitarian settings where decision elites have the ability to externalize costs and internalize benefits
- Traumatic events lessening democratic checks, for example, the Pearl Harbor and 9/11 attacks. Did Pearl Harbor largely remove democratic checks on Franklin Roosevelt’s decision to send Japanese-Americans to internment camps? Did 9/11 largely remove democratic checks on George W. Bush’s decision to invade Iraq?

Image Three: External Incentives from the International Community

- Consider the totality of *all* external incentives
- Include *positive* as well as *negative* external incentives and *opportunity factors*
 - Positive would include high levels of bilateral trade and high levels of joint participation in international organizations, etc.
 - Negative would include deterrence through political, economic, or military sanctions, etc.
 - Opportunity factors would include territorial contiguity, etc.

Image Three: Classic Deterrence

- Capability
- Will
- Signaling/communication

Image Three: A Refined/Interactive Deterrence Model

- The sending entity: capability, will, signaling/communication
- The receiving entity: accurate or inaccurate perception of the above, and balanced against other goals of the receiving entity. Some examples:
 - Germany responds to Russian mobilization pre-WWI by attacking on the Western Front and is not deterred by the mobilization because of the Schlieffen Plan need to deal with a two-front war — apparent deterrence has an opposite effect;
 - Japan responds to American economic sanctions pre-WWII by attacking Pearl Harbor and is not deterred by the sanctions because of its perceptions of dominant Japanese naval power and weak American will — apparent deterrence has an opposite effect.

Applying Incentive Theory

- How does incentive theory explain George W. Bush’s decision to invade Iraq?
- How might incentive theory suggest a plan of action to deal with the North Korean nuclear and missile threats?

About the Editors

John Norton Moore

John Norton Moore, who joined the faculty of the University of Virginia School of Law in 1966, is an authority on international law, national security law and the law of the sea. He also teaches advanced topics in national security law and the rule of law. Moore taught the first course in the country on national security law and conceived and co-authored the first casebook on the subject. From 1991–93, during the Gulf War and its aftermath, Moore was the principal legal adviser to the Ambassador of Kuwait to the United States and to the Kuwait delegation to the U.N. Iraq-Kuwait Boundary Demarcation Commission.

From 1985 to 1991, he chaired the board of directors of the U.S. Institute of Peace, one of six presidential appointments he has held. From 1973 to 1976, he was chair of the National Security Council Interagency Task Force on the Law of the Sea and ambassador and deputy special representative of the president to the law of the sea conference. Previously he served as the counselor on international law to the State Department. With the deputy attorney general of the United States, he was co-chair in March 1990 of the U.S.-U.S.S.R. talks in Moscow and Leningrad on the rule of law. As a consultant to the Arms Control and Disarmament Agency, he was honored by the director for his work on the ABM Treaty Interpretation Project.

He has been a frequent witness before congressional committees on maritime policy, legal aspects of foreign policy, national security, war and treaty powers, and democracy and human rights. He has been a fellow of the Woodrow Wilson International Center for Scholars at the Smithsonian Institution. Moore is a member of advisory and editorial boards for nine journals and numerous professional organizations, and he has published many articles on oceans policy, national security and international law. A principal focus of his research is the origins and prevention of wars.

Robert F. Turner

Robert F. Turner holds both professional and academic doctorates from the University of Virginia School of Law. He co-founded the Center for National Security Law with Professor John Norton Moore in April 1981 and has served as its Associate

Director since then except for two periods of government service in the 1980s and during 1994–95, when he occupied the Charles H. Stockton Chair of International Law at the U.S. Naval War College in Newport, Rhode Island. A veteran of two Army tours in Vietnam, Turner served as a research associate and public affairs fellow at Stanford's Hoover Institution on War, Revolution and Peace before spending five years in the mid-1970s as national security adviser to Senator Robert P. Griffin, a member of the Senate Foreign Relations Committee. He has also served in the executive branch as a member of the Senior Executive Service, first in the Pentagon as Special Assistant to the Under Secretary of Defense for Policy, then in the White House as Counsel to the President's Intelligence Oversight Board, and at the State Department as acting assistant secretary for legislative affairs. In 1986–87, he was the first president of the congressionally established United States Institute of Peace.

A former three-term chairman of the ABA Standing Committee on Law and National Security (and for many years, editor of the ABA *National Security Law Report*), Turner has taught undergraduate courses at Virginia on international law, U.S. foreign policy, the Vietnam War and foreign policy and the law in what is now the Woodrow Wilson Department of Politics. In addition, he teaches law school seminars including Advanced Topics in National Security Law with Professor Moore.

Turner is the author or editor of more than fifteen books and monographs (including co-editor of the Center's *National Security Law & Policy*, *National Security Law Documents*, and *Legal Issues in the Struggle Against Terror*) and numerous articles in law reviews and professional journals.

A former distinguished lecturer at the U.S. Military Academy at West Point, Turner is a member of the Council on Foreign Relations, the Academy of Political Science, the Committee on the Present Danger, and other professional organizations. He was selected for inclusion in *Who's Who in American Law* less than two years after graduating from law school and *Who's Who in the World* before he reached the age of forty. Dr. Turner has testified before more than a dozen different congressional committees on issues of international or constitutional law and related topics.

Michael Mott

Michael Mott graduated *magna cum laude* from the College of William & Mary in 2008 with a dual major in Psychology and Shakespeare. Before continuing to the University of Virginia School of Law to graduate with the Class of 2014, he completed some graduate work in personality and social psychology at Michigan State University and co-authored two scientific papers: one relating to outgroup bias and the other examining the "Trolley Problem" in virtual reality simulations. During his tenure in law school, he served as the Managing Editor of Publication for the Virginia Journal of International Law (VJIL). Upon graduating, he spent 18 months as a general practice litigator in Culpeper, Virginia, before accepting a position at S&P Global Ratings, where he advises rating analysts on the transactional documents underlying com-

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Nathaniel Freeman is a recent graduate of the University of Virginia School of Law (Class of 2017). As a research assistant for Professor John Norton Moore, he edited various national security and oceans law publications, including a recently published textbook: *National Security Law & Policy, Third Edition*. After being selected into the Graduate Law Program of the Air Force Judge Advocate General's Corp, Nathaniel fulfilled various leadership responsibilities as a cadet at the University of Virginia Detachment 890 and completed field training in the summer of 2016. As former President of the John Bassett Moore Society of International Law, Nathaniel organized events to bring broader awareness to international law issues. He also served as the student fundraising leader for the University of Virginia Law School Foundation. Nathaniel graduated with highest honors from Brigham Young University in 2010. During his time at BYU, he lived in both the Czech Republic and Italy. Before law school, Nathaniel worked at an investment bank. Having commissioned as a lieutenant in May 2017, he will soon receive orders for his first assignment in the Air Force. Nathaniel lives with his wife and two boys in Utah.

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Margaret Kelly is a Director at Grover Bond, where she focuses on associate, counsel, and partner placements at leading law firms nationwide. Before joining Grover Bond, Margaret was an associate in the Washington D.C. office of Venable, LLP where she focused on government regulatory matters involving financial services, telecom, and cybersecurity. She received her J.D. from the University of Virginia (2015), her A.B. in Political Theory, with honors, from Princeton University (2010), and is an alumna of Phillips Academy Andover. Her Senior Thesis at Princeton, "*Because Grief Unites Us: Humanitarian Intervention and our Responsibility to Protect*" was her first foray into international humanitarian law, focusing on the politics of the transboundary use of force in defense of human rights.

About the Authors

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Roy E. Brownell II is an attorney and author living in Washington, D.C. He is the co-editor of the recent book *Magna Carta and the Rule of Law* and has contributed to a number of books and journals on topics related to governmental structure and law.

Jessica Cavanagh

Jessica Cavanagh (née Chow) graduated from the University of Virginia School of Law in 2016. While in law school, she externed in the Office of Economic and Business Affairs in the U.S. Department of State's Office of the Legal Adviser and served on the Editorial Board of the *Virginia Law Review*. From 2010 to 2011, Jessica lived in Kunming, China, under the auspices of the U.S. Fulbright Program; her research focused on the long-term impact of U.S. military assistance during World War II on the Chinese populace. Jessica graduated *magna cum laude* with a double concentration in mathematics and Chinese from Colgate University in 2009.

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Mr. Donohue graduated from the University of Virginia School of Law in 2005. Prior to attending law school, Mr. Donohue served in the U.S. Army in field artillery, special operations, and base operations assignments worldwide, achieving the rank of lieutenant colonel.

Mr. Donohue completed his undergraduate work at the United States Military Academy at West Point. Mr. Donohue currently works in the General Services Administration (GSA) Office of the Inspector General (OIG). Prior to that, Mr. Donohue worked as an associate in the Washington, D.C. offices of two international law firms, where he specialized in government contracts, foreign acquisitions, and national security law.

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Kenneth Duvall received his undergraduate degrees from Saint Louis University, majoring in International Studies and Psychology and minoring in Russian Studies and Criminal Justice. After receiving his J.D. from the University of Virginia School of Law, he clerked for the Honorable Alok Ahuja on the Missouri Court of Appeals. Upon leaving his clerkship, he has practiced for the law firm of Berkowitz Oliver Williams Shaw & Eisenbrandt LLP, focusing on commercial and other civil litigation.

Luke Gilhooly

After graduating from the University of Virginia School of Law in May 2016, Luke Gilhooly was commissioned as an officer in the U.S. Air Force Judge Advocate General Corps and is stationed at Hurlburt Field, Florida. Luke served in the U.S. Army from 2004 to 2013, primarily as a Communications and Intelligence Sergeant with the 1st Special Forces Group (Airborne). Before enlisting, Luke graduated from Cornell University and worked at a financial institution in New York City.

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Geoffrey D. Fasel leverages his national and international relationships in the business, investment, financial, scientific, and academic communities to develop and achieve his clients' legal, financial, and business goals. His understanding of his clients' needs was shaped by his early experiences representing key leaders including the Stowers Institute and Bayer Animal Health, and continues with a wide variety of entities advancing human and animal health, plant science, "clean-tech," industrial and computer/software technologies, and bio and agricultural safety. Geoffrey represents clients at all stages of a company's life cycle—beginning with technology creation and protection, through corporate formation and capital attraction, key third-party relationships, growth, maturity and strategic exits. Geoffrey also leads his group in private securities placements, including formation of VC and PE funds, and representation of companies seeking or having taken pooled investment.

Geoffrey speaks on various aspects of business formation, operation, aggregation and attraction of capital, and strategic exits, including for the national meeting of the Association of University Technology Managers, as well as the Innovate! program at the Carey Business School of Johns Hopkins University. Geoffrey also serves on the Translational Medicine Committee for the Greater Kansas City Chamber of Commerce's "Big Five" initiative.

Chad Farrell

Chad Farrell was an Associate Legal Officer at the International Court of Justice in The Hague from 2011 to 2015, performing legal research and analysis related to cases before the court. Before assuming the Associate Legal Officer role, he worked as a University Trainee (Law Clerk) at the court. Prior to that, he was a Law Clerk at the United States Court of Appeals for the Ninth Circuit.

Mr. Farrell received his JD from the University of Virginia School of Law in 2007, where he served as an Executive Editor of the *Virginia Law Review*. He obtained his undergraduate degree in international relations from Brown University in 2002. He originally hails from Seattle. The views expressed in his paper are his own, and do not represent the positions of his current or former employers.

Andrew Kagen

Andrew Kagen was born and raised in the suburbs of Philadelphia. He attended Cornell University where he received his bachelor's degree in history, graduating *magna cum laude*. His thesis, "The Horse and the Rider" examined the problems party leaders faced when they tried to enact policy that significant portions of their party did not support in the context of Victorian politics. Andrew currently attends the University of Virginia School of Law and will graduate in the Spring of 2017. He has focused on criminal and international law during his studies. After graduation, he will clerk for the Honorable Michel Pierson of the Circuit Court for Baltimore City. He plans to work in criminal prosecution for his career.

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Calleigh M. McRaith is a 2012 graduate of the University of Virginia School of Law. Ms. McRaith currently works as an Immigration Attorney at a private law firm in Minneapolis, Minnesota, where she provides a range of services including removal defense, and representation on humanitarian applications, family-based immigration, and employment-based immigration cases. Prior to her current position, Ms. McRaith served as an Attorney Advisor for the Bloomington Immigration Court as a part of the Department of Justice Honors Program. Ms. McRaith also previously worked as a law clerk for Justice G. Barry Anderson on the Minnesota Supreme Court.

Ms. McRaith has served as a research assistant to the UN Special Rapporteur on Violence Against Women and completed field research on human rights issues in several countries including Haiti, Sri Lanka and Mongolia.

During law school, Ms. McRaith was a joint recipient of the Monroe Leigh Fellowship in International Law, which allowed her to intern with the International Center for Transitional Justice (ICTJ) in Cape Town, South Africa. At ICTJ, she worked on numerous post-conflict projects, including drafting an amicus brief for a case before the South African Constitutional Court on the application of amnesty provisions. Prior to law school, Ms. McRaith spent a summer conducting legal research for a nonprofit organization in Derry, Northern Ireland, that assisted British police in investigating the unresolved conflict-related deaths that occurred during the Troubles. It was this experience, combined with her work at ICTJ on post-conflict issues, which sparked Ms. McRaith's interest in non-violence as a method for social change and served as the inspiration for her paper.

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Wendy Reid is Vice President for Operations at Alion Science & Technology. She manages an organization that provides acquisition management, engineering services, and logistics support to the United States Navy and Defense agencies. Prior to Alion, she worked for 10 years with Science Applications International Corporation, starting there as a Policy Analyst supporting arms control and WMD consequence management programs, and advancing to Senior Vice President for Operations in which post she ran an organization that supported, among others, the Office of Secretary of Defense, the Defense Threat Reduction Agency, and the U.S. Strategic Command in the areas of combating WMD and nuclear matters. In 2010, she was selected into the Department of State's Franklin Fellows Program, a year-long executive development forum to bring fresh ideas from the private sector into government.

In the Department's Office of War Crimes Issues, she supported the U.S. government's responses to war crimes, crimes against humanity, and genocide in West Africa, the Sudan, and the Middle East. Ms. Reid received her Bachelor of Arts degree from Yale University, her Juris Doctor from UCLA School of Law, and her LL.M. from Georgetown University Law Center.

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Christopher Bowman Rich, Jr. graduated *cum laude* from Brigham Young University with a BA in History and received a juris doctor from the University of Virginia School of Law. Upon graduation, he entered the United States Army Judge Advocate General's Corps where he has held a number of positions including Trial Counsel and Defense Counsel. He deployed to Iraq with the 4th Infantry Division from 2010–11 where he served as a Claims Judge Advocate and Chief of Client Services. His latest assignment was as an International and Operational Law Attorney for U.S.

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After law graduating from the University of Virginia School of Law, Anthony practiced as a commercial litigator in Washington, D.C. He left practice after six years to pursue graduate studies in political science at Washington University in St. Louis. Anthony now lives with his family in Groveland, Illinois and teaches courses in political science and public administration at Indiana State University.

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In addition to his academic pursuits, Dr. Swift is also an attorney with Foley & Lardner, LLP. As a member of the firm's White Collar Litigation, National Security, and International practices, he counsels clients on matters involving arms controls, economic sanctions, export controls, foreign investment, international trade disputes, treaties and other aspects of public and private international law. He also represents *pro-bono* clients in matters involving constitutional law, veterans' law, and refugee and asylum law.

Prior to entering private practice, Dr. Swift served in the U.S. Treasury Department's Office of Foreign Assets Control, where he investigated international transactions involving terrorist syndicates, weapons proliferators, and other sanctioned entities. He also served as an International Law Fellow at the U.S. Commission on International Religious Freedom, where he advised policymakers on terrorism and human rights in Afghanistan, Iraq, and the former Soviet Union.

Dr. Swift's policy experience spans roles with Dartmouth College, Freedom House, Center for Strategic & International Studies, and the University of Virginia Law School's Center for National Security Law. He frequently appears as a guest analyst on legal and national security issues for *ABC News*, *Al-Jazeera*, the *BBC*, *CBS News*, *CNN*, *National Public Radio*, and other leading broadcast media.

Dr. Swift is an Eagle Scout and term member of the Council on Foreign Relations. He holds a Ph.D. in Politics and International Studies from the University of Cambridge, a J.D. from Georgetown University, and an A.B. in history and government from Dartmouth College.

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Ellen Valentine obtained her J.D. from the University of Virginia School of Law in 2010 and is an associate in Kutak Rock LLP's office in Richmond, Virginia. Her law practice includes public finance, creditor's rights and public finance. In her public finance practice, she represents state and local governments in bond financings. In her bankruptcy and creditor's rights practice, she represents bankruptcy trustees and financial institutions. For financial institutions, her experience includes representations in bankruptcy cases, probate cases, foreclosure sales, repossessions, collateral acquisitions, workouts, settlements and litigation in bankruptcy, federal and state courts. She also drafts loan documents, conducts closings and provides guidance to creditors on federal regulations. She was selected as a 2015 Rising Star by Super Lawyers.

She has been married to her husband for eight years and they have one child. She is a high school group leader for Journey Christian Church in Midlothian, Virginia. She loves to read, write, cook, cycle, ride roller coasters and go to her local outdoor shooting range.

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Mr. Walsh served as an Assistant U.S. Attorney in the District of Nevada, where he prosecuted major drug traffickers, violent criminals, white-collar criminals and suspected terrorists. He also served as the lead national security and terrorism prosecutor for the district. Mr. Walsh is a military reservist who recently served three years as an Associate Professor in the International and Operational Law Department of the U.S. Army Judge Advocate General's Legal Center and School. He deployed to Iraq in 2008 as a legal advisor to a military police unit. He has also taught law students as an adjunct professor at the University of Nevada at Las Vegas, Boyd School of Law.

Patrick received his undergraduate degree from Loyola Marymount University, his law degree from the University of California at Berkeley School of Law, an LL.M. emphasizing international law from the U.S. Army's Judge Advocate General's Legal Center and School and a second LL.M. focusing on national security law from the University of Virginia School of Law.

James P. Whittaker

James Whittaker is a First Lieutenant in the U.S. Army and 3L at UVA Law. James was commissioned into the Army after spending four years at UC Davis as an ROTC Cadet and will serve as a Judge Advocate after graduation. James spent his 1L summer interning at the Small Business Administration's Office of General Council, Procurement division, and his 2L summer interning at Fort Belvoir, in the USALSA Contract and Fiscal Litigation Division. James enjoys playing golf, softball, basketball, and cooking for his friends after long days of exercise.

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