

**OPERATIONALIZING THE INCENTIVE THEORY:
MODERNIZING U.S. BUREAUCRACY TO EFFECTIVELY
PREDICT AND PREVENT WAR**

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*[W]e can predict the occurrence of war more
accurately, and intervene to control it more
effectively[.]*¹

I. Introduction

War is not an inevitable event that cannot be deterred. The majority of wars begin because the elite decision-makers of a nation choose to be aggressive, and do so in a deliberative process because they believe the incentives they would gain are worth more than the cost to their nation.² Choosing aggressive war is a rational decision, or at least a reasoned decision, weighing the costs of war and the projected benefits gained.³

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¹ JOHN NORTON MOORE, SOLVING THE WAR PUZZLE: BEYOND THE DEMOCRATIC PEACE xx–xxi (2004).

² John Norton Moore, *Beyond the Democratic Peace: Solving the War Puzzle*, 44 VA. J. INT'L L. 341, 417–18 (2004).

³ See MOORE, *supra* note 1, at 29; John Norton Moore, *Toward a New Paradigm: Enhanced Effectiveness in United Nations Peacekeeping, Collective Security, and War*

The idea that most regime leaders choose to begin wars because the incentives exceed their personal cost is a valuable understanding.

Peaceful nations can prevent war if they can influence the regime elite's decision-making process to ensure that these aggressive leaders do not perceive incentives to start a war. But for peaceful nations to implement the Incentive Theory, they must first understand it, gather the information necessary to analyze potential conflicts through the lens of the Incentive Theory,⁴ and formulate the government structures necessary to implement it. This article demonstrates how the United States can put the Incentive Theory to work to create a more peaceful world that can deter future acts of aggressive states and, perhaps, help prevent major wars.

We will begin Sections I and II with the history and development of the Incentive Theory, from the ideas suggested by Immanuel Kant,⁵ to the development of the three images by Kenneth Schulz,⁶ to the groundbreaking empirical work of Bruce Russett and others,⁷ and finally on to the development of the comprehensive Incentive Theory by John Norton Moore.⁸ Section III will explore how each of the three images discussed in the incentive theory can be implemented in practice. Many of its principles are already being implemented by parts of the U.S. government for purposes other than preventing war.⁹ Finally, Section IV will analyze how the United States must alter its government bureaucracy to implement the incentive theory and apply it to prevent unnecessary wars.

The proposal to develop governmental institutions capable of preventing war has some precedent. After September 11, 2001, the bureaucracy of the U.S. government was transformed to build agencies

Avoidance, 37 VA. J. INT'L L. 814, 834 (1997); see, e.g., JAMES M. BUCHANAN, POLITICS WITHOUT ROMANCE: A SKETCH OF POSITIVE PUBLIC CHOICE THEORY AND ITS NORMATIVE IMPLICATIONS IN THE THEORY OF PUBLIC CHOICE II 11–22 (1984).

⁴ See *infra* Section II.

⁵ IMMANUEL KANT, *Perpetual Peace*, in THE PHILOSOPHY OF KANT (Carl Friedrich ed., 1949) (1795).

⁶ KENNETH WALTZ, MAN, THE STATE, AND WAR: A THEORETICAL ANALYSIS (1954).

⁷ See BRUCE RUSSETT, GRASPING THE DEMOCRATIC PEACE: PRINCIPLES FOR A POST-COLD WAR WORLD (1993).

⁸ MOORE, *supra* note 1.

⁹ See Mark P. Lagon, *Promoting Democracy: The Whys and Hows for the United States and the International Community*, COUNCIL ON FOREIGN RELATIONS (Feb. 2011), <http://www.cfr.org/democratization/promoting-democracy-whys-hows-united-states-international-community/p24090> (last visited May 3, 2016).

that sought to identify and disrupt terrorist threats throughout the world and to protect the United States.¹⁰ A smaller transformation to develop capabilities to prevent major war can achieve even greater results than the changes that helped defend against terrorist attacks. Putting Incentive Theory to work for the United States could prevent a major war, a war that would cause greater long-term harm to the United States than a terrorist attack. Implementing Incentive Theory will strengthen U.S. national security, help leaders understand the reasons why a regime's elite may choose to start a war, and create the necessary deterrence to prevent the conflict. It is helpful to review the history of war prevention theory to understand how Incentive Theory was developed.

II. The Development of Incentive Theory

The philosophical debate over how to prevent war is centuries old. Modern theories on war prevention were built upon the seeds of an 18th century philosopher, Immanuel Kant,¹¹ who theorized that a nation-state's tendency to start a war was linked to its form of government.¹² According to Kant, representative forms of governments are more likely to be peaceful than non-democracies.¹³

Immanuel Kant believed that democracies would not wage war because the citizens who elect the government leaders must consent to wage war.¹⁴

According to the republican constitution, the consent of the citizens as members of the State is required to determine at any time the question whether there shall be war or not. [Citizens] should be very loathe to enter upon . . . the horrors of war [In non-democracies], resolution to go to war is a matter of the smallest concern

¹⁰ See Uniting and Strengthening America By Providing Appropriate Tools Required To Intercept And Obstruct Terrorism Act of 2001, Pub. L. No. 107-56, (2001) [hereinafter PATRIOT Act] (creating new authorities to investigate and prosecute terrorists); Intelligence Reform and Terrorism Prevention Act, 50 U.S.C. 3001, et seq (2004) [hereinafter IRTP Act](reorganizing the federal intelligence and law enforcement structure of the government to better respond to terrorism).

¹¹ See KANT, *Perpetual Peace*, *supra* note 5.

¹² IMMANUEL KANT, *Eternal Peace*, in *ETERNAL PEACE: AND OTHER INTERNATIONAL ESSAYS* (1981).

¹³ *Id.*

¹⁴ See KANT, *Eternal Peace*, *supra* note 12, at vi-vii.

in the world. For in this case the ruler . . . need not in the least suffer personally by war . . . [h]e can therefore resolve for war from insignificant reasons . . .¹⁵

Kant believed the citizens in a democracy would never consent to war because they would have to personally suffer the harm that comes from war.¹⁶ Therefore, democracies were more likely to be peaceful than non-democracies.¹⁷

The Kantian, idealistic view of the peaceful state of democracies lay dormant for almost two centuries while others developed theories on how nations decide to engage in war. In 1959, Kenneth Waltz published *Man, the State, and War*, a book that analyzed how nations choose to go to war.¹⁸ Waltz explained that a state's decision to go to war is influenced by "three levels of either individual psychology, the nature of the state, or the nature of the international system."¹⁹ Referred to as the three "images," Waltz posited that all three images combine to explain a state's decision to go to war, but focused primarily on Kant's view that the type of government was the most important factor in determining whether a state would choose to initiate a war.²⁰ Kant and Waltz set the foundational principles for modern international relations scholars who developed the ideas of Kant and Waltz into the "Democratic Peace" Theory.²¹ Over the last several decades, the Democratic Peace Theory has gained general acceptance among international relations academicians.²²

The Democratic Peace Theory relies upon two primary principles.²³ First, "major war (over 1000 total casualties) has been occurring between democracies at an extremely low rate."²⁴ Second, democracies do not initiate wars, but rather, respond in self-defense to actions by non-

¹⁵ *Id.*

¹⁶ KANT, *Perpetual Peace*, *supra* note 5.

¹⁷ *See generally* KANT, *Eternal Peace*, *supra* note 12.

¹⁸ *See* WALTZ, *supra* note 6.

¹⁹ John Norton Moore, *Solving the War Puzzle*, 97 AM. J. INT'L L. 282, 286 (2003).

²⁰ *See* WALTZ, *supra* note 6, at 1-15.

²¹ *See* RUSSETT, *supra* note 7 (outlining the general theory that democratic nations do not wage aggressive wars); MICHAEL E. BROWN, ET AL., *DEBATING THE DEMOCRATIC PEACE* (1996) (identifying the historical precursors to the democratic peace theory).

²² *See* Steven Geoffrey Gieseler, *Debate on the 'Democratic Peace': A Review*, IX AM. DIPL. 1 (2004).

²³ *See* Moore, *supra* note 19, at 282-86.

²⁴ *See* MOORE, *supra* note 1, at xviii.

democracies.²⁵ The concept relies upon the idea that in a democracy, the electorate bears the costs of any decision to engage in aggressive military behavior.²⁶ According to Democratic Peace proponents, leaders in non-democratic nations are able to externalize these costs upon the populace, so they may be more likely to start a war.²⁷

The Democratic Peace has been statistically proven to be accurate.²⁸ Professor Rudy Rummel demonstrated that “of 353 pairings of nations fighting in major international wars between 1816 and 1991, none occurred between democracies.”²⁹ Others have tried to challenge this theory, with little success.³⁰ International relations experts now overwhelmingly acknowledge that liberal, democratic states are far less likely to wage aggressive war than non-democratic states.³¹

Democratic Peace theory was an important step in the development of a framework to understand why states wage war, but it does not comprise the entire theory on how to prevent war; it merely informs the question. Transitioning democracies still tend to wage war, and non-democracies, including autocracies and totalitarian regimes, are more likely to wage war.³² The Democratic Peace Theory cannot predict when a particular state will go to war.³³ The theory cannot determine which leaders of totalitarian regimes are more likely to choose war.³⁴ The Democratic Peace Theory cannot advise on what efforts other nations can make to deter a non-democracy from choosing to start an aggressive war.³⁵ The Democratic Peace Theory is an important piece of the puzzle, but this puzzle must have other pieces if it will be used to prevent war; those pieces were completed with the Incentive Theory.

²⁵ *See id.* at 13.

²⁶ *See id.* at 11.

²⁷ *See id.* at 60–61.

²⁸ R.J. RUMMEL, *POWER KILLS: DEMOCRACY AS A METHOD OF NONVIOLENCE* 13 (1997).

²⁹ *See Moore, supra note 19* (citing RUMMEL, *supra note 28*).

³⁰ *See RUSSETT, supra note 7*.

³¹ Moore, *supra note 2*, at 342–45 (2004); *see, e.g., RUSSETT, supra note 7*, at 2–4; SPENCER WEART, *PEACE AMONG DEMOCRATIC AND OLIGARCHIC REPUBLICS* 1–2 (1994); James Earl Ray, *Does Democracy Cause Peace?*, 1 *ANNU. REV. POLIT. SCI.* 27–46 (1998); Michael Doyle, *Kant, Liberal Legacies and Foreign Affairs*, 12 *PHIL. PUB. AFF.* 205 (1983).

³² *See Moore, supra note 19*, at 283–84.

³³ *Id.* at 282–86.

³⁴ *Id.*

³⁵ *Id.*

Professor John Norton Moore offered the Incentive Theory to combine the insights of the Democratic Peace Theory with other factors to understand why a state would choose war over peace.³⁶ Calling it the “Incentive Theory,” Professor Moore combined the philosophy of Kant, the three images of Waltz, and the Democratic Peace Theory of Russett and Rummel into one comprehensive theory to identify and explain a state’s decision-making and incentives to use significant military force.³⁷ The Incentive Theory highlights the three images relevant to a state’s decision-making process: the psychology of key leaders, the type of government institution, and the relations among international institutions.³⁸

In explaining Incentive Theory, Moore first focuses on the “costs and benefits that accrue to national leaders in their decisions to wage war.”³⁹ Looking at the individuals with decision-making power, one can usually discern what the elite would gain or lose from deciding to use military force.⁴⁰ Second, Moore looks at the national government institutions to determine if the government structure is a type that is more or less likely to go to war.⁴¹ Drawing heavily on the Democratic Peace Theory, Moore analyzes the influence that either a democratic or autocratic form of government may have in the war decision.⁴² Third, Moore examines international law to determine whether the international community has set up deterrence mechanisms to create disincentives for a state to choose to go to war.⁴³ This third “image” examines what other nations have historically done to deter aggressive action.⁴⁴ Viewing all three images together, one can determine the likelihood that a particular state will choose military action in a particular dispute.⁴⁵ Here is a graphic depiction⁴⁶ of the three images:

³⁶ See MOORE, *supra* note 1, at xx.

³⁷ See *id.* at xx–xxvi; Moore, *supra* note 19, at 286.

³⁸ See MOORE, *supra* note 1, at xix.

³⁹ Ryan Goodman, Book Note, 99 AM. J. INT’L L. 507 (2005) (reviewing JOHN NORTON MOORE, *SOLVING THE WAR PUZZLE: BEYOND THE DEMOCRATIC PEACE* (2003)).

⁴⁰ See MOORE, *supra* note 1, at 66–67.

⁴¹ *Id.*

⁴² See John Norton Moore, *Toward a New Paradigm: Enhanced Effectiveness in United Nations Peacekeeping, Collective Security, and War Avoidance*, *supra* note 3, at 819–26.

⁴³ Moore, *supra* note 19, at 286; MOORE, *supra* note 1, at xx.

⁴⁴ MOORE, *supra* note 1, at 27.

⁴⁵ *Id.* at xx.

⁴⁶ See MOORE, *supra* note 1, at xix (describing the images that have been compiled in Figure 1).

Image 1 and Image 1.5	Focuses on key leaders and what causes them to choose to engage in aggressive action
Image 2	Looks at the structure of a nation's government and how it permits or restricts the ability and incentives to engage in aggressive action
Image 3	Looks at whether there is external deterrence to discourage a nation and its leaders from choosing war

Figure 1

The development of the Incentive Theory, from Kant's philosophical musings to the empirical work established in the last few decades, has created a complex yet workable framework to explain a state's decisions to go to war with another state. Using all three images, and assuming quality information, the aggressive behavior of nations can be understood, analyzed, and perhaps even predicted.⁴⁷ Logically, if a state's decision to choose war can be both understood and predicted, it may also be prevented. Therefore, incorporating Incentive Theory into government bureaucracy is essential if the United States wants to attempt to prevent major wars.

Implementing Incentive Theory is both possible and practicable, once government understands how the theory can be put into application. Government structures would need to change to create bureaucracy that uses the Incentive Theory. Before the government can do that, the United States must realize that the Incentive Theory can be used practically to predict other states' future behavior. An understanding of how the Incentive Theory can be put into practice can assist policy-makers in government as they reshape bureaucratic structures to take advantage of the theory.

III. Turning Incentive Theory into Incentive Practice

Incentive Theory can be used to predict likely behavior of nation states. Incentive Theory can also be used to help the United States determine how, when, and where to apply resources to induce states, in the

⁴⁷ *Id.* at xx-xxi.

long or short-term, to choose peaceful resolutions of conflict over aggressive resolutions. This section demonstrates how best to apply the three images of the Incentive Theory and put them into action to prevent war.

The explanation begins—somewhat counterintuitively—with Image 2, by examining the organization of state governments to determine which ones are more likely to choose the path of aggression. Next, we will look at the ability to craft effective deterrence using Image 3. Then, we discuss how Image 1 and Image 1.5 can help the United States focus the deterrence where it matters most—on the regime elite who are making the decision to start a war.

A. Implementing Image 2 of Incentive Theory

Image 2 of the Incentive Theory incorporates the philosophy of Kant that was developed into the Democratic Peace Theory. When implementing the Incentive Theory, it makes sense to start where Kant did, by examining the government structures of a state. The form of government is of great significance in political leaders' decisions to start an armed conflict.⁴⁸ Image 2 starts with this observation: “democracies very rarely, if ever, make war on each other.”⁴⁹ Stated conversely, in the last 200 years, all major international wars involved at least one non-democracy.⁵⁰ The form of a state's government is a major factor in understanding whether that state will choose aggressive military action or peaceful diplomatic action to resolve a dispute.⁵¹ Therefore, the first step in predicting the actions of a decision-making elite is to understand the government structures of Image 2 that will influence the decision-makers who have the power to resolve a conflict.

There are both long and short-term opportunities to use Image 2 to prevent further major wars. Long-term, the United States can work with other peaceful nations to encourage, cajole, and incentivize states with a

⁴⁸ John Norton Moore, *A New Paradigm in International Relations: A Reduction of War and Terror in the World through Democratization and Deterrence*, 17 *TRANSNAT'L LAW* 83, 84 (2004); MOORE, *supra* note 1, at xx.

⁴⁹ BRUCE RUSSETT & JOHN O'NEAL, *TRIANGULATING PEACE* 43 (2001); MOORE, *supra* note 1, at 1.

⁵⁰ MOORE, *supra* note 1, at 2; R.J. RUMMEL, *supra* note 28.

⁵¹ Robert J. Delahunty & John Yoo, *Kant, Habermas and Democratic Peace*, 10 *CHI. J. INT'L L.* 437, 439 (2010) (citing MOORE, *supra* note 1, at 13–25).

more aggressive type of government to slowly and surely transform non-democracies or weak democracies into strong liberal democracies.⁵² In the short-term, the United States can use the knowledge gained from Image 2 to focus intelligence efforts and diplomatic attention on conflicts and regions where war is more likely to begin. It can also focus limited government resources on developing incentives to discourage states in that region from choosing the path of aggression to resolve international disputes.

1. Implementing Image 2 to Achieve Long-Term Peace

Since democracies rarely, if ever, go to war with other democracies,⁵³ the world will become more peaceful if states encourage the development of more liberal democracies. Unfortunately, turning non-democracies into liberal democracies is not an easy task. Efforts to “export democracy” have been met with mixed results, and in some cases these efforts have led to a less peaceful region than when the governments were ruled by autocrats or other types of government.⁵⁴ In short, the liberal democracies of the world have a difficult time when they force democracy upon other states that are unwilling or unable to change. But there may be ways to export small parts of liberal democracies that form the building blocks of a more peaceful nation. If Image 2 is to have a role greater than its predictive effect, there must be a way to export these components that foster the peaceful nature of democracies.

Image 2 can be used to prevent war without creating full-blown democracies around the world. Before using the democratic theory to prevent war, one must first understand what it is about liberal democracies that make them peaceful. Understanding the building blocks that create a peaceful democracy is essential. Knowing the key components to peaceful democracies may allow nations to export those components to non-democratic nations. Further, liberal democracies correlate with other key diplomatic goals of the United States. The United States can incorporate

⁵² MICHAEL W. DOYLE, *Kant, Liberal Legacies, and Foreign Affairs*, in *DEBATING THE DEMOCRATIC PEACE* 3, 10 (Michael E. Brown et al., eds., 1983).

⁵³ RUSSETT & O’NEAL, *supra* note 49.

⁵⁴ CHRISTOPHER COYNE, *AFTER WAR: THE POLITICAL ECONOMY OF EXPORTING DEMOCRACY* (2006); see Catherine A. Traywick, *So Much for Exporting Democracy: Afghanistan Is as Corrupt as North Korea*, *FOREIGN POL’Y* (Dec. 3, 2013), <http://foreignpolicy.com/2013/12/03/so-much-for-exporting-democracy-afghanistan-is-as-corrupt-as-north-korea/>.

into its foreign policy a promotion of liberal democracy in general, and encouragement of these components and correlations in particular, to increase the peacefulness of international relations over the long-term.

Promoting democracy is a key component of the national security strategy of the United States, and part of the U.S. goal to export U.S. values.⁵⁵ Assisting states to become stable, liberal democracies must become more than just exporters of values. These efforts—if focused properly—could enhance international peace and security. The United States needs to supplement its values-based efforts to encourage democracies with effort that emphasizes the benefits to international peace and security. This shift in emphasis will not merely be window dressing. By underscoring the benefits to international peace and security, the United States will marshal other parts of the U.S. government to assist in the effort to strengthen democracies. If this effort prevents war, then the intelligence community and the military will have a role in the development of transitioning democracies.

This renewed and expanded government effort to encourage the development of liberal democracies can focus its efforts not on overthrowing totalitarian governments by force, but by encouraging non-democratic states to take small steps towards a more democratic government. Efforts should aim to slowly but steadily encourage this transformation. Efforts to encourage development of strong democracies can focus on two areas: (1) developing key government structures that form the foundation of liberal democracies and (2) developing other fundamental byproducts of democracy that have a strong correlation with liberal democracies. Both of these efforts will identify government programs in place for other purposes, and instead put them to use on states that have governments more likely to be aggressive.

There are many key components liberal democracies possess that form factors which cause them to be more peaceful.⁵⁶ Liberal democracies may be more peaceful than non-democracies because the nature of their government structures shape the decision-making of key leaders so as to

⁵⁵ *National Security Strategy*, WHITE HOUSE 20–21 (Feb. 2015), http://www.whitehouse.gov/sites/default/files/docs/2015_national_security_strategy_2.pdf (“American values are reflective of the universal values we champion all around the world . . .”).

⁵⁶ MOORE, *supra* note 1, at xxiii.

discourage aggressive resolution of international disputes.⁵⁷ While there is some debate among scholars regarding the exact combination of factors that make democracies more peaceful, there are some generally-recognized factors that contribute to the peacefulness of democracies.⁵⁸ They include a “government of limited powers,” operating under the “rule of law,” with “a meaningful system of check and balances,” protections for minorities and for “fundamental political, economic and religious freedoms,” and “free and fair elections.”⁵⁹ To improve a democracy’s chance at peace, government programs should work to encourage the development of each of these individually or collectively.

In addition to being peaceful, liberal democracies produce other worthwhile and noble benefits to the world.⁶⁰ Liberal democracies tend to have higher economic growth and economic freedom,⁶¹ greater human rights,⁶² better environmental protection,⁶³ less corruption,⁶⁴ less terrorism,⁶⁵ less famine,⁶⁶ and fewer refugees.⁶⁷ These are essential components of U.S. values, but the United States needs to understand that encouraging states to develop these world benefits does more than promote U.S. values. Promoting these correlations in non-democratic or democratically weak states may also encourage them to be more peaceful in their international relations.⁶⁸

⁵⁷ Bruce Bueno de Mesquita, et al., *An Institutional Explanation of the Democratic Peace*, 93 AM. POL. SCI. REV. 791 (1999); see also Bruce Bueno de Mesquita & Randolph M. Siverson, *War and the Survival of Political Leaders: A Comparative Political Analysis of Regime Types and Accountability*, 89 AM. POL. SCI. REV. 841 (1995); see Allan Dafoe, *Statistical Critiques of the Democratic Peace: Caveat Emptor*, 55 AM. J. POL. SCI. 247, 247–62 (2011).

⁵⁸ MOORE, *supra* note 1, at xxiii.

⁵⁹ *Id.* at xxii.

⁶⁰ MOORE, *supra* note 1, at 1–8.

⁶¹ *Index of Economic Freedom*, HERIT. FOUND., <http://www.heritage.org/index/about> (last visited May 3, 2016); *Economic Freedom of the World 2015 Annual Report*, Exhibit 1.11, FRASER INST., <http://www.freetheworld.com/2015/economic-freedom-of-the-world-2015.pdf> (last visited May 3, 2016).

⁶² See *Map of Freedom 2014*, FREEDOM HOUSE, <https://freedomhouse.org/sites/default/files/MapofFreedom2014.pdf> (last visited May 3, 2016).

⁶³ See Rodger A. Payne, *Freedom and the Environment*, 6 J. DEMOCRACY 41 (1995).

⁶⁴ See *Corruptions Perceptions Index 2014*, TRANSPARENCY INT’L, <http://www.transparency.org/cpi2014/results> (last visited May 3, 2016).

⁶⁵ See Moore, *Toward a New Paradigm*, *supra* note 3, at 410.

⁶⁶ AMARTYA SEN, POVERTY AND FAMINES: AN ESSAY ON ENTITLEMENT AND DEPRIVATION (1981); Frances D’Souza, *Democracy as a Cure for Famine*, 31 J. PEACE RES. 369, 373 (1994).

⁶⁷ See LOUISE W. HOLBORN, REFUGEES: A PROBLEM OF OUR TIME (1975).

⁶⁸ MOORE, *supra* note 1, at 9–12.

Over time, efforts to promote these correlations and key components of liberal democracies is the best long-term strategy to slowly change forms of government from non-democracies to liberal democracies. These efforts, if sustained, can create more peaceful resolution of international disputes in the long term. However, Image 2 of the Incentive Theory can also be used in the short-term, in a more tactical manner, to identify and target government resources on states more likely to be aggressive in the near future.

2. *Implementing Image 2 in a Crisis*

Image 2 can help the United States focus on nations and regions where war is most likely to occur. Understanding the significance of the Democratic Peace Theory ensures national security professionals focus on the states that are more likely to choose the path of aggression. Image 2 can ensure that intelligence resources and proper attention is paid to the conflicts that are more likely to erupt into a major war. Image 2 can ensure that the United States collects intelligence to understand the Image 1 regime elites and how they might evaluate the risk/reward for starting a war. Image 2 will also ensure the proper resources necessary to deter aggression will be available and implemented.

There are 193 countries in the world—too many for the United States to apply the Incentive Theory to all of them. Image 2 can focus efforts on the forms of government more likely to engage in an aggressive war.⁶⁹ Of the 193 countries, twenty-six are micro-states, which are, by their size, incapable of starting a major war.⁷⁰ Of the 167 remaining, twenty are “full democracies,” the statistically most peaceful category of government.⁷¹ There is no need to waste government resources applying Incentive Theory to these states. There are 147 countries that fall into three categories: flawed democracies (fifty-nine countries), authoritarian regimes (fifty-one), and hybrid regimes that are part-flawed democracies and part-authoritarian (thirty-seven).⁷² These are the states that government resources should be focused on to apply the Incentive Theory.

⁶⁹ *Democracy Index of 2015: Democracy in an Age of Anxiety 2*, THE ECONOMIST, http://www.eiu.com/public/thankyou_download.aspx?activity=download&campaignid=DemocracyIndex2015 (last visited May 3, 2016).

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

These states can be ranked by the level of democratic structures, checks on regime elites, deification of their leaders, aggressive conflicts engaged in the past, the size of their military, or by many other indicators, in order to evaluate the risk they pose to the international community.⁷³ Ranking solely by level of democracy, states that should be highlighted include North Korea, Central African Republic, Syria, and Afghanistan—where conflicts already exist—justifying the need to focus on the form of government.⁷⁴ This ranking also includes other states that have the potential to start a major war, including Iran, Chad, Turkmenistan, and others.⁷⁵

The United States already spends significant time and resources on these states, but not to prepare and apply the Incentive Theory. Incentive Theory confirms that these are states and regions the United States must continue to monitor, but the Incentive Theory also provides the solution to how to prevent these states from becoming aggressive; the solution starts with examining the government structures of each state.

Understanding that these states have government structures that might not restrict aggressive decisions by regime elites would be important when the United States identifies rising potential for conflict. By identifying these states, government intelligence and diplomatic resources must be applied to develop knowledge of whether the regime has incentives to engage in aggressive war, whether there are effective deterrents to those incentives, and whether the United States has an interest in intervening to deter conflict.

Applying Image 2 analysis will ensure that the government intelligence collection and national security efforts are focused on the correct countries, and ensure that national security professionals are paying attention to states where conflicts may begin. Once these national security experts have applied Image 2 and understand which states have government structures that make them more aggressive, they can focus resources on those states and determine how best to deter aggression, which is the next step of operationalizing the Incentive Theory.

⁷³ *See id.* at 4–9.

⁷⁴ *Id.*

⁷⁵ *Id.*

A. Implementing Image 3: Deterring Aggression

Putting the Incentive Theory to practical use involves more than finding states that are at risk of becoming aggressive and trying to improve their government structure to make them less aggressive (Image 2 analysis). The key value of Incentive Theory is that it can be used to identify regime elites who perceive opportunity to gain from aggressive armed conflict (Image 1 analysis), and then apply effective deterrence to change the incentive calculus to make them choose other ways to resolve a dispute (Image 3 analysis).⁷⁶ Wars begin because leaders of states choose armed conflict over other avenues to resolve a dispute.⁷⁷ Image 3 focuses on developing adequate deterrence to eliminate or counterbalance the incentives to go to war.⁷⁸

Image 3 encompasses efforts at deterring aggression: when applied in the proper amount in the proper time with clear communication, these efforts have proven effective in preventing war. International organizations like the North Atlantic Treaty Organization,⁷⁹ the United Nations Security Council,⁸⁰ and arguably the International Criminal Court,⁸¹ can serve to deter aggressive action through defensive military action, international and unilateral sanctions, military force, and even criminal prosecution for the decision-making elites.⁸² Incorporating this use of deterrence through the lens of the Incentive Theory will make efforts to deter certain actions more focused, timely, and effective.

The key to implementing Image 3 is to focus on the specific states identified as likely to be aggressive through Image 2 analysis and then develop regime-specific, effective deterrence. Effective deterrence is “the aggregate of external incentives understood by a potential aggressor as adequate to prevent an aggressive action.”⁸³ The “external incentives” used to deter aggression can be positive or negative, and include military action, economic trade, diplomatic action, alliances, collective security,

⁷⁶ MOORE, *supra* note 1, at 27.

⁷⁷ *Id.* at 27–38.

⁷⁸ *Id.*

⁷⁹ *See generally* NORTH ATLANTIC TREATY ORGANIZATION, <http://www.nato.int/> (last visited Mar. 13, 2016) [hereinafter NATO].

⁸⁰ *See generally* UNITED NATIONS SEC’Y COUN., <http://www.un.org/en/sc/> (last visited Mar. 13, 2016).

⁸¹ *See generally* INT’L CRIM. COURT, https://www.icc-cpi.int/en_menus/icc/Pages/default.aspx (last visited Mar. 13, 2016).

⁸² Moore, *Beyond the Democratic Peace*, *supra* note 2, at 425–28.

⁸³ MOORE, *supra* note 1, at 27.

and use of international organizations.⁸⁴ This external deterrence can work both to achieve long-term goals and in the short-term, prevent a crisis from developing into an armed conflict.

3. Long-Term Deterrence

It is arguably in the United States's national security interest to create a more peaceful world where states resolve their disputes using means other than armed conflict.⁸⁵ The United States can create long-term and enduring deterrence by joining and supporting international relationships that have a deterrent effect.⁸⁶ The United States can also seek economic interconnectedness and new trade partners to strengthen ties and reduce the likelihood of conflict between states.⁸⁷ When these efforts are targeted toward states that Image 2 indicates are more likely to be aggressive, these Image 3 deterrent efforts can truly reduce the long-term likelihood of conflict.

International organizations can deter aggression.⁸⁸ The largest and most prominent international organization that seeks to deter aggression is the United Nations (UN).⁸⁹ The UN was created in the aftermath of two world wars with the stated purpose of "saving succeeding generations from the scourge of war."⁹⁰ The first article of the UN Charter outlines the primary goal behind the formation of the organization:

To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international

⁸⁴ *Id.*

⁸⁵ *National Security Strategy*, *supra* note 55.

⁸⁶ MOORE, *supra* note 1, at 27–33.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ See generally *U.N. Charter*, UNITED NATIONS, <http://www.un.org/en/documents/charter> (last visited May. 3, 2016); see also 1 THE CHARTER OF THE UNITED NATIONS: A COMMENTARY (Bruno Simma ed., 2d ed., 2002).

⁹⁰ *U.N. Charter*, *supra* note 89, preamble.

law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace.⁹¹

The Charter binds every member-nation to “refrain in their international relations from the threat or use of force”⁹² The Charter, enacted decades before the Incentive Theory was articulated, demonstrates the effectiveness of focused deterrence. This language in the Charter is clear recognition of the value of states working together to deter aggression.⁹³

The UN Security Council (UNSC) should be the primary mechanism to develop and implement Image 3 deterrence.⁹⁴ The UNSC has the authority to order states to cease acts of aggression, levy sanctions on aggressive countries, and even authorize other states to use force to respond to acts of aggression.⁹⁵ This can be an extremely effective way to respond to aggression, such as when the Security Council authorized force to remove Iraqi troops from Kuwait.⁹⁶ Unfortunately it is rarely used, in part because any of the five members of the UNSC can individually veto any action, and it is difficult for states like Russia, the United States, and China to agree on using force.⁹⁷

The UNSC has only rarely authorized the use of force against states, making its ability to deter aggressive action limited.⁹⁸ An aggressive state would likely be extremely reluctant to start an armed conflict if it knew the UNSC would authorize a broad international coalition to respond to aggressive acts. Unfortunately, it is rarely clear before conflict begins that the UNSC would choose to act to respond to a future instance of aggression, or that it would garner enough votes to pass a resolution approving force, or that states would marshal the resources to deploy

⁹¹ *Id.* art. 1.

⁹² *Id.* art. 2 ¶ 4.

⁹³ *U.N. Charter*, *supra* note 89, art. 1 ¶ 1.

⁹⁴ *Id.* arts. 39–42.

⁹⁵ *Id.*

⁹⁶ S.C. Res. 678 (1990).

⁹⁷ *U.N. Charter*, *supra* note 90, arts. 23, 27 ¶ 3. The other two states with veto power are the United Kingdom and France. *Id.*

⁹⁸ *See U.N. Charter*, *supra* note 89, ch. VII (discussing action with respect to threats to the peace, breaches of the peace, and acts of aggression).

forces to deter aggression.⁹⁹ When an aggressive state is considering whether to act, a UNSC resolution seems unlikely to serve as a deterrent.¹⁰⁰

The same logic applies to sanctions other than force in response to a state's aggression. At the time a regime elite makes the decision to use force, there is rarely international consensus that sanctions would be appropriate, so the decision to start an armed conflict is not likely limited by the risk of future sanctions.¹⁰¹ Further, sanctions have typically been imposed against states as a whole and are not directed solely at the regime elites.¹⁰² Regime elites of totalitarian or autocratic governments may not value economic harm to their citizens at the same level as do democracies.¹⁰³ Democratic leaders are responsible to their citizens and can be removed from office through elections,¹⁰⁴ not so with leaders of non-democratic regimes.¹⁰⁵

Harm to the populace may likewise not deter regime leaders from taking aggressive action that may have significant personal benefit to them.¹⁰⁶ The UNSC has a role in responding to acts of aggression, but its structure and membership does not readily allow it to be used for either preventative action to deter aggression or focused sanctions calculated to alter the decision-making of a state's regime elite.¹⁰⁷ Therefore, the UNSC is not the complete answer to prevent armed conflict, and other options are needed.

States can use regional collective security agreements to deter aggression if the states have the unity and cohesiveness to be able to act quickly before armed conflict starts.¹⁰⁸ These types of regional collective

⁹⁹ Evan Stephenson, *Note: Does United Nations War Prevention Encourage State-Sponsorship of International Terrorism? An Economic Analysis*, 44 VA. J. INT'L L. 1197, 1205 (2004).

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.* at 1205–06; *see also* Louise Frechette, *An Address by the UN Deputy Secretary-General*, 93 AM. SOC'Y INT'L L. PROC. XIV xviii (1999).

¹⁰³ MOORE, *supra* note 1, at 29.

¹⁰⁴ *Id.* at xxii. *See also* Mesquita, et. al., *supra* note 57; Dafoe, *supra* note 58, 247–62.

¹⁰⁵ *See supra* note 104 and accompanying sources; Dafoe, *supra* note 58, at 247–62.

¹⁰⁶ *See supra* note 104 and accompanying sources.

¹⁰⁷ MOORE, *supra* note 1, at 36 (noting that a UN Security Council Resolution did not cause Saddam Hussein to withdraw from Kuwait in 1990).

¹⁰⁸ Walter S. Surrey, *The Emerging Structure of Collective Security Arrangements: The North Atlantic Treaty*, 44 Proc. Am. Soc'y Int'l L. 9 (1950); *see also* Joseph C. Egebullem, *The Failure of Collective Security in the Post World Wars I and II International System*, 2 TRANSCIENCE 24 (2011).

security organizations can be an effective Image 3 deterrent.¹⁰⁹ The North Atlantic Treaty Organization (NATO) is perhaps the most well-known—and arguably the most effective—regional collective security organization.¹¹⁰ Notably, NATO is effective because its founding treaty¹¹¹ requires that all members respond to and assist any member state who is the victim of an armed attack.¹¹² Unlike the UNSC, which must affirmatively choose whether to assist a state who has been attacked, NATO members are required to do so collectively after reaching a consensus to act.¹¹³ This provision ensures that an attack against even the smallest NATO member constitutes an attack on all NATO members collectively—a powerful deterrent that exists in advance of any armed attack and that must be weighed in the cost-benefit analysis of a regime elite who may want to attack a NATO member state for some perceived advantage.¹¹⁴

In this way, NATO proved an effective way to deter aggression against Europe during the Cold War.¹¹⁵ This type of regional organization, if enacted by like-minded states facing similar aggression from a non-democracy, could prove to be an effective long-term deterrent to states that have the political structure to make them potentially aggressive.¹¹⁶ But the regional stability of NATO did not prevent all armed conflicts, therefore, other methods of deterrence must be available to be implemented when crises arise.

4. *Deterrence to Stop Imminent War*

The UN, NATO, and other regional collective security organizations¹¹⁷ can provide long term deterrence against potentially

¹⁰⁹ *Id.*

¹¹⁰ *Id.*; MOORE, *supra* note 1, at 33–34.

¹¹¹ NATO, *supra* note 79.

¹¹² *Id.* art. 5.

¹¹³ Compare U.N. Charter, *supra* note 89, arts. 39–42 with NATO, *supra* note 79, art. 5; see Brian H. Brady, *The North Atlantic Treaty Organization Legal Advisor: A Primer* 4–25, THE ARMY LAW., Oct. 2013.

¹¹⁴ NATO, *supra* note 79, art. 5; MOORE, *supra* note 1, at 33–34.

¹¹⁵ MOORE, *supra* note 1, at 33–34.

¹¹⁶ *Id.*

¹¹⁷ Other regional alliances include the European Union, the African Union, ANZAC (between Australia, New Zealand and the United States, the Arab League, the U.S.–Japan Security Alliance and the Organization of American States). See *U.S. Collective Defense Agreements*, U.S. DEPT. OF STATE, <http://www.state.gov/s/1/treaty/collectivedefense/> (last

aggressive states.¹¹⁸ But crises can arise despite these structures that require quick and effective action to deter aggression that is imminent. The UN has not proven particularly effective in responding quickly to imminent signs that a state is about to start an armed conflict.¹¹⁹ Regional organizations may not be able to act in a rapid and unified manner to prevent aggression as it is occurring.¹²⁰ Individual states, like the United States, must also be prepared to act independently to prevent an imminent armed attack.

Regional organizations can be an effective, imminent deterrent to an armed attack if they can act quickly to provide military force or sanctions—or provide convincing threats of force or sanctions.¹²¹ The strength and diversity of these regional collective security groups are also their weakness in responding to imminent threats. The size of these organizations may make it impracticable for many states to agree on immediate action to deter an attacking state.¹²² While the military force behind combined NATO action would be an effective deterrent to an aggressive state, the size and complexity of the organization makes it truly difficult to get joint action approved quickly, before aggression occurs, so as to prevent an armed attack.¹²³ Therefore, individual states must be ready to respond to provide deterrence to aggressive states, and they must be capable of quickly deploying that deterrence (and quickly communicating they are doing so) to the regime elite of an attacking state.

The United States must be ready to act to deter aggression before an armed attack because collective security organizations like NATO and the UNSC have institutional barriers that make it difficult for them to immediately act in response to imminent threats.¹²⁴ This response requires the United States to have: (1) the capability to deploy force and sanctions quickly in response to threats, (2) the intelligence capability to identify potential aggressors and predict the potential of an armed conflict before

visited May 3, 2016); *see also* JOHN NORTON MOORE & ROBERT F. TURNER, NAT'L SEC'Y L. 291–320 (2d ed. 2005).

¹¹⁸ MOORE, *supra* note 1, at 33–34.

¹¹⁹ *Id.* at 33–37.

¹²⁰ Steven Erlanger, *Russian Aggression Puts NATO in Spotlight*, N.Y. TIMES (Mar. 18, 2014), <http://www.nytimes.com/2014/03/19/world/europe/russias-aggression-in-crimea-brings-nato-into-renewed-focus.html>.

¹²¹ *See* Surry, *supra* note 108.

¹²² MOORE, *supra* note 1, at 33–36.

¹²³ BELINDA HELMKE, UNDER ATTACK: CHALLENGES TO THE RULES GOVERNING THE INTERNATIONAL USE OF FORCE 66 (2010).

¹²⁴ *Id.*

it begins, and (3) the ability to communicate the deterrence quickly to the regime elites of the aggressor state who can alter the decision regarding starting an armed conflict.

The United States has significant capability to deploy both military and non-military force, but its capability is not infinite.¹²⁵ The work done by Image 2 can help allocate these finite resources. The United States will need its military might and other capabilities to be available at the right moment and in the right location. Image 2 analysis can provide guidance to the executive branch to know where to place its military might and its tools of economic and diplomatic deterrence.¹²⁶ This will give it more immediate and less costly capability to respond to deter an imminent threat of attack around the world, and to prioritize potentially aggressive states based on the national interest of the United States.

Image 3 deterrence to prevent imminent armed conflict will require the United States to develop the capability to identify potential aggressors and predict when a state is about to make the decision to start an armed conflict. Identifying potentially aggressive states is mostly accomplished in the Image 2 analysis, but to be effective, the calculus must go beyond identifying states with government structures that do not deter aggression. The United States must also identify what specific factors will make that state choose to begin an aggressive war.¹²⁷ Further, the United States must also be prepared with intelligence that will guide the executive in creating effective deterrence options designed to deter that particular state (or, more specifically, that state's regime elites) from choosing aggressive military action in a crisis situation.

This is a key component to operationalizing the Incentive Theory—the United States needs to have effective deterrence ready to deploy (or even prepositioned) against specific states to deter specific aggressive acts. This will require an effective intelligence capability that can identify the potential sources of conflict, determine the likely aggressors, evaluate the U.S. interest in avoiding conflict, and develop effective deterrence options to reduce the likelihood that a state will choose to start an armed conflict.

¹²⁵ See generally JAMES H. LEBOVIC, *THE LIMITS OF U.S. MILITARY CAPABILITY: LESSONS FROM VIETNAM AND IRAQ* (2010).

¹²⁶ See MOORE, *supra* note 1, at 2, 83–88.

¹²⁷ See Mesquita & Siverson, *supra* note 57, at 55.

The United States will also need the ability to communicate its capability and willingness to respond to acts of aggression to the aggressive state. This is a key component necessary to implement the Incentive Theory.¹²⁸ Saddam Hussein did not know the UNSC would approve an international coalition to liberate Kuwait, nor did North Korea know the United States (under a UNSC Resolution) would defend South Korea against invasion.¹²⁹ If leaders of these nations had known that their invasions would cause significant military responses, they might not have chosen to start a war because of the increased risk of failure that may have altered their perceived incentives to choose war. Deterrence can prevent war only if communicated in an effective manner and in time to affect the decision-making process of the aggressive state.

Image 3 deterrence can be used to prevent major wars.¹³⁰ Increased international trade and international organizations aimed at collective deterrence can reduce the long-term risks of war. Regional organizations and individual states must also be prepared in the short-term to have readily available and effective deterrence options to deploy against potential aggressive states. Image 2 analysis can help the United States focus its resources on states that are more likely to be aggressive.¹³¹ Image 3 analysis can ensure that effective deterrence is available in the region where conflict can arise and be ready to be deployed. Image 3 can also tailor deterrence to focus on key conflicts where aggression may occur.

Deterrence must be narrowly tailored in order to be effective. It must focus on the conflict that is about to start, be available in the area needed, and be communicated effectively.¹³² But deterrence must be more than amassing troops on the border of a potentially aggressive state. In fact, calling up forces may actually increase the likelihood of war, not decrease it.¹³³ To know what type of deterrence will be effective to stop imminent war, the United States must have detailed knowledge of the aggressive government and its leaders. Ultimately, to make deterrence most effective,

¹²⁸ MOORE, *supra* note 1, at 28.

¹²⁹ *See id.* at 47–48.

¹³⁰ *Id.* at 27–28.

¹³¹ *See* MOORE, *supra* note 1, at 2.

¹³² *Id.* at 27–29.

¹³³ Although there is debate over its historical accuracy, Germany had a World War I “Schlieffen Plan” which would have required immediate war with France if Russia started calling up military forces. JOHN KEEGAN, *THE FIRST WORLD WAR* 28 (2000). Thus, a show of force by Russia would increase the risk of armed conflict with Germany prior to World War I, not decrease it.

it must be tailored to the specific regime elites who hold power in their state to choose war over an alternate path.

A. Implementing Image 1 and 1.5: Ideology and Psychology

The decision to go to war is made by individuals who hold the power to decide and direct the state and its army.¹³⁴ In totalitarian and autocratic governments, a handful of key leaders often make decisions about what path the state will choose to take.¹³⁵ The Incentive Theory refers to these key leaders who have the ability to influence decisions about whether the state will choose to use military force as Image 1.5.¹³⁶ These regime elite have fewer checks and balances on their power than do leaders of democracies.¹³⁷ They are also more likely to have risen to power through violence, and thus may prize the potential benefits to choosing armed conflict more than potential risk to their citizens.¹³⁸ Image 1 focuses on these regime elite to ensure that Image 3 deterrence is shaped to influence decisions and alter views of the incentives to go, or not to go, to war.¹³⁹

Image 1 and Image 1.5 focus on the leaders that can make the decisions to go to war.¹⁴⁰ The ideology and psychology of individual leaders matter.¹⁴¹ A study into the psychology of elite decision-makers can determine their incentives to use military force; then nations, working alone or collectively, can use their resources to provide disincentives that are carefully tailored to the particular decision-maker's belief system.¹⁴² Before deterrence can be structured to stop war from starting, intervening states must understand the incentives regime elites perceive for starting an armed conflict.

Image 1 and Image 1.5 focus on understanding the individual leaders and their key advisors, and also understanding the cost/benefit calculus these elites face in their decision to start an armed conflict.¹⁴³ Image 1

¹³⁴ RUSSETT, *supra* note 7, at 97–98.

¹³⁵ *Id.*

¹³⁶ *See* MOORE, *supra* note 1, at xx–xxii, 64.

¹³⁷ RUSSETT, *supra* note 7, at 97–98.

¹³⁸ R.J. RUMMEL, *POWER KILLS: DEMOCRACY AS A METHOD OF NON-VIOLENCE* 21 (1997).

¹³⁹ John Norton Moore, *Solving the War Puzzle*, *supra* note 19, at 284.

¹⁴⁰ MOORE, *supra* note 1, at 34–37.

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.* at 27–28.

includes learning about regime elites and their ideology, their rise to power, and their individual psychology.¹⁴⁴ Understanding the current conflict as seen through their eyes will help states determine the perceived benefits to regime elites and their perceived risks to engaging in war. This analysis is essential in order to focus deterrence on the decision-makers to alter their own personal cost/benefit calculus. Put another way, effective deterrence “requires *understanding* by the potential aggressor of an aggregate of incentives sufficient to prevent the aggression.”¹⁴⁵ Incentive Theory requires one to understand a leader’s ideology in order to determine what kind of deterrence is effective in influencing a leader’s decision-making.

Ideology matters¹⁴⁶—leaders with extreme ideology will require significantly more military force to deter them, whether that ideology is rooted in religious fervor or in some type of personal deification.¹⁴⁷ Alternatively, states may want to employ more creative types of external deterrence, either to systematically attack the foundation of the ideology, or focus deterrence against the individual leaders themselves, or create some positive inducement in addition to military deterrence.¹⁴⁸ Understanding the ideology of regime elites is essential to understanding the level and type of deterrence that will impact aggressive leaders’ decisions. Understanding the ideology is important, but it is also important to understand leaders’ individual psychology.

Psychology also matters.¹⁴⁹ In autocratic and totalitarian governments, the decision to go to war is often made by a key leader and his or her regime elites.¹⁵⁰ Therefore, it is essential for intervening states to completely understand the psyche of those elites to better fashion deterrence that will affect their individual incentives, motivations, and thinking. External deterrence must take into account the key individuals whom the intervening state is attempting to deter.

¹⁴⁴ *Id.* at 34–37.

¹⁴⁵ *Id.* at 28.

¹⁴⁶ *Id.* at 37.

¹⁴⁷ *Id.* at 28, 37.

¹⁴⁸ *Id.* at 27.

¹⁴⁹ See Michael Mott, PowerPoint presentation presented to Professor John Norton Moore’s War and Peace Seminar at the University of Virginia Law School (on file with the author) [hereinafter Mott PowerPoint].

¹⁵⁰ MOORE, *supra* note 1, at xx.

The psychology of regime elites can be important in fashioning effective deterrence because psychology can affect both the decision-making of the regime elites and their risk perception.¹⁵¹ War is aggressive and risky, so analysts can trust that key leaders who have demonstrated a tendency to act aggressively and take significant risks are more likely to do so again in the future.¹⁵² Similarly, leaders of states who perceive lower risk to themselves are more likely to choose war than those who perceive increased risk.¹⁵³ Understanding the psychology of a regime elite will help intervening states choose external deterrence focused on increasing the perceived risk to the elite—thereby decreasing the perceived incentive—and communicating a strong response to any act of aggression.

B. Putting the Three Images Together

The Incentive Theory can be incorporated into government and used to analyze current risk levels of the outbreak of major war, predict where that war may occur, and develop effective external deterrence to prevent major war. Image 2 analysis can narrow the world to key regions and states where war is more likely to occur. Image 2 analysis can focus government resources on those governments that do not have internal checks on power and that create incentives for regime elites to engage in risky war for personal gain. Image 2 analysis will narrow the focus on key regions where war may occur and help focus resources to prevent the occurrence of war.

Image 3 will help identify options for both long and short-term deterrence to prevent major war. Long-term deterrence can include working to make states more democratic, increasing economic trade and interdependence, developing collective security agreements, and improving the rule of law. Short-term deterrence can include shows of military force, location of military bases, threat and use of sanctions, threat of war crime prosecution, diplomatic efforts, and positive inducements for refraining from war.

Image 1 analysis can inform states that wish to intervene what deterrence will be most effective given the ideology and psychology of

¹⁵¹ See Mott PowerPoint Presentation, *supra* note 149.

¹⁵² *Id.*

¹⁵³ *Id.*

regime elites.¹⁵⁴ Knowing how these regime leaders think can insure that the deterrence is delivered in a manner and time to change the perceived incentives and risks of regime elites. All three images, if put into operation, can create a workable model for deterring aggressive states.

Incentive Theory can work if it is incorporated into government structures to assist U.S. leaders in understanding the risk of imminent armed conflict, knowing the decision-making process of the regime elite who may start a war, and developing and communicating a strong and effective deterrence to prevent war. The bureaucracy of the United States must change to institutionalize the Incentive Theory and put it into use to prevent future wars.

III. Building Government Capacity to End War

After the September 11, 2001 terrorist attacks, the United States undertook a massive reorganization of its bureaucracy to develop the capability to identify, predict, respond to, and prevent terrorist attacks.¹⁵⁵ This was a necessary change to government to protect the United States from a new and challenging threat to national security. A much smaller modification to the executive branch of the United States could help prevent the outbreak of major war. It is in the national security interest of the United States to incorporate Incentive Theory into government and use it to deter major war.

The three images can be operationalized if the United States includes two new, separate organizations within the executive branch. To use Incentive Theory, the United States must first collect the intelligence necessary to analyze all three images. This intelligence function will both aggregate intelligence that already exists in the government and create intelligence requirements for the intelligence apparatus to collect more information. Once the intelligence is collected, it must be organized into products that are useable by the rest of government to understand the risk of war, understand the regime elite, and develop options to deter war.

The second new organization will implement Incentive Theory by taking available intelligence and formulating a long and short-term deterrence plan to prevent war. This operations function can create

¹⁵⁴ MOORE, *supra* note 1, at 37.

¹⁵⁵ See PATRIOT Act, Pub. L. No. 107-56 (2001); IRTP Act, 50 U.S.C. § 3001 (2004).

deterrence options before crises occur, ensure that the necessary resources are in place to execute those options, and present the proposed plans as recommendations to U.S. leaders to deploy when faced with an imminent threat of war. Understanding these new organizations is key to building an effective capability to implement Incentive Theory into practice.

A. Operationalizing the Incentive Theory—Building the Intelligence Function

In order to craft effective external deterrence to stop aggressive states from choosing war, the United States must first understand the threat of war, understand the motivations behind the regime elite that have the power to start a war, and analyze what incentives will deter the regime elite from choosing war.¹⁵⁶ The United States must have an agency focused on collecting and organizing the specific intelligence needed to fully understand the three images of the Incentive Theory. This agency should be in a position where it can collect the necessary information from the entire intelligence community, as well as request the necessary intelligence requirements from the varied intelligence agencies, to ensure that the best possible information is being used to input into the Incentive Theory. This agency should be placed in the Office of the Director for National Intelligence (ODNI).

The ODNI was created after September 11, 2001 to address perceived failures in the sharing and aggregation of intelligence to identify and prevent terrorist attacks.¹⁵⁷ The ODNI has three national centers.¹⁵⁸ These include: (1) the National Counterterrorism Center, focused on integrating and analyzing all intelligence pertaining to terrorism,¹⁵⁹ (2) the National Counter-Proliferation Center, focused on countering “the threats caused by the proliferation of chemical, biological, radiological, and nuclear weapons”;¹⁶⁰ and (3) the National Counterintelligence and Security Center, focused on leading the nation’s efforts in counterintelligence and

¹⁵⁶ MOORE, *supra* note 1, at xxii–xxiv.

¹⁵⁷ IRTP Act, 50 U.S.C. § 3001 (2004).

¹⁵⁸ See generally OFF. OF THE DIR. OF NAT’L INTEL., <http://www.dni.gov/index.php/about/organization/national-counterproliferation-center-who-we-are> (last visited Mar. 13, 2016).

¹⁵⁹ See generally NAT’L COUNTERTERRORISM CENT., <http://www.nctc.gov> (last visited Mar. 13, 2016).

¹⁶⁰ See NAT’L COUNTER-PROLIFERATION CENT., <http://www.dni.gov/index.php/about/organization/national-counterproliferation-center-who-we-are> (last visited Mar. 13, 2016).

security.¹⁶¹ The United States needs a fourth national center in ODNI—the National War Prevention Center (NWPC)—which must focus on integrating and analyzing all intelligence necessary to implement the Incentive Theory, and prepare products for use by the operational function.

The NWPC will benefit from being located in and having equal status with the other three ODNI national centers. The NWPC will have the ability to use the entire intelligence community of the United States to develop the three images necessary to operationalize the Incentive Theory. Equally important, the NWPC will be in the ODNI, thus having bureaucratic supervision over all of the intelligence agencies. While it is developing the current Incentive Theory, it can further analyze the effectiveness of the theory and improve it as needed.

The NWPC can use Image 2 to focus the collection efforts on the states that are more susceptible to be aggressive. There is likely to be much intelligence available because other parts of the government are already collecting intelligence on the totalitarian and autocratic regimes for other purposes.¹⁶² The NWPC could then gather the same intelligence, and seek more when necessary, to analyze for the purposes of evaluating the likelihood of imminent armed conflict.

The NWPC can collect intelligence on the aggressive nature of the regime elites and the types of deterrence that can be most effective to curb aggression. The analysts in the NWPC can learn specifics about the leaders, determine if sanctions would be effective, assess whether sanctions can be levied solely on the elite (e.g., freezing bank accounts or prohibiting travel), and assess what type and amount of military force would be most effective in deterring aggression.

The NWPC can also be a central location to receive notice from the rest of the intelligence community of an impending armed attack. If an intelligence analyst learns of troops preparing to attack, he or she can reach out to the NWPC to alert the key executive branch leaders to prepare to respond. This will allow key information to flow quickly to the highest levels of the intelligence community, then to the U.S. national security

¹⁶¹ See NAT'L COUNTERINTELLIGENCE AND SEC'Y CENT., <http://www.ncsc.gov/> (last visited Mar. 13, 2016).

¹⁶² The mission of the C.I.A. is to “[p]reempt threats and further U.S. national security objectives by collecting intelligence . . .” C.I.A., <https://www.cia.gov/about-cia/cia-vision-mission-values> (last visited Mar. 17, 2016).

decision-makers for action. That action will occur in the operational function.

B. Operationalizing the Incentive Theory—Building the Operations Function

The United States should have an agency focused on creating options that can be presented to U.S. leaders during a crisis to produce effective, rapid deterrence.¹⁶³ This operations function can take the intelligence collection from the NWPC and develop possible courses of action to deter present and future aggression. To be useful, this operations function must be located in an agency with access to U.S. decision-makers in the executive branch, and it must have the resources available to implement that action. This operations function must be located within the National Security Council to ensure maximum effectiveness.¹⁶⁴

To understand how the operations function would fit within the National Security Council, one must first understand how the NSC currently works. The National Security Council is the President's "principal forum for considering national security and foreign policy matters" and should be the "principal forum for consideration of national security policy issues requiring Presidential determination."¹⁶⁵ The National Security Council has both statutory and advisory members, and others as the President prescribes.¹⁶⁶ The National Security Advisor is co-designated as the Assistant to the President for National Security Affairs.¹⁶⁷ There is an Assistant to the President and Deputy National Security Advisor, as well as specific-issue Deputy Assistants to the President and Deputy National Security Advisors for International Economics, for Strategic Communications and for Homeland Security and

¹⁶³ Currently, the U.S. National Security Council is the organization that assists the President in responding to crises, but there is no corresponding component in the various intelligence agencies that is charged with preparing intelligence to create options. *See* NAT'L SEC'Y COUN., <https://www.whitehouse.gov/administration/eop/nsc/> (last visited Mar. 13, 2016). Each agency may do their part independently, but not by analyzing the Incentive Theory. *See generally* National Security Act, 50 U.S.C. § 401 (1947).

¹⁶⁴ *See* Moore, *supra* note 2, at 428 (reiterating the idea which was originally proposed by Professor John Norton Moore).

¹⁶⁵ *See* National Security Act, 50 U.S.C. § 401 (1947); Presidential Policy Directive 1, at 2 (Feb. 14, 2009).

¹⁶⁶ *See* 50 U.S.C. § 402 (1947); Presidential Policy Directive 1, at 2.

¹⁶⁷ *Id.* at 2.

Counterterrorism.¹⁶⁸ Having deputies focused on international economics and counterterrorism with close access to the President is essential, and the same level of authority and access is necessary for war prevention. The National Security Council must add a Deputy Assistant to the President and Deputy National Security Advisor for War Prevention, with appropriate staff, to implement the operations function of the incentive theory.

This new Deputy National Security Advisor for War Prevention could assist in crises to ensure that the President of the United States has direct access to the intelligence gathered by the National War Prevention Center and has appropriate, practicable, and deployable options to quickly act in the face of aggression. Such capability will give the President the maximum possible options to act swiftly to respond to threats of aggression. Moreover, adding a DNSA for War Prevention with equal status as the experts on counterterrorism and international economic issues will give the President options from all agencies of the government, and, combined with the intelligence products generated by the ODNI's War Prevention Center, will give the best information and the best tools to the President in time for action to prevent war.

The National Security Council and its staff can also work with the staff at the Office of the Director of National Intelligence to evaluate the strengths and weaknesses of the Incentive Theory.¹⁶⁹ Over time, the practical effects of the Incentive Theory will be demonstrated. These two staffs, looking at the theory from both an intelligence and an operations function, can find ways to improve upon it and ensure that the theory adjusts to modern circumstances. This improvement of Incentive Theory will be of lasting importance, ensuring that the Incentive Theory will develop from a promising theory into a proven method to analyze and deter aggressive states on the eve of potential armed conflict.

The Incentive Theory can be put into operation by adding an intelligence component and an operations component at a level of the executive branch of the U.S. government, where it can have the necessary resources to gather the intelligence and craft the operations plans. The theory can be used to develop, over the longer term, international relationships, collective defense treaties, economic interdependence, and rule of law efforts that will reduce the likelihood that a future dispute

¹⁶⁸ *Id.* at 4.

¹⁶⁹ *See* 50 U.S.C. § 402 (1947).

between states will end in war. The United States must act to implement this theory and incorporate it into the U.S. government bureaucracy and national security decision-making.

V. Conclusion

The Incentive Theory is the culmination of two centuries of thought and application on why states choose to go to war. Applied retrospectively, the theory has been proven to explain why states chose to start an aggressive war. The Incentive Theory can craft, again in retrospect, strong deterrence that would have been focused on the incentives for war and likely could have prevented major wars in the past. It is time to put Incentive Theory into operation—not to explain the past—but to solve the problems that may lead to future wars.

The three images can be carefully applied to current and future conflicts to understand why a state may choose war and develop effective deterrence to discourage armed conflict. Image 2 can be used to identify which states have government structures that increase the probability that regime elites would choose to pursue armed conflict, and focus government resources on those potentially aggressive states. Image 3 will help develop effective external options to deter potentially aggressive leaders. Image 1 will insure that deterrence is effective in influencing the decisions of key regime leaders in order to ensure that they do not perceive advantages to starting an armed conflict. These three images combined can be used by the United States to help prevent war.

The United States must create the bureaucracy necessary to incorporate Incentive Theory and put it into operation. This addition to the executive will be a minor alteration of government bureaucracy when compared to the changes following the September 11, 2001 terrorist attacks, but will have greater potential benefit to national security. The United States must develop the intelligence capability to collect and analyze information that includes the three images of analysis. Further, the United States must have an operational function that takes this intelligence and develops practical options that can be used to deter aggressive states.

The Incentive Theory is the best theory to understand, predict, and deter war. Incorporating the knowledge that can be gained from this

theory is an important national security interest of the United States. It is time to put Incentive Theory into operation.