I. INTRODUCTION

The United Nations Charter prohibits "the threat or use of force against the territorial integrity or political independence of any state."¹ This is the great peace principle of international law, described by Professor Thomas Franck as "the apex of the global normative system . . . ."² States then may be entitled to peace, and if — a very large if — collective security systems can be made fully operative, states may be

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¹ U.N. CHARTER art. 2, para. 4.
entitled to “protection against aggression . . . .” Though the leap from states rights and obligations to individual rights and obligations is not one that international law makes very often, we may be moving towards a legal regime where individuals can claim a right to peace. The purpose of this panel is to examine how this peace might be secured. The focus of the discussion rests on the question of the link between a particular methodology of governance, namely democracy and peace.

II. THE CAUSES OF WAR AND PEACE

For centuries mankind has examined the causes of war. Each age has brought its own theories. One of the newer observed phenomenon which has heavily engaged political scientists, is the observation that “[d]emocracies almost never fight each other.” This empirical statement leads to an examination of whether there is something inherent about the nature of democracy that produces peace, at least when interacting with other democracies, and if so, whether the promotion of democracy could secure a more lasting peace.

III. THE PROPOSITION THAT DEMOCRACIES ALMOST NEVER FIGHT EACH OTHER

First, let us look at the proposition that democracies almost never fight each other. A brief examination of the voluminous literature brought to bear on this statement reveals that every aspect of the sentence has received microscopic examination using global data from about 1815 onwards. What do we mean by democracy? Surely there weren’t any true democracies until well into the twentieth century. How long does a democratic government have to remain in power for the government to be counted as democratic? What do we mean by fight? Should we count threats of force? Do we require a certain number of bodies before we are willing to count the conflict as a fight? All of these variations have been examined and yet, as Professor Bruce Russett carefully demonstrates, the “research result is extremely robust, in that by various criteria of war and militarized diplomatic disputes, and various measures of democracy, the

3. Id.
6. See RUSSETT, supra note 4, at 12, & n. 1 - ch. 1.
relative rarity of violent conflict between democracies still holds up."\(^7\)

Another observation is also relevant. "Democracies are not necessarily peaceful . . . in their relations with other kinds of political systems [such as autocracies]."\(^8\) The observation about peaceful relations between democracies does not generally include any observations about civil wars, the wars which have killed far more people since World War II than inter-state wars, nor does it look at relative homicide rates within particular societies or covert actions, so the empirical statement is only one facet of the overall picture of the use of force. One suggestion I have for the social scientists that might prove fruitful in filling the gaps is that they identify which states have had the longest periods of no war at all against any states, whatever their form of government — that they study these states and see whether they find any common characteristics. Conversely they could also study those countries that are most frequently engaged in international conflict and inquire about the possible characteristics that cause this perpetual belligerency. Nonetheless, the observation that democracies hardly even fight each other is an interesting statement. The essential question then is whether peace among democracies is "a result of some features of democracy, rather than being caused . . . by [other factors which may or may not be] correlated with democracy."\(^9\)

First, what do we mean by democracy? Professor Samuel P. Huntington describes its essential feature as "[e]lections, open, free and fair . . . ."\(^10\) In the past century the West's experience with democracy has also been accompanied by the steady development of other features of government that appear to go along with open elections: "the rule of law, a separation of powers, and the protection of basic liberties of speech, assembly, religion, and property, . . . [w]hat might be termed constitutional liberalism . . . ."\(^11\) In the latest edition of *Foreign Affairs*, Fareed Zakaria reminds us that democracy, in the sense of guaranteed elections, does not necessarily go hand in hand with the other pieces of constitutional liberalism or vice versa. He points to numerous examples of popularly elected leaders who "bypass their parliaments and rule by presidential decree, eroding basic constitutional practices."\(^12\) Conversely, he points to Hong Kong, under British rule, which had almost no electoral

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7. *Id.* at 10.
8. *Id.* at 11.
9. *Id.*
12. *Id.* at 23.
participation, except in the last few years, and yet had a fair court system, and a relatively uncorrupt bureaucracy that protected citizens' basic rights. There has been a huge rise in the number of states with elected governments, particularly in the last 20 years. By some estimates, "118 of the world's 193 countries are [now] democratic," but this rise in elections has not been accompanied by a rise in the other institutions of limited constitutional government. Whether the basic proposition, that democracies almost never fight each other, will remain true in an era where an increasing number of elected governments deny basic civil liberties remains to be seen.

Thomas Jefferson understood the distinction between elections as such and the other necessary features of limited government when he observed: "an elective despotism was not the government we fought for." Immanuel Kant, in his essay on *Perpetual Peace* also expanded upon the link between democracy, peace, and human rights. Indeed he may be hailed as the modern era's father of this debate.

IV. DOES DEMOCRACY ENCOURAGE PEACE?

A. Theoretical Challenges

Those who espouse the view that "one way to promote universal and perpetual non-aggression, probably the best and, perhaps, the only way, is to make democracy an entitlement of all peoples" have to contend with competing theoretical challenges and with other alternative explanations of the phenomenon of the democratic peace. The overarching theoretical challenge comes from the structural realists such as Kenneth Waltz and John Mearsheimer. They believe that the behavior of states is governed by "the structure of the international system and [a particular state's] position in that structure." They bemoan the end of the Cold War
because it gave "order . . . to the anarchy of international relations."21 They believe that "the prospects for international peace are not markedly influenced by the domestic political character of states, that it is the character of the state system, not the character of the individual units composing it, that drives states towards war . . . ."22 "The nature of states' internal systems of government is seen as nearly irrelevant . . . ."23

Believing that there is something inherent about democracy itself, or democracy combined with liberal constitutionalism, which restrains states from engaging in war is a direct challenge to the structural realists. The most obvious conclusion is that the phenomenon that democracies don't fight each other (but do fight other political systems) must arise from the normative structure of democracy at least when it interacts with other democracies but a number of alternative suggestions have been offered to explain the democratic peace that do not rely on the nature of democracy or its attendant institutions.

B. Alternative Suggestions to Explain the Democratic Peace

There is only time to mention a few of the alternative explanations but I would suggest that some of them are wrong and neither of them is a sufficient explanation of the democratic peace. I will briefly discuss only four prominent alternative explanations for the democratic peace.

1. Similar Political Cultures Don't Fight

This explanation posits that it is the similarity of the political culture that restrains war not the particular characteristics of the political framework. This is simply incorrect. Autocracies fight each other quite frequently so it cannot be the similarity of the political culture as such that restrains war.

2. Distance Makes the Heart Grow Fonder

Until 1945 democracies outside Western Europe were few and far between. Since wars most often occur between neighboring states it is not surprising that there were few wars between democracies. The problem with this suggestion is that even where democracies were neighbors they did not fight, and in the post World War II period, where there are far more proximate democracies, the phenomenon of the democratic peace still holds up.

22. Id. at 38.
23. RUSSETT, supra note 4, at 24.
3. Belonging to Common Intergovernmental or Supra-National Institutions is What Prevents War

There are two replies to this argument. One is that democracy and liberal constitutionalism encourages "independent centers of power"\textsuperscript{24} such as common interstate institutions, so the rise of the institutions themselves may be seen as incident to the democratic process. The other reply is that peaceful relations must necessarily precede the creation of the common institutions. In other words, the institutions arise out of peace; they do not themselves cause it, though no one doubts that they may help maintain the peace.

4. Riches Ensure Peace

This explanation holds that the richer a state, the more it has to lose in the devastation of war, thus the less likely it is to engage in war. Democracies, at least until the last decade or two, have usually been wealthy, thus between themselves there are double disincentives against conflict. This argument is much like the argument that "trade and investment make peace."\textsuperscript{25} The problem with both these arguments is that there are plenty of counterexamples. Peace often exists between states with weak economic ties and between poor states. Also both trade and wealth can generate competitive aggression.

V. WILL PROMOTING DEMOCRACY PROMOTE PEACE?

If neither of the alternative explanations is sufficient, what is it about democracy itself that may persuade us that promoting democracy will promote peace? Are democracies more dovish in general than other political systems either because "the political culture favor[s] . . . the peaceful resolution of disputes"\textsuperscript{26} or because governments have to answer to the population, especially during wars, which produces the restraint we seek? The answer sadly has to be no. "[D]emocracies are about as war-prone and disputatious in general (not towards other democracies) as are other kinds of states."\textsuperscript{27}

What are "the basic norm[s] of democratic theory"\textsuperscript{28} that may restrain war? "[V]oting equality, egalitarian rights to human dignity, the notion that disputes can be resolved without force, the idea of the consent

\textsuperscript{24} Id. at 26.
\textsuperscript{25} Id. at 28.
\textsuperscript{26} Id. at 30.
\textsuperscript{27} RUSSETT, supra note 4, at 30.
\textsuperscript{28} Id. at 31.
of the governed, [and] the idea that resort to force is illegitimate . . . to secure . . . rights because the institutions linked with liberal democracy will secure those rights without force." 29 Political opposition and open discussion are also seen as necessary for good and legitimate policy making. When other nations are seen as also possessing these political norms they are perceived as legitimate, possessing restraints on governmental excesses and not likely to be out to dominate us. We in turn do not wish to dominate them because their conduct conforms with our professed norms. The perceived legitimacy of the fellow democratic state operates as a powerful restraint on any impulse to overthrow such a government both internally and internationally. When democracies fight authoritarian states on the other hand, the conflict is often waged in the name of overthrowing an illegitimate leader. The Gulf War against Iraq and the United States invasion of Panama are two examples, though ironically the Gulf War also had to the effect of restoring an autocracy to power in Kuwait.

There are of course scholars who challenge the very emphasis on democracy and civil and political rights and question whether those human rights “should be given priority over economic, social and cultural rights.” 30 Professor Anne Orford “question[s] the assumption that the powerful international institutions operating in the economic and security areas [which might be seen as, or used for, promoting democracy are indeed] the bearers of even . . . limited liberal versions of democracy and rights in the post-Cold War era.” 31 These scholars are not about to jump on the bandwagon of international institutional intervention.

One scholar who has perhaps tried the hardest to separate out other possible influences on conflict is Professor Bruce Russett. Through a series of calibrated tables he has looked at the influence of a variety of factors as well as the fact of democracy itself on conflict. He tests such factors as wealth, economic growth, alliances, contiguity, and military capability ratio. What he finds is that “the effect [of democracy] is continuous, in that the more democratic each member of [any two possible warring states] is, the less likely is conflict between them.” 32 He also looks at such variables as political stability, structural/institutional constraints, normative cultural restraints, and even the levels of deaths resulting from political conflict within countries. From his studies he

29. Id.
31. Id.
32. RUSSEIT, supra note 4, at 86.
concludes that:

The more democratic are both members of a pair of states, the less likely is it that a militarized dispute will break out between them, and the less likely it is that any disputes that do break out will escalate. This effect will operate independently of other attributes such as the wealth, economic growth, contiguity, alliance or capability ratio of the countries.\footnote{33. \textit{Id.} at 72-3.}

Russett concludes that the “results do suggest that the spread of democracy in international politics . . . can reduce the frequency of violent conflicts among nations.”\footnote{34. \textit{Id.} at 92.}

Perhaps, in the end we also have to proclaim boldly what amounts to a moral belief, namely that we think voting and respect for individual rights is simply a preferable system. The studies seem to indicate that democracy will engender peace, if enough states follow the same pattern, but it may in any event be worth promoting for its own sake. If the premise \textit{democracies don't fight each other} remains true even in the era of “The Rise of Illiberal Democrac[ies],”\footnote{35. Zakaria, \textit{supra} note 11, title.} promoting democracy will be a useful means to peace. If on the other hand the premise breaks down, as the voting aspect of democracy becomes divorced from liberal constitutionalism, we shall be forced to look at the broader institutional framework to find the causes of peace.

The complex issues of how any state, and in particular the United States, might go about promoting democracy, the dangers of intervention, and the hazards of various forms of aid, I will leave to my fellow panelists.