

The Changing Nature of War and the Permissibility of Preventive Military Action

“But there assuredly are cases in which it is allowable to go to war, without having been ourselves attacked, or threatened with attack; and it is very important that nations should make up their minds in time, as to what these cases are”

John Stuart Mill

Abstract

In this paper I argue that the Just War Theory in its current state is anachronistic and requires modernising. I set out how the domain of war has changed over time, specifically with new threats from weapons of mass destruction and non-state actors. These changes require a modernisation of the theory, and a product of this modernisation is developing a preventive war doctrine generally seen to be impermissible, as permissible. I make the case based on the changing nature of threats, and, extend the notion of self-defence to include preventive action. I highlight the epistemic problem in today’s war environment regarding the ‘last resort’ condition of the Just War Theory, and argue that if pre-emptive attacks are permissible, then based on the same epistemic logic, preventive wars are also permissible.

1) Introduction

To borrow a saying attributed to John Maynard Keynes by Paul Samuelson, “when my information changes, I alter my conclusions, what do you do sir?¹”. Social scientists chart the ever-developing societal changes of humankind by recognising inventions that changed industry, individuals who changed society, and events that changed our trajectory. A category of event that appears regrettably too often is that of war, and like all things under the dominion of time, it changes too. The acts of war change, the scope of war changes, and likewise, so does the constitution of war. Technological advances, the nature of international politics, and the insatiable quest for power amongst some people, are just three of a plethora of reasons one could choose to exemplify why campaigns have led to such a vast number of lives lost across the history of our species.

¹ John Maynard Keynes, in response to a criticism during the Great Depression of having a changing view on monetary policy, quoted in "The Keynes Centenary" by Paul Samuelson, in *The Economist* Vol. 287 (1983), p.19

Rightfully, war is recognised as a morally demanding event. Is a certain war justified? Can a war ever be justified? On what grounds can a collection of events warrant accepting huge loss of life in some cases but not others? Such questions demand serious consideration, for war is prevalent and must be attended to with the moral significance it deserves. That war has fostered significant moral application throughout history is evinced by the historical development of the Just War Theory that serves to provide conditions, which, upon satisfaction present a special circumstance in which a war may be morally justified. Development in the nature of war thus requires such conditions to keep pace if they are to remain relevant in contemporary moral theory regarding war, and thus the need to examine the conditions is apparent.

This essay attempts such a task by demonstrating some of the aspects in which the environment of war has changed, and built upon this, why the conventional Just War Theory should be modernised. Furthermore, it examines the conventional distinction between pre-emptive attacks and preventive war, which claims that the former can be justified while the latter can't. I suggest that such a distinction is no longer useful in light of the modern war environment and that a preventive doctrine of war could be justified. To keep the focus narrow and clear, I do not make explicit legal analysis of the international statutes, nor do I provide legalistic solutions to the problems that present themselves. I also do not approach questions regarding the ontology of war in terms of whether terrorism and non-state actors can be incorporated into Just War Theory. My position incorporates quasi-belligerent action, such as the violence of terrorism, into the moral principles that guide such a theory and thus whether a "war on terror" is ontologically a war will not be explored. Rather, I focus on the moral aspects of war that serve to guide legal theorists in legislating normative judgements. Furthermore, I do not explore the normative role that the "Responsibility to Protect (R2P)"² commitment makes, agreed at the 2005 UN World Summit, nor do I make a case for humanitarian intervention regarding sanctions or military action. The focus is strictly on modernising the Just War Theory in order to stay relevant, with a product of this being the collapse of the distinction between pre-emptive attacks and preventive wars.

First, I outline the traditional conception of Just War Theory and highlight the six conditions that need satisfying. I continue by presenting the changing situation that the environment of war finds itself in by making reference to technological developments, such as weapons of mass destruction, and the rise of non-state actors changing the traditional dynamic of war. In

² For further reading regarding R2P, refer to Kantareva, Silva D. (2011) The Responsibility to Protect: Issues of a legal formulation and practical application. *Interdisciplinary Journal of Human Law (New York: CASIN)* 6, 1, pp. 1-26. & Nardin, T (2013) From Right to Intervene to Duty to Protect: Michael Walzer on Humanitarian Intervention. *The European Journal of International Law (Oxford: Oxford University Press)* 24, 1, pp. 67-82

section three I outline the conventional distinction between pre-emptive attacks and preventive war, and construct a consequentialist approach to self-defence in an attempt to merge the distinction, and further, make the case that with the collapse of this dichotomy, preventive war can be deemed justifiable by calling it a defensive act. The final section displays the typical objection to preventive war, which argues that such a doctrine would lead to an environment of war of all against all. I reject this criticism, making reference to institutional conditions that could be demanded in order to try and keep peace, and further, present a case that in the modern environment, the epistemic demands of pre-emptive and preventive doctrines are broadly analogous, and as such should rise and fall together when critiqued.

2) The Just War Theory and the Changing Face of War

i) The conditions of Just War Theory

As outlined above, this thesis makes the case for a reformulated just war theory, in order to keep pace with the changing scope and setting of war. As things stand the criteria are anachronistic. Rendered inflexible by traditional restrictions and incongruent with modernity, the theory demands modification to be understood in the contemporary world. Prior to offering suggestions for a reformed theory however, it is necessary to outline and explore the current theory's conditions, and the limitations of them. What follows in this section then, is an overview of the requirements the theory currently demands in order to clarify the justification and permissibility of a war.

The Just War Theory as a doctrine originates from Christian theology, notably Saint Augustine, who drew on ideas put forward by classical writers from Greece and Rome (Rawls, 1999, 103). This was adopted almost a millennium later by Thomas Aquinas who set out conditions under which a war could be considered just, and was developed thereafter most notably from Cajetan (1468-1543), Vitoria (ca.1492–1546), Suárez (1548-1617), and Grotius (1583-1645) (Reichberg, 2008, 12). The context in which the doctrine was developed is therefore heavily influenced through Christian theology, and as such it should be recognised that for Aquinas at least, the Crusades – and the justification of them – weighed heavily in the doctrine's formulation. The moral obstacles that war presents continue today however, and the dilemmas surrounding decisions of war persist. Contemporary thinkers are the focus of this paper, and I draw heavily on the thoughts of David Rodin (2007), David Luban (2007), Henry Shue (2007) and Michael Walzer (2006), amongst others.

From the outset, traditional Just War Theory is sub-categorized into two parts; *jus ad bellum* and *jus in bello*. The traditional *ad bellum/in bello* distinction separates what constitutes a just decision in going to war (*ad bellum*), and justified action of a warring party in the process of war (*in bello*). Since preventive war is contentious as a justification for initiating a war, it is the *ad bellum* conditions that will be my focus.

There are six general conditions of *jus ad bellum*, of which all must be satisfied in order to constitute a justified act of war. I here paraphrase Nathanson, and the principles are as follows (Nathanson, 2013, 148):

- 1) *Just Cause*: this condition demands that the reason for which a war is initiated is morally significant. It cannot be a capricious decision, but grounded in a legitimate moral reason. Territorial advantage or economic gain would not constitute such a reason for example, and defence against aggressive actions is widely accepted as the standard just cause.
- 2) *Legitimate Authority*: it is required that the declaration of war is made by a legitimate authority. Such an authority tends to be a government, or in some cases non-governmental groups like NATO may count. Excluded from this condition are private groups or organisations.
- 3) *Right Intention*: bound to the notion of a just cause is the idea that such a cause should be carried out with the right intention. For instance, declaring that a war is being fought to safeguard the rights of an oppressed citizenry - which could constitute a just cause – but fighting with the intention to secure territorial or economic gain would fail this required standard.
- 4) *Probability of Success*: this condition discourages, and renders unjustified the act of going to war in cases where success seems slim. While going to war in the face of probable defeat could be laudable in thought, it anticipates the inevitable destruction of a social fabric and the tragic loss of life, and as such prudence defeats nobility. If probable success isn't a strongly held conviction, going to war is not just.
- 5) *Proportionality*: much like the previous condition, in anticipation of the inevitable negative effects that a campaign of war entails, proportional means must be used

to justify initiating conflict. In addition, the positive effects of the war should outweigh the negative.

- 6) *Last Resort*: this condition mandates that if there is anything else that can be done other than initiating war, then these should be exhausted prior to such an initiation. Diplomacy, sanctions, and various other methods are postulated as alternative actions to declaring war.

Taken collectively, these 6 principles outline the conditions necessary for a justified call to arms, and formulate the permissive nature of an attack. They “reflect a morally serious attitude toward war” (Nathanson, 2013, 148) and as Stephen Nathanson further acknowledges, “[w]hile they accept the possibility of justified wars, they show a strong aversion to war and do not treat it as an ordinary policy option” (Nathanson, 2013, 148).

Nathanson’s assertion that the need for a Just War Theory indicates war is generally undesirable may be an obvious point to make, but the implications of such a statement bring to the fore why having a modernised theory is of such importance. If these conditions, when satisfied, bring us to a state of affairs which require a significant and serious application of war, then it is absolutely essential that the conditions in need of satisfying are congruent with the context in which they are placed. By this I mean that if we cannot bring sensible application of the conditions to a current state of affairs, then the conditions need to be altered if we are to continue using such a framework.

It is with regard to the final condition of “last resort” that I propose is most in need of modernising, in order to enable fair application of a just war theory for warfare - specifically preventive warfare - in today’s state of affairs. My focus on the “last resort” condition is two-fold. First, there are epistemic problems with adjudicating when the “last resort” really is in a world littered with weapons of mass destruction and global terrorism. Secondly, the conventional distinction between a pre-emptive attack, generally acknowledged as permissible, and preventive war, generally acknowledged as impermissible, is contingent on temporal distance. The “last resort” is a temporal condition, and thus much can be gleaned from such a distinction when considering how to ascertain if a situation really is a “last resort”. This will be explored in detail in section three but briefly put here, I make the case that preventive war and pre-emptive attack have broadly analogous logic when considered in light of the modern state of war. My argument’s logic is that if “last resort” can be used as justification for pre-emptive war in the conventional application of the just war theory, then in

a theory that is brought into the 21st century, such a justification extends to the concept of preventive war too.

ii) The Modern State of War

As I proposed above, the environment of international politics finds itself in a new position. There are two clear ways that the sphere of international warfare has changed over recent years. These are technological advances and the growing influence of terrorist organisations. Weapons of mass destruction have changed the way in which responses to threats must be levied and present an immense danger to human life through destruction of infrastructure, buildings, and ecology, and this presents a new threat requiring new responses. Together with this development in technology is the rise of non-state actors. Terrorist groups present an increasing problem that blur the classical idea of sovereignty, war, and present new techniques that must be dealt with. “The new phenomenon of the suicide bomber, who marries distorted religious conviction to nihilism, and low-technology weaponry to produce lethal personal effects and critical political effects is the obvious example of this” (Weigel, 2007, 22). Hardly a day passes without acts – inspired by religious extremism – that cause mass casualties in the Middle East, Africa, and more sporadically in Europe and Asia. Naturally, forming effective responses to this relatively nascent threat is crucial.

Coupled with the military technological advancements previously mentioned, the globalised world also provides a framework within which such threats can grow and prosper. “Western nations have knitted together a smooth system for the transportation of goods, people and capital that makes it easy to move money instantaneously between nations” argues John Yoo³, “[b]ut this same network makes possible unsophisticated delivery systems for WMDs” (Yoo, 2014, 87). Thus a double-edged sword emerges. There is great benefit in ‘localising’ the world: it benefits trade, increases standards of living, and presents third world countries with an opportunity to drag themselves up the development scale. But while such benefits can be recognised and celebrated, the jeopardy of such a system must be observed.

³ It is recognised that John Yoo is a controversial figure within the topic of preventive war. He served as Deputy Assistant U.S Attorney General for the George W. Bush administration, and authored many legal documents, including the now infamous ‘Torture Memos’ that made the legal case for enhanced interrogation techniques, including water-boarding. As such, much consideration has been given to the use of citations from him. See e.g. Sands, Phillippe (2008) *Torture Team*. London: Penguin

Marc Trachtenberg acknowledges that:

“[o]n September 11th, 2001, the United States suddenly found itself in what seemed to be a new world, a perplexing world, a world where the old guideposts no longer seemed adequate. How was the nation to deal with the enormous problems it now faced? Above all, what could it do to make sure that horrifying weapons – atomic weapons and biological weapons – would not be used against it?”
(Trachtenberg, 2007, 40).

The attacks of September 11th truly shook the world. In both terms of magnitude of deaths, and the extent of organisation, the Bush administration was forced to respond to the catastrophic terrorism in a new way. As such, the conventional system of war had shifted, and this shift was demonstrated in the 2002 *National Security Strategy of the United States* (NSS), which recognised the threat posed by global terrorism:

“[A]s a matter of common sense and self-defence, America will act against such emerging threats before they are fully formed. We cannot defend America and our friends by hoping for the best... Legal scholars and international jurists often conditioned the legitimacy of pre-emption on the existence of an imminent threat – most often a visible mobilisation of armies, navies, and air forces preparing to attack. We must adapt the concept of imminent threat to the capabilities and objectives of today’s adversaries”⁴

Captured in this statement is a notion that strikes directly at the heart of the requirement for a reformed Just War Theory. The concept of what an imminent threat is has changed due to the capacities that weapons of mass destruction have. In the event that a rogue state, or a terrorist organisation, should come into possession of such a weapon, the notion of how a threat can be imminent fundamentally changes. With the launch of a long-range missile of mass destructive capability, there might not be a visible mobilisation of armies on borders. What’s more, the sporadic nature of pervasive ideology, such as that of Islamic fundamentalism, means that there are potential threats throughout the world and as such the Just War Theory in its traditional sense is insufficient to deal with these threats.

It is therefore required to develop a theory that keeps pace with the evolving nature of war. In the next section I will outline the traditional distinction made between pre-emptive and preventive war. It relies on two proposed morally significant factors; imminence and claims of self-defence. I argue that the contemporary state of affairs has broadly collapsed such a

⁴ *The National Security Strategy of the United States, 2002, pp. 4-19, at*
<http://www.state.gov/documents/organization/63562.pdf> (accessed 9 May 2016)

distinction and that preventive war can be waged in self-defence because of the potential imminence involved when dealing with non-state actors and weapons of mass destruction.

3) Pre-emption, prevention, and defensive attacks

i) Pre-emptive attack and preventive war: what is the difference?

When the bombs have stopped falling, and arms lain down in conflict, how to judge the genesis of a particular war is a pressing question. “Who started the shooting [and] who sent troops across the border?” asks Michael Walzer in starting the fifth chapter of his significant work *Just and Unjust Wars*. “These are questions of fact” he reiterates, “not of judgement” (Walzer, 2006, 74). Questions of fact they may be, but the simplicity of observing who fired the first shot is independent of determining the process that brought about such a state of affairs. This is not to say Walzer makes such a connection; indeed he makes quite the opposite point, recognising that in an environment as nuanced as war, each individual situation demands a contextual approach as “aggression often begins without shots being fired or borders being crossed” (Walzer, 2006, 74).

It must be noted that there are difficulties, both philosophically and practically, in judging what is to be the first aggressive action. There is a continuing debate within the branch of epistemology between distinguishing what counts as a motive and what counts as an intention and thus a philosophical problem arises in ascribing to an agent the notion that they intended, or were motivated to do something⁵. This problem presents itself in the practical sense of how are we to know when some event is cloaked with aggressive intentions. Some, for example, can see the development of uranium as an intention of aggression, but to others it could simply be an innocent development of nuclear energy. This is seen most clearly in contemporary politics regarding Iran’s nuclear development program. Proof criteria are thus required in the complete application of a preventive war doctrine that I propose, but to keep the focus on the conceptual idea of a preventive doctrine, this will not be explored. There are certain institutional reforms however, that could be made to provide general criteria of proof

⁵ For further discussion of this philosophical problem, refer to Davidson, D., (1963), ‘Actions, Reasons, and Causes,’ reprinted in *Essays on Actions and Events*, Oxford: Oxford University Press, 1980, pp. 3–20., McDowell, J., (2010), ‘What is the Content of an Intention in Action?’ *Ratio*, 23: 415–432, Shah, N., (2009), ‘How Action Governs Intention,’ *Philosophers’ Imprint*, 8: 1–19.

and accountability in accusing some agent of making a first aggressive act. A framework similar to that suggested by Keohane and Buchanan in Section Three for example, could be used.

A division within war theory regarding two types of military action demonstrates the contextual importance that Walzer is emphasising in the quote at the beginning of this section. Pre-emptive attacks and preventive wars are a contested area, with the former generally being deemed permissible and the latter impermissible. How to distinguish between the two has been a matter of much debate (Strachan, 2007; Ugilt, 2012; Dershowitz, 2006), but a widely accepted way to make such a distinction is that an attack can be regarded as pre-emptive only when it is in response to a threat which is imminent. This is seen as justified due to the notion of self-defence. The implicit consequence of this is such that preventive war is in response to a perceived threat that is not imminent, and thus any military action wouldn't constitute self-defence, and is therefore unjustified (Luban 2007, 171; Uniacke, 2007, 80).

On the surface, the distinction is simply temporal; pre-emptive attacks are self-defensive actions as a way to avert an imminent harm, whilst a preventive war looks further into the future to strike a threat before it becomes imminent. Emphasising the inherently speculative nature of preventive force, it is described by Allen Buchanan and Robert Keohane as “the initiation of military action in anticipation of harmful actions that are neither presently occurring nor imminent” (Buchanan & Keohane, 2004, 1). Thus the morally significant and decisive factor in determining whether action is pre-emptive and thus permissible, or whether it is preventive and impermissible, is the imminence of the threat. It is essentially a difference of degree. “Whether a war is preventive or pre-emptive will depend on how well developed a threat is when the war is waged” remarks Helen Frowe. “Halting a threat in the early stages of development will be preventive war; halting a threat in the final stages of development will be pre-emptive war” (Frowe, 2011, 73).

Of course, this begs the question of formulating a working definition of imminence and while a degree of vagueness is prone to go hand in hand with the use of imprecise words, there are certain formulations which various theorists have proposed. A regularly cited case is the *Caroline* incident (Crawford, 2007, 119; Rodin, 2007, 163; Luban, 2007, 171; Walzer, 2006, 74). In 1837 Canadians rebelling against the foreign rule of Britain took refuge on Navy Island after the failed Upper Canada Rebellion and were supported by sympathetic Americans with provisions using a steamboat, *Caroline*, on the Niagara River. The British destroyed the boat, and made the case that they acted in pre-emptive self-defence. Daniel Webster, who at the time was US Secretary of State, dismissed such arguments maintaining that such acts of

self-defence required the situation to be “instant, overwhelming, leaving no choice of means, and no moment for deliberation”⁶. For Webster at least, imminence required a very narrow scope in which there really was no viable alternative action that could be taken. It seems that by Webster’s definition one could only act pre-emptively in conditions tantamount to coercion. The choice to act or not is no longer there; act now or suffer the consequences.

Webster’s formulation, while an oft-cited case, has been recognised to be too restrictive by some theorists. Michael Walzer offers an alternative theory by which he wants to loosen the reins on what constitutes pre-emptive war. He remarks that the Websterian view would “permit us to do little more than respond to an attack once we had seen it coming but before we had felt its impact” (Walzer, 2006, 74). Instead, Walzer asks us to imagine a “spectrum of anticipation”, which “at one end is Webster’s reflex, necessary and determined; at the other end is preventive war, an attack that responds to a distant danger, a matter of foresight and free choice” (Walzer, 2006, 75). He proposes a sliding scale that one can slowly shuffle along to the point where we find a dividing line between attacks which are defensive and permissible, and those which are not. While imminence is still the distinction grounding the dichotomy, it does not require that there is “no moment for deliberation”, as if it did, he would not have felt necessary to put Webster’s definition at the end of the spectrum. Rather, Walzer feels it is at a time that “is still possible to make choices, to begin the fighting or arm oneself and wait” (Walzer, 2006, 75).

This of course leaves the possibility that there are threats which are imminent, but leave time for deliberation on action. This looks like a case for preventive war, but acknowledging such a logic applies to both pre-emptive attacks and preventive war, Walzer separates the two by attributing pre-emptive attacks the characteristic of being a defensive act, while preventive war is “fought to maintain the balance, to stop what is thought to be an even distribution of power from shifting into a relation of dominance and inferiority” (Walzer, 2006, 76). To be clear, Walzer subscribes to the view that under his sliding scale formulation, pre-emptive war is justified and preventive war is not, and it is grounded in the act being an act of self-defence.

The basic formulation of such an argument is this: a sensible way to discern if an attack is unjustified is if the use of force is against an agent that hasn’t itself used force. At first glance this seems to suggest that a pre-emptive attack would be unjustified; after all, it is striking an enemy before having been struck. But the proponent of pre-emption, such as Walzer, says

⁶ A letter dated 24 April 1841, from Secretary of State Daniel Webster to Special Minister Ashburton. The letter is available at http://avalon.law.yale.edu/19th_century/br-1842d.asp (accessed 6 May 2016).

“no”, it is a defensive use of force and thus justified, in spite of it being the initial forceful action. As Henry Shue and David Rodin note in the introduction of their book *Pre-emption*:

“[p]re-emption looks suspicious because it is the first use of force, and because the first use of force is usually aggression, or anyhow some form of unjustified attack. But pre-emption can be a justified attack because it is a defensive attack, however paradoxical this may sound; and it is a defensive attack because, far from initiating the conflict, it is a response to an impending unjustified attack” (Shue & Rodin, 2007, 2).

It is then the task of the remainder of this section to explore the conventional way of distinguishing between when the ‘first use of aggression’ can count as a defensive attack and when it doesn’t, and further, if this distinction is a suitable way of discerning between pre-emptive and preventive action. At this point I borrow some terminology from Henry Shue, who in asking what a justified preventive military attack would look like, sets out to navigate around the defensive action debate: “So that we have a designation that does not already carry any moral baggage, let us call a military action that is neither a defensive response against an actual attack nor a pre-emption of an imminent threat an ‘early military attack’” (Shue, 2007, 222).

So as we proceed from here we have the two categories of distinction generally outlined. There are pre-emptive attacks that are justified by virtue of being a defensive response to an imminent threat, and preventive wars, which are unjustified early military attacks with the intention to prevent a potential threat becoming an actual threat. I will adopt Shue’s terminology of ‘early military attacks’ initially for the sake of clarity, but I argue in favour of a position that encourages admitting preventive war into the category of a defensive attack.

ii) A defensive attack in the modern age

Acting in pre-emptive defence is a justifiable ground on which to engage in military action under just war theory. Indeed, just war theory counts only two situations to be a ‘just cause’ for war; self-defence and humanitarian intervention. Thus in measuring whether a military action is justifiable, we must have a clear and precise understanding of what acting in self-defence entails. The traditional conception of self-defence is out-dated, and I argue that in today’s war environment, “early military attacks” can justifiably be waged as an act of self-defence. If preventive war can be shown to be acting in self-defence, it will go some way to expressing its permissibility.

Alberico Gentili, a sixteenth century Italian jurist regarded as one of the founders of international law and quoted by Neta Crawford in *Pre-emption*, stated:

“[n]o one ought to expose himself to danger. No one ought to wait to be struck, unless he is a fool. One ought to provide not only against an offence which is being committed, but also against one *which may possibly be committed*. Force must be repelled and kept aloof by force. Therefore one should not wait for it to come; for in this waiting there are the undoubted disadvantages” (Crawford, 2007, 116, emphasis my own)

For Gentili then, acting prior to being attacked was seemingly common sense self-defence, grounded in expediency, even in such cases that may only be a potential harm. It is the notion of there being a significant moral difference between an actual threat of harm, and a potential threat of harm becoming actual, or a potential emerging threat, that is the cause of consternation regarding acts of self-defence.

Accompanying a criterion of imminence of an actual threat, the right of self-defence usually requires the satisfaction of two other criteria; necessity and proportionality (Rodin, 2007, 160). Self-defence under this view suggests the permissibility to placate the feeling of fear one may feel when faced with a threat, and a justified response is with force. David Rodin suggests that such a position of practical necessity is “quite incompatible with the idea of preventive war. For on this view it is precisely the imminence of the potentially fatal attack and the extreme psychological pressure this imposes that makes defensive acts excusable” (Rodin, 2007, 163). Rodin’s suggestion is thus that “early military attacks” cannot be described as self-defence because the nature of the threat is such, that its lack of imminence precludes a feeling of necessary action on the attacker’s behalf. I contend however, that the state of affairs we find in today’s international environment allows for early military attacks to be a result of necessity and therefore fall under the justification of self-defence.

If self-defence is considered applicable only when there is a necessity to attack, and if this necessity is a product only of the imminence (in the conventional sense) of the threat, then it is ignoring the reality of a modern war environment. John Yoo highlights this when expressing that “under current international rules, best expressed by the *Caroline* affair, a nation has the same limited right to stop a potential temporary border incursion as it does to stop a possible WMD attack” (Yoo, 2014, 84). This seemingly disproportional congruence is evinced reflecting that while there was only a single death as a result of the British attack in the *Caroline* incident, the potential number of fatalities posed by modern ballistics and weaponry is unconscionable. As things stand, using purely imminence as a connection to the

necessity of a defensive attack neglects to account for the consequence of the attack. By this I mean that the defensive action in pre-emptive attack is concerned with the threat at the current time only, rather than the broader implications of the futurity of the threat.

On this conception of self-defence, being able to defend yourself is restricted as a measure of last resort. To defend oneself requires a necessity of response due to the imminence of the attack, and that is what makes the defensive attack justified. There is a necessary connection between imminence, feeling threatened and acting defensively in response to it. This reiterates why, in the conventional distinction, pre-emptive attacks are construed as justified while early military attacks are not. Pre-emptive attack is a defensive, necessary attack, grounded in a fear of an impending threat. On the other hand, early military attacks strike first and strike at a threat that is only a potentiality, and thus strike prior to a point which may be deemed a last resort.

iii) A consequentialist conception of self-defence

From here I will return to using the term 'preventive war', rather than 'early military attack', in order to make clear that I am ascribing to it a form of 'moral baggage' that Shue wished to avoid, that is, that it is a morally justified position of self-defence.

Why then should the conception of self-defence be broadened to include preventive wars in light of the modern war arena? Primarily, it is because a conception that does not restrict one to becoming a 'sitting-duck' and to leave open the possibility of a worse outcome than if action could be taken in self-defence. Its rigid demand of a Walzerian concept of imminence and necessity simply overlooks the modern enemy who can appear in focus at such times where the attack isn't expected immediately. This means that using the imminence rule as a measure for self-defence, and thus rendering preventive wars unjustifiable, disregards possible windows of opportunity that can prevent the potential threat becoming an actual threat. While this raises questions of non-military intervention as a means to act self-defensively, the war environment we are confronted with today, particularly in light of the growing role of terrorism, means that sometimes non-military action cannot be contemplated. This is explored in detail in section three but I argue that it would be improbable to expect terrorists whose aim is to die a martyr, to respond positively to negotiations. Thus the morally significant factor in such a broadening is recognising that a potential threat today is a different category to a potential threat of the past. When the nature of a threat has changed so drastically in terms of the damage they can cause, applying the same logic to two very distinct threats seems impractical.

What we witness then is the genesis of a consequentialist approach to self-defence, and thus a framework which allows for a consequentialist justification for preventive war. The logic of the argument is such that: the consequence of *inaction* by *N* at time *t* results in a set of circumstances *C*. The consequence of *action* – preventive war - by *N* at the same time *t* results in a set of circumstances *CI*. If by virtue of a potential threat becoming an actual threat, *C* results in a bleaker set of conditions than *CI*, then there should be a framework in which taking the action of preventive war at *t* is incorporated into a self-defence conception. In the conventional Just War Theory, to satisfy the last resort condition the bellicose action would have to be shown to be necessary, and if it could not be shown, the last resort condition would be breached. As I discuss in section three however, the last resort condition as currently understood is not fit for purpose in the modern world of war and as such this demand can be bracketed for the time being.

With the prospect of a consequentialist approach to self-defence, the calculus of the consequences should be clear. As I explain in the following paragraphs, the nature of consequence entails an element of uncertainty. As such, specified consequences are difficult to adequately foresee and thus I take a general approach to this problem. My position incorporates the idea that aggressive war is such a bad, that it could be deemed as the worst outcome. Therefore, if the foreseen war in circumstance *C* is predicted to be a worse war than *CI*, which would include things like a greater loss of life, a bigger environmental effect, and an increase in global instability, then *CI* could be deemed to be a better consequence than *C*.

If a conception of self-defence was indeed broadened to incorporate the probability and possible size of such an attack, the measuring of the expected harm would allow people to take measures to reduce these expected harms, including military action, at a time earlier than the ‘last resort’ conventionally dictates. The obvious problem with a consequential framework in not simply war, but a multitude of things, is the epistemic uncertainty surrounding counterfactual projections, and further, which features of the consequences should be accounted for. The issue of what currency the consequences should take however is not something that can be universally applied in the same manner for all situations. It is contextual. The nature of war is so intricate that the consequences will vary dramatically from one scenario to the next, save for the general consequence of destroying the area in which the war takes place, and as such there is not scope to have a general doctrine for all situations. What is important to note however, is this remains the case for all instances of war; it isn’t uniquely applicable to a preventive doctrine. Any form of war should account for the consequences, and indeed, the traditional conception of Just War Theory indicates as much.

The fourth condition, requiring a “probability of success” implies that before any justified war the consequences of aggressive action must be taken into account, and as such, the lacking of a provision of what the currency of consequences should be, does not undermine the preventive case for war. In each case, there should be a contextual consideration of the possible consequences, rather than a comparative application of these consequences against a broader, more general schema.

Combined with intuitive discomfort at trying to reduce human life to an analysis of costs versus benefits, promoting the consequentialist conception of self-defence and by extension preventive war, seems tricky. While a significant objection, not least when attributed to a situation as grave as warfare, it is not an insurmountable problem. The central issue in making epistemically difficult modal judgements is summarised nicely by David Rodin: “[b]ecause consequentialist assessment requires a comparative judgement between the consequences of fighting and not fighting a given war, it always depends upon questions of counterfactual history that are intrinsically unknowable” (Rodin, 2007, 147). To make the challenge of providing a consequentialist justification even greater for the proponent of preventive war, it holds true that even *after* a war has ended, it remains near impossible to account for all the different potentialities that choosing an alternative path may have provided. Decades after the Vietnam War for instance, can any historian, with retrospective certainty, declare how the war would have concluded had Australia not been involved, or if the United States had withdrawn at a different time? It is this uncertainty that provides the challenge that must be answered.

It is profoundly difficult to even speculate upon the different outcomes that could have arisen from war, and “[t]here is simply no reliable way to answer these and countless other relevant counterfactual questions like them” (Rodin, 2007, 147). It is important to note however that such problems are not unique to preventive doctrines, and are a feature of any war, including of a traditional Catholic nature. With epistemic difficulties in justifying preventive action through a consequentialist conception of self-defence, the preventive war proponent is in a precarious position. Holding such a position is not a lost cause however. By reducing the epistemic demand on the attacker who wishes to engage in preventive war, a concept of defensive preventive war emerges. If it is proposed that rather than having knowledge of certainties, a consequentialist account of self-defence requires the less demanding notion of probability of attack, states would be granted more flexibility in taking preventive action as an attack gets more probable (Yoo, 2014, 85).

Although it can confuse situations, drawing analogies with elements of the doctrine of self-defence in criminal law is helpful to demonstrate how the probability of attack functions

within a preventive war doctrine. It shows that there can be prudential reasons to invoke such a law, even when a threat is a long way off or speculative. From these examples we can arrive at the conclusion that temporal distance doesn't provide sufficient reason to relinquish the right of self-defence.

To start with, let us arrive at a conclusion that individual self-defence is justifiable with distant harms, and build upon this basis. Such an idea is demonstrated well by introducing Jeff McMahon's hypothetical 'Paralysis Example', which goes roughly as follows. It comes to your attention that there is conclusive proof an individual has a carefully planned out process to kill you when you suffer from paralysis and as such cannot defend yourself. With inadequate policing and thus reason to suspect they won't be able to help you, the only way to survive the impending paralysis and attempt on your life is to use lethal force against the would-be killer, despite the fact that it is not at all imminent (McMahon, 2006, 173).

McMahon claims, with good reason, that this would be a morally justified action. Here there is no imminent threat, but a foreseeable threat to your life at some point in the future and as such morally justified preventive action can be taken. This suggests that while temporal imminence may be *a* decisive feature when formulating a theory of self-defence, it is not the *only* feature that should be considered.

The above example is forward looking. It is based on knowledge that while not certain is highly probable due to explicit statements by the potential killers. There is scope however to provide a justified case of self-defence even when such intentions haven't been stated. Take for example, the 'battered woman' prospect of self-defence, "where women who have suffered severe and repeated physical abuse at the hands of their spouses resort to force in self-defence. For such a woman, going to the police may have little effect, and past abuse may lead her to reasonably believe that her life is at risk" (Yoo, 2014, 86). This example is independent of imminence altogether. Rather, it responds to past conduct which indicates a probability that there is likely to be harm in the future. It provides a justification for a use of defensive force that is distinct from temporal assessment, and lends itself to making predictions based on probability rather than strict adherence to imminence. It is for this reason that Allen Buchanan reflects "at least in the case of individual self-defence...it seems that mere temporal distance is not sufficient to cancel the right of self-defence" (Buchanan, 2007, 126). A similar logic could be applied to states who have shown disregard for international laws and expressed bellicose intentions. This is not to say that these two characteristics are sufficient for a preventive war, but could be combined to demonstrate the sort of behaviours that would be the counterpart to the abusive husband in the above-mentioned case.

While the stated examples have focused on an individual right to self-defensive measures, even in cases where a likely harm is simply probably, it can be shown to incorporate state level collective action too. For this I draw on the *Lethal Virus* case proposed by Robert O. Keohane and Allen Buchanan, in their paper suggesting a cosmopolitan approach to preventive war. The case can be summarised in this way. Country A receives credible evidence from a plurality of different sources that there is an international terrorist organisation who, having already committed deadly attacks of great magnitude, multiple times, have come into possession of a lethal and contagious virus that it plans to release in a global city. Based on the knowledge they presently have, “there is no reason to believe that the release of the virus is imminent, but there is good reason to believe that once the virus leaves the terrorists’ remote mountain stronghold the chances of intercepting it are poor” (Buchanan & Keohane, 2004, 4). Here there is recognition that while the threat is not necessarily imminent, there is probable cause for great concern, based on the past actions of the group. The solution to this threat is to strike in the mountainous region, within the borders of Country B, and this would destroy the virus and only kill the members of the terrorist group. Buchanan rightly suggests that “surely under these circumstances it would be justifiable to use lethal force preventively and the fact that force would be deployed collectively against a group, rather than against an individual...is immaterial” (Buchanan, 2007, 127).

What I have attempted to demonstrate here is that collective self-defence at state level is not required to be limited to acting only in response to an action that is causing harm, or about to cause imminent harm, but can legitimately be waged responding to temporally distant, probable attacks. I have drawn on this to elucidate that it would be wrong to deem preventive war impermissible on the grounds that it isn’t acting in self-defence. Such arguments make the misguided objection that since the target of such action hasn’t done anything wrong, it follows that their right not to be attacked has been violated. I referred to the *Lethal Virus* and *Battered Woman* cases to demonstrate that a harm doesn’t have to be imminent to relinquish such a right, but that based on previous behaviour, a conclusion of probability can be drawn to justify self-defence.

Probable cause isn’t limited to the backward-looking cases that I discussed however. It is also possible to make a case that the use of defensive force is justified in response to available evidence, rather than referencing past activities. Such cases can be made clear by drawing analogies with laws of criminal conspiracy. These laws suggest that there is criminal liability in conspiring to commit acts, rather than the actual committing of the act. Cases invoking such laws are common and are a prudential application of legal requirements. They can be

summarised indicating “...one may be liable to defensive force, and even to punishment, without having committed a criminal act, if one has engaged in sufficiently clear and serious preparations for performing such an act” (Rodin, 2007, 166).

An obvious example of this is if police gather intelligence of a conspired bank heist, it does not need to be committed before arrests are made. Importantly, conspiring itself is a crime, and thus if the heist was in fact committed, the conspirers could be charged with both conspiring and committing the heist. In a similarly prudential way, would it not be sensible to recognise similar conspiring happening on a global level and intelligence suggesting its existence should be heeded. The aforementioned *Lethal Virus* case represents such a conspiracy. While in that case it was argued that the probability of attack was due to the previous behaviour and actions of the terrorist group, a similar logic can be applied in cases where such previous malevolence was not apparent. If the intelligence received by Country A was indicative of a terrorist group’s intentions to cause widespread destruction, a requirement that they had done it before seems overly restrictive.

An important addition to this logic is that the intention is attainable of course. If communications are intercepted between two people regarding their intention to release sarin gas in the centre of a busy city, it would have to be shown that such an ambition is theoretically achievable. Without sufficient means to carry out such an attack, the two would-be terrorists could be written off as fantastical. As Allen Buchanan notes, “[r]eflection on the law of conspiracy indicates that using force against someone who has not yet committed a wrongful harm need not violate his rights. The elements of conspiracy include a specific intention to do a wrongful harm and an agreed plan of action to produce the harm” (Buchanan, 2007, 135). In the case of the two fantastical terrorists, the plan of action to produce the harm would be unrealistic to the point that it is ungrounded. David Luban highlights the existence of such a condition in criminal law stating that “[t]eenagers hanging out at a strip mall...may while away the time with conversations that begin ‘Hey, why don’t we rob the Seven-Eleven?...’ without ever seriously planning to do so. The basic US conspiracy statute requires not only a group plan but also at least one overt action taken in furtherance of the plan” (Luban, 2007, 192). Likewise, justifying preventive war appealing to conspiracy would require similar conditions.

As has been previously said, drawing comparisons between international relations and civil law is murky, but the utility of making such analogies should be recognised. The laws of conspiracy provide an explanation how someone or something can have committed a wrong without necessarily causing harm in that moment or imminently. For some however, making

this analogy does no such thing. Rather than provide grounds to recognise wrongful acts in spite of a lack of harm, when used as analogies for international relations, the laws of conspiracy simply expose a paradox. David Rodin highlights this paradox stating:

“if a conspiracy to attack (consisting in a manifest intent and active preparation) is a form of wrongdoing sufficient to ground preventive military action, then doctrines of prevention such as the National Security Strategy are *ipso facto* morally wrong... If manifest intent and active preparation together constitute a wrong sufficient to ground preventive war, then any doctrine of preventive war is impermissible. If, on the other hand, doctrines of prevention are permissible, then the combination of manifest intent and active preparation are presumably not in themselves wrong” (Rodin, 2007, 167).

The implication of this is therefore that the moral grounds of preventive war relative to the laws of conspiracy stand and fall together. Either both sides are guilty of conspiring and relinquish their right to not be attacked, or neither is.

While this paradox is testing, it overlooks the asymmetry between a conspiracy to attack somewhere specific and a general policy of preventive action, such as the 2002 National Security Strategy that Rodin discusses. Recall from earlier the content of the strategy, which states “America will act against such emerging threats before they are fully formed”. This indicates a general policy that in case a threat does emerge, action will be taken. It is implicitly conditional and reactive. In contrast, a terrorist group or state conspiring to attack somewhere specifically is a plan of a different sort. It is proactive, with a particular place in mind, and a particular means of constructing an attack. The general policy acts as insurance against the more specific nature of planned attacks, and thus the two cannot be compared in the way Rodin would like. The reactive nature of the NSS policy is not apparent in the proactive conspiracy that a group may have of attacking a particular place.

4) Addressing an Objection to Preventive War

In recognising a defensive right to attack however, and extending it to incorporate preventive war, it is suggested that there is a glaring and undesirable consequence. If, as has been argued, claims of acting in self-defence don't require an immediate threat, but are applicable to situations in which a threat is merely potential, it seems that a Hobbesian state of nature is upon us on a global scale, in which war of all against all is justified. Neta Crawford addresses this broadening of the conception of self-defence, and questions at which point one must accept an action as aggression rather than defensive action: “If fear justifies assault, then the occasions for attack will potentially be limitless... we cannot always know what the other side

has, where it might be located, or when it might be used.” (Crawford, 2003, 33). The worry here for Crawford is that having a doctrine of preventive war becomes “self-defeating as it increases instability and insecurity” (Crawford, 2003, 35).

The implication is that under the conception of self-defence to which I have argued, any military strike at any time is justified, because every other military unit is a potential threat by virtue of being a separate competing state to oneself. The reason every other state can be interpreted as a potential threat for advocates of this position is the epistemic difficulty in being certain of another state or group’s intentions. Uncertainty means insecurity. There are two important points to make in light of this; the first being a response to the problem Crawford presents. In any setting, absolute knowledge of circumstances is a rare privilege, especially so in international relations; knowledge, as they say, is power. Granting this, it should be agreed that almost any decision made at an international level is made with a certain element of judgement on the probability of events transpiring in a particular way.

As I argued previously, in a consequentialist conception of self-defence, through which an account of justified preventive war emerges, a decision to engage in war is complex and based on probability of certain consequences. There would be a plurality of contesting factors which a decision to launch a preventive war would incorporate, and what’s more, institutional demands are a possible governor of this. For example, Buchanan and Keohane propose the idea of a system of accountability to accompany justified preventive wars since “no single state can be counted upon fully to take into proper account the interests of others, particularly when considering the use of military force. Therefore, processes by which states...can hold states accountable are essential if the parochial concerns of the most powerful are not to be allowed to prevail over broader interests and shared values” (Buchanan & Keohane, 2004, 11). They suggest a system of accountability entailing two components; standards and the sharing of information. This would entail consultation with the international community prior to using force, and the sharing of information must be “comprehensive enough for other states to make independent judgements on the costs and benefits of the preventive use of force” (Buchanan & Keohane, 2004, 13). Such a system of accountability and sharing would serve to maintain general order amongst the international community.

This of course is based on the assumption that there would be general concordance amongst the international community with regards to adhering to such standards. It certainly isn’t a given, but prudential reasons suggest to me that such a system could prevent the Hobbesian worldview that Crawford fears. It would be unwise for a state to disregard such institutional norms for two reasons. First, it would be a quick and effective way to isolate oneself from the

international community. The less adherence one state shows to agreed principles, the more damage it will do to its reputation and thus acting in a reckless manner would be inimical to the state's standing in the global order. Moreover, consistent disregard of such accountability would make that state itself, justifiably, a pariah state and prone to collective attacks itself from an alliance of the abiding states. It then seems prudential for individual states to adhere to the general principals that a system of accountability would require. As such, a doctrine of prevention agreed at an institutional level, could in fact serve to *increase* global security, resulting in a situation quite the contrary to Crawford's supposition. The prospect of a situation of a high level of warfare is in fact the barrier *to* such a state of affairs.

The second important point to make with reference to Crawford's fear of a war of all against all is that its logic exposes the fundamental problem with the last resort condition in today's state of affairs. Recall the components of the condition elaborated on at the beginning of this paper. It mandates that if anything else can be done other than initiating war, then these should be exhausted prior to such an initiation. Such methods could involve sanctions and diplomacy for example. If we examine this demand against the modern war environment that I have presented throughout this paper, the last resort condition begins to look precarious. Crawford argues that "...we cannot always know what the other side has, where it might be located, or when it might be used" (Crawford, 2003, 33), and because of this, in a world with an accepted doctrine of preventive war, total warfare would be a possible scenario because everyone could be a potential threat. In light of this, how does the epistemic demand of the last resort condition differ for cases of pre-emptive attack and preventive war, in a modern environment with terrorist organisations and weapons of mass destruction?

In the traditional sense of war where modern technologies and global terrorism were not accounted for, the last resort condition is one of the ways of understanding the distinction between pre-emptive attack and preventive war. This is demonstrated in showing that preventive war, historically, has not been a last resort whilst pre-emptive attacks are, or are at least considerably closer to what would be considered, a last resort. Today however, the development of WMD's and global terrorism has collapsed that distinction from an epistemological perspective.

This collapse can be shown with reference to a separate paper in which Crawford argued that "legitimate pre-emption could occur if four necessary conditions, rooted in the just war tradition were met" (Crawford, 2007, 119). These four conditions require first that a pre-emptive attack is truly in self-defence. Secondly it must be a reaction to a credible fear and imminent in the sense that it is made manifest within weeks, and that if one waited there

would be no military option to eliminate it. Thirdly it is justified if it would succeed in reducing the threat, and fourthly that it's only achievable through military action. It appears to me that the two positions Crawford displays here are incongruent. If we bracket the self-defence requirement (since this has been extensively discussed already), and focus on the remaining three conditions, the problems Crawford addresses in the construction behind the argument that preventive doctrines could lead to continuous warzone, should apply to her doctrine of pre-emption too. I am not arguing that the consequences of the two doctrines are the same, but that the structural issue of epistemic uncertainty remains present in both, if Crawford's pre-emptive doctrine is understood in today's war environment. In short, I contend that the background of epistemic uncertainty Crawford argues is a damaging feature of the preventive doctrine persists in her pre-emptive requirements, when considered in a modern light.

The first way to demonstrate this is to question how, in the modern day, one can know when they have arrived at the last resort. Crawford's fourth condition of pre-emptive attack being justified in cases where military action is the only option is another way of saying what the last resort condition is trying to make clear, but Cecil Coady recognised the difficulties in judging this: "...[t]he idea of last resort has its problems, since...there are epistemological puzzles about how we can know whether we have exhausted the list of effective alternatives to the use of violence" (Coady, 2005, 145). Historically, when troops start gathering on the border of a state, coupled with other factors such as bellicose rhetoric, it could be acknowledged that some sort of last resort was approaching. In contrast, when long-range weapons can strike with speed and caprice, the last resort can confront you without other resorts even being considered, and what's more, the logic of last resort seems incompatible when applied to terrorist groups whose only currency is violence. If groups of people are committed to dying for a cause, as has been evident with suicidal terrorist attacks over recent years, there seems to be no room for negotiation. By their own volition, death is the only outcome for the terrorist, and as such, constructive deliberation over the various alternative options that could be levied at them seems futile.

Furthermore, her third condition requiring successful reduction of the threat is prone to similar counterfactual objections that Rodin levies against a preventive argument for self-defence illustrated in section 2.iii. It is speculative, and while it is not problematic to make these assertions in constructing a framework of just war, the same uncertainty that applies to a preventive doctrine that Crawford argues against is used in her defence of the pre-emptive doctrine. In light of the inadequacies of evaluating an attack, even retrospectively as outlined in section 2, presumably for Crawford such judgement would involve an element of justified

probability rather than just a subjective belief on the part of the attacker, as the former is the less radical position to hold and less partisan. As such, justified probability would involve an element of consensus rather than just an agent's subjective belief.

Naturally this raises questions regarding the ethics of belief, and such questions go beyond the scope of this paper, but theoretically a set of standards could be made to be reasonably robust in light of good reason-based evidence, in the way that Buchanan and Keohane argued for by means of institutional accountability. In the same way, this could be applied as an objection to Crawford's criticism of a doctrine of prevention. Such a doctrine could rely on justified probability for preventive action in the same way that Crawford would presumably advocate for fulfilling her third criterion of pre-emption, and if this is the case, there is no reason to suppose that preventive war doctrines lead to a Hobbesian state of affairs.

Tied into this is on what basis would Crawford consider a judgement to be made about the probable success of a military attack. If it is on intelligence of the enemy's weaponry and arsenal, then it remains to be seen how one can be sure they have the required amount of detail needed to make such a decision. The second condition requires that a threat be manifest and imminent within weeks, but what if there is a real threat kept secret? The epistemic demands of Crawford's four conditions, when considered in the international environment today, are analogous to those which would be required in a preventive doctrine, and as such the epistemological distinction that is present in the conventional approach to war collapses when confronted with the modern paradigm of war. It is thus my claim that if last resort can be used as justification for pre-emptive war in the conventional application of the just war theory, then in a theory that is brought into the 21st century, such a justification extends to the concept of preventive war too.

Conclusion

Throughout this essay I have tried to demonstrate that because the nature of war is a changing process, the moral principles guiding the decision to call a war "just" must change too, in order to remain relevant and applicable. In recognising that advanced weapons are at a point in which a strike can be launched quickly, precisely, and with little prior warning, it indicated that a last resort condition no longer had the scope to accomplish its original aim, that is, deducing that a point in time is a last resort and that alternative means of de-escalation cannot always be applied. Moreover, the increasing role that non-state actors play in bellicose actions have rendered the last resort condition incongruent with the concept of martyrdom. The last resort is the sole resort in dealing with groups defined by violence.

What's more, such is the changing nature of war that it challenges the conventional distinctions that can be seen as a just cause for war. The dichotomy of pre-emptive attacks and preventive war, which has been argued is apparent in war theory literature, breaks down when considered through the spectrum of the modern war environment. That a case can be made for preventive war to be incorporated under a consequentialist conception of self-defence, and that self-defensive actions are generally regarded as a just cause for war, demonstrates this, and the traditional distinction regarding pre-emptive strikes as permissible and preventive war as impermissible appears to come together as the epistemic structure of the two doctrines become increasingly similar. As such, there seems to be a case that in some circumstances a preventive war doctrine should be regarded as permissible.

Of course, there are limitations to the argument. I don't offer specific suggestions to serve as a legal basis in international law, but hope to make manifest the restrictive nature that the just war theory currently contains, and why it should be reconsidered. Furthermore, there is no investigation into whether there should be a difference in application of a preventive war doctrine in cases of what would be considered conventional war between two states, and the contrasting issue of a war against non-state actors. Neither of these detract however from the overall conception of preventive war, which I have attempted to argue is justifiable in certain situations.

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