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PREVENTIVE INTERVENTION

Intervention (short for military intervention) is the use of military force by one state (the intervener) against another (the target state) when the force is not in reaction to military aggression by the target state.¹ Intervention is not defense against an occurring military attack. This makes intervention morally problematic because *jus ad bellum* is usually understood to proscribe cross-border use of military force in cases other than defense against an occurring military attack. This chapter is about the moral status of *preventive* intervention, one form of intervention.²

In launching a preventive intervention, the intervener seeks to prevent an expected future aggression against it by the target state.³ Preventive intervention is not a response to actual aggression, but to aggression expected at some indefinite time in the future.⁴ Generally, the intervener expects future aggression because it perceives the target state as an opponent whose military power is on the rise relative to the intervener. According to Jack Levy, “The preventive motivation for war arises from the perception that one’s military power and potential are declining relative to that of a rising adversary, and from the fear of the consequences of that decline.”⁵ Those consequences include, in the intervener’s view, the opponent’s future aggression. The aggression is expected because the intervener believes that the opponent will over time increase its relative military strength. The aggression is not expected immediately due to the time it will take the opponent to build its military strength. Preventive intervention is based on the intervener’s calculation that it is better to fight now, when it has a military advantage, rather than later, when it does not. Better a small war in which it has the advantage now than a large war when it does not later.

Preventive intervention is often connected with the idea that states exist in a balance of power.⁶ A state’s expected rise in military power relative to an opponent would upset the balance and perhaps lead that state to aggress against the opponent when it has achieved a military advantage. Preventive intervention is a state’s attempt to maintain an existing balance that an opponent’s expected rise threatens to upset. Moreover, fear of such loss may be the spur for more acts of aggression than the

desire for gain. In other words, most acts of aggression may be cases of preventive intervention, undertaken not for positive gain or conquest, but to avoid an expected loss.⁷

Preventive intervention may seem to be a form of self-defense, a kind of anticipatory or proactive self-defense, rather than aggression, given that it is undertaken to avoid aggression, albeit expected aggression. But the question is whether it is defensive in a morally relevant sense. To say that military action is defensive in this sense is to offer a *prima facie* moral justification for it, given the just cause criterion of *jus ad bellum*. It would be question begging at this point to regard preventive intervention as defense in this sense, because its moral status is precisely what is in question. One way to ask the question whether preventive intervention is ever morally justified is to ask whether it is sometimes an instance of defense in the morally relevant sense. David Luban points out that arguments for the moral justifiability of preventive intervention “in effect assimilate preventive war to the paradigm of self-defense.”⁸

Any discussion of the moral justifiability of preventive intervention should begin by drawing the distinction between prevention and preemption. Preemption is acting militarily to thwart an attack that has, in some sense, already begun, but has not yet had its initial impact. A common way of glossing the distinction is to characterize preemption as a response to an *imminent* attack, one that is about to happen. The expected aggression to which prevention is a response is not yet imminent. But it is not immediately clear why this temporal difference makes a moral difference. If preemption is a response to an attack that has already begun, a better way to capture the difference between preemption and prevention would be to refer to the attack to which preemption is a response as *incipient*, as having already begun.⁹ In contrast, the attack to which prevention is a response has yet to begin. Replacing the idea of imminence with that of incipience makes clear the moral basis of the distinction between preemption and prevention. The attacks to which both preemption and prevention are responses may both be intended, but only in the case of preemption has the attacker put its intention into action. There is normally thought to be an important moral distinction between merely intending to do some action in the future and beginning to perform an intended action.

The current relevance of the topic of preventive intervention is that the recently adopted US military policy is based on the view that some new international circumstances (revealed by the terrorist attacks of 9/11) have rendered preventive intervention sometimes morally justified. These new circumstances include the existence of international networks of

terrorists independent of states and bent on civilian attacks in developed states, the fact that these terrorists may be able to get their hands on weapons of mass destruction (WMD) and would have no compunction against using them, and the reality that some states (so-called rogue states) may themselves be prepared to attack developed states with WMD or help terrorists acquire WMD. In response to these new circumstances, the Bush administration has adopted a strategy of preventive intervention: "As a matter of common sense and self-defense, America will act against such emerging threats before they are fully formed."¹⁰ The Iraq War begun in 2003 was the first preventive intervention under the new strategy.¹¹ Under this strategy, other preventive interventions may be undertaken in the future, so moral clarity about this form of military action is important.

My discussion will focus on preventive intervention pursued unilaterally, undertaken by a single state on its own initiative without any formal international institutional sanction.¹² In addition, I will understand preventive intervention as having the goal of replacing the government of the target state ("regime change"). These features fits the traditional understanding of preventive intervention as well as the current US policy. But at the end, I will consider the implications of the discussion for alternative forms of preventive intervention, namely, those pursued in a formally multilateral way and those that may involve isolated military strikes rather than an effort to overthrow a regime.

1. JUST WAR THEORY AND PREVENTIVE INTERVENTION

To begin a consideration of the moral justifiability of preventive intervention, consider how it fares in terms of *jus ad bellum*, which consists of a set of criteria, each one of which must be satisfied for a war to be morally justified. I will focus on two of these criteria, just cause and proportionality. Because the *jus ad bellum* criteria are necessary conditions, if preventive intervention fails to satisfy either of these, it fails to be morally justified.¹³ Just cause is usually understood to be largely a deontological matter, concerning whether a state has a right to use military force against another state. In contrast, proportionality is largely a consequentialist matter, concerning whether a proposed war would produce a balance of beneficial over harmful consequences. To put it roughly, preventive intervention will be justified only if a state has a right to use such military force and its use will produce more benefit than harm. I will argue that preventive intervention satisfies neither of these conditions.

2. JUST CAUSE: DEONTOLOGICAL CONSIDERATIONS

In *jus ad bellum*, deontological considerations of just cause are closely tied to the notion of sovereignty and to arguments based on a domestic analogy. States in international society are, it is argued, relevantly like individuals in domestic society in that the moral import of individual autonomy is mirrored by the moral import of national sovereignty. So, for example, as preventive “punishment” or detention of individuals in domestic society is contrary to their autonomy and morally wrong, preventive intervention is contrary to a state’s sovereignty and morally wrong.¹⁴ As it is morally wrong to use force against individuals based not on anything they have done, but on what they are expected to do, it is morally wrong to initiate war against a state based not on anything it has done, but on what it is expected to do. Preventive intervention is wrong because it interferes with activities that are within a state’s proper jurisdiction,¹⁵ as coercive interference with individuals is wrong when it impinges on activities that are within their sphere of free action. As individuals have rights that preventive coercion would violate, states have rights which preventive intervention would violate. Thus, intervening preventively cannot be a just cause for war.

The domestic legal world also provides an analogue showing that preemption is acceptable but prevention is not. Consider the crimes of conspiracy or attempt. While defendants can be liable for these because of what they intend, but have yet to do, making the crimes seem like analogues of prevention, liability in these cases requires that defendants have taken some action that puts the intention into motion. In the absence of this incipient action, there is no legal liability. Thus, in fact, such crimes analogically support the acceptability of preemption and the unacceptability of prevention. A critic of this argument might claim that the requirement for incipient action in the case of conspiracy or attempt is simply an evidentiary matter.¹⁶ The intention is all that is necessary for legal liability, the action serving only the practical need for adequate evidence of the intention. *Actus reus* is merely evidence of *mens rea*, which alone is the source of the liability. If we could have reliable evidence of an intention in the absence of action, the intention alone would be sufficient. But intuitively, it seems that an *actus reus* is a necessary condition for legal liability and not simply a practical evidentiary requirement. Our aversion to punishing “thought crimes” seems to rest not simply on the practical difficulty of determining intent or the desire to avoid giving the state such sweeping power, but also on the importance of giving people a chance to conform their behavior to the law, based on a recognition that people can exercise self-control, can change their minds.

But a deeper objection to these arguments by analogy is that there is an important relevant difference between the two spheres, namely, that the international sphere is a state of nature, with no governing authority.¹⁷ There is no international police to enforce the law. Can the analogical arguments survive this difference? Can claims about what legal authority is allowed to do to those under it imply anything about what states are allowed to do to each other? The answer is yes, if we assume that the law is based on moral considerations, that it is morally wrong to impose harm on someone, whatever his or her intentions, who has taken no action to harm others. If the law is based on independent moral considerations, then these same considerations can be applied in the international sphere, even though it is not under legal authority. Legal authority does not determine what is right, but, if it is legitimate, simply enforces what is right.

But the objection can be put in a different way. In the domestic case, it seems as wrong for an individual to use preventive coercion against another individual as it does for the state to do so. Perhaps the reason that person-on-person preventive coercion is wrong, however, is that the law has taken individuals out of a state of nature. Because aggressors risk being punished by the law, interpersonal aggression is not common (as it presumably would be in a state of nature). This leads to the idea that, if individuals were in a state of nature, as nations are, the greater reasonable expectation of aggression would make preventive coercion acceptable. Assuming that this is the case, and taking person-on-person preventive coercion as the domestic analogue of preventive intervention, the argument by analogy breaks down. Because the domestic sphere is in fact not in a state of nature, this is a relevant difference between the analogues, and the analogies are thus faulty. But the assumption itself seems faulty. Person-on-person preventive coercion is not wrong (or not wrong only) because the domestic sphere is not in a state of nature, but because individuals have moral rights against preventive coercion. The fact that nations are in a state of nature does not show that they do not also have such a right.

But there is a deontological argument against preventive intervention that does not rely on this domestic analogy because it originates at the *jus in bello* rather than the *jus ad bellum* level. Normally, these two levels are separate and independent, an idea referred to as the *independence thesis*.¹⁸ According to this thesis, a just war can be fought unjustly, and an unjust war can be fought justly, so there is no room for appealing to *jus in bello* considerations when making a case at the *jus ad bellum* level, and vice versa. But the independence thesis seems to break down in one

sort of instance at least: if a war cannot be fought justly, then it cannot be just to wage it. Jeff McMahan notes, “The absence of legitimate targets seems to imply the absence of a just cause.”¹⁹ The argument then is that a preventive intervention cannot be fought justly because those who would be the targets of the attack (the opponent’s military forces) have taken no action to harm the intervener. Even if intention alone were sufficient for liability, the fact that the target state’s leadership intended future aggression would not entail that the members of its military had such an intention. Michael Walzer notes that there is a “moral necessity of rejecting any attack that is merely preventive in character” because that attack would make “war upon soldiers who were themselves engaged in entirely legitimate (nonthreatening) activities.”²⁰

3. PROPORTIONALITY: CONSEQUENTIALIST CONSIDERATIONS

The proportionality criterion also poses problems for the justifiability of preventive intervention. Mary Ellen O’Connell notes: “Today states measure proportionality against attacks that have occurred or are planned. What measure can be used to assess proportionality against possible attack?”²¹ McMahan offers a related point: “Because the magnitude of the threat has to be discounted for probability, it is also difficult to establish that the resort to war could be proportionate.”²² It is hard to know how large-scale the expected aggression would be, and it is hard to know its likelihood, probabilities that would have to figure as a discount into determining how much harm the attack would do. As a result it is difficult to show that the preventive intervention would satisfy the proportionality criterion.

But even if we knew the dimensions and likelihood of the expected aggression, and hence could calculate the requirement of proportionality with the appropriate discount, it is unlikely that an effective preventive intervention would be proportionate. To be effective, a preventive intervention is likely to require “regime change” because the danger of the expected aggression lies in the intentions of those in power. The leaders must be removed to remove the danger. The alternative of destroying the target state’s capacity for aggression, while leaving the regime in place, may be very difficult, and, in any case, would likely be only a temporary measure since the capacity can be rebuilt. But, regime change entails the goal of unconditional surrender. Walzer argues that unconditional surrender is an illegitimate war aim, except with a morally horrendous regime like Nazi Germany.²³ When unconditional surrender is

an illegitimate war aim, the harm imposed in achieving it would likely be disproportionate to the good of the intervention.

In addition, preventive intervention is very likely to violate another *jus ad bellum* criterion closely related to proportionality. The criterion of last resort requires that war be waged only if there are no alternative means of achieving the goals of the war. Last resort is related to proportionality because it is also based on a consequentialist concern to limit harm, given that an alternative means of achieving the goals would produce less overall harm. But it is unlikely that a preventive intervention would be a last resort. Because the expected aggression is in the future, there would usually be other resorts, alternatives to war such as negotiations, alliance formation, strengthening deterrence, and so forth. Given such alternatives, preventive intervention, it seems, could not be a matter of military necessity. A preventive intervention is always a war of choice.

With these initial difficulties with proportionality registered, let us look in more detail at the consequentialist case regarding preventive intervention. For the consequentialist case, the real evil of war is not the violation of sovereignty, as it is for the deontological case, but the suffering war imposes on individuals.²⁴ In examining the consequentialist case, I will consider, first, the consequences of preventive intervention on the belligerents (what I call the direct consequences) and, second, the consequences of preventive intervention on the international system as a whole (what I call the indirect consequences).

A preventive intervention occurs when the intervener believes that the opponent is growing in military power and will engage in aggression when it is stronger. If the intervener's beliefs are true, then preventive intervention now will likely lead to a smaller war than the one otherwise expected later because the target state is now weaker militarily. (It is also, of course, a war the intervener is more likely to win.) If the war is smaller, the overall suffering will be less. This argument, call it the *pro argument*, is the main consequentialist case for preventive intervention. Of course, what is foremost for the intervener is that the preventive intervention will be easier to win than a later war, and this may carry some consequentialist weight depending on the nature of the two regimes and the values they represent. But the principal consequentialist advantage alleged for preventive intervention is that it is, in terms of overall human suffering, the lesser of two evils. This is, however, at best a partial argument. It cannot by itself show that the preventive intervention satisfies the proportionality criterion because it considers only relative amounts of harm, ignoring whether the benefits exceed the harms.

In any case, in examining the pro argument, we must consider *expected* consequences, that is, possible consequences discounted by the likelihood of their occurrence. This leads to one of the strongest consequentialist arguments against war in general, namely, that in war, the harms are certain to occur, while the benefits are speculative. The benefits must be more or less discounted. This makes the weakness of the pro argument apparent. The expected benefit of a preventive intervention is the avoidance of a more destructive war, but it is less than certain that this war would occur in the absence of the intervention.²⁵ While the benefits of the intervention undiscounted may be greater than the harms, the benefits are generally subject to steep discounting. Potential interveners often speak of the “inevitability” of the opponent’s future aggression, should they not intervene.²⁶ But this is a bald attempt to deny both the speculative nature of the prediction of future aggression and the resulting need to discount the alleged benefits of the intervention. Richard Betts notes: “It is almost never possible to know with enough certainty that war is inevitable . . . to warrant the certain costs and risks of starting it.” He also notes that “briefs made for preventive war in the past have proved terribly wrong.”²⁷

There are clear reasons why interveners tend to overstate the likelihood of their opponent’s future aggression. First, states have a tendency to assume malign intentions on the part of their opponents.²⁸ While there may be some prudential value in a tendency to plan on the basis of a worst-case scenario, doing so leads to an inflated perception of likelihoods of hostile action. Related to this is what Chris Brown calls the “chimera of absolute security.” States tend to seek to eliminate all threats to their security, and this can lead states to frequent preventive interventions, “to an endless series of wars to end all wars.”²⁹ Second, judgments of an opponent’s future aggression tend, as Luban notes, to be burdened and infirm.³⁰ Judgments are burdened when they are about matters where there is reasonable disagreement and infirm when they are about matters on which the judges are seldom rational. A state’s judgments of an opponent’s future behavior toward it have both of these features.

Thus preventive interventions are less likely to be acceptable on consequentialist grounds than they appear to the intervener. A preventive intervention is likely to make things worse for the belligerents together and for each of them separately. So, we have Bismarck’s quip that “preventive war is like suicide from fear of death.”³¹ This argument does not show that every preventive intervention is unjustified on consequentialist grounds. But the general consequentialist case against preventive interventions can be strengthened by considering their indirect consequences, their general effects on international order.

Preventive interventions have consequences not only for the belligerents, but also for the international system. Even if some particular preventive intervention were to have positive direct consequences, these would likely be outweighed by its negative indirect consequences. The principal indirect consequence is that preventive interventions lower the threshold for the use of force, increasing the frequency of war. Preventive interventions expand the conditions under which the use of force is seen as appropriate, leading to “innumerable and fruitless wars.”³² There are three overlapping mechanisms to explain this. Preventive interventions lead to an increase in the number of wars through (1) the precedent effect and (2) the use of the pretext argument, and this greater risk of war leads to (3) greater international instability, the source of a further increase in the risk of war.

The precedent effect is the tendency for one preventive intervention to lead to others. If state X can get away with it, thinks state Y, why can't I? But it is not simply a matter of states' copying each other or their believing that fairness allows them to do something other states have done, though this is important. A state's preventive intervention tends to reduce the costs of other states' following suit by reducing the severity of negative international reaction. States that want to engage in preventive intervention are sometimes held back by the expected negative reaction of the international community. But when other states have undertaken preventive interventions, the severity of this reaction is lessened, thereby decreasing the perceived costs. While preventive interventions by any state would have this effect, those by the United States, as the central international player, would have special potency in this regard. O'Connell argues that preventive intervention by the United States “would provide legal justification for Pakistan to attack India, for Iran to attack Iraq, for Russia to attack Georgia, for Azerbaijan to attack Armenia, for North Korea to attack South Korea, and so on.”³³ There would be no moral problem with the precedent effect, if all or most preventive interventions had direct positive consequences. But the argument above implies that most, at least, do not.

The pretext argument is an additional, related mechanism by which precedents of preventive intervention tend to increase the number of such wars. States sometimes would like to engage in aggression for positive gain, not for preventive purposes, but are held back by the perceived costs of the negative reaction of the international community. This reaction is lessened to the extent that aggressive states can offer a rationale for their aggression that other states may accept as legitimate. With the precedent of preventive interventions, that rationale becomes available as a pretext for aggressions that are not preventive.

The precedent effect and the use of the pretext argument show how preventive interventions increase the risk of war. The greater the risk of war, the less stability the international system has, and, in a vicious cycle, this increases the risk of war further. The source of the instability is the undermining of deterrence. Deterrence is the main mechanism of restraint on war, and an increase in the risk of war undermines deterrence. Successful deterrence requires not only that states expect that their aggression would be met by retaliation, but also that their restraint or nonaggression would leave them free of attack. If aggression, whether or not preventive, is more frequent, the latter requirement is not satisfied. Why should states restrain themselves militarily if they may be attacked by their opponents whether they restrain themselves or not? Consider two military opponents. If neither is likely to aggress against the other, a state of deterrence exists between them and war is unlikely. But if aggression by one against the other becomes more likely, because preventive intervention is more common, each state may come to fear the other's aggression and so be tempted itself to engage in preventive intervention. There would exist between them "a reciprocal fear of surprise attack," which would make war more likely.³⁴ In short, preventive interventions create international instability by weakening deterrence, thereby increasing the likelihood of war.

Thus, there are two mutually supportive consequentialist arguments against preventive intervention. First, a focus on the direct consequences of preventive intervention shows that because states have difficulties predicting their opponents' future aggression and a tendency to overestimate the risk of that aggression, preventive interventions are unlikely to have the consequentialist advantages they are thought to have. Rather than try to determine if some particular preventive intervention, contrary to this tendency, is consequentially justified, it is better, as Walzer puts it, to "fall back upon" a rule not to intervene.³⁵ For, as Luban suggests, "everyone might be better off on consequentialist grounds if no one undertook the calculation" needed to justify preventive intervention in particular cases. This supports "the importance of a no-first-use-of-force rule for war prevention."³⁶ Instead of following a permissive rule allowing preventive intervention when certain conditions are satisfied, states should follow a prohibitory rule outlawing all preventive intervention. The second argument, relying on indirect consequences, supports the prohibitory rule because it strengthens the likelihood that the rule will be followed, and so increases its beneficial consequences. The more the rule is followed in the present, the more likely it is to be followed in the future.

Together, these considerations of the two criteria, just cause and proportionality, and the deontological and consequentialist factors they involve, provide a strong case that preventive intervention is seldom if ever justified, and that there should be an international rule or norm prohibiting it. Because, in just war theory, both criteria must be satisfied for a war to be justified, the argument against preventive intervention would still stand even if either of the two lines of argument were mistaken. But there is one kind of case where military action might be justified even if the just cause criterion were not satisfied. Some might argue that if the consequentialist stakes were high enough, deontological prohibitions may be ignored.³⁷ This brings us to what I referred to earlier as the new circumstances. Is the new kind of danger facing the United States and other developed nations of such a nature and magnitude that it implies that preventive intervention either may satisfy deontological constraints or may have a sufficient consequentialist advantage to override the deontological objections?

4. NEW CIRCUMSTANCES

Do our new circumstances, the risk of attack with WMD by terrorists or rogue states, alter the conclusion of the argument so far? The deontological argument against preventive intervention appears to remain intact. The inadequacy of mere intention for liability shows preventive intervention unjustified whether under the old or new circumstances. In the absence of an incipient action, military attack would still be undertaken without right.

But things may be different with the consequentialist argument. The new circumstances change the consequentialist calculations because, given the potential availability of WMDs, the potential targets of terrorists or rogue states aggression are now at greater risk of devastating attack. Their military inaction in the face of expected aggression now carries more of a risk, which strengthens the pro argument. But not, it seems, enough. The direct consequences of preventive intervention may now sometimes be more favorable than before, but it does not follow, given the earlier arguments, that they are likely to be overall positive.³⁸ Even less does it follow that the overall consequences of preventive intervention, including the indirect consequences, now favor the action. The tendency of preventive interventions to increase the number of wars by fostering a permissive international norm and creating greater international instability remains a powerful obstacle to any claim that preventive intervention would have overall consequentialist advantage. Even less does it

follow that there could be sufficient consequentialist benefits from preventive intervention to override the deontological objections.

Finally, defenders of preventive intervention might respond that even if, under the new circumstances, preventive intervention, as traditionally understood, is not morally justified, there are alternative, nontraditional forms of preventive intervention that may avoid the moral objections. The traditional idea of preventive intervention, I have said, is unilateral and involves regime change. But preventive intervention need not have these features, and, as a result, may satisfy the just cause and proportionality criteria. First, there may be *preventive strikes*, which are forms of preventive intervention that do not have the goal of regime change. Preventive strikes are aimed at the capacity for aggression, rather than at the regime that embodies the intention of the expected aggression. An example would be the 1981 Israeli attack on the Iraqi nuclear reactor at Osirak. Second, there may be genuinely multilateral preventive interventions, which are those undertaken and/or formally authorized by a recognized international organization. The United States sought to make its attack on Iraq multilateral in this sense by seeking UN approval, but in the face of UN refusal, it went ahead unilaterally.

How to these alternatives fare morally?³⁹ Preventive strikes may be justified deontologically because the right to territorial integrity they violate is less significant than the right of a state to a regime of its own, which is violated in a war for regime change. In addition, preventive strikes may be justified in terms of direct consequences because the harm they directly cause would be less than a war for regime change. The key question is whether preventive strikes are justified when indirect consequences are considered. This would depend on whether they would serve as a precedent for traditional forms of preventive intervention. If so, their contributions to international instability, and so their negative indirect consequences, may be as great as those of traditional forms of preventive intervention. A case needs to be made by supporters of preventive strikes that they would not be such negative consequences.

What about multilateral, internationally authorized preventive interventions? A positive deontological case for such interventions depends on the claim that an intervention under international authorization does not violate the rights of the target state the way that a unilateral intervention does. There may be something to this claim, but on the surface it does not overcome the analogical arguments considered earlier. The UN authorizing preventive intervention against a member state, for example, would be analogous to the law authorizing preventive detention against an individual. The former seems as morally problematic as the

latter. The consequentialist case for multilateral intervention depends on the argument that the sanctioning process of the international authority could involve, through creative institution building, various safeguards that would lessen the likelihood of harmful consequences. The international decision procedures for multilateral interventions could contain restrictions that militate against some of the harmful consequences to which unilateral interventions are prone. One imaginative example is a proposal by Allen Buchanan and Robert Keohane that an internationally authorized preventive intervention would involve the potential intervener receiving approval of an appropriate international body both before and after a proposed intervention.⁴⁰

There is something to be said for from a consequentialist perspective for the positive effects of the international authorizing of interventions, though it is another question whether authorized interventions could yield a great enough level of consequentialist advantage to override the problems that seem to remain for such interventions from the deontological perspective. But let me raise one consequentialist problem for multilateral intervention. The matter, again, comes down to indirect consequences. Would multilateral interventions increase international instability, as unilateral intervention would? Would the existence of the institutional procedures for multilateral intervention act to stop such interventions being taken as precedents for unilateral interventions? The answer seems to depend on the extent to which international authority in general is respected by states. If the general level of respect were high, the precedent effect likely not be a significant factor because states would be constrained from intervening without authorization. But if the general level of respect were low, the precedent effect would likely remain significant. (In addition, if the level of respect were low, it might be infeasible to establish the institutions themselves, given the expected lack of compliance.) At any point in history, the level of respect is a given, something that could be changed only over the long term. It would not, for example, be greatly influenced by efforts to establish the authorizing institutions. The level of respect for international authority seems now to be fairly low, which implies that multilateral interventions would still carry the burden of negative indirect consequences. All things considered, the moral case for preventive intervention has yet to be made.⁴¹

NOTES

1. The general category of intervention refers to coercive interference by one state in the affairs of another, so that there are other forms of intervention besides military intervention, for example, economic pressures or sanctions.

2. Humanitarian intervention is another kind. Humanitarian and preventive intervention, while both forms of military intervention, have quite different moral characteristics, and should not be lumped together. In particular, it may be that humanitarian intervention is an exception to the claim that all justified use military force is defensive, though preventive intervention is not.
3. The expectation to which the preventive intervention is a response can also be of a future nonmilitary form of harm at the hands of the target state, such as economic decline or loss of great-power standing. David Luban suggests that the attack at Pearl Harbor was a preventive intervention launched mainly out of Japan's fear that the United States would in the future increasingly interfere with its economic well-being; see his "Preventive War," *Philosophy & Public Affairs* 32 (3) (Summer, 2004), 235. But I will restrict my discussion of preventive intervention to cases where the intervener's primary motivation is to avoid expected aggression. If any form of preventive intervention is morally justified, it would be this one.
4. Once a preventive intervention meets military resistance, it becomes a preventive war. I will use the terms "prevention" and "preventive intervention" interchangeably.
5. Jack Levy, "Declining Power and the Preventive Motivation for War," *World Politics* 40, no. 1 (October, 1987), pp. 82–107, quotation from p. 87.
6. See Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, 1977), pp. 76–80.
7. See Levy, "Declining Power," pp. 82, 84. Using a domestic analogy, this would be consonant with the psychological observation that individuals value a given amount of utility more if it is something they stand to lose rather than something they stand to gain.
8. Luban, "Preventive War," p. 221.
9. This term is proposed by Yoram Dinstein, *War, Aggression and Self Defense*, 3rd edn (Cambridge: Cambridge University Press, 2001), p. 172.
10. Quotation from the 2002 *National Security Strategy of the United States of America* (<http://www.whitehouse.gov/nsc/pdf>), p. 6. The new policy has been referred to as a strategy of "preemptive war," but it clearly is one of preventive intervention in the traditional sense, as it proposes attacks when the expected aggression is not incipient.
11. The Iraq War is a preventive war because it was begun to in an effort to avoid what was expected to be future aggression by Iraq. In saying the Iraq War is the first war under the new policy, I am treating the Afghanistan War as a case of defense.
12. The Iraq War is not strictly speaking unilateral because it has been undertaken by a "coalition of the willing." But I count it as unilateral because the coalition is informal, not sanctioned by an international organization.
13. Of course, it might be that some preventive interventions satisfy these two conditions while others do not, but, because I consider preventive interventions in general, I develop arguments that preventive intervention is never (or perhaps very seldom) justified.
14. Interestingly, a domestic policy of preventive detention is being advocated because of the new circumstances, just as an international policy of preventive intervention is.
15. See Luban, "Preventive War," p. 213.
16. This is argued by Jeff McMahan, "Preventive War and the Killing of the Innocent," in David Rodin and Richard Sorabji (eds), *The Ethics of War: Shared Problems in Different Traditions* (Aldershot, UK: Ashgate Publishing, 2006), pp. 169–190, esp. p. 184.
17. See, for example, McMahan, "Preventive War," p. 173.

18. Walzer, *Just and Unjust Wars*, p. 21.
19. McMahan, "Preventive War," p. 178.
20. Walzer, *Just and Unjust Wars*, p. 80.
21. Mary Ellen O'Connell, "The Myth of Preemptive Self-Defense," The American Society of International Law Task Force on Terrorism (August, 2002), p. 19.
22. McMahan, "Preventive War," p. 172.
23. Walzer, *Just and Unjust Wars*, pp. 111–117.
24. Luban, "Preventive War," p. 218.
25. This is especially the case given the other preventive measures the potential intervener can take, the other resorts that make preventive intervention not the last, as discussed earlier.
26. Levy, "Declining Power," p. 98.
27. Richard Betts, "Striking First – A History of Thankfully Lost Opportunities," *Ethics and International Affairs* 17 (1) (2003), p. 18, and Betts, "Suicide from Fear of Death," *Foreign Affairs* 82, no. 1 (January/February, 2003), p. 40.
28. Walzer, *Just and Unjust Wars*, p. 77.
29. Chris Brown, "Self Defense in an Imperfect World," *Ethics and International Affairs* 17 (1) (Winter, 2003), 5.
30. Luban, "Preventive War," p. 227.
31. Levy, "Declining Power," p. 103.
32. Walzer, *Just and Unjust Wars*, p. 77, using a phrase from Edmund Burke.
33. O'Connell, "The Myth of Preemptive Self-Defense," p. 19.
34. See Betts, "Striking First," p. 19, and Luban, "Preventive War," pp. 227–228.
35. Walzer, *Just and Unjust Wars*, p. 77.
36. Luban, "Preventive War," pp. 227, 209.
37. This idea is similar to Walzer's notion of supreme emergency, though his doctrine operates at the *jus in bello* level rather than the *jus ad bellum* level. See *Just and Unjust Wars*, pp. 251–268.
38. The outcome of the 2003 Iraq War anecdotally supports this.
39. I can here provide only the briefest account of the alternative forms of preventive intervention.
40. See Allan Buchanan and Robert Keohane, "Preventive Force: A Cosmopolitan Institutional Perspective," *Ethics and International Affairs* 18 (1) (2004), 1–22. I offer a critique of their proposal in "A Moral Critique of the Cosmopolitan Institutional Proposal," *Ethics and International Affairs* 19 (2) (2005), 99–107.
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