“PRE-EMPTIVE VERSUS PREVENTIVE WAR”
(EVOLUTION, LEGITIMATY AND IMPLICATIONS OF CONCEPT)

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Abstract: The present paper clarifies the meaning of preemption and distinguishes it from prevention and precaution. It critically reviews the principal charges leveled against preventive warfare and uses that analysis to provide at least the bare bones of strategic theory, more strictly of an alternative to theory relevant to such warfare.

Preemption is not controversial; legally, morally, or strategically. To preempt means to strike first (or attempt to do so) in the face of an attack that is either already underway or is very credibly imminent. The decision for war has been taken by the enemy. The victim or target state can try to disrupt the unfolding assault, or may elect to receive the attack before reacting. In truth, military preemption will not always be feasible.

The preventive war refers to the option of shooting on suspicion. In an age of weapons of mass destruction (WMD), it could be too late to shoot if one waits for suspicion to be verified by hostile behavior. Contrary to the impression one might derive from the scale and intensity of the legal debate, it happens to be the case that there really is no legal issue about this subject. International law, in the form of the United Nations Charter, recognizes the inherent right of self defense by states, and it does not oblige a victim state to wait passively to be struck by an aggressor, although it appears to do so—it is a matter of interpretation. In short, preventive action by way of anticipatory self-defense is legal, or legal enough. Understandably, this permissive interpretation of the license granted by the right of self-defense is open to criticism. In effect, it means that there is no legal constraint on a state’s right to resort to force.

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