

vicissitudes (nor deny us the benefits!) of periodic business cycle swings.

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Striking First: Preemption and Prevention in International Conflict

Michael Doyle

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In this concise book, lead author Michael Doyle and three distinguished commentators wrestle with one key question: “Under what circumstances is preventive war justified?”

The question itself is hardly revolutionary; for several centuries, scholars have attempted to differentiate preemptive wars—those launched in anticipation of an imminent attack—from preventive wars—launched before a particular threat materializes. The former are generally justified as self-defense forms; the latter historically have not been.

In the past decade, however, the world’s sole superpower, the United States, has launched at least two wars—against Serbia in 1999 and Iraq in 2003—that did not meet the accepted criteria of preemption. Not surprisingly, these two wars, in particular, have prompted many scholars to ask whether our existing norms against preventive wars have been overcome by events. More provocatively, in a world where nonstate actors appear to pose a greater threat to peace and security than do states, do the rules designed to constrain states need to be revisited? Is there too little war in the world, or too much? Do states resort to war too frequently, or not often enough? Doyle’s book is a useful discussion of these issues, but it focuses too much on legalistic rationales for preventive war without contemplating its limited utility in the first place.

Doyle, the Harold Brown Professor of International Affairs, Law, and Political Science at Columbia University, developed the book from a series of lectures given at Princeton in November 2006. He begins with the *Caroline* incident of 1837, an attack on an American ship along the U.S.-Canadian border that helped define international standards governing preemption. Doyle reviews the particulars of

the case, in which a group of Canadian militiamen under the command of a British Royal Navy Commander destroyed the American steamer *Caroline*, which had been leased to a group of Canadian separatists. The militiamen had expected to find it berthed at an island on the British-Canadian side of the border, but they ventured into U.S. territory and seized the ship and several rebels at an American village, Ft. Schlosser. Reports of casualties varied, but the end result was never disputed: The Canadian irregulars set fire to the *Caroline* and pushed her over Niagara Falls.

U.S. officials complained bitterly that the Canadians (and, by implication, the British) had acted unjustly. In the course of a series of diplomatic notes, Secretary of State Daniel Webster set forth four criteria that had to be met in order for a preemptive attack to be considered justified. Quoting from Webster, Doyle explains that the “attack had to be: (1) ‘overwhelming’ in its necessity; (2) leaving ‘no choice of means’; (3) facing so imminent a threat that there is ‘no moment for deliberation’; and (4) proportional” (p. 12).

Doyle contends that the case “is a curiously inapt test for preemptive self-defense” (p. 11) in the modern era. His more interesting observation is that “even the *Caroline* incident itself did not meet the standards for which the case has become famous. The *Caroline* rules were instead constructed to assert American sovereignty” (p. 14).

Be that as it may, the *Caroline* rules have become widely accepted. Thus, when Doyle concludes that the “*Caroline* standard is too extreme,” and that “the principles . . . do not leave enough time for states to protect their legitimate interests in self-defense” (p. 15), he is in effect proposing a very radical change to existing norms.

Doyle appreciates this, noting, for example, that “subjective and abstract standards of prevention are . . . much too likely to be self-serving, promoting narrow partisan advantages” (p. 29). Accordingly, Doyle sets out “four standards for anticipatory self-defense” that would avoid such problems: “*Lethality* identifies the likely loss of life if the threat is not eliminated; *Likelihood* assesses the probability that the threat will occur; *Legitimacy* covers the traditional just war criteria of proportionality, necessity, and deliberativeness of proposed responses; and *Legality*” (p. 46).

Conspicuously absent is any consideration of whether procedural or institutional criteria have been met. The U.S. Constitution stipulates that Congress, not the Executive, possesses the power to take the United States to war. Beyond a brief discussion of the quality of

deliberations within the executive branch—contrasting, for example, the Cuban Missile Crisis with the decision to go to war against Iraq in 2003—Doyle generally skips over the structural considerations. This is an important oversight, not least because the nation's Founders deemed the vesting of the war powers in Congress as essential to limiting the growth of government and preserving individual liberty. Madison declared it the most important provision in the entire founding document.

Returning to the four criteria that Doyle does stipulate, likelihood is arguably the most important because it frames the “key distinction between preemption and prevention.” As Doyle explains, “Preemption is motivated by wars that are expected to occur imminently; prevention by wars that, if they must be fought, are better fought now than later. Certainty and uncertainty are what connects them” (p. 55).

Doyle inadvertently reveals an important complication when he tests his four principles. In the one concrete prescriptive judgment, Doyle declares that an attack on Iran would not be justified: “The existing level of uncertainty and the likely immense costs of the military action argue for cautious steps, multilateral authorization, and an initiative limited to sanctions targeted narrowly on military capacity and the governing regime” (pp. 92–93).

Cost is crucial, because it takes into account the likelihood that preventive action will succeed. It presumes that a war is better fought now than later, in other words that it is the *preferred* course of action relative to other actions that might be taken. An assessment of likely costs, meaning risks, is a key factor in weighing the alternatives.

It could be argued that in an era of transnational threats and weapons of mass destruction we need not be absolutely certain, but merely reasonably confident, that a threat will materialize. In such circumstances the costs of action might be outweighed by the costs of inaction. The difficulties that the United States has encountered in Iraq (and to a lesser extent Afghanistan), however, reveal the problems inherent in presuming *a priori* that preventive war will achieve its intended aims and that the gains will not be dwarfed by unintended consequences.

Curiously, none of the three commentators in the volume raises this point. They generally take it for granted that prevention will accomplish its intended ends, and at reasonable cost relative to

acceptable alternative courses of action. The chief concern of the three commentators (Harold Hongju Koh, Richard Tuck, and Jeff McMahan) is in ensuring that a more permissive standard toward the use of force not become a rationale for wars of aggression—in short, that unjust wars not be afforded the patina of legitimacy.

For example, Koh, at the time the Dean of Yale Law School and currently the State Department's top lawyer, stipulates that there should be a meaningful default position against the unwarranted use of force, and that bright-line rules, brighter even than those which Doyle puts forward, are necessary to prevent a frequent recourse to war.

Harvard political theorist Richard Tuck, approaching the question from the perspective of a "Hobbesian skeptic," likewise senses in Doyle's approach an attempt to "leave a space for unilateral action by states, or multilateral action without Security Council sanction," and also favors a tougher standard (p. 125). Meanwhile, Rutgers professor Jeff McMahan finds Doyle's criteria perfectly suitable for "*jus ad bellum*—that is, the set of principles governing the *resort* to war," but argues that "the application of the requirement cannot be restricted just to the resort to war If a war in progress *continues* in the absence of a just cause . . . it ceases to be just, and usually ceases to be permissible" (p. 130). McMahan, therefore, would stipulate a fifth criterion—liability—which holds that military force be directed at those directly implicated in the transgression that the preventive action aims to avert.

Do the commentators' objections have merit? If we were to apply Doyle's criteria to judge the legitimacy or illegitimacy of preventive wars, would they be more or less likely to occur? The current standard goes beyond the *Caroline* rules to include also the UN Charter. Under the charter, any member state has an inherent right to defend itself against armed attack, but all are required to obtain prior approval from the UN Security Council for anything beyond pre-emption.

In fact, most genuinely preemptive wars are not particularly controversial. On a number of occasions, the United Nations has extended *ex post facto* legitimacy to military actions taken by member states in self-defense. The more contentious cases in recent years, however, have been of the preventive variety, and have fallen into two categories: wars waged when national security interests *are* at stake, and

therefore ostensibly defensive (Iraq would fall in that category); and those launched by a coalition of states not in self-defense but rather to enforce international human rights standards (for example, NATO in Bosnia and later Kosovo). In both of these cases, the attacking states deliberately circumvented the UN Security Council, knowing that one or more of the veto-wielding P5 members would have denied the request for prior authorization.

Initially, Doyle implies that the Security Council standard is too restrictive because “the council has in numerous instances . . . failed to authorize the use of force when it was arguably justified” (p. 33). In support of this claim, he cites just two instances, Kosovo and Rwanda. Thus, Doyle’s proposed revisions to the preventive war standard can be interpreted as a bid to lower the bar for intervention.

In the end, however, Doyle does not advocate a more permissive standard toward *either* preemption or prevention. He concludes that “unilateral anticipatory self-defense should not be judged preauthorized or legal unless it meets the bright-line *Caroline* standards” (p. 154). With respect to prevention, he affirms the principles within the UN Charter. “Despite the horrendous failures” to intervene in Somalia and Rwanda, Doyle explains, “the multilateral system has a positive record of facilitating peacebuilding that can reduce the worst forms of tyranny” (p. 70). Later, when Doyle expresses concern that the international community might “neglect the commitments to global human dignity that are one of the few great accomplishments of the twentieth century” (p. 152), one might expect him to adopt a more permissive attitude toward humanitarian intervention. Instead, he determines that beyond the few narrowly defined and rare cases of legitimate self-defense “*all* other requests for authorization should always go to the Security Council” (p. 154). He singles out NATO’s decision to attack Serbia in 1999 without Security Council authorization as illegitimate and an unsuitable model for the future. Doyle concludes by linking self-defense and humanitarianism, suggesting that actions by states to avert or halt gross human rights violations in a neighboring or nearby state, and therefore when their own national security interests are also at stake, are more likely to be seen as legitimate. This standard should prove more sustainable than any legalistic refinements according to four or five “bright-line” principles, but that might also prove effective in preserving human rights.

On the surface, then, while Doyle appears to be setting forth a comprehensive and dramatic redefinition of the standards governing anticipatory self-defense, his new standards are not so different from our current ones. But because they are grounded in so thorough a study of the challenges to international peace and security in the modern era, the improvements at the margins produced by this study constitute a very high standard, and should help to reaffirm a broad presumption against preventive war.

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Economic Development and Transition: Thought, Strategy, and Viability

Justin Yifu Lin

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Justin Yifu Lin is senior vice president and chief economist at the World Bank. He is the first Chinese economist to hold those positions. He earned his doctorate in economics at the University of Chicago in 1986 and returned to China the following year—the first Ph.D. economist to return from abroad since the beginning of the reform movement in 1978. At Peking University, he founded the China Center for Economic Research in 1994, and has played an important role in educating a new generation of graduate students and advising top officials. His deep understanding of the institutional framework for a market economy reinforced his support for economic liberalization, which has increased the range of individual choice and allowed millions of Chinese to lift themselves out of poverty.

This is perhaps Lin's most important book. Although it touches on China's development process, it is much broader—providing a theoretical framework for understanding the fundamental determinants of development and the implications of alternative development and transition strategies. The book stems from the author's 2007 Marshall Lectures at Cambridge University. It is well written, tightly argued, and empirically grounded. Although the main body of the book consists of only 96 pages, each of the eight chapters (six of which are 12 pages or less) packs a powerful punch. The author also includes a