

## Preemption History

### Looking Back 64 years: Are We Misusing Our Military Superiority?

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Major wars are most often justified as preemptive by those who wage them . In 1945, following World War II, as a participant framer of the UN Charter, the U.S. led the development of a limit on a nations discretion to use force against another and secured passage of a right of **self** defense only. Only **if** an armed attack against that nation occurs. The words **perceived attack** were disallowed. However, it was finally agreed that (quote) “if the need for forcible reaction is instant, overwhelming, leaving no choice of **means** and no **moment** of deliberation”, under these circumstances international law and the UN can declare **preemptive action** allowable, since then war is certain. Preventive Action is always illegal by international law and by the UN Charter. Our Iraq war **was** ruled Illegal & preventive. Rebaptizing it as preemptive is deceptive.

In Sept. 2001, as it considered how to respond to the terrorists attacks of 9-11, the administration declared a global war on terror. We had been attacked and the world felt we were justified in going after the Terrorists under Bin Ladin in Afghanistan. The World and UN were with us and supportive.

Later, we decided to claim new war powers, and without provocation invading Iraq and dismissing the Geneva Convention as “obsolete” and “quaint.” The U.S. we said would **not** be governed by the international rules of war and **not** by the recommendations of the U.N. It set about reinterpreting fundamental prohibitions on torture and inhuman treatment, as well as conducting an illegal ethnic and religious profiling campaign; claiming that “everything changed after 9-11”. We adopted what we called “The Preemptive Paradigm” - preventing terror by ignoring law and treaties.

On June 1, 2002 President Bush stated at the commencement exercise of West Point, “It is the policy of the U.S. that, “preemptive war or even preventive war may be waged in appropriate circumstances.” On February 10, 2003 Attorney General John Ashcroft stated (quote) “In order to defeat Terrorism, the department of Justice has added a new paradigm to that of prosecution – a paradigm of prevention.”

Our government had just altered the Golden Rule to say “Do Unto Others Before They Do it Unto You” Our latest policy!!! **Our present United States policy!!**

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On Dec 7, 1941 Japan attacked Pearl Harbor. Franklin Roosevelt had been itching to join Great Britain in the war against Germany. He realized the average American was ambivalent on that issue and he wisely aided the allies financially, but did not declare war and begin an intensive war effort until we were attacked in Pearl Harbor. From then on the entire population was behind the war effort. In fact, never before or since have we as

a nation been so united and unanimous in spirit as then. It was a defensive war. The military draft was accepted. Common sense prevailed.

After WWII President Truman used much grace in carrying out a response to some in his administration and the army, especially Gen. Patton who felt sooner or later we would have to attack the Russians or be attacked. Pres Truman said no to that and to the Russian blockade of West Berlin. Russian purpose was to force us to give them all of Berlin to control, instead of only East Berlin. All highway and train access Russia blocked; but rather than carry out attacking Russian troops, as the Military advised, Truman organized a massive cargo airlift for months which nullified the Russian effort. They gave in. Common sense prevailed over the preventive paradigm of war. The policy of containment and deterrence won the **cold war**.

On the heels of World War II we have the Korean War. Two days after Hiroshima, shortly before the Japanese WW II surrender, the Russians under Stalin, **also** declared war on Japan. Russia was very agreeable for a while and signed a UN affidavit saying Korea should be restored autonomy, - as one country. Japanese soldiers still there, had to be transferred back to Japan. The UN agreed and decided that the Soviets should assist the soldiers north of the 38<sup>th</sup> parallel and we those in the south.

The Russians converted the North Korean area into a Communist colony. The UN could not dislodge them despite continuous efforts, so President Truman rather than start a war with Russia, sat back and occupied South Korea, while the UN dickered with north Korea & Russia. After **almost** 5 years, in December 1950 the North Koreans charged across the 38<sup>th</sup> parallel with 100 Russian tanks, Russian artillery, and planes and supervision. They drove our forces down to a thin perimeter at the southern tip of South Korea. At the request of the UN, President Truman ordered General McArthur to conduct a response.

In time Mc Arthur, leading a UN military composed of soldiers from 16 different countries managed to push the North Koreans back into N Korea not only; but up to the border of Manchuria. There 1 million Chinese joined the N Koreans and pushed Mc Arthur back to the 38<sup>th</sup> parallel. At this point McArthur planned to send the air force in to Bomb the Chinese bases in north China and the Navy to blockade and shell the Chinese ports along the coast. He insisted rather than asked. He was popular at the time being considered a Republican candidate for their presidential ticket. President Truman fired him and ordered him back to the states, replacing him with Ridgeway.

Bombing the Chinese bases and their ports, especially since they were in cahoots with Russia was a foolish suggested preventive action. The war stalemated at the 38<sup>th</sup> parallel where it is today. Would war with China and Russia have helped? Today China is a promising situation and a good business associate. Russia is problematic but less so than formerly. South Korea flourishes. N Korea is contained diplomatically, nearly continually but despite the administrations eagerness to attack, war has been averted and North Korea has willingly destroyed its nuclear defense program. Now they threaten to restart their Nuclear program again – more diplomacy -

they are angling for money. They have just requested talks.

In 1962 another experience! Kennedy and Khrushchev came close to a **nuclear** war. Russia feared that the USA, having the superiority in long range missiles was at an advantage. They had no long range nuclear weapons & decided that to place their shorter range nuclear weapons in Cuba was a reasonable alternative. They were welcomed by Fidel Castro who feared another more **serious Bay of Pigs** military attack by the United States. Both Kennedy and Khrushchev settled the event, Kennedy withdrawing the naval blockade and Khrushchev withdrawing the nuclear weapons installed in Cuba after an agreement by which we also pledged never to invade Cuba and to withdraw our nuclear armed fighter planes in Turkey.

Further illustrations of action in the Far East. The French were not a part of the UN forces in Korea due to their constant involvement trying to protect their colonial interests in Indochina. The guerilla bands in Vietnam were revolting. Here too the Russians and Chinese were encouraging and aiding the communist guerillas – similar to Iran helping Iraqi insurgents. From 1945 to 1955 the French fought off the military incursions in Vietnam but after the Chinese and Russians both recognized Ho Chi Minh as the leader of an independent country of Vietnam, the French agreed with the Geneva Convention which said Vietnam should be divided into a North and South section until a plebiscite could be held in July 1956. The North never held an election and the country stayed divided while the Russian and Chinese aid to the North and United States help to the Southern area maintained two separate areas. The South voted but had a very corrupt leader, Diem. Eisenhower said at that time (quote) “If the vote had not been rigged, 80% of the people in the South would have chosen Ho Chi Minh.” Still we supported the South since its government was anti-communist, but we did not then start a preventive war against the North.

The McCarthy era was alive and instead of Weapons of Mass Destruction it was “Communists are expanding and will eventually infiltrate the United States.” The villain now was not Hussein but Ho Chi Minh. Fear prevailed, and instead of a 9-11 it was only fear and a trumped-up incident in the Gulf of Tonkin. The media, with unquestioned government information only, became the cheerleaders for Lyndon Johnson’s fabrication that our innocent patrol boats were fired upon by North Vietnamese. Actually we were in that area intelligence gathering and assisting amongst a fleet of South Vietnamese gunboats. We had been assisting there for several weeks. No one shot at any American boat and the incident he described never took place. The media swallowed the information hook, line and sinker and Congress joined in.

Congress gave Lyndon Johnson a permit to conduct a police action without ever declaring war, and the rest you know --- we lost miserably and lost 58,000 American lives along with one million Vietnamese military. There were also, according to the latest estimates, 4 million civilian Vietnamese killed. What did our preventive action prevent? Today Vietnam is a friendly country. Many Americans vacation there and Ho Chi Minh is seen as having been a friend, closer to us than to Russia. Interestingly, we call it the Vietnam war and the Vietnamese call it the American War.

The Preventive Paradigm infested both parties and has been promoted by both the military community and NeoCons in the administrations. Presidents are confronted with lots of pressure to “do something” when a crisis arises and a wise, non-violent response is unnatural. Often there is a retaliative mood. This is apparent in reviewing events in the Reagan years.

In 1981 the situation in Lebanon became a threat to Israel and to mideast oil. The conditions were very complicated but ostensibly the divided Christian segment was no longer the power, and control was passing to the Muslim majority. Syria became involved trying to establish a peaceful solution which aroused Israel to mistrust their motives and Israel invaded Lebanon. The United States, France, and Italy, as well as Great Britain set up a peace keeping force to keep the lid on as well as to insure a supply of oil. Israel withdrew and a calmer but not serene condition prevailed, while the peace keepers were there. 1500 marines were the American contingent in 1983. Of course the Americans were considered to be just an extension of the Israeli's, and Muslim suicide bombers attacked the Beirut barracks Oct 23, 1983 killing 241 American soldiers. Reagan pledged to target the Sheik Abdullah barracks in Baalbek, Lebanon. It was thought likely Iranian Revolutionary Guards were stationed there. Defense Secretary, Casper Weinberger had better sense and aborted the planned mission. The Peace Keepers withdrew. It was **nearly** another war – a mideast war. .

Reagan's better judgment to go along with his Defense Secretary kept his esteemed image in place and he turned to another obsession – that of the communist global threat.

His anti-communist obsession made him eager to do something about disturbances in Central America --- especially Nicaragua. Daniel Ortega was leading a rebellion against a corrupt Nicaraguan government and Daniel was using communist aid and joining the Sandinista revolt. The Sandinistas were centered in Cuba. Ortega had been elected President of Nicaragua, but a segment of former government agents and military called Contras were attacking the new government positions in Nicaragua as well as in other Central American countries, namely El Salvadore. Reagan had our CIA train and assist this anti-communist group and supplied financing until Congress passed legislation in 1984 to prohibit aid to the Contras.

The Contras were very inhuman and murdered many priests, Nuns, Catholics & anyone who sided with the people and Ortega and Nicaragua had a legally formed government.

When we received a request from Iran to supply them with arms to fight Iraq, Reagan aids saw an opportunity. Covertly Oliver North, of the National Security Council, sold weapons to Iran – strictly forbidden by an established International embargo- and used part of the proceeds to finance the Contras in Nicaragua – in defiance of Congress. We also covertly mined the Harbor of Managua the capitol of Nicaragua.

Reagan was doing this in his own mind to prevent the spread of communism which he judged was more important than obeying the law.

Of course it was discovered and for 3 yrs hearings and trials took place. Despite the fact that Reagan denied any knowledge of what went on he was found guilty by the International Court of Justice but only reprimanded by our courts, and those involved were pardoned by Bush Sr. in the next administration.

This was a prima facie example of how preventive law breaking can be destructive and prevents what? At the present time elections are held regularly in Nicaragua. Ortega was elected president from 1984 to 1990, but was defeated for election in 1996 and 2001. He was reelected for a 6 yr term in Nov 2006. Nicaragua is a democracy.

In contrast, Preventive war proponents who justify unprovoked attacks, point to Israel's 1981 attack on Iraq's nuclear reactor at Osirak. This slowed down Iraq's program but created a much larger danger in the long term. It drove them underground where they went into overdrive to develop Nuclear weapons. Sadaam could do this secretly pretending to the world and the UN that the Israeli's had destroyed his potential. However, he secretly consulted the KGB on how to manage hiding nuclear efforts and released Dr. Jafur from prison to work on developing such weapons. Jafur had been imprisoned for indirectly revealing to the Nuclear Non-proliferation Group his efforts to acquire Plutonium. Saddam's decision to invade Kuwait was the miscalculation that prevented the development of an Iraqi Bomb, not the bomb on the first above ground facility that Israel dropped. Saddam's bomb was a French version ill suited for missiles. After the Gulf War the UN inspections supervised destruction of any remaining nuclear threat, and Saddam paradoxically never attempted revival of Weapons of Mass Destruction programs.

It is most often nearly impossible to distinguish good intelligence from good propaganda. Clinton was not immune to propaganda. The 1998 attacks launched by the Clinton administration against alleged chemical weapons production in the Sudan prevented what? There were no chemical weapons being produced there and we just made a mess and killed a lot of people. The 1993 and 1998 cruise missies we fired to destroy Iraq's Nuclear and Biological as well as Chemical Weapons facilities (which never existed,) were another illustration of our feckless and reckless intelligence available.

Now we come to the latest example of preventive action, a war whose consequences are not as yet completely defined. "The Bush War." Here the Preventive Paradigm not only allowed the initiation of the war but initiated numerous other illegal, immoral and detrimental acts ostensibly to **prevent** terrorist attacks.

International law states that any prisoner taken captive, to the country of the captors, has to be tried in the same fashion as any citizen of that country. So the administration decided that the place to put terrorist prisoners was Guantanamo, where we have a large base and it is in a foreign country. Years after this was practiced, our Supreme Court

ruled that this was illegal and the base in Guantanamo was American, not foreign. Only 8% of the prisoners there had anything to do with al-Qaeda or the Taliban. This did not rule out other places of torture such as Abu Ghraib.

Also, we suspended Habeas Corpus the right by our law and international law, to being told why you were being held and to a hearing. The majority of those held at Guantanamo were held for years without being told why, with no hearing and no attorney. Most had been captured just in an **area** where there was fighting and many were hostages of their own people who sold them to the United States Army because each was awarded a substantial fee for doing so, about \$5,000. One Iraqi person turned in 60 prisoners.

We have established a precedent that **unilateral** rather than community reaction to any conceived threat is justified. Harsh interrogation techniques limit our ability to use evidence in court and put our own soldiers at risk of the same treatment. It also demeans our own interrogators.

If we may not anticipate our enemies and attack them preemptively, what may we do? What alternatives are there?

First: Many of our soldiers represent us as caring helpful and well meaning people, by doing good things one does not expect a soldier to do. Iraqis have demonstrated delight with this. It makes it easier for the government of Iraq and the citizens to believe that we want to be a source for them to establish new infrastructure, and a safe country of their own. If we expand those efforts we can withdraw while they begin to accept us as an asset not as an Imperialistic Occupier. A Colonel McMasters, Commander in Tall Afar, Iraq where he and his troops cleared out Sunni insurgents and then responded to the communities renouncing the Insurgents' inhuman activities by putting his soldiers and the people to repair utilities, electric lines, sewers, & water lines, and establish schools and medical clinics. Trash has been removed. Recently in Anbar Province, Gen Petraeus' area, the Sunni insurgents have rejected el Qaeda and joined USA forces. Gen Petraeus copied McMasters' pattern and got similar results. We not only helped them develop new infrastructure but are paying each of 100,000 Iraqi former enemies \$300 per month to work with us. This is diplomatic help and is effective. Our intelligence has gotten so much better since these things have occurred that it and the populations new anti-violence attitude have reduced insurgents attacks as effectively as more troops. Starting just a few months before the election and scheduled to stop immediately before the election, seems to make one wonder about motivation but it is working. Just two weeks ago the Iraqi government, *using Iraqi funds*, began paying "awakened insurgents" around Baghdad \$300/mo to copy efforts of Tall Afar & Anbar. All of those being paid are Sunni, although the Iraqi government is Shia. The Iraqi government is eager to have us out now and is trying to demonstrate they can handle the situation. Unfortunately there are just as many insurgents and events in the area but now they are in Pakistan and Afghanistan. As yet there is no other reconciliation between Sunni and Shia. Perhaps we could just continue buying our way out of Iraq.

Second: We must become a leader in the United Nations, not a distrusted, self-centered member using the UN only for its own advantage. The UN has its problems but is better than unilateral extralegal executive action. Partnerships promote peace. We must work to improve the U.N., not work to destroy it.

Third: We must cease being another Israel to the Arab countries. We consistently veto any UN Resolutions condemning Israel even though national sentiment does condemn them on numerous Palestinian-Israeli issues. Recently we condoned Israel's preventive bombing of alleged Syrian nuclear efforts. In order to diplomatically solve problems a nation needs to represent fairness to the other party. The Israelis, with our support, need help in changing their image as well as ours. We both need fewer Pit Bulls, more golden Retrievers. Israel is encouraging by choosing Ms Livni as Olmert's replacement for the Prime Ministry.

When fear and power unite, morality is abandoned. This world is fast becoming one economic, and even social, entity and we will have to deal with many we could before ignore. The USA is not going to be the only economic power in the next 25 yrs. The European Union already has a market larger than ours. They also have given considerably more money in humanitarian foreign aid than we have which makes friends. We can accept this and try to promote peace and appreciation for one another or in **FEAR collide** and misuse the military superiority we presently have.

Ultimately, the United States is likely to make more progress towards its fundamental declared goal of promoting freedom and modeling Democracy, by forgoing preventive attacks rather than launching them. Diplomacy and Deterrence have worked far more often than confrontation by attacks. As the Pentagon and Gen. Petraeus say, "We cannot win this war militarily, but diplomatically and politically."

Morally and historically defensive wars are necessary; but preventive wars are illegal, immoral and seldom work.