



"Just War" and Preemption: The Case for Attacking Iraq

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Three basic ethical questions about preemptive military action and the "just war" tradition have emerged in recent weeks, as the debate over U.S. foreign policy, the war against terrorism and the case of Iraq have intensified.

The questions are not easy. The international political situation is fraught with difficulties. And reasonable people can disagree on the prudential options for addressing the threat of an outlaw state with weapons of mass destruction that harbors terrorists and seeks a nuclear weapons capability.

Here are my answers to the key questions of moral principle, based on a quarter century of thinking and writing about the just-war tradition.

Is preemption ever morally justifiable?

Classic just-war thinking identified three kinds of "just cause": defense against an aggression under way, recovery of something wrongfully taken, or punishment for evil.

Modern just-war thinking, reflected in the U.N. Charter, has tended to limit "just cause" to "defense against an aggression under way."

When a vicious regime that has used chemical weapons against its own people and against a neighboring country — a regime that has no concept of the rule of law and that flagrantly violates its international obligations — works feverishly to obtain and deploy further weapons of mass destruction, a compelling moral case can be made that this is a matter of an "aggression under way."

The nature of the regime, which is the crucial factor in the moral analysis, makes that plain. It makes no moral sense to say that the U.S. or the international community can only respond with armed force when an Iraqi missile carrying a weapon of mass destruction has been launched, or is being readied for launch.

There are serious questions of prudence here, of course. At the level of moral principle, however, there may be instances when it is not only right to "go first," but "going first" may be morally obligatory. Iraq may well pose one of those instances.

How can the use of armed force contribute to international order?

President Bush's address at West Point this past June linked the war against terrorism, and possible military action against aggressor states with weapons of mass destruction, to the pursuit of a world order based on justice and freedom. This speech has not been taken seriously enough by the president's critics, who have not grasped the fact that regime change in Iraq would have, as its larger strategic purpose, the creation of the conditions necessary for genuine world order.

There is a great deal of concern in Europe and elsewhere about overriding the presumption of "sovereign immunity" that nation-states traditionally enjoy. This presumption assumes, however, that the state in question displays a minimum of agreement to minimal international norms of order. A regime like Saddam Hussein's cannot be granted that assumption. Its

behavior demonstrates that it holds the principles of international order in contempt. Some states, because of the regime's clearly aggressive intent and because there are no effective internal controls on the regime's behavior, simply cannot be permitted to acquire weapons of mass destruction.

Just-war thinking begins with a basic moral judgment — that legitimate authorities have a moral obligation to defend the peace of order. History has shown that that kind of peace can be advanced, in certain circumstances, by the proportionate, discriminate and strategically wise use of armed force.

Does the moral authority to wage a just war rest with the United Nations alone?

The U.N. Charter itself recognizes a right to national self-defense, which implies that defense against aggression does not require authorization by the Security Council; it is an inalienable right of nations.

If the use of military force can help advance the cause of world order, it certainly helps at the prudential political level if the use of force is approved by the Security Council. But a correct reading of the just-war tradition does not necessarily lead to the conclusion that prior Security Council approval is morally imperative.

Some responsible analysts have raised questions of precedent here, too: Would a failure to obtain prior Security Council approval for a U.S. or coalition assault to disarm Iraq of weapons of mass destruction mean that the "law of the strongest" was replacing international law? I don't think so.

It would mean that the United States and allied countries, having made clear that they intend their action to advance the cause of world order to which the U.N. is dedicated, have decided that they have a moral obligation to take measures that the U.N., as presently configured, finds it impossible to take — even though those measures arguably advance the charter's goals.

And that, I suggest, promotes the cause of the peace of world order over the long haul.

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