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Introduction

*The Preventive Force Continuum*

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Preventive force is a security strategy defined along a continuum. While the scale of preventive force varies, the strategic aim is the same: to thwart the development of possible future threats from suspected ill-willed actors. At one end of the spectrum are extreme forms of preventive force, including preventive nuclear strikes and preventive wars. The 2003 war in Iraq is one such example of a preventive war: the United States went to war based on concerns that Saddam Hussein was attempting to acquire nuclear weapons, which were considered threatening to the future security of the United States. Closer to the other end of the spectrum are smaller-scale applications of preventive force, including drone strikes outside of legally recognized war zones, which target and kill individuals regarded as potential security threats. Although preventive targeted killings entail a relatively more limited use of force compared to war, the dramatic expansion of the drone program is consistent with the United States’ enduring commitment to preventive action.

There is much to debate with regard to the security ramifications of preventive force, as well as its political, legal, and ethical implications. For instance, does using force before a threat fully materializes complicate future security? Are the perceived benefits worth the potential costs? Some worry that expanding the customary understanding of a rightful response to a potential threat paves the way for other states— allies and adversaries alike—to follow the United States’ lead in using force preventively (Fisk and Ramos 2014). As noted throughout this volume, there are also increasing concerns that preventive targeted killing will not only become a trend for other states in the international
system, but also will create a “slippery slope” to war.³ For example, some claim that drones in particular may make preventive attacks against non-imminent threats easier, and thus “create an escalation risk insofar as they may lower the bar to enter a conflict” (“Recommendations and Report of the Task Force on U.S. Drone Policy,” 2014, 31).

We focus in particular on drones because they represent seemingly ideal weapons in the war on terrorism: relatively low-cost, low-risk tools with disproportionately large benefits, especially for states that face “liberal complaisance” (Schweller 1992, 243). When faced with a non-imminent but likely lethal threat, “liberal complaisance often leaves states militarily unprepared for defensive action, much less large-scale preventive action” (Schweller 1992, 244). While there are other types of limited preventive force, including special operations and cyber-attacks, we concentrate on drone strikes not only because of the timeliness of the issue, but also because of the ethical, legal, and strategic considerations these strikes embody. We believe the international community is at a turning point in what it deems acceptable regarding the use of lethal force. And this has implications not only for fighting terrorism, but also for how states deal with other types of adversaries, including other state leaders and political challengers. An estimated nine states (including the United States, Israel, Britain, Iran, and China) have developed armed drone technology as of this writing, and this number is expected to grow in the near term (New America Foundation 2015a). Compounding this trend is the recent news of the Obama administration’s policy change to allow armed drones—rather than unarmed drones—to be sold to America’s allies (Ryan 2015). It has therefore become increasingly important to contemplate the costs and benefits of even smaller-scale uses of preventive force in both material and normative terms, and in relation to broader effects on the overall stability of the international system.

With these considerations in mind, this volume seeks to offer a comprehensive resource that speaks to the contours of preventive force as a security strategy. Our goals are threefold. First, we seek to clarify the pros and cons of U.S. drone policy by situating drone strikes within a broader preventive force framework. Doing so recognizes a long tradition of academic scholarship on preventive motivations and helps provide the theoretical underpinnings for analyzing and contextualizing drone policy, something that is missing from the current literature on targeted killings
and drones. Second, we attempt to ascertain the long-term impact of the preventive use of force on the stability and security both of states and of the international system. Third, we endeavor to build upon existing literature that debates the legality and morality of targeted killings by advancing legal and ethical guidelines for preventive action, including, in particular, a regulatory framework for the use of drones.

Previous work on preventive force has applied this security concept in a useful, but somewhat limited way, often thinking of it only in its extreme form—war. Some scholars in the realist tradition, for instance, argue that anticipated shifts in the distribution of power in the international system—real or perceived—drive the declining leader to initiate war (see, for example, Thucydides 1972; Morgenthau 1948; Gilpin 1981; Copeland 2000; Betts 1982; Levy 1987; Van Evera 1999; Ripsman and Levy 2007; Weisiger 2013). The bargaining approach conceptualizes preventive war as the result of credible commitment and information asymmetry problems (as in Fearon 1995; Powell 2006; Lake 2010) when capabilities are expected to shift (for instance, due to acquisition of weapons of mass destruction [WMD]) and affect bargains between states at a future time. According to this view, states cannot credibly commit not to use future power in their own favor. This generates the incentive to strike first in order to secure a better deal than one expects to receive down the road. In essence, states adopt “better now than later” logic to curtail a threat expected to arise at an indeterminate point in the future.

Yet not all cases of systemic power shift result in preventive war. Thus, other scholars look to the domestic level for answers. For example, Schweller (1992) argues that democracies are less likely than other regimes to engage in preventive war (or do not do so at all). The logic is straightforward: democratic publics are averse to costly wars (especially ones justified on such shaky grounds); thus the projected domestic political costs lead political elites to reason that preventive war is too large a political risk. Other researchers disagree with this assertion, however. For instance, Jack Levy (2008) investigates several cases in which he argues that democratic publics were in favor of preventive military force (Israel in 1956 and 1981, and the United States during the Gulf War, for example). While Levy concedes that democracies are certainly more constrained than non-democracies when considering the preventive
war option, the recent U.S. invasion of Iraq serves to further his point that regime type is only one factor in determining whether or not a state will wage a preventive war.

In terms of changing beliefs about preventive war, scholars of U.S. foreign policy have explored why and how state leaders have shifted away from the once dominant perspective that preventive war is illegitimate, immoral, and illegal and have, in turn, adopted a more benign view of prevention (Renshon 2006; Silverstone 2007). Thomas M. Nichols, in his 2008 book, *Eve of Destruction: The Coming Age of Preventive War*, argues that the international community as a whole is in a “new age of prevention” and therefore must find ways to protect and maintain international order by acting multilaterally and recommitting to the United Nations (also see Dombrowski and Payne 2006). An array of studies has also focused on international legal justifications for preventive war (Doyle 2008) and the ethical issues surrounding preventive war in the context of just war theory (Totten 2010; Chatterjee 2013; Colonomos 2013).

Others have examined key ethical and legal questions that accompany more limited uses of preventive force, such as targeted killing, in the context of the war on terrorism (including Plaw 2008; Otto 2011; Finkelstein, Ohlin, and Altman 2012; Guiora 2013; Kaag and Kreps 2014). For example, while some assert that drones offer a more “humane” weapon of war (Lewis 2013; Strawser 2013), others focus on the moral hazard they present: “To say that we *can* target individuals without incurring troop casualties does not imply that, we *ought* to” (Kaag and Kreps 2012, emphasis in original; see also Brunstetter and Braun 2011, 2013). Legal analysts debate which body of law governs drone strikes, from domestic law to international human rights law to international humanitarian law, as well as their subsequent legality (Brooks 2004; Bakircioglu 2009; Dinstein 2010; Kreimer 2003; Lubell 2010; O’Connell 2012; Solis 2010; Van Schaack 2014). In essence, these studies ask us to reconsider the traditional definitions, limits, and guidelines of war and examine how and to what extent these apply (or do not) to the use of armed drones.

Our volume is distinct from these earlier works in two primary ways. First, it merges together essays authored by scholars and practitioners from a wide variety of backgrounds, including political science, law, philosophy, human rights, and defense. Second, it gathers these distinct but related perspectives into a broader, unified theme that situates targeted killings
and drone strikes within the context of preventive force, as part of a larger and longer-term shift in the manner in which force is applied. In this way, it highlights the continued U.S. policy of preventive force; the narrative of the Iraq War in 2002–2003 is still in use today, albeit elsewhere.

**Historical Trends in U.S. Preventive Logic**

Anticipatory logic is nothing new in U.S. foreign policy. Throughout its relatively short history, the government of the United States has consistently maintained that the anticipatory use of force is both legal and legitimate, as well as in line with customary international law. The criteria for determining the legitimate anticipatory use of military action were first established in a letter from U.S. Secretary of State Daniel Webster to Lord Ashburton following a British attack on an American ship called the *Caroline* in December 1837. In the event now commonly referred to as the “*Caroline* affair,” the United States charged Britain with an unjustified attack on its ship near the U.S.-Canadian border. Webster’s letter to Ashburton, dated July 1842, argued that the following conditions must hold in order for the initial use of force by a state to be considered justified: the first use of force should be “(i) ‘overwhelming’ in its necessity; (ii) leaving ‘no choice of means’; (iii) facing so imminent a threat that there is ‘no moment for deliberation’; and (iv) proportional” (quoted in Doyle 2008, 12). The resulting “Caroline standard” established that anticipatory force is acceptable so long as a state demonstrates that the threat of attack is imminent; the threat must be “instant, overwhelming, leaving no choice of means, and no moment for deliberation” (Webster 1842, quoted in Moore 1906). In other words, in order to be legitimate, the first use of force must be *preemptive*—demonstrably necessary as well as proportional to the overall goal of self-defense (for a more detailed description of circumstances leading up to the event, see Glazier, Chapter 6).

In contrast, *preventive force*—which refers to the anticipatory use of force in order to eliminate a non-imminent, perceived potential threat before it has a chance to manifest—has been considered immoral and illegitimate by the United States and the broader international community for nearly a century. For instance, in line with members of his administration who attributed World War II to the preventive motivations of
Adolf Hitler, President Truman labeled preventive wars “aggressive” and “the weapon of dictators” (Truman 1950). The preventive war option was also rejected by the Eisenhower administration, as was evident when Secretary Dulles told the press, “Any idea of preventive war is wholly out of the question as far as the United States is concerned” and “is not, and as far as I can forecast, never will be any part of the United States foreign policy” (quoted in Silverstone 2007, 84). Scott Silverstone (2007) maintains that the United States fully considered the preventive attack option at several points during the Cold War but ultimately discarded it based on established norms, in particular the view that preventive force was immoral and inconsistent with American ideals.

A related concern was how Americans would be perceived by the rest of the world (Silverstone 2007). These worries over ethical culpability were confirmed following Israel’s 1981 preventive strike on Iraq’s Osirak nuclear facility, as the United Nations Security Council unanimously rebuked the move as aggressive and in violation of international law. In fact, the United States and Iraq worked together on the Security Council resolution that condemned Israel for acting “in clear violation of the United Nations Charter and the norms of international conduct” (Silverstone 2007, 160).  

U.S. Preventive Logic into the Twenty-First Century

The greater the threat, the greater the risk of inaction—and the more compelling the case for taking anticipatory action to defend ourselves, even if uncertainty remains as to the time and place of the enemy’s attack.
—“National Security Strategy of the United States,” 2002

The condition that an operational leader present an “imminent” threat of violent attack against the United States does not require the United States to have clear evidence that a specific attack on U.S. persons will take place in the immediate future.
—U.S. Department of Justice, White Paper

Scholars have developed various explanations for the United States’ preventive war in Iraq in 2003, ranging from George W. Bush’s personality
(Renshon 2006) to a “neoconservative moment” (Schmidt and Williams 2008, 194). For some, the turning point that paved the way for the preventive war came earlier. Silverstone (2007), for instance, maintains that heightened fear over nuclear proliferation in the 1990s provided the context for a normative shift favoring preventive force. The threat of nuclear proliferation to “rogue” states, including North Korea and Iraq, led the Clinton administration to seriously contemplate preventive strikes on nuclear facilities.

From this perspective, the preventive war in Iraq was not so much the result of a sudden, post-9/11 shift in U.S. views on the permissibility of preventive military force as some argue, but rather the outgrowth of an “anti-proliferation imperative” for rogue regimes established a decade earlier. Unlike other scholars who looked to particular characteristics of the Bush foreign policy team (such as Moore and Slater 2004) or the psychological traits of Bush himself (Renshon 2006) in order to explain why the United States went to war with Iraq, Silverstone’s logic predicted that U.S. proclivity to use preventive force would not likely disappear with the Bush administration. Silverstone’s explanation instead suggested that as long as “rogues” attempt to acquire weapons of mass destruction, the United States would continue to embrace the logic of preventive military force.

Indeed, in our view, the preventive motive for war with Iraq should not be viewed in a vacuum or as a historical anomaly. Although he famously campaigned on the folly of the “Bush Doctrine” during his 2008 run for the presidency, President Obama has not sought to restore the qualitative distinctions between preemptive and preventive force. Instead, preventive drone strikes have become the tactical cornerstone of the Obama administration’s security strategy—and routinely so in cases less severe than what Silverstone’s “anti-proliferation imperative” would require.

Perhaps the clearest indicator of the Obama administration’s acceptance of preventive force logic is its justification for expanding the U.S. drone program, in terms of both the overall number of strikes and the geographical scope of strikes. According to the New America Foundation’s database on drone strikes in Pakistan and Yemen, there were forty-nine drone strikes during the Bush presidency, with only one strike occurring in Yemen in 2002. Under President Obama (from January 2009 to December 2014), the United States carried out 441 total drone
strikes inside Pakistan (343) and Yemen (98). In June 2011, President Obama also expanded drone strikes into Somalia, which took place on ten separate occasions between 2011 and 2014 according to the Bureau of Investigative Journalism (2015).

The expansion of the drone program becomes even more pronounced when we consider the array of groups now targeted in the strikes. The Bush administration reportedly carried out strikes against three organizations in Pakistan, including al-Qaeda, the Taliban, and the Haqqani network. To these three previously targeted organizations, the Obama administration added the Islamic Movement of Uzbekistan (IMU) operating in Pakistan, al-Qaeda in the Arabian Peninsula (AQAP) in Yemen, Ansar al-Sharia in Yemen, and al-Shabaab in Somalia. Thus, the Obama administration further shifted the focus away from the al-Qaeda core in the years between 2009 and 2014. While the New America Foundation recorded 31 strikes on the al-Qaeda core under Obama during this period, it found that the majority targeted a combination of Taliban insurgents (107 strikes), the Haqqani network (33 strikes), and AQAP (approximately 84 strikes) (New America Foundation 2015b, 2015c).

An additional, important development coinciding with the increase in drone strikes under the Obama administration is reduced transparency surrounding who was actually targeted in the strikes (Shane 2015). According to New America Foundation data, sixteen of President Bush’s drone strikes in Pakistan were against “unclear” targets, meaning that although major news outlets reported the occurrence of a drone strike, the target of the strike was not identified in the reports. In contrast, during the first six years of the Obama presidency, there were 153 strikes in Pakistan targeting individuals or organizations whose identities were reportedly not clear. Thus, when looking at the percentage of all drone strikes carried out in Pakistan under each administration, approximately 33 percent of Bush’s targets were unclear in news reports, compared to 45 percent of Obama’s targets (New America Foundation 2015b).

While the number and scope of targets pursued in accordance with the Bush-initiated “war on terror” have substantially increased under the Obama administration, the legal challenges inherent in applying the 2001 Authorization to Use Military Force (AUMF) to justify the ongoing war on terror are also growing as the number of years since 9/11 pass. For instance, in 2013, Representative Adam Schiff (D-California) introduced
an amendment that proposes to “sunset” or repeal the AUMF, arguing, “The 2001 AUMF was never intended to authorize a war without end, and it now poorly defines those who pose a threat to our country. That authority, and the funding that goes along with it should expire concurrent with the end of our combat role in Afghanistan” (“Rep. Schiff Offers Amendment Sunsetting Authorization for Use of Military Force” 2013). Former White House Legal Adviser Harold Koh nevertheless maintains that repealing the AUMF would not undermine the legal authority of the president to continue to carry out targeted killings against al-Qaeda and its affiliates. Instead, the position of the Obama administration has been that targeted killings against al-Qaeda and the above “affiliates,” in reaction to the events of September 11, 2001, are legitimate under the law of self-defense as outlined in Article 51 of the UN Charter. If and when the AUMF is eventually repealed, Koh argues there will be no “legal gap” in carrying out targeted killings since the legal authority derives from the right to self-defense against a “continuing and imminent threat” under international law (Koh 2014).

We argue, however, that “imminence” does not mean the same thing today as it did pre-9/11 or even pre-2008. The Obama administration has developed a significantly revised standard of imminence in line with its asserted authority (under the law of self-defense) to carry out targeted killings against ambiguous threats. John Brennan, the president’s counterterrorism advisor turned CIA director, maintains that the imminence standard must be further relaxed given terrorists’ “modern-day capabilities, techniques, and technological innovations” (Brennan 2011). These assertions clearly echo those of the Bush administration’s 2002 National Security Strategy, which stated that the United States “must adapt the concept of imminent threat to the capabilities and objectives of today’s adversaries” (Bush Administration 2002, 15). This standard is, in turn, used to justify the Obama administration’s preventive, “signature”\textsuperscript{11} drone strikes against suspected militants whose identities often are not confirmed before they are killed.\textsuperscript{12} Targets of signature strikes are hit because their “patterns of life,” such as proximity to known terrorists, signal a latent threat—they might be terrorists planning attacks against the United States or its interests abroad.

A related example of the shifting meaning of imminence is the targeting of low-level fighters. Peter Bergen of the New America Foundation
estimates that the vast majority—approximately 94 percent—of militants killed prior to 2011 in Pakistan were low-ranking fighters, or “foot soldiers” (Bergen 2011). In 2013, senior U.S. officials admitted to conducting “dozens” of signature strikes in Yemen in which “none of the about three dozen militants killed . . . were ‘household names’” or targets they considered high-level threats. Their logic was that “they might not be big names now . . . but these were the guys that would have been future leaders” (Schmitt 2013).

Critically, drone strikes outside of designated combat zones that target individuals based on speculation about suspicious behavior, as well as those that target low-level militants who “do not have the capacity to plot effectively against the United States,” do not meet imminence criteria as conceived under customary international law (Bergen 2013, 4). The revised concept of imminence purportedly legitimizes the killing of a suspected militant who might do something harmful, someday. It requires neither substantiated evidence nor immediacy of the threat. The logic behind attacks on these potential threats is thus preventive logic.

As the U.S. government continues down its current path of relaxing the imminence standard and embracing preventive force to protect against unconventional threats including WMD and terrorism, Americans appear to be supportive. Recent polls indicate that approximately 58% approve of drone operations, with Republicans (74%) and Independents (56%) slightly more supportive than Democrats (52%) (Pew Research Center 2015). Less than one-third are very concerned about the legality of or retaliation for drone strikes (31% and 29%, respectively (Pew Research Center 2015). Thus, American public opinion does not reflect the very tense policy and scholarly debates surrounding preventive force.

Preventive Force Dilemmas

By conceptualizing preventive force along a continuum, with the scale of force employed along this continuum including preventive war and preventive uses of force short of war, we can see how U.S. strategy post-2001 contains the same underlying logic. This cross-continuum logic, formally incorporated into U.S. security strategy in 2002, is based on the asserted nature of two actor categories: rogue states and terrorists.
The rhetorical equivalence of the two was evident in the 2002 National Security Strategy, which asserted that “rogue states and terrorists do not seek to attack us using conventional means. They know such attacks would fail. Instead, they rely on acts of terror and, potentially, the use of weapons of mass destruction” (Bush Administration 2002, 15). President Bush’s 2003 State of the Union address further communicated the perceived urgency: “Today, the gravest danger in the war on terror, the gravest danger facing America and the world, is outlaw regimes that seek and possess nuclear, chemical, and biological weapons. These regimes could use such weapons for blackmail, terror, and mass murder. They could also give or sell these weapons to terrorist allies, who would use them without the least hesitation.” Threats from either of these actors are considered unpredictable and irrational, and assessed as being so grave that they must be treated as imminent. Purportedly, both deterrence and containment would be inadequate. The conceptual conflation of rogue states and terrorist organizations helped to set the stage for preventive force as a dual counterterrorism and counterproliferation strategy. It is not surprising, then, that the same strategic, legal, and ethical arguments are made across the preventive force spectrum.

**Preventive Force: Strategic Controversies**

Strategic arguments for and against the 2003 Iraq War as well as ongoing preventive drone strikes outside of declared theaters of war are very similar, because the underlying logic for counter-proliferation and counterterrorism is nearly identical. Proponents of the Iraq War and proponents of U.S. drone policy, while they may not overlap, both contend that the nature of today’s threats requires a revised imminence standard. Since these threats cannot be deterred, “wait and see” strategies are untenable. Supporters of the preventive war in Iraq argued that Saddam Hussein was untrustworthy, irrational, and a risk-taker bent on one day attacking the United States. The United States had to take action because, in Condoleezza Rice’s words, “We don’t want the smoking gun to become a mushroom cloud” (Peterson 2001). The perceived inadequacy of deterrence is further pronounced in reference to non-state actors. For instance, Mark Totten argues that terrorists are risk-takers who have nothing to lose; they seek to cause as much devastation as
possible, they have the capability to enact this devastation, and they are difficult to locate and identify. Waiting for evidence that fulfills imminence criteria thus “becomes a demand to take the first blow” (2010, 30–31, 32). For Totten, the global threat of terrorism “demands a shift toward strategies of prevention”; legitimizing anticipatory self-defense based on the imminence standard “asks too much in an age of al Qaeda” (2010, 32, 34). Russell Christopher similarly contends that the imminence requirement for legitimate self-defense “unduly distorts and restricts an actor’s moral right to effective self-defense when necessary” (2012, 284). 15

While many focus on the strategic benefits of relaxing the imminence standard to authorize the preventive use of force, others maintain that there are a number of negative strategic consequences that will result from erasing the distinction between preemption and prevention. For instance, the late U.S. Senator Edward Kennedy argued that the 2002 National Security Strategy illegitimately lowered the threshold for what is considered the rightful use of force in self-defense, thereby threatening future U.S. security. Kennedy demanded that we consider “the consequences of a policy that produces more preventive wars” (2006, 69). Similar arguments regarding the creation of a slippery slope toward wider conflict are apparent in the counterterrorism context as well. For instance, David Whetham contends that “‘he [the terrorist] will plant the IED [improvised explosive device] in the morning’ leads to ‘He will give a lift to the UAV operator at the weekend’ leads to ‘He is planning something in the next couple of years’ leads to ‘He did it once, we’re sure he’ll do it again’” (2013, 78). At the same time, others argue that drone attacks work at cross-purposes with long-term U.S. foreign policy goals. Just as the United States is investing resources in stabilizing the governments of Pakistan and Somalia, it is also delegitimizing those governments with unilateral American drone strikes on their territory (Boyle 2013).

Critics also contend that preventive force risks alienating friends and allies, resulting in an overall loss of international support. John Lewis Gaddis asserts that the Iraq War “provoked complaints that great power was being wielded without great responsibility, followed by an unprecedented collapse of support for the United States abroad. From nearly universal sympathy in the weeks after September 11, Americans within a year and a half found their country widely regarded as an interna-
tional pariah” (2005, 6). Concerns over reputational costs have echoed throughout the Obama administration, although now primarily in reference to drone strikes. According to a June 2014 report from a bipartisan task force on U.S. drone policy:

UAV [unmanned aerial vehicle] strikes by the United States have also generated a backlash in countries not directly affected by the strikes, in part due to the perception that such strikes cause excessive civilian deaths, and in part due to concerns about sovereignty, transparency, accountability and other human rights and rule of law issues. . . . In February 2014, for instance, the European Parliament voted 534–49 for a resolution condemning US drone strikes. . . . National officials, parliamentarians and thought leaders in numerous allied countries and at the United Nations have questioned or condemned US targeted strikes. (“Recommendations and Report of the Task Force on U.S. Drone Policy,” 30)

In fact, in all but three of the forty-four countries surveyed by the Pew Research Center in 2014 (the United States, Israel, and Kenya), the vast majority of citizens said they disapprove of U.S. drone strikes targeting extremists in Pakistan, Yemen, and Somalia. This includes majority opposition from the publics of Russia (78%) and Venezuela (92%) as well as traditional security allies like South Korea (75%), the United Kingdom (59%), and Germany (67%) (Pew Research Center 2014). Such public condemnation of U.S. drone policy could undermine U.S. cooperation with international partners, including access to valuable intelligence and other forms of assistance.

A third argument concerning strategic costs is that this U.S. strategy is doing more to heighten the threat of terrorism than to reduce it. In 2003, Jessica Stern argued that the Iraq War “has taken a country that was not a terrorist threat and turned it into one” and created “precisely the situation the administration has described as a breeding ground for terrorists” (Stern 2003). Similarly, with regard to drone strikes in Pakistan and Yemen, Michael Boyle maintains that the strikes can increase the threat from terrorism because they “corrode the stability and legitimacy of local governments, deepen anti-American sentiment and create new recruits for Islamist networks aiming to overthrow these governments” (2013, 3). Boyle points to evidence that the ranks of the Pakistani Tali-
ban, or TTP, have grown substantially in Pakistan and that membership in al-Qaeda in the Arabian Peninsula, or AQAP, has grown substantially since drone strikes began in Yemen.

Empirical evaluation of the effects of drone strikes on terrorism in Yemen, Somalia, and Pakistan is currently limited, and the findings that do exist are mixed. For instance, Patrick Johnston and Anoop Sarbahi (2015) note that drone strikes in Pakistan are associated with a short-term reduction in the rate and lethality of terror attacks both in and immediately surrounding the areas where the strikes take place. However, a study carried out by Megan Smith and James Igoe Walsh uncovers no evidence that drone strikes have impaired al-Qaeda’s ability to create and spread propaganda and argue that this effect points to the organization’s “resilience and activity” (2013, 324). Moreover, to our knowledge, previous studies have not specifically examined the effects of targeting low-level operatives through signature strikes. Doing so is key because, as Leila Hudson, Colin Owens, and David Callen (2012) note, the population is more likely to oppose strikes against those who may be unaffiliated with terror groups, even if they are generally unopposed to strikes that target known leaders of terrorist organizations, or high-value targets.

Finally, critics of preventive force fear that the United States is setting a precedent for other states, and that these states will assert their own right to use force on preventive grounds to eliminate potential threats. For example, following the initiation of the Iraq War, Kegley and Raymond (2003) argued that other states would be emboldened to follow the lead of the United States and thus would increasingly wage preventive wars to deal with those considered threats. Likewise, with regard to U.S. drone policy, a predominant concern is that “the U.S. use of force in sovereign nations whose consent is questionable or nonexistent may encourage other states to follow suit with their own military platforms” and that therefore these states “may soon find themselves tempted to deploy lethal UAVs in similar fashion” (Abizaid and Brooks 2014, 10, 31).

Indeed, in our previous work (Fisk and Ramos 2014), in which we examined the adoption of preventive force logic in the cases of India, Russia, China, and Germany in the wake of the 2003 Iraq War, we found that political and military elites in these countries referenced the “successful” U.S. example when discussing offensive shifts in their military
strategies, as well as when emphasizing UAV, or drone, acquisition. We concluded that a “preventive force norm” has begun to cascade through the international system as these countries witness preventive uses of force by the United States in its prosecution of the war on terror and begin to shift their own strategies in this direction. Yet just because a behavior is gaining popularity or becoming part of the normative fabric of the international system does not mean that it is beyond ethical reproach.

*Ethical Considerations*

There are several approaches to thinking about the ethics of preventive force. We begin with two: deontological ethics and consequentialist ethics. In the context of preventive force, a deontological perspective focuses on whether or not “striking first” itself is ethical, whereas a consequentialist view centers on evaluating if the benefits of “striking first” outweigh the drawbacks. Following this discussion, we consider an ethical approach that was specifically formulated for matters of war: the just war tradition.

From a deontological perspective, the good or the bad of preventive force hinges on its intrinsic value. Whitley Kaufman, for instance, argues that “preventive war is legitimate for the very same reason that wars of self-defense are legitimate” (2005, 28). Therefore, within limits that guard against misuse of preventive war (for instance, convincing evidence of threat must be shown), states have a right to protect themselves from harm. Not doing so, from a leader’s perspective, would be both irresponsible and a dereliction of duty (Kaufman 2005). This justification certainly aligns with two recent examples: Bush’s Iraq War and Obama’s “drone wars” (as an extension of Bush policy). Presumably, both leaders not only thought they had a legal right to pursue U.S. security in this way, but also thought that they were ethically justified in doing so.

On the other hand, there are plenty of observers who cite the decision to invade Iraq as unethical in that there was no immediate threat that required such extreme action. Indeed, it was difficult to convince the UN Security Council that there was sufficient evidence to demonstrate that Iraq possessed WMD. There was simply not enough indication that
invading Iraq was justified. In a similar vein, critics could cite drone attacks directed at low-level militants, who themselves carry only a “suspected” label, to object to a preventive strike policy.

A similar controversy surrounding preventive force arises from the consequentialist argument, although in this case it centers on whether or not the means are worth the ends. That is, even if we have to sully ourselves, is doing so worth such minor costs if we can achieve benefits for the greater good? In thinking about preventive force, the consideration in this view is whether the result—not the action—is ethical. Some might argue that preventive war is not ethical because it could increase instability in the international system, in part because the misuse of preventive war will increase the overall number of wars and thus create more death and destruction (Lee 2005).

One could make the same argument about drone strikes outside of recognized theaters of war (many of which are part of a broader strategy of preventive force, given that they target suspected militants that might pose a threat), even though they tend to be individually less destructive due to their smaller scale. Because drone strikes offer an arguably cost-effective (in terms of both human and material resources) alternative to war, increased reliance on this foreign policy tool may destabilize the international system by encouraging more states to acquire and use weaponized drones without the robust checks and ethical restraints that typically govern the use of force. The point here is not to compare the ethical choice between preventive drone strikes and preventive war, but to highlight their similar ethical considerations (though clearly allowing for context).

Those arguing for preventive force from a consequentialist perspective might, on the other hand, point to the fact that it is better to strike now because doing so will save more lives than if one waited for the attack (Luban 2004; Yoo 2004; McMahan 1996). Certainly, one could argue that a preventive war against rising Germany in the 1930s may have saved many more lives than appeasement. The argument for signature drone strikes runs parallel: kill the suspected terrorists to save those in harm’s way, even if the danger is not immediate or certain.

We thus far have reviewed two general ethical approaches and demonstrated how they might be used to consider the ethics of preventive force. We now turn to the just war tradition, which identifies general
criteria by which a war can be judged to be “just” and has heavily influenced the development of modern international law by narrowing the lawful criteria for legitimately waging and executing war. Just war principles, including target discrimination and proportionality, therefore cover not only a state’s conduct during war, but also when it is “just” to go to war. The specific application of just war criteria is not without controversy, however.

While the invocation of just war principles pervades the rhetoric of recent U.S. administrations, philosophers and theorists differ on their interpretations of just war. Some assert that the just war tradition absolutely forbids the preventive use of force (Wills 2004; Rengger 2008). As Alberico Gentili argues, “A just cause for fear is demanded; suspicion is not enough” ([1612] 2003, 62). Yet others propose that such action is possible under certain conditions (Tuck 1999; Barnes 1982; Gray 2007). For example, in On the Law of War and Peace Hugo Grotius ([1625] 2010) argues that a preventive attack is permissible when there is “moral certainty” of a future enemy attack.

Though the debate on the permissibility of just war is yet to be settled, the advent of armed drones has pushed scholars to think about adaptations of the just war paradigm in the context of preventive use of force short of war. While Michael Walzer (2006), perhaps the most well-known modern just war theorist, argues that lethal force is morally wrong, he does concede that lethal force short of war is less troubling than war. Current debates focus on jus ad vim (the just use of force) and whether or not its application to drone strikes adequately reflects traditional just war principles. Since technology in the form of drones, for example, lowers the risk to the attacker, some believe it contributes to the lowering of barriers to the use of force (Lin 2010), and thus the application of jus ad vim could potentially be a convenient first choice, rather than last (Coady 2008).

As the above discussion makes clear, contemplating preventive force involves searching for the answers to a number of complex legal, strategic, and ethical questions. Formulating effective foreign and security policies entails thinking deeply and comprehensively about these questions. We thus believe that it is critical to engage in a fuller and more careful examination of preventive force, and this is what our volume sets out to achieve.
Organization of the Volume

The chapters in this volume are organized in three parts: “Understanding Preventive War”; “Perspectives on Preventive Drone Strikes”; and “The Future of Preventive Force.” Within each of these parts, each chapter responds to one or more of the following key questions:

- In terms of practical considerations, what are the costs and benefits of employing preventive force?
- What are the political causes and consequences of using preventive force?
- What are the legal and ethical implications of these actions?

Part I focuses on preventive force in general as well as on the extreme case—preventive war. It begins within this context in order to elucidate the pros and cons of preventive force in a relatively clear, albeit extreme, situation. Here the authors deliberate the costs and benefits of preventive war in achieving the security objectives of a state. These analyses include not only the external strategic calculations, but also the domestic political considerations that leaders necessarily must consider when engaging in preventive war.

Part I begins with Jennifer Taw’s chapter on “Preventive Force: The Logic of Costs and Benefits” (Chapter 2), in which she considers the types of threats and conditions that might warrant a state’s use of preventive operations. Her cost-benefit analysis demonstrates that preventive action is only rarely worth the cost, given the alternatives, though it may be preferred in limited scenarios (as in the American drone program).

One of the key cost calculations, of course, in considering any use of military force, including preventive force, is casualties. In Chapter 3, “Preventive War and Its Domestic Politics,” Miroslav Nincic focuses on the importance of projected casualties for public support of preventive war and demonstrates that public opinion restrains leaders in their decisions to wage preventive war more than it does in other types of war scenarios. Concurring with Taw, he suggests that lesser-scale uses of preventive force may be more likely to be initiated if the benefits are perceived as sufficiently high and few to no casualties are expected.

Nincic’s chapter is followed by Thomas M. Nichols’ “Sovereignty and Preventive War in the Twenty-First Century: A Retrospective on
Eve of Destruction: The Coming Age of Preventive War,” a reflection by the author on his book of 2008. Whereas both Taw and Nincic maintain that preventive wars will continue to be rare, Nichols argues that preventive wars are likely to become more frequent due to the post–Cold War rise of global threats (humanitarian disasters, rogue states and terror organizations, and weapons of mass destruction) and the related decline of the sovereignty norm. Drawing on recent cases in Libya, Syria, Georgia, and Ukraine, Nichols maintains that the norm of preventive force is gaining ground in the international system, with foreseeably dangerous consequences.

Together, these three chapters provide insight into states’ cost-benefit calculations when considering preventive military action, and in particular urge us to consider how drones might alter these calculations, the subject of the next section. In Part II, “Perspectives on Preventive Drone Strikes,” the contributors reflect on the preventive use of force short of war. These chapters offer contrasting views about the impacts of drone strikes on civilian populations as well as the extent to which current drone policy operates within the constraints of established legal principles.

Stephan Sonnenberg leads this section with “Why Drones Are Different” (Chapter 5). He argues that drones differ qualitatively from other weapons and have had revolutionizing effects on warfare in the twenty-first century. Consequently, Sonnenberg argues that drones require a new regulatory framework under the law of armed conflict. Based on his research experience analyzing the impact of preventive drone strikes on civilians in Pakistan, he suggests some steps forward in the global regulation of drones.

In contrast, David Glazier asserts that current domestic and international laws are sufficient; it is the policy that is lacking. In Chapter 6, “The Drone: It’s in the Way That You Use It,” Glazier acknowledges that drones have many positive attributes, including, theoretically, the ability to better distinguish between legitimate military targets and civilians than piloted aircraft. Whereas he agrees with Sonnenberg that most U.S. preventive drone attacks are legally problematic, Glazier argues that no new regulations are needed; drones can be advantageous tools in the war on terrorism so long as their use complies with existing domestic and international humanitarian laws.
In Chapter 7, “Drones and the Law: Why We Don’t Need a New Legal Framework for Targeted Killing,” Daphne Eviatar continues with this line of argument, concurring with Glazier that drone strikes can be useful counterterrorism tools if the requirements of international humanitarian law are met. Eviatar argues, however, that drone strikes on some groups, including the Taliban in Pakistan and AQAP in Yemen, do not meet the criteria for noninternational armed conflict (NIAC), and thus should be regulated under International Human Rights Law (IHRL). This requires the United States to recognize, in line with most other countries in the international system, that IHRL is binding beyond U.S. borders.

Part II concludes with C. Christine Fair’s reminder of the necessity to be critical consumers of information. In her chapter “Studying Drones: The Low Quality Information Environment of Pakistan’s Tribal Areas,” Fair asserts that much of the critique of the U.S. drone program in Pakistan relies upon erroneous assumptions about the program, whom it targets, and with what outcomes, as well as the degree to which the Pakistani government has been complicit in the program. Fair problematizes the recent advocacy-driven research on the drone program, paying particular attention to the methods of data collection and analysis employed by various authors, and offers suggestions as to how organizations can better conduct empirical work in this key area.

The final part on “The Future of Preventive Force” aims to draw out ethical guidelines for a legitimate policy on the use of preventive force, with an eye toward targeted killing in particular. Given that targeted killing may become a more common tool of states’ foreign policies, with preventive war still an exception (though see Nichols’s earlier chapter), these chapters address how states might satisfy ethical imperatives while thwarting legitimate security threats. While several of the chapters in this section address this in terms of guidelines concerning the use of force short of war, the last chapter provocatively shifts the focus from preventive force to preventive nonintervention as the ultimate means to achieve states’ security objectives.

Part III begins with Avery Plaw and João Franco Reis, who consider the basis upon which the legitimate use of force can be crafted (Chapter 9). In “The Contemporary Practice of Self-Defense: Evolving Toward the Use of Preemptive or Preventive Force?” Plaw and Reis argue for a
law, or a legal interpretation of current law, that permits limited, episodic exercises of force by states in response to sustained patterns of attack by non-state actors. This approach, deemed “Caroline plus” by the authors, will allow states the necessary flexibility to confront immediate threats while avoiding costs associated with military adventures designed to eliminate future threats before they manifest.

“Restricting the Preventive Use of Force: Drones, the Struggle against Non-State Actors, and Jus ad Vim” (Chapter 10) considers the limited use of preventive force and outlines guidelines by which such force could be used. There, John Emery and Daniel Brunstetter offer an ethical framework that combines the standards of law enforcement—that is, indictment (in abstention) of suspected terrorists—with a circumscribed notion of imminence to define the rare circumstances under which the preventive use of lethal drones may be legitimate. Furthermore, the authors argue for the need to restrict the number of strikes to a minimum of isolated acts of preventive force, instead of pursuing the dangerous policy of a broader (preventive) drone war.

Ben Jones and John M. Parrish contribute a philosophical inquiry regarding “Drones and Dirty Hands,” noting that the “War on Terror” has prompted a revival of interest in the idea of moral dilemmas and the problem of “dirty hands” in public life. They question the use of the “dirty hands” moral dilemma to characterize U.S. tactics in the war against al-Qaeda and affiliates, arguing that targeted killing should not be considered within this framework, in which the least evil choice is deemed both morally required and yet morally forbidden. Instead, Jones and Parrish maintain that such policies, if justified at all, must ordinarily be justified under the more exacting standards of just war theory and its provisions for justified killing—in particular the requirement that (with limited and defined exceptions) noncombatants be immune from intentional violence.

This part then concludes with a thought-provoking piece by Deen Chatterjee. “Beyond Preventive Force: Just Peace as Preventive Non-Intervention” shines a reflective light on all the previous chapters by investigating an alternative approach to preventive self-defense. Given the moral hazards of military responses to today’s threats and consequences for international law, justice, and human rights norms, Chatterjee proposes “preventive nonintervention” to secure the peace, thereby moving
away from the just war approach and instead prioritizing “just peace.” He asserts that “just peace” as preventive nonintervention is better suited for today’s global challenges than preventive self-defense.

We conclude the volume with a brief chapter that reviews the contributors’ collective wisdom on preventive force. Our discussion is guided by the three main, and interrelated, questions we asked the authors to address. These questions stem from what we see as the key issues in preventive action: political (including costs and benefits), legal, and ethical. We then consider the future of preventive force as a security strategy.

In its entirety, this volume seeks to extend our knowledge and understanding of the preventive use of force from preventive war to preventive drone strikes. As noted earlier, the proliferation of drone technology and its continuing technological advances signify the indisputable staying power of drones. Yet drones are only one tool of preventive self-defense strategy. This is why a discussion of drones and drone strikes cannot take place within a vacuum; it should be contextualized within the broader policy spectrum of preventive force.

NOTES
1 We use the term “drone” here as it is widely adopted; however, we fully recognize that there are strongly preferred alternatives, including “remotely piloted aircraft” (RPA) and “unmanned aerial vehicle” (UAV).
2 The far end of the spectrum represents nonlethal forms of preventive force used abroad, including, for instance, detentions, raids and abductions, and attacks on infrastructure. For a more thorough description of the types of actions across the continuum, see Sofaer (2005).
3 For instance, a bipartisan task force on U.S. drone policy is concerned over “a slippery slope leading to continual or wider wars” (“Recommendations and Report of the Task Force on U.S. Drone Policy,” 10–11).
4 The groundbreaking book Wired for War by Peter W. Singer (2009) and in-depth investigative reports from the New Yorker’s Jane Mayer and the New York Times’s Mark Mazzetti have likewise fueled popular debate on these issues.
5 As is detailed in later chapters in this volume (see especially Chapters 6 and 9), Article 51 of the UN Charter later established more restrictive criteria for the first use of force. It holds that states have an inherent right to use force in self-defense without first obtaining Security Council authorization if an armed attack has already taken place. Nevertheless, the United States maintained the traditional Caroline criteria for determining rightful self-defense as embodied in customary law.