Fundamental Rights  
Negative Case by Aaron Clendenen



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This case is centered on the common ground between the affirmative and the negative sides of the resolution. It basically outlines that there is another less-questionable option aside from Preventive War. The main focus of this case is saying that a government has the responsibility to defend its citizens. Thus, it ought to wage a PREEMPTIVE War, because Preventive War is not a defensive war.

I would say this case would help the negative to answer questions like, “If you could stop the 9/11 attacks, would you?” and it discounts the idea that the negative is saying we shouldn’t defend ourselves entirely. The case is entirely contingent upon the definition of defense, and the distinction between Preventive and Preemptive war.

The downside of this case is thus: If the affirmative can prove that Preventive War CAN be used defensively, they disprove the negative’s position. Examples like Operation Opera or some other more extreme positions would prove that Preventive War can, and has been, used defensively. If the Affirmative can prove that point, the neg has agreed that Preventive War is ethical.

Beyond that, if the affirmative can prove that Thomas Gilson is wrong or biased in any way, the negatives case falls apart. To disprove this, you would have to provide a counter-distinction saying something more in line with the affirmative position.

If, however, the negative is successful in these proving these points, the case is set up to basically be a fact. This case basically agrees with most affirmative positions, and it agrees with its opening quote, saying that we cannot “…stand by as peril draws closer…”, but if those points are true, the negative position is true.

Fundamental Rights

To quote President Bush,

“**I will not wait for events while dangers gather. I will not stand by as peril draws closer and closer**”[[1]](#footnote-1)

This quote is exactly why I disagree with today’s resolution, that **Preventive War is Ethical.**

# Definitions

I firmly believe that we should define by contrast. Because of this, I want to define Preventive War is contrast to the idea of Preemptive War. According to Thomas Gilson in a peer reviewed academic paper;

“Flynn (2008) suggests that the doctrine of preventive war has been utilized as a pretext to engage in aggressive warfare. For example, he argues that Adolf Hitler persuaded the German people that Germany was in a disadvantaged condition after World War I, which made it subject to attack from surrounding states. Therefore, Germany had to launch a preventive war in order to forestall an attack upon it in the future. It would be foolish to assert that the Bush Administration supported the aims of Nazi Germany. However, this position is identical to the arguments that the Bush Administration presents in the National Security Strategy of the United States 2002. In NSS-2002, the administration reserved the right to engage in offensive operations to against any state or organization that it deemed as a potential threat to American security. In NSS-2002, the Bush Administration incorrectly defined preventive force as “preemptive” Under international law a preemptive attack may be legal under narrowly defined situations. For example, state A is staging its armed forces along the border of state B and state A’s intelligence service has determined from the composition of the forces that state B intends to launch offensive operations against state A. Under these conditions, state A would be justified to engage state B’s armed forces. **The distinction between preventive and preemptive force is determined by how “clear and present” the danger. A preemptive strike is against an immediate threat, while a preventive attack is affected against a threat that may or may not appear on the horizon in the future** (Rockmore, 2006, p. 139). **According to international law, a preemptive strike under these conditions is legal, whereas a preventive attack against a potential threat in the future is not allowed.** Flynn (2008) asserts that the Bush administration understood this distinction, but that it wished to muddy the dialogue about the application of force by defining prevention as preemption.”[[2]](#footnote-2)

This quote defines for us two terms in todays resolution, one, Preemptive War, and two, Preventive War. Let’s look at these two terms.

## Preemptive War:

This quote tells us that Preemptive War is a war against an immediate threat. According to USLegal.com, a legal dictionary, there are three criterion that constitute an immediate threat;

“Some laws allow use of deadly force when imminent danger is present. Typical considerations to find imminent danger include **the attacker’s apparent intent to cause great bodily injury or death, the device used by the attacker to cause great bodily injury or death, and the attacker’s opportunity and ability to use the means to cause great bodily injury of death**.”[[3]](#footnote-3)

In order for a conflict to be imminent, you have to know three things;

1. you have to know that you are going to be attacked,
2. you have to know how or when you are going to be attacked, and
3. you have to know that the nation that is going to attack you CAN attack you.

## Preventive War:

Gilson also tells us that Preventive War differs from Preemptive War insofar as in cases of Preventive War, the criterion of imminent danger is not met. This means three things;

1. You don’t know you are going to be attacked,
2. You don’t know how or when you are going to be attacked, and
3. You don’t know that that the nation you believe is threating you is even capable of such an attack.

This is why I only slightly agree with today’s resolution. I agree that Preemptive War, NOT Preventive War, is Ethical.

# Resolutional Analysis: Ethical

Thomas Jefferson once said,

“**The purpose of government is to enable the people of a nation to live in safety and happiness.**”[[4]](#footnote-4)

This quote helps us to define the term, ethical, in today’s resolution. When we keep in mind that war is waged by a government, we can see that the ethical action for a government is to defend its citizens; but keep in mind the term, ‘defend.’ Jefferson’s words also help to establish what this debate round should seek to defend, or value,

# Value: Fundamental Rights

The idea that a government should defend its people comes from the idea that Fundamental Rights should be defended. **Because of that, we can see that a government seeking to defend fundamental rights is ethical**. We have to remember, however, remember the term defense. If we say that a government should just SEEK to defend its people, we have to say that ANY action with that intent is ethical. However, this is simply not true. Because of this, we have to add a way to assess this value; how do we know our value is being upheld?

# Criterion: Defense

If a government acts to DEFEND its people’s rights, that action is ethical. Thus, our value of fundamental rights, is upheld. But what does defense entail? According to Merriam Webster’s online dictionary, to defend is to;

“**to drive danger or attack away** from”[[5]](#footnote-5)

This means that to defend yourself or your nation, you have to BE IN DANGER. This means on thing;

# Contention 1: Preventive War oversteps the grounds of defense

As we can see through the distinction between Preventive and Preemptive War, a Preventive War happens in the absence of danger. You don’t know you are going to be attacked, you don’t know when or how, and you don’t even know that the nation which you think might attack you even CAN. Because of this, Preventive War is not in defense. There is no danger you are trying to drive away.

# Contention 2: Preemptive War is the correct course of action

Preemptive War, in contrast to Preventive War, is defensive. You DO know that you are going to be attacked, you know when or how, and you know the capability of the threatening nation. Because of this, it is ethical for a government to wage a Preemptive War to defend its people. There are cases where a government has to step up, and to defend its citizens, but those are cases where their citizens need defense; cases of Preemptive, no Preventive, War.

# TO CONCLUDE:

A government HAS to defend its citizens. IT HAS TO. We cannot stand by as dangers gather, but we have to attack when there IS a danger. A government HAS to defend its citizens. IT HAS TO. We cannot stand by as our enemies gather, but they have to be gathering. A government HAS to defend its citizens. IT HAS TO. We cannot allow another nation to infringe upon our rights, but they have to be infringing on our rights. That is why I disagree with the resolution in today’s round, Preemptive War, not Preventive War, is ethical.

Opposition Brief: Preemptive War

# Defensive War

Operation Opera: A defensive preventive War

Robert Jervis (Ph.D. political science, Professor of International Affairs at Columbia University, Professor of Government at Harvard), The Academy of Political Science, Published 2003, accessed 11/10/2019, “Understanding the Bush Doctrine”, https://www.jstor.org/stable/30035780?read-now=1&seq=6#page\_scan\_tab\_contents

“**Israel launched a preventive strike against the Iraqi nuclear program in 1981;** **during the Cold War, U.S. officials contemplated attacking the USSR and the People’s Republic of Chine (PRC) before they could develop nuclear capabilities.** The Monroe doctrine and westward expansion in the nineteenth century stemmed in part from the American desire to prevent any European power from establishing a presence that could menace the United States.”

Operation Opera: Nuclear intent

Joshus Kirschenbaum (M.A international security, senior fellow at GMF’s alliance for Securing Democracy), Journal of Strategic Security, Published Winter 2010, accessed 11/10/2019 “Operation Opera: an Ambiguous Success”, <https://scholarcommons.usf.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1081&context=jss>

“**Very few experts would claim today that Iraq under Saddam Hussein in 1981 was anything but intent on building a deliverable nuclear bomb**. One 1983 account by a prominent Harvard physicist, on the other hand, accepted credulously the Iraqi claim that Osirak was intended for peaceful research. The physicist, Richard Wilson, visited the destroyed Tuwaitha facilities, but he had admittedly little background in nuclear weapons and proliferation, and he was apparently misled by Iraqi authorities on his tour.4 the scholarly consensus has since discredited this view. **Iraq first wanted to buy a large gas-graphite reactor from France, which could produce plutonium for use in a nuclear weapon. Only when the French rejected this request did Iraq, in 1976, purchase their Osiris-type light water MTR.**6 **This was a strange decision for a country without an existing power program, as MTRs are used for research purposes to compliment large power reactors. The switch made it appear that Iraq was desperate to find a route, however circuitous, to the bomb.**7 **Later reports by top Iraqi nuclear scientists largely bore out this interpretation. Mahdi Obeidi, a high-ranking Iraqi nuclear scientist, asserted that he was told in a private meeting with a superior that Hussein wanted the bomb, and he inferred that this was the purpose of Osirak.**8Khidhir Hamza, another scientific defector, wrote in a joint 1998 piece with David Albright, “The Iraqis believed that the safeguards on the reactor, which would have included periodic inspections and surveillance cameras, could have been defeated.”**”**

# Counter-Distinction

Choice and non-choice

*Grey, Collin S. “THE IMPLICATIONS OF PREEMPTIVE AND PREVENTIVE WAR DOCTRINES: A RECONSIDERATION.” The US Army War College, July 2007, <ssi.armywarcollege.edu/pdffiles/PUB789.pdf>. Accessed 12 Sept. 2019. Official publication of the US Army.*

“By way of the sharpest contrast, **a preventive war is a war of discretion. It differs from preemptive war both in its timing and in its motivation. The preemptor has no choice other than to strike back rapidly; it will probably be too late even to surrender. The preventor, however, chooses to wage war**, at least to launch military action, because of its fears for the future should it fail to act now.”

# NECESITY

Agrees with Necessity

*Gilson, thomas, (2011) (quoting bush) “Just War and Preventive Force Doctrines: An Ethical Analysis of Opposites,” SPNHA Review: Vol. 7: Iss. 1, Article 2, accessed 11/9/2019,* [*https://pdfs.semanticscholar.org/57f6/28a6974635cfd09ed2d208912b173310369a.pdf*](https://pdfs.semanticscholar.org/57f6/28a6974635cfd09ed2d208912b173310369a.pdf)

“**I will not wait for events while dangers gather. I will not stand by as peril draws closer and closer**”

Agrees with Necessity

A quote from this speech,

“**If a government acts to DEFEND its people’s rights, that action is ethical. Thus, our value of fundamental rights, is upheld. But what does defense entail? According to Merriam Webster’s online dictionary, to defend is to;**

“**to drive danger or attack away** from”[[6]](#footnote-6)

**This means that to defend yourself or your nation, you have to BE IN DANGER. This means on thing;**”

(this quote basically just says that the Neg agrees that it is ethical to defend yourself)

# Superiority

Delay would mean defeat

*Chatterjee, Deen. “The Ethics of Preventive War // Notre Dame Philosophical Reviews // University of Notre Dame.” Notre Dame Philosophical Reviews, 2 Dec. 2013,* [*https://ndpr.nd.edu/news/the-ethics-of-preventive-war/*](https://ndpr.nd.edu/news/the-ethics-of-preventive-war/)*.*

“**Under preventive war conditions, there is no certainty that this future war will actually be fought; preventive war is launched to avoid the mere possibility of a higher-cost future war or the potential for the target state to use its rising power in a coercive way.**”

1. *Gilson, thomas, (2011) (quoting bush) “Just War and Preventive Force Doctrines: An Ethical Analysis of Opposites,” SPNHA Review: Vol. 7: Iss. 1, Article 2, accessed 11/9/2019,* [*https://pdfs.semanticscholar.org/57f6/28a6974635cfd09ed2d208912b173310369a.pdf*](https://pdfs.semanticscholar.org/57f6/28a6974635cfd09ed2d208912b173310369a.pdf) [↑](#footnote-ref-1)
2. *Gilson, Thomas, (2011) “Just War and Preventive Force Doctrines: An Ethical Analysis of Opposites,” SPNHA Review: Vol. 7: Iss. 1, Article 2, accessed 11/9/2019,* [*https://pdfs.semanticscholar.org/57f6/28a6974635cfd09ed2d208912b173310369a.pdf*](https://pdfs.semanticscholar.org/57f6/28a6974635cfd09ed2d208912b173310369a.pdf) [↑](#footnote-ref-2)
3. *USLegal.com, Immediate Danger Law and Legal Definition, 2019,* [*https://definitions.uslegal.com/i/imminent-danger/*](https://definitions.uslegal.com/i/imminent-danger/)*, accessed 11/9/2019.* [↑](#footnote-ref-3)
4. *“Thomas Jefferson Quotes.” AZQuotes. Accessed August 4, 2019.* [*www.azquotes.com/quote/371390*](http://www.azquotes.com/quote/371390)*.* [↑](#footnote-ref-4)
5. *Merriam Webster’s Online Dictionary, ‘to defend’ accessed 11/10/2019,* [*https://www.merriam-webster.com/dictionary/defend*](https://www.merriam-webster.com/dictionary/defend) [↑](#footnote-ref-5)
6. *Merriam Webster’s Online Dictionary, ‘to defend’ accessed 11/10/2019,* [*https://www.merriam-webster.com/dictionary/defend*](https://www.merriam-webster.com/dictionary/defend) [↑](#footnote-ref-6)