

**Gow, J. *Defending the West* (Cambridge: Polity Press)**

Facing the threats and challenges that confront the US, the UK and others demands pre-emption. ... Sharp – mostly negative – discussion of pre-emption marked discourse around the world in late 2002 and early 2003, mostly concerning the US National Security Doctrine of September 2002 and looming action over Iraq.<sup>1</sup> The US-led military operations against Iraq in spring 2003 were not really pre-emption. They were, at root, in legal terms, an enforcement action. They were about persistent non-compliance with international legal obligations and defaulting on the terms on which international military action against Iraq had ceased in 1991. But, even though the armed action against Iraq was not pre-emptive self-defence, it could have been. Iraq was judged to be a threat, on different levels. First, it posed a threat in terms of its anti-Western position (perhaps the only regime to celebrate September 11 publicly). Secondly, its continuing pursuit of chemical, biological and, crucially, nuclear weapons with which to challenge the West could not be dismissed. Thirdly, there was also the more contentious and debatable issue of its harbouring and fostering links with al-Qua'ida, and the prospect of potential collusion with it. The group that had turned 11 September 2001 into the event known as September 11, or 9/11,<sup>2</sup> had some links with Baghdad – though Washington, DC, and other capitals even including London, held different views on the significance of those links.<sup>3</sup> And, finally, perhaps the core of the problem was Saddam Hussein himself, Iraq's uncompromising, irredeemable leader, whose personality, defined by obsession with the worst of weapons and pitiless violence, made him the real threat. The combination of personality, rogue state and potential collaboration with al-Qua'ida was such that pre-emption was relevant, even if it was not actually the basis for action – although the US implicitly allowed that this might be a complementary reason. Without the compliance frame-work, the same action would have been necessary. And it would have to have been just as pre-emptive self-defence.

... Pre-emption is highly controversial. It worries many people as a matter of principle – especially experts and political activists. And it is a matter of concern to the ordinary people, folded in with a range of fears about peace and stability in the world and worries about apparent or potential misuse of American military power. To many of those who reject pre-emption, it was a dark spectre, advocated by what were thought to be dangerous fantasists of American imperialism. At the same time, to many of them the idea that rules were being broken was of vital importance and gave great energy to concerns and protests – including the large-scale protests involving millions of people in different countries in the run-up to the Iraq operations in 2003. However, there is no point arguing that the rules do not permit pre-emptive action. And there is equally no point at the other end of the spectrum in believing that rules do not matter. The rules do matter. But they can and have to change to accommodate the new realities of international securities. The crux of this is to understand the evolutionary character of international law and its relationship to politics – politics, practice and precedent contribute to the maintenance and the development of international humanitarian law. Pre-emption without attention to the rules would indeed be dangerous, as many ordinary people, as well as political activists, believed. But the need for pre-emption was real and necessary.

... States will rarely, if at all, need to defend themselves against aggressive conventional attacks by other states. It may be more relevant to modernize the understanding of defence to meet the real threats that states are likely to face. If conflicts such as Kosovo are a threat to international peace and security, then they are threats to the security of existing states – and in future might be subject, in part, to legal acts of self-defence, under Article 51. Crucially, if action beyond the traditional protection offered by the quality of sovereignty is permissible to restore peace and security, then defence, it may be reasoned, has to be possible on the same basis. It might well be that a state, or a group of states, is threatened by a situation arising within the boundaries of another state. In such a case, the latter, because of abuse, or dereliction, regarding the exercise of sovereign rights, might be

judged to have lost the respect of others demanded by the sovereignty system. In the absence of action by the UN Security Council to deal with such a threat, it may well be that action by states in self defence might be appropriate.

... The new approach to self-defence requires national and international support at some stage, even if action without support might be needed along the way as part of the pragmatic-theoretical discourse of ideas and events by which a new understanding of self-defence will be constructed. One part of that process is establishing the limits of the concept, for the period ahead. But the starting point is to recognize the need to go beyond the traditional taboo of anticipatory self defence. The early twenty-first century is an era in which action can be and might have to be pre-emptive and prompt; otherwise it could be too late.

#### **Notes**

<sup>1</sup> *The National Security Strategy of The United States of America*,  
<http://usinfo.state.gov/topical/pol/terror/secstrat.htm>

<sup>2</sup> It must be taken as one of the many effects of American dominance of international discourse that references to this event are conventionally consistent with American day/month usage, rather than the date order found in Europe and elsewhere

<sup>3</sup> The UK Government dossier on Iraq's Weapons of mass Destruction, 24 Sept. 2002, had that name and focus – and no mention of al-Qa'ida – because British intelligence did not regard the evidence of links as adding up to a serious threat at that stage, although, of course, the potential for a nightmare coalition could not be rule out.