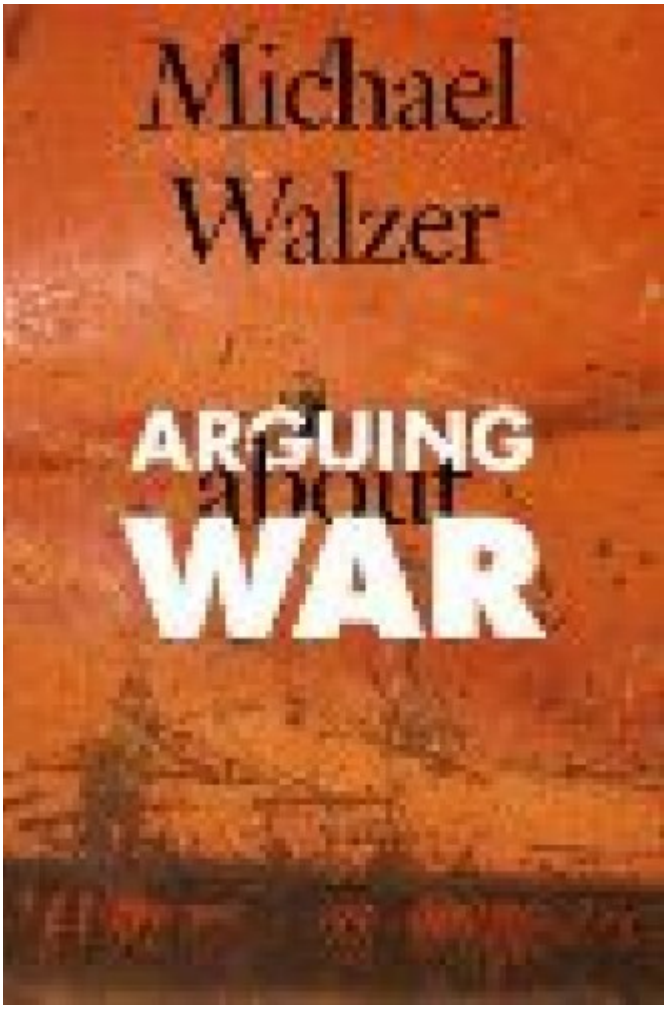
Mission impossible

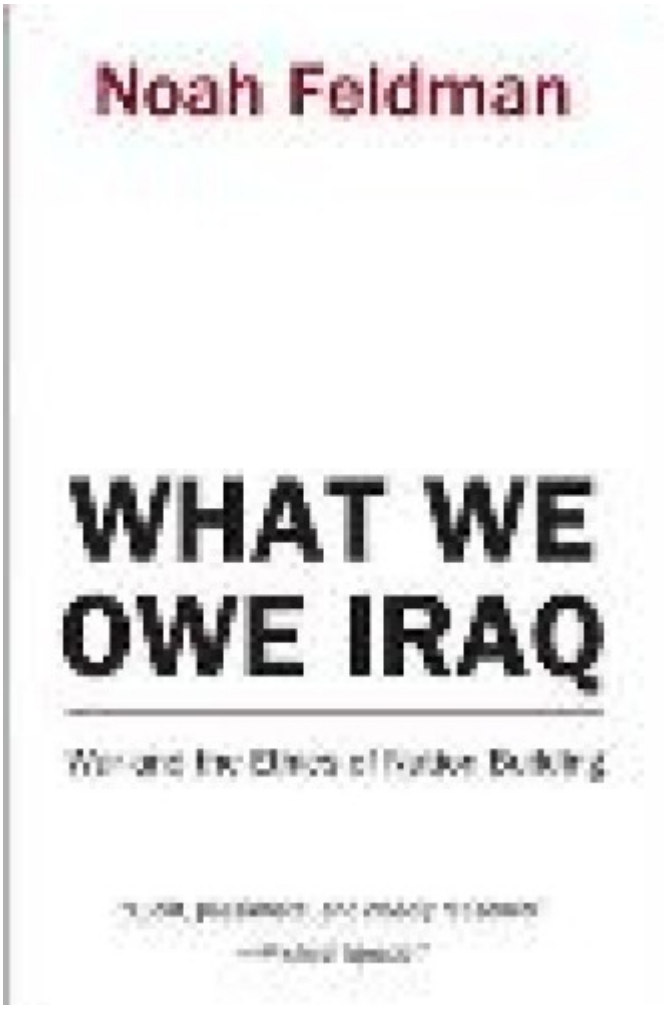
By Robert Westbrook in the November 29, 2005 issue

In Review



Arguing About War

Michael Walzer
Yale University Press



What We Owe Iraq: War and the Ethics of Nation Building

Noah Feldman
Princeton University Press

As the disastrous war in Iraq grinds on, now at the cost of more than 2,000 American lives and of curiously uncounted thousands of Iraqi casualties, one is struck by the inability of the war's opponents to mount a compelling campaign against it. Few, to be sure, are reluctant to attack the way the Bush administration has managed the war, but fewer still are willing to say that it is a war that never should have been waged and that the U.S. should make what amends it can to the Iraqi people for the damage it has done and let them to decide their own fate as they see fit. Our task is not, as Bush declaims, to "complete the mission," but to abandon it as best we can.

Not least of the reasons for the absence of such an argument in respectable opinion is that many of those from whom one might have expected it are unable or unwilling

to extract themselves from the missionary position that even Americans of humane sentiment have long convinced themselves the defense of democracy and human rights requires.

Among those wary of this American penchant for regeneration through violence, I was not alone, I imagine, in awaiting Michael Walzer's response to the invasion of Iraq in the spring of 2003. Like many, my understanding of the ethics of warfare had been profoundly shaped by his *Just and Unjust Wars* (first published in 1977). I found myself once again turning to its pages for warnings against the expansive conception of "preemptive" (let alone "preventive") warfare with which the Bush administration justified attacking Iraq—and, indeed, justified its foreign policy generally. And as a coterie of prominent "Humvee liberals" led by Paul Berman, Thomas Friedman, Christopher Hitchens and Michael Ignatieff rushed to the defense of Bush's war as a humanitarian intervention or the opening salvo in an epochal struggle to make the Middle East safe for democracy, I recalled Walzer's stern admonition against construing every exercise of tyranny as a human rights emergency justifying the crossing of borders and, above all, his insistence that democracy is necessarily a do-it-yourself project. But one needed to hear from Walzer himself, for, as in the first Gulf War, which he supported, he always seemed to bring compelling principles into a fresh and illuminating dialogue with the concrete particulars of hard cases.

Walzer's response to the Iraq war, when it came, was muted and equivocal, and on close inspection revealed an important shift in his thinking toward, if not to, the views of the prowar liberals. In a series of brief articles, reprinted in *Arguing About War*, Walzer laid out his deep ambivalence about the impending conflict. The source of his uncertainty was, unsurprisingly, the potentially threatening and undeniably oppressive regime of Saddam Hussein, which to Walzer's mind called for unstinting resistance but not for war.

Except to those "realists" who would leave no place at all in American foreign policy for human rights, Saddam's regime might well have been a candidate, without much argument, for humanitarian intervention in 1988 (when he gassed thousands of Kurds) or 1991 (when he slaughtered thousands of Shi'ites). But it had since the early 1990s—under the no-fly zones, weapons embargo and other sanctions imposed by the United Nations since the Gulf War—settled into ordinary tyranny. Indeed, insofar as there was a human rights crisis in Iraq in 2003, it lay in the devastating effects of UN trade sanctions on the lives of Iraqi children, who were

denied essential nutrition and medical care.

To his credit, Walzer did not, as did some in the Bush administration and many prowar liberals, try to justify the war as a long-delayed response to Saddam's much earlier crimes (crimes in which the U.S. had been complacent if not complicit). As antiwar human rights activists such as Kenneth Roth of Human Rights Watch (which had, unlike anyone in the Bush administration or many of the prowar liberals, called for international intervention in 1988 and 1991) contended, a long-delayed human rights intervention is no longer a human rights intervention since the abuses that called for it can no longer be stopped—removing the sole purpose of such an intervention.

In a 2002 *Dissent* article that he chose not to reprint, Walzer (with an eye clearly on Iraq) insisted that "the occasions have to be extreme if they are to justify, perhaps even require, the use of force across an international boundary. . . . The common brutalities of authoritarian politics, the daily oppressiveness of traditional social practices—these are not occasions for intervention; they have to be dealt with locally, by the people who know the politics, who enact the practices. The fact that these people can't easily or quickly reduce the incidence of brutality and oppression isn't a sufficient reason for foreigners to invade their country." Saddam, to be sure, should be tried for his crimes, but war long ago ceased to be the just way with which to arraign him for those crimes.

On the other hand, oppressive practices and violations of international law short of those justifying war need not be ignored, and Walzer condemned those antiwar critics in the U.S. and (especially) Europe who attacked the Bush administration but refused themselves to face up to the difficult task of aggressively taking on Saddam. Foreigners could justly contest his regime with diplomatic pressure, economic sanctions and even military action short of war (such as enforcing no-fly zones), hoping thereby "to prompt *but not to preempt*" a domestic transformation in Iraq.

"The right way to oppose the war," he wrote, "is to argue that the present system of containment and control is working and can be made to work better. This means that we should acknowledge the awfulness of the Iraqi regime and the dangers it poses and then aim to deal with those dangers through coercive measures short of war." A nuanced position, to be sure—one hard to sum up on a demonstration poster—but, I was myself convinced, the just one.

Yet, when the war came, Walzer could bring himself neither to say simply that the American war was unjust nor to ally himself with those who were saying so. Instead, he declared the war unjust on both sides. The U.S. was unjustly waging a war that had yet to be shown to be necessary to its ostensible (and just) purposes (disarming Iraq and combating terrorism), but Saddam, in turn, was not justly defending Iraqi sovereignty, merely defending his own regime.

The latter distinction, nowhere to be found in *Just and Unjust Wars* (or in anything Walzer wrote before the war), could easily serve to dismantle most of the strong defenses of self-determination Walzer had built up in that book and elsewhere and could, of course, supply the opening wedge for the sort of liberal imperialism he had long resisted. By this reasoning, one need not worry in principle over a foreign policy that aims by means of war to change the governments of others if all that is at stake are regimes such as Saddam's, which have "no moral legitimacy."

In *Just and Unjust Wars* Walzer had argued vigorously, with John Stuart Mill, against equating self-determination and political freedom: "A state is self-determining, even if its citizens struggle and fail to establish free institutions, but it has been deprived of self-determination if such institutions are established by an intrusive neighbor. The members of a political community must seek their own freedom, just as the individual must cultivate his own virtue. They cannot be set free, as he cannot be made virtuous, by any external force. . . . Self-determination is the school in which virtue is learned (or not) and liberty is won (or not)."

The constraints on intervention that a moral commitment to self-determination imposed, Walzer was careful to say, are not absolute. Intervention would be justified (if not necessarily prudent) in the face of some secession movements or wars of "national liberation" (the Hungarian revolutions of 1848 and 1956), unjust interventions by others (the Spanish Civil War), and human rights catastrophes (Bangladesh in 1971). But by these lights, the American war in Iraq clearly remained unjust on one side alone, and Saddam's regime, if not the man himself, was not entirely bereft of moral legitimacy. "It is not true," Walzer wrote, "that intervention is justified whenever revolution is."

Arguing About War relaxes the ethical constraints on intervention considerably in its denial of at least this claim to moral legitimacy for the decidedly unfree nation of prewar Iraq. Or, to put it differently, Walzer has significantly raised the bar for the moral legitimacy required of a state seeking to protect itself from foreign

intervention. Indeed, since the government of every unfree regime might well be described as he describes “morally illegitimate” Iraq—“a tyrannical clique seeking desperately to hold on to power, at whatever cost to ordinary people” (indeed, some might so describe the Bush regime)—it would seem that he has come close to the erasure of the distinction between self-determination and political freedom upon which he once so vigorously insisted.

And this, as he once warned, makes every unfree nation a target for intervention by those who believe themselves the agents of freedom. The constraints on “revolution from without” for Walzer no longer seem principled but solely prudential—and the differences between him and the prowar liberals have narrowed to a difference over the wisdom rather than the justice of the war: “Foreign politicians and soldiers are too likely to misread the situation, or to underestimate the force required to change it, or to stimulate a ‘patriotic’ reaction in defense of the brutal politics and the oppressive practices.”

This shift in Walzer’s thinking is reflected as well in an essay about a matter that got short shrift in *Just and Unjust Wars*: just and unjust postwar occupations. As he says, he is now “more willing to defend long-term military occupations, in the form of protectorates and trusteeships, and to think of nation-building as a necessary part of postwar politics.” Although Walzer had little to say in his earlier book about the issue of *jus post bellum*, what he did say was consistent with his worries over threats to self-determination. The outer limit of legitimate war aims, he argued, “is the conquest and the political reconstruction of the enemy state, and only against an enemy like Nazism can it possibly be right to reach that far.” The danger here was the confusion of a just war with a missionary crusade, which “aims not at defense or law enforcement, but at the creation of new political orders and at mass conversions”—that is, at the creation of new nations in one’s own image.

Now Walzer seems willing to abide a measure of crusading. Postwar justice, he now argues, requires that defeated states be reconstructed, if necessary, along “minimalist” liberal-democratic lines. He does not (as many neoconservatives and Humvee liberals did) contend that we should have gone to war in Iraq to build such a state, but having gone to war (however unjustly) and removed Saddam from power, we owe it to the Iraqi people to leave a modest liberal-democratic state in our wake. Whatever one’s position on the justness of the war, he says, we should all agree on the justness of such an occupation—even unjust wars might end justly by fostering liberal democracy. Apparently, a people may now be set free, at least “minimally,”

by external force.

Walzer makes this argument all too briefly. A fuller version is to be found in Noah Feldman's *What We Owe Iraq*. Sharing Walzer's view that the justness of the occupation can be considered apart from the justness of the war, Feldman—a wunderkind among American law school literati and constitutional adviser to the managers of the Iraq occupation—carefully avoids disclosing his views on the war (though I presume he would not have landed his job with the Coalition Provisional Authority had he opposed it). "If we indulge in the luxury of condemning the nation-building project in Iraq just because we object to how we got there, we may miss the point of the ethical obligations that still stare us in the face," he says.

Feldman's conclusion that "what we ultimately owe Iraq is to let the Iraqis grasp nationhood and sovereignty for themselves—and to keep it, if they can" seems to me unarguable. Justly or unjustly having destroyed one sovereign regime in Iraq, we owe it to the Iraqis to hold the fort until they have the opportunity to replace it with another of their own devising. The tricky thing is to avoid the temptations of a missionary paternalism that would compromise this commitment to self-determination. Feldman knows this, but he doesn't quite manage it—though he makes a gamer effort in theory than his bosses at the CPA did in practice.

Theoretically, he claims, an American occupation could take the form of a "trusteeship" that would advance both American and Iraqi interests by building a liberal-democratic state, and do so in a fashion that does not abridge Iraqi self-determination. Well aware that trusteeship has long had about it the air of a paternalism that "could not have been more explicit," he struggles to advance an alternative conception of the term that will strip it of condescension and the supposed obligations of "civilized" nations to oversee the development of their less civilized children.

Think of trusteeship, Feldman suggests, as nothing more than a matter of a beneficiary (the Iraqi people) entrusting the "authority to govern" to an occupying power (the U.S.) until they are ready to exercise it themselves. The best analogy, he argues, is with domestic, representative government: "If we can think of the elected government as our agent, then we can also imagine the arrangement in which government holds in trust the authority to govern us."

This analogy immediately breaks down in all sorts of telling ways, as Feldman is honest enough to realize and to point out. The Iraqis did not entrust governing authority to the American occupiers; the U.S. seized it (and then persuaded the UN Security Council to authorize it). Nor is the beneficiary free, as ordinary citizens are, to replace the trustee with another of their choice (say, an Iraqi government); the occupier, not the occupied people, determines when the occupation ends and the terms of its conclusion.

Feldman generously allows for rights of free speech and assembly so that the occupied can make their own conception of their interests known, and he provides as well for the participation of some of them in the administration of the occupation. By these means, Feldman claims, the occupied will have “supervisory” power. Perhaps, but they lack the most important weapon that the beneficiary of a trust can wield, the power to remove the trustee.

Feldman assures us that his sort of trustee will rule in its own interests only insofar as those interests coincide with those of the beneficiary, the occupied people. Yet despite his provisions for the self-expression of these interests, he is drawn less to direct than to “virtual representation” (he draws approvingly on Edmund Burke). Such a trustee would rule not in the best interests of the ruled as they understand them but for “their own good” as the occupying trustee interprets it. Indeed, Feldman somewhat apologetically supplies us with anecdotes in which he himself exercised power in this fashion.

Feldman has a keen eye for the crucial dilemma, but not a satisfying answer to it. “If our true goal is to produce the autonomy associated with self-determination,” he remarks, “it seems very odd to get there by taking the powers of self-determination away from the people under tutelage.” He insists doggedly that this nonetheless can be done, was to some extent done in Iraq, and could have been done much better. He does not “accept the view that the tension between democratic self-rule and the occupier’s heteronymous authority amounts to an inherent ethical contradiction that cannot be satisfactorily addressed.” But Feldman himself provides every argument one might need to dispute the analogy on which this conclusion rides. His argument suffers, above all, from an unwillingness to face up to the difference between a representative one freely elects and a self-styled “representative” that imposes itself at the point of a gun. “The paternalistic impulse runs deep in the project of nation building,” Feldman admits. So deep, indeed, that it proves insurmountable even for those such as himself who are determined to suppress it.

I am far less certain than Feldman that one's view of the justness of the Iraq invasion need not shape one's view of the justness of the occupation that has followed it. If one believes the war was unjust from the outset, not just because it was unnecessary for the protection of American national security but because it violated Iraqi self-determination and amounted to a paternalist crusade (however "minimalist"), then one has to stand against any occupation that has sustained that paternalist crusade (in however "minimalist" a fashion). Postwar justice, from such a point of view, requires an admission of bloody hands, not a celebration of "freedom on the march," as well as a deployment of as many American troops as it takes to restore order (and electricity) and Iraqi self-determination. And then speedy withdrawal.

The point of American policy in the immediate postwar months should not have been to hold Iraqi political authority in trust for over two years but to vest it as immediately as possible in Iraqi hands. (If, while we were at it, we managed to arrest Saddam Hussein and his henchmen for prior crimes against humanity, so much the better.) Such justice might have been served long before now, but the best opportunity to serve it, as many have said, dissolved along with the Iraqi army.

Nonetheless, even those Americans who opposed the war cannot deny a persistent obligation to the Iraqi people; we have a responsibility to clean up the mess our (sort of) elected leaders have made as "trustees" (theirs and ours) as best we can. Whatever we owe the Iraqi people, we owe them by way of penance (which Feldman falls short of saying, though he often implies it). Given the havoc that the war and the occupation have thus far wrought in their country, one might well argue that we owe them a lot by way of penance, including not only our treasure but more of the blood of our children.

But this, one might well say, is also a matter for the Iraqis to decide for themselves. If the U.S. takes seriously the claim that Iraqi sovereignty has been restored, then let it now relinquish what Feldman gently terms its "extraordinary advisory capacities." Have the Iraqis present us with a bill of penitential particulars (it will, no doubt, include a power grid at least as reliable as the one Saddam provided). Then have them tell us themselves when they would have us go, whether or not they have built the liberal-democratic state that we believe to be in their best interests. Let them, at last, have their own revolution.

Such a revolution would probably not be entirely in the best interests of the U.S., no matter how one defines those interests. If we cannot abide this and sustain the occupation to prevent it, then we should admit that ours is not even a paternal trusteeship in Iraq but an attempt at imperial conquest and indirect rule. What is for us to decide for ourselves is whether we will learn from this disaster to address the rest of the world from something other than the missionary position. And while we are at it, we might also address the state of political freedom here at home, which is itself in sore disrepair.

In the next issue: Robert Westbrook on the occupation of Iraq.