Old Laws, New Wars: Jus ad Bellum in an Age of Terrorism

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I. Introduction

At 8:46 on the morning of 11 September 2001, a handful of terrorists propelled the globe into an era of profound change. The immediate and palpable consequence of Al Qaeda’s attack—the deaths of thousands of innocent civilians and the immutable gash in the skyline of the United States’ most populous city—is relatively transient compared to the consequences of the response to 9/11. Whether or not recognized, acknowledged, or asserted, 9/11 and the response thereto brought forth a nascent legal regime that will alter the way nation states apply the rule of law in combating terrorism. While Usama bin Laden affected countless lives in the most primitive and horrific fashion, the United States and its allies, in responding, is effecting a metamorphosis of the legal landscape that structures our society and the relationships between states. Although Al Qaeda’s attacks have affected profoundly the world’s physical landscapes, the armed response is affecting the international legal regime to a degree evoking the eras of post-Westphalian

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