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# Kant's Just War Theory

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KANT IS OFTEN CITED as one of the first truly international political philosophers. Unlike the vast majority of his predecessors, Kant views a purely domestic or national conception of justice as radically incomplete; we must, he insists, also turn our faculties of critical judgment towards the international plane. When he does so, what results is one of the most powerful and principled conceptions of international justice ever constructed. Kant's central concept, that it is a demand of our own practical reason that we forge a cosmopolitan federation of free republics, based on the rule of law, human rights, and cultural and commercial development, still resonates today as a plausible and hopeful prescription for humanity's future.

Much of Kant's international theory has recently received searching analysis and evaluation. But the bulk of this consideration has focused on Kant's descriptive, as opposed to prescriptive, claims. Lavish attention, for example, has been showered on his assertion that perpetual peace is inevitable—that our natural antagonism will irresistibly incline us, after many failures, to establish an international juridical condition. Comparatively little has been done on thoroughly evaluating Kant's normative claims of international justice, particularly with regard to his ideal corpus of international law and his concrete recommendations for moving from a global state of nature to a cosmopolitan civil society.<sup>1</sup>

In this paper, I would like to contribute to the latter task by focusing on the moral problem that war poses as, arguably, the most frequent and severe cause

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<sup>1</sup>For a survey of the massive literature on Kant's descriptive/predictive claims about the inevitability of perpetual peace see both C. Lynch, "Kant, the Republican Peace, and Moral Guidance in International Law," *Ethics and International Affairs* 8 (1994): 39–58; and W. L. Huntley, "Kant's Third Image: Systemic Sources of the Liberal Peace," *International Studies Quarterly* 40 (1996): 45–76. One of the most influential scholars on this issue has been M. Doyle, "Kant, Liberal Legacies and Foreign Affairs," Parts 1 and 2, *Philosophy and Public Affairs* 13 (1984): 204–35 and 323–53, respectively.

of ruptures in the functioning of the international system.<sup>2</sup> In particular, I would like to argue in favour of the controversial, and original, thesis that Kant *has* a just war theory.<sup>3</sup> I would then like to develop that theory in some detail and to explain its strength and suggestiveness. The focus on war seems both helpful and timely. It is helpful in that it provides a specific, graphic example with which one can apprehend more clearly the abstract architecture of Kant's international vision. It is timely in that, in the wake of the very recent conflicts in Bosnia and Rwanda, and in light of the subsequent formation of the International War Crimes Tribunals at The Hague, renewed attention has been paid to considering what, if anything, constitutes a just war and what is permitted, and what punishable, in terms of conduct in war. A rigorous consideration of what one of the true giants of moral philosophy thought about these issues can only serve to illuminate our understanding of these current events.

#### 1. THE TRADITIONAL READING OF KANT: NO JUST WAR

Nearly every commentator on Kant's international theory of justice who discusses the problem of war in any detail believes that Kant not only has no just war theory, but that he is, moreover, a vicious critic of the core propositions of classical just war theorists, such as Augustine, Aquinas, and Grotius. Howard Williams, for example, says that "Kant has no theory of just war . . . (j)ustice and war are in conflict with one another and it is our duty as human beings to try to overcome war." Fernando Teson contends that "Kant dismisses the idea that there could be a just war" and Georg Geismann asserts that, for Kant, "there is no such thing as a just war." Similarly, W. B. Gallie asserts that "Kant agreed . . . that nothing but confusion and harm resulted from regarding any wars as just . . ." There is a bevy of quotes in the Kantian corpus to support this reading.<sup>4</sup>

One prominent anti-just war quote occurs in *Perpetual Peace*, when Kant

<sup>2</sup> Other such ruptures would include the severing of diplomatic ties (for instance, by withdrawing ambassadors) and the levelling of economic sanctions.

<sup>3</sup> There have been other scholars who have already anticipated, at least to some extent, the cogency of this claim. See: L. Mulholland, "Kant on War and International Justice," *Kant-Studien* 70 (1987): 25–41; G. Cavallar, "Kant's Society of Nations: Free Federation or World Republic?" *Journal of the History of Philosophy* 32 (1994): 461–82; and T. Mertens, "War and International Order in Kant's Legal Thought," *Ratio Juris* 5 (1995): 296–314.

<sup>4</sup> H. Williams, "Judgements on War: A Response," in H. Robinson, ed., *Proceedings of the Eighth International Kant Congress*, Vol. 1, Part 3 (Milwaukee, WI: Marquette University Press, 1995), 1393; F. Teson, "The Kantian Theory of International Law," *Columbia Law Review* 92 (1992): 90; G. Geismann, "'World Peace' Rational Idea and Reality. On the Principles of Kant's Political Philosophy," in H. Oberer, ed., *Kant: Analysen, Probleme, Kritik* (Germany: Konigshausen und Neumann, 1996), 286; and W. B. Gallie, *Philosophers of war and peace* (Cambridge: Cambridge University Press, 1979), 19–20.

reflects on the contributions of traditional just war theorists and arrives at the following judgment:

It is therefore to be wondered at that the word *right* has not been completely banished from military politics as superfluous pedantry, and that no state has been bold enough to declare itself publicly in favour of doing so. For Hugo Grotius, Pufendorf, Vattel and the rest (sorry comforters as they are) are still dutifully quoted in *justification* of military aggression, although their philosophically or diplomatically formulated codes do not and cannot have the slightest *legal* force, since states as such are not subject to a common external constraint [all his italics].<sup>5</sup>

Elsewhere, Kant says that "international right . . . becomes meaningless if interpreted as a right to go to war."<sup>6</sup> Furthermore, his insistence on the destructiveness of war in general, and his core notion that the international state of nature (*qua* state of war) is intrinsically unjust and thus must be exited, both add credence to the anti-just war interpretation of Kant. Kant does, after all, assert that war is "the scourge of humankind"; "the greatest evil oppressing man"; "the source of all evils and moral corruption"; and "the destroyer of everything good."<sup>7</sup> We might also mention the passage where Kant seems to claim that war is inconsistent with human rights; namely, when he says that "hiring men to kill and be killed seems to mean using them as mere machines and instruments in the hand of someone else (the state), which cannot easily be reconciled with the rights of man in one's own person."<sup>8</sup> Finally, we might cite the clearest such passage in Kant, when he intones that "moral-practical reason within us pronounces the following irresistible veto: *There shall be no war* [his italics]."<sup>9</sup> And this is the case because "war is not the way in which anyone should pursue his rights."<sup>9</sup>

<sup>5</sup> I. Kant, *Perpetual Peace: A Philosophical Sketch*, trans. by H. B. Nisbet, in H. Reiss, ed., *Kant: Political Writings* (Cambridge: Cambridge University Press, 1995), pg. 103 and paragraph (P) 355. Here, for ease of location, I follow the practice of Kant scholars in also quoting the standard page number (P) from the Prussian academy edition of Kant's works. Unless otherwise stated, the majority of the translations of Kant quotes I will employ in this paper will come from the Nisbet/Reiss collection.

<sup>6</sup> Kant, *Perpetual*, 105 (P 356).

<sup>7</sup> War as "scourge" is in I. Kant, *Religion within the limits of reason alone*, trans. by T. Greene and H. Hudson (New York: Harper, 1960), 29 in the note. War as "the greatest evil" is in I. Kant, *Speculative Beginning of Human History*, trans. by T. Humphrey in his ed. *Immanuel Kant: Perpetual Peace and Other Essays* (Indianapolis, IN: Hackett, 1983), 58 (P 121). War as "the source of all evils" is in I. Kant, *On the Common Saying: "This May be True in Theory, but it does not Apply in Practice,"* trans. by H. Nisbet in H. Reiss, ed., *Kant: Political Writings* (Cambridge: Cambridge University Press, 1995), 91 (P 312). The last citation is from I. Kant, *The Contest of Faculties*, trans. by H. Nisbet in H. Reiss, ed. *Kant: Political Writings* (Cambridge: Cambridge University Press, 1995), 183, 187 and 189.

<sup>8</sup> Kant, *Perpetual*, 95 (P 345).

<sup>9</sup> I. Kant, *The Metaphysics of Morals, Part One: The Doctrine of Right*, trans. H. Nisbet in H. Reiss, ed., *Kant: Political Writings* (Cambridge: Cambridge University Press, 1995), 174 (P 354).

One of the main purposes of this paper is to prove that the above quotes can, by and large, be reconciled with the claim that Kant *has* a just war theory. In fact, it will be to show that the weight of the textual evidence points clearly in favour of a pro-just war reading of Kant, and that any view to the contrary can only be sustained by a partial and selective reading of the relevant texts. The common tendency to read only *Perpetual Peace* (something which both Teson and Gallie seem guilty of), in particular, is a prime source of this confusion. It leads scholars like Teson to say that Kant advocates a form of "extreme pacifism."<sup>10</sup> We shall see that this claim is demonstrably false. The related tendency to put disproportionate emphasis on *Perpetual Peace*, even when drawing on such other crucial texts as the *Doctrine of Right* (something which both Williams and Geismann seem guilty of), leads to the same error. So, the aim here is to show that Kant *has* a just war theory and to explain of *what* it consists.

## 2. BACKGROUND I: CORE PRINCIPLES OF MORALITY AND DOMESTIC JUSTICE

Before specifically refuting, and ultimately transforming, the traditional reading of Kant's views on the ethics of war and peace, recourse must be made to the general conception of morality and international justice to which Kant is committed. The just war theory will not make much sense unless we do so; we must witness how it is fundamentally consistent with Kant's most cherished principles. But, in order to arrive quickly at the central issue, such recourse to the general theory can only be done in quite broad, abstract and programmatic terms.

Kant's foundational proposition is that human beings, while composites of both animal instinctuality and free rationality, nevertheless find their deepest sense of personal identity and interest in their rational natures. Reason is thus the foremost source of orientation and direction in our lives. The function or purpose of reason is to seek a unified and coherent web of concepts which: 1) provides us with orientation and direction in our lives (both in the theoretical and practical spheres); and 2) does not overstep its bounds and is therefore self-limiting or critical. For Kant, reason itself actively provides us with ends or goals proper to our nature as rational beings, and it provides us with an ordered set of rules, directives, and imperatives which are to guide us towards the realization of such ends. The most general of these goals or ends of human reason are: 1) formally, to enhance its own coherence and unity; and 2) materially, to promote its own realization in the world. The most general of the

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<sup>10</sup>Teson, "Kantian," 90.

means-providing, action-guiding directives towards these ends is, of course, the categorical imperative.<sup>11</sup>

As rational agents, human beings are negatively free *from* utter determination by instinctual inclinations. We can, if we desire, be moved by considerations other than those of raw impulse. So, we are capable of making choices between alternative principles, and courses, of action, and of being held responsible for the quality of these choices. Furthermore, human beings are positively free *to* act in accord with the dictates of their own reason. In short, we can employ our indigenous negative freedom (in the executive aspect of our will) so that it accords with the imperatives and principles of our own practical reason (in the legislative aspect of our will). When we do so, we act from a self-directing or autonomous will because we act *from* our own motivation *on* our own principles. Our reason mandates that we undertake this move from negative to positive freedom—that we undertake this process of enlightenment and emancipation—in order to realize itself, and thereby our deepest selves, in the world. Freedom is thus “the keystone” of the entire structure of Kant’s political philosophy.<sup>12</sup>

The deepest practical aspect of our rational natures is composed of the categorical imperative (or CI). The CI is an unconditional command of our own practical reason and forms the foremost source of normative orientation regarding the practical sphere of our lives. It specifies what, above all, we ought to do. Especially relevant in the various formulations of the CI<sup>13</sup> is the

<sup>11</sup> I. Kant, *Groundwork for the Metaphysics of Morals*, trans. J. Ellington, in the collection *Kant’s Ethical Philosophy* (Indianapolis, IN: Hackett, 1983), *passim*; I. Kant, *Critique of Pure Reason*, trans. Norman Kemp-Smith (New York: St. Martin’s Press, 1963), *passim*; I. Kant, *Prolegomena to any Future Metaphysics*, trans. J. Ellington (Indianapolis, IN: Hackett, 1977), *passim*; T. Pogge, “Kant’s Theory of Justice,” *Kant-Studien* 71 (1988): 407–33; and R. Velkley, “The Crisis of the End of Reason in Kant’s Philosophy and the *Remarks of 1764–65*,” 76–94, and J. Rawls, “Themes in Kant’s Moral Philosophy,” 291–319, both in R. Beiner and W. J. Booth, eds., *Kant and Political Philosophy: The Contemporary Legacy* (New Haven: Yale University Press, 1993).

<sup>12</sup> Op. cit., note 11. The “keystone” comment is taken from I. Kant, *Critique of Practical Reason*, trans. by L. W. Beck (New York: Macmillan, 1993), 3 (P 3).

<sup>13</sup> The five formulations of the categorical imperative are:

1. The formula of universal law (FUL): “Act only according to that maxim whereby you can at the same time will that it should become a universal law.”

2. The formula of the law of nature (FLN): “Act as if the maxim of your action were to become through your will a universal law of nature.”

3. The formula of the end-in-itself (FEI): “Act in such a way that you treat humanity, whether in your own person or in the person of another, always at the same time as an end and never simply as a means.”

4. The formula of autonomy (FOA): “Act under the idea of the will of every rational being as a will that legislates universal law.”

5. The formula of the kingdom of ends (FKE), building on the FEI and FOA, refers to Kant’s postulate of an (ideal) ethical commonwealth wherein all beings legislate for themselves in har-

formal emphasis on the need for universality, consistency and systematicity in a moral system, on the one hand, and the material emphasis on respecting humanity and dignity, on the other. Most centrally, the CI mandates that all of us act in such a way that: 1) all rational agents could (also) act on the exact same principle of action as our own; and 2) we pay full respect to the rational agency which is the hallmark of our humanity. Kant stresses the idea that morality forms one rational, universal and coherent system of imperatives or duties, as detailed by the CI. Violation of the CI thus constitutes a contradiction in the system of practical rationality. It is only when a person wills a principle or maxim of action which is in accord with the CI (i.e., it does not conflict with any of the CI formulations) *and* when that person performs the corresponding action for the sake of adhering to the CI, that the person acts morally, which is to say from a good will.<sup>14</sup>

It is crucial to note that, for Kant, the only thing in the universe possessed of intrinsic value is a good will; he even suggests, in a famous and charming metaphor, that a good will is like a jewel which shines by its own light. Indeed, Kant goes so far as to say that the development and maturation of good will—acting from our own motivation on our own deepest principles—is what justifies and gives sense and purpose not only to our lives but to the very existence of the world itself. “Without man [and his potential for moral progress],” he intones, “the whole of creation would be a mere wilderness, a thing in vain, and have no final end.”<sup>15</sup>

Many have contended, quite plausibly, that Kant’s general moral outlook, thus characterized, is deontological, as opposed to consequentialist, in structure.<sup>16</sup> It is deontological, or anti-consequentialist, in at least three senses: 1) because duty is the central concept in Kant’s moral philosophy; 2) because

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mony with all others and in accordance with the ideal of treating all as ends and not as mere means.

All of these formulations occur in Kant, *Groundwork*: FUL and FLN are both P 421; FEI is at P 429; and FOA and FKE are at P 431–32.

<sup>14</sup> Kant, *Groundwork*, *passim*. T. Pogge, “The Categorical Imperative,” in O. Hoffe, ed., *Grundlegung zur Metaphysik der Sitten: Ein kooperativer Kommentar* (Vittorio Klostermann: Frankfurt/Main, 1989), 172–93; L. W. Beck, “Kant’s Two Conceptions of the Will in their Political Context,” in R. Beiner and W.J. Booth, eds., *Kant and Political Philosophy: The Contemporary Legacy* (New Haven: Yale University Press, 1993), 39–49; C. Korsgaard, “Kant’s Formula of Humanity,” *Kant-Studien* 69 (1986): 183–202; C. Korsgaard, “Kant’s Formula of Universal Law,” *Pacific Philosophical Quarterly* 66 (1985): 24–47; O. O’Neill, *Constructions of Reason: Explorations in Kant’s Practical Philosophy* (Cambridge: Cambridge University Press, 1989), esp. 125–44; and J. B. Schneewind, “Autonomy, obligation and virtue” in P. Guyer, ed., *The Cambridge Companion to Kant* (Cambridge: Cambridge University Press, 1992), 309–41.

<sup>15</sup> I. Kant, *The End of All Things*, trans. by T. Humphrey in his ed. *Immanuel Kant: Perpetual Peace and Other Essays* (Indianapolis, IN: Hackett, 1983), 96 (P 331).

<sup>16</sup> Although recent writers such as D. Cummiskey, *Kantian Consequentialism* (Oxford: Oxford University Press, 1996) have challenged this standard assumption.

Kant deems it at least permissible (indeed, perhaps even obligatory) for an agent *not* to intend, and/or to act so as, to maximize overall best consequences; and 3) because he stipulates firm side-constraints on the promotion of ends, such as maximizing overall best consequences.<sup>17</sup> These properties of his anti-consequentialist conception shall become, so to speak, of consequence when we consider the substance of his just war theory. In the meantime, one clear and illustrative anti-consequentialist quote from Kant is his insistence that “(w)hat is essentially good in the action consists in the mental disposition, let the consequences be what they may.”<sup>18</sup> The actual consequences of an action do not exhaust, or perhaps even affect, its moral calibre. What matters morally is having a good will, which is to say: 1) intending to do one’s duty (as disclosed by the CI) for its own sake; and 2) conscientiously making serious efforts to realize that intention.<sup>19</sup>

The CI, as applied to the sphere of “external,” interpersonal interaction between rational agents, is called the universal principle of right or justice (UPJ): “Act externally in such a way that the free exercise of your will is compatible with the freedom of everyone, according to a universal law.”<sup>20</sup> The UPJ, most centrally, mandates respecting, protecting and enhancing human agency—which is our purposive capacity to make our own choices in life—wherever and whenever we encounter it. In fact, this is a mandate which can, and ought, to be backed by coercive force where necessary: the UPJ specifies rights and duties which can, and ought, to be enforced. Why may coercion be employed in the “external” sphere of action? The answer, in Kant’s words, is that it may be used if it “hinders a hindrance to freedom.”<sup>21</sup> Coercion may be employed because such is sometimes required to protect our free rational agency from (coercive) interference by others. We have seen that the only thing of intrinsic value for Kant—the ultimate source of value—is a good will. But only a free and rational will can become good. Thus, should rational agency need coercive protection from such standard threats to it as force and fraud (which it does), then such is mandated by the structure of practical reason itself. We may employ force in the sphere of justice in order, as it were, to make the world safe for the growth and development of the sphere of morality.

<sup>17</sup> For an astute characterization of “non-consequentialism,” see F. M. Kamm, “Non-consequentialism, the Person as an End-in-Itself, and the Significance of Status,” *Philosophy and Public Affairs* 20 (1991): 354–89.

<sup>18</sup> Kant, *Groundwork*, 26 (P 416).

<sup>19</sup> See note 11 and N. Latham, “Causally Irrelevant Reasons and Action Solely from the Motive of Duty,” *The Journal of Philosophy* 91 (1994), 599–618.

<sup>20</sup> Kant, *Right*, 132–34 (P 230–31).

<sup>21</sup> Kant, *Right*, 134 (P 231–32).

A careful analysis of the UPJ reveals, following the seminal work of Thomas Pogge, that it actually contains three component principles: 1) the formal principle of justice (FPJ), which mandates the creation and rule of a determinate system, or state, of coercive positive law and order; 2) the first material principle of justice (MPJ 1), which stipulates the securing of human rights for all; and 3) the second material principle of justice (MPJ 2), which in general commands the development of the political pre-conditions for a rise in enlightenment, culture and, in the end, moral autonomy and good will. FPJ-MPJ 2 thus inform us of our rights and duties of justice, enforceable with coercion, with regard to the protection and advance of rational human agency and freedom.<sup>22</sup>

The UPJ forms Kant's most important "test for legislation." Just as individuals are to evaluate their maxims of action *vis-à-vis* the CI, so we are also, collectively, to evaluate proposed legislation *vis-à-vis* the UPJ. Only that legislation which is in accord with the UPJ is permitted by Kant's theory of justice. Furthermore, because the UPJ (*qua* CI as applied "externally" to the realm of politics) is a command of practical reason, it follows that all rational beings must consent to its stipulations. So Kant is, as frequently noted, a kind of social contract theorist: we all, *qua* rational beings, consent to the demands of the UPJ, and thereby collectively form a "general will" dedicated to the realization of its component principles. The deepest import of the UPJ is that, for Kant, we are to order our conduct and to reform basic socio-economic and legal-political institutions so that they conform to the requirements of the UPJ. This means, notably, that: 1) we are to move *from* the "wild, lawless freedom" of the pre-political state of nature (if we happen to find ourselves in that state) *to* a lawful state of ordered freedom wherein citizens are simultaneously co-legislators and subjects; and 2) we are to structure civil society (once we have established it) so that it respects human rights, which are those universal just claims, or entitlements, justified on the basis of humanity and dignity, that we all have regarding how we ought, and ought not, to be treated by each other and by the state. Human rights, in short, are high-priority, justified claims that we all have on each other and, above all, on the way in which socio-political institutions ought to be shaped. Kant's conception of what human rights we have is limited to traditional civil and political rights: to freedom, property, equality, and various due process and participatory rights.<sup>23</sup>

<sup>22</sup> Kant, *Right*, 132–40 (P 218–32); Pogge, "Kant's Theory," 407–33; Mulholland, *System*, 140–54; A. Rosen, *Kant's Theory of Justice* (Ithaca: Cornell University Press, 1993), 80–115; R. Pippin, "On the Moral Foundations of Kant's *Rechtslehre*," in R. Kennington, ed., *The Philosophy of Immanuel Kant* (Washington, DC: Catholic University Press of America, 1985), 107–42; and E. Weinrib, "Law as a Kantian Idea of Reason," *Columbia Law Review* 87 (1987): 472–508.

<sup>23</sup> Op. cit., note 22. See also B. Ludwig, "'The Right of a State' in Immanuel Kant's Doctrine of

From these schematic remarks, we can discern in broad outlines Kant's conception of the just state or republic. Kant's quite austere and minimalistic political ideal seems to be a kind of pro-rights proto-libertarianism, calling only for that exact amount of government necessary to provide for the rule of law and order, and to secure all our human rights. The watchwords of Kantian governance are: law and order; equal human rights to freedom and property; socio-economic opportunity; trade, development and commerce; and self-driven effort, industry, and enlightenment.<sup>24</sup>

### 3. BACKGROUND II: THE ARCHITECTURE OF THE INTERNATIONAL THEORY OF JUSTICE

The first premise of Kant's international theory of justice, as a direct outgrowth from his domestic conception, is that the subjects of this theory are states, and that states exist as moral persons. By this Kant means two things. The first is that the state is worthy of our moral attention and respect to the extent to which it protects and serves the individuals, moral persons proper, who live under its auspices. The second is that we are, *via* the domestic analogy,<sup>25</sup> to conceive of states as negatively free rational agents, undetermined by raw inclination or mechanism, who are free to make choices between alternative courses of action and can, as a result, be held responsible for the substance of those choices.

As rational agents, states also find their deepest sense of identity and interest in adhering to the norms of reason. It follows from previous argumenta-

Right," *Journal of the History of Philosophy* 28 (1990): 403–15. For Kant on rights, see M. Gregor, "Kant on 'Natural Rights,'" in R. Beiner and W.J. Booth, eds., *Kant and Political Philosophy* (New Haven: Yale University Press, 1993), 50–75; S. Shell, *The Rights Of Reason* (Toronto: University of Toronto Press, 1980), *passim*; and Mulholland, *System*, *passim*.

<sup>24</sup> Op. cit., notes 22 and 23. See also W. Kersting, "Politics, Freedom and Order: Kant's Political Philosophy," in P. Guyer, ed., *The Cambridge Companion to Kant* (Cambridge: Cambridge University Press, 1992), 342–67. This minimalist conception of Kant's notion of the just state is in contrast to that of the so-called Kantian socialists, such as H. Van der Linden, *Kantian Ethics and Socialism* (Cambridge: Cambridge University Press, 1988).

<sup>25</sup> The "domestic analogy" asserts that we are, in general terms, to refer to the behavior of states, *vis-à-vis* each other, in analogy with the way in which we speak of individual agents behaving *vis-à-vis* each other. It is important to note that such need not involve any kind of metaphysical or mystical conception of the nation-state; rather, the domestic analogy draws its life and vitality from the sheer difficulty of speaking meaningfully and insightfully about the behavior of entities as complex as states without employing simplifying assumptions, such as that they have a discernible identity, have intentions, face choices between alternatives, etc. See M. Walzer, *Just and Unjust Wars* (New York: Basic Books, 1991, 2nd ed.; 1st ed., 1977), 51–74. Another discussion of Kant's doctrine of the moral personhood of states is S. Byrd, "The State as a 'Moral Person,'" in H. Robinson, ed., *Proceedings of the Eighth International Kant Congress* (Milwaukee, WI: Marquette University Press, 1995), Volume 1, 171–90. It should be noted that this analogy is only that: it is only generally persuasive and does not preclude the existence of important particular disanalogies (see, for example, note 29).

tion that, politically, states must be subject to a principle of practical reason analogous to the UPJ, call it SUPJ (for “the state-level version of the universal principle of justice”). The foremost duty of international justice is for states to adhere to the SUPJ, which seems, in light of prior reasoning, to be composed of the following component principles: 1) the SFPJ, which commands that all states ought to coexist under a coherent, ordered, and determinate international system of positive laws; 2) the SMPJ 1, which stipulates that the content of such a system of positive international law must be aimed, first and foremost, at respecting and realizing the rights of every state; and 3) SMPJ 2, which mandates that the positive system of interstate laws is to provide the general framework within which practical reason and good will can be promoted and mature to their fullest development.

The deepest import of the SUPJ, analogous to the domestic UPJ, is that we are, through our state mechanisms, to order our conduct and to reform *global* institutions and practices such that they satisfy SFPJ-SMPJ 2. This means, notably, that: 1) we are to move *from* the anarchy of the international state of nature *to* some kind of cosmopolitan civil society; and 2) we are to structure the global juridical condition so that it satisfies the rights of states *qua* moral persons. Why do states have rights *vis-à-vis* one another? States have rights because: 1) their citizens, as individuals, have human rights; and 2) in order to secure the objects of these human rights from possible deprivation by outsiders, a collective agency, like the state, needs to be authorized, or entitled, to certain objects and actions in its own right, *vis-à-vis* these non-members and the collective agencies which act on their behalf. And what rights do states have *vis-à-vis* one another? There is extensive textual evidence<sup>26</sup> that Kant affirms the following state rights (SR) and correlative state duties (SD):

*State Rights:*

*SR 1.* The right of negative freedom *from* force and fraud in the state of nature.

*SR 2.* The right of positive freedom *to* self-governance (i.e., political sovereignty) within a global juridical condition.

*SR 3.* The right to employ and dispose of one’s natural resources as one sees fit, provided such use does not materially violate the rights of other states.

*SR 4.* The right of property in one’s territory (i.e., territorial integrity).

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<sup>26</sup> Kant, *Theory*, 87–92 (P 307–313); Kant, *Perpetual*, 93–130 (P 343–86); Kant, *Right*, 132–36 (P 229–33) and 164–75 (P 343–55) and I. Kant, *Idea for a Universal History with a Cosmopolitan Intent*, trans. H. Nisbet, in H. Reiss, ed., *Kant: Political Writing* (Cambridge: Cambridge University Press, 1995), 41–53 (P 15–31).

*SR 5.* The right to enter into contractual relations with other states at one's will.

*State Duties:*

- SD 1.* Do not employ force and fraud in one's relations with other states.
- SD 2.* Do not interfere in the internal matters or self-governance of another state.
- SD 3.* Do not trespass onto or steal (i.e., invade or capture) the rightful property/territory of another state.
- SD 4.* Do not break lawful contractual agreements one has freely made with other states.
- SD 5.* Allow for basic contact and relations ("hospitality")<sup>27</sup> between citizens of other nations and one's own.

State rights and duties, much like individual rights and duties, map out a set of firm commands and prohibitions, or side-constraints, on how the state in question should, and should not, be treated by other states. They are just claims which all other states are bound to respect. Again, the core emphasis in Kant is on deontology: we are to treat rational and moral persons (whether individuals or states) in particular ways which respect their dignity, and to avoid treating them in other ways which injure them as moral persons. These rights and duties may not be overridden or ignored for the sake of such other social goals as public welfare or human happiness in general. Perhaps two aspects of this issue require further comment. The first is that, in the final analysis, SRs 1–5 do not seem to contain substantially more than is contained in the two most traditional and widely acknowledged rights of states: political sovereignty and territorial integrity. The second is that this system of state rights and duties, SRs 1–5 and SDs 1–5, essentially constitutes Kant's ideal conception of international law and order. An international system wherein SRs 1–5 were respected and SDs 1–5 were adhered to would essentially constitute a just global order.

The central problematic in international justice is thus the move from a lawless international state of nature to a law-governed international civil society wherein SRs 1–5 and SDs 1–5 are realized. There is no doubt that, for Kant, the current international situation is a state of nature, in that no relevant subject (i.e., no state) enjoys secure possession of the objects of its rights.<sup>28</sup> And

<sup>27</sup> By "hospitality" Kant means allowing foreigners to establish diplomatic relations with one's nation and, above all, allowing for private contact (particularly in terms of trade and commerce) between citizens of other countries and one's own. Kant, *Perpetual*, 106–7 and P 358–59.

<sup>28</sup> This is an important premise for Kant, and for our considering the applicability of his theory to the current context. For it is on the basis of this premise that Kant grounds a theory of

this has the important, and damning, consequence that individual persons must themselves lack secure possession of the objects of their human rights, which form the entire material focus of Kant's conception of justice. The absence of central coercive authority on the global level gives rise to a fundamental lack of assurance, which renders states fearful, selfish and prone to violence in the case of conflict over rights-claims, with all the deleterious effects that has upon domestic rights-fulfilment. This situation amounts to being governed by might rather than right and, as such, it violates all the requirements of the SUPJ (and the UPJ) and offends against our deepest rational selves. But what exactly is the nature of the global civil society towards which states are to orientate themselves?

Of decisive significance is the fact that, for Kant, the global juridical condition is not to be modelled directly after a domestic national government, with its coercive power and decisive sovereign authority. Kant does not believe in a world government. He offers a variety of reasons why world government does not form the end of international justice. The most potent of these are the claims that: 1) no world government could be reasonably effective, given the sheer size of its domain and the incredible diversity of its people; and 2) provided that a state reasonably fulfils the domestic criterion of justice, the UPJ, then it ought not to be coerced into joining another political association. It would be impermissible to coerce a just state. Thus, in Kant's words: "(T)he positive idea of a world republic cannot be realized. If all is not to be lost, this can at best find a negative substitute in the shape of an enduring and gradually expanding *federation* likely to prevent war [his italics]."<sup>29</sup> Cosmopolitan federalism, and not a world republic, is the solution to the problem of war and the guarantor of perpetual peace.<sup>29</sup>

But this Kantian federation is not like various federations familiar to us from history and politics. Kant does not imagine an actual, enforceable division of powers between the global and national (and perhaps sub-national) levels of government. "This federation," in his words, "does not aim to acquire any power like that of a state but merely to preserve and secure the *freedom* of

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just war. But we may well wonder, as Rudolf Makkreel has perceptively suggested, whether further progress from the international state of nature to a global civil society might incrementally undermine grounds for states resorting to armed conflict.

<sup>29</sup>The most relevant material regarding the denial of world government is in Kant, *Perpetual*, 102–5 (P 354–57). The quote is at 105 (P 357). This paragraph denotes one instance of a very important disanalogy between the domestic and the international case: persons (even otherwise ethical ones) may be coerced to form a domestic state but states, provided they fulfil the UPJ reasonably well, may not be coerced to form a global state. Once more, Kant is not dogmatic about his application of the domestic analogy. See also Cavaller, "Kant's Society," 461–82; Pogge, "Kant's Theory," 407–33; and T. Carson, "Perpetual Peace: What Kant Should Have Said," *Social Theory and Practice* 14 (1988): 173–214.

each state in itself, along with that of the other confederated states, although this does not mean that they need to submit to public laws and to a coercive power which enforces them . . ." [his italics]<sup>30</sup> It seems, then, that Kant's idea is of a voluntary or renewable contract among like-minded nation-states to renounce war between themselves, and to perform their state duties, SDs 1–5, and to have their state rights, SRs 1–5, respected. In short, states are to act *as if* there were a real, effective federal system operative at the global level. The result will be the same in either case: a stable, secure condition of peace-with-rights, the ultimate end of the theory of international justice. Indeed, Kant intones that perpetual peace is "the entire ultimate purpose of the theory of right." Perpetual peace is "the highest political good," truly "the ultimate purpose of law within the bounds of pure reason."<sup>31</sup>

So much for the background required to grasp the principles animating Kant's just war theory. We can now turn towards the principal task of reconstructing this theory, which is an important and rewarding contribution to reflection on the ethics of war and peace.

#### 4. NEITHER REALISM NOR PACIFISM

There are, at bottom, three basic perspectives on the ethics of war and peace, with realism and pacifism at the extremes and just war theory in the middle. Realism, to begin with, is a protean doctrine. There exists a wide variety of perspectives which fall, or purport to fall, under its rubric. In general, all realists share a strong suspicion about applying moral concepts and judgments to the conduct of international affairs, either as descriptions of, or prescriptions for, state behaviour. Realists are also united by their emphasis on the salience of power and security issues, on the perceived need for a state to maximize the attainment of its (enlightened) self-interest and, above all, by their view of the international arena as irreducibly one of a fearful anarchy, which is intended to ground their claims about the primacy of the will to power.<sup>32</sup>

<sup>30</sup> Kant, *Perpetual*, 104 (P 356).

<sup>31</sup> Kant, *Right*, 174–75 (P 355). See also Mulholland, "War, 25–41 and System, 348–72; Riley, *Kant's*, 114–34; Gallie, *Philosophers*, 3–36 and F. H. Hinsley, *Power and the Pursuit of Peace: Theory and Practice in the History of Relations between States* (Cambridge: Cambridge University Press, 1963), 62–79.

<sup>32</sup> Prominent classical realists often mentioned include Thucydides, Machiavelli and Hobbes. More contemporary realists include Hans Morgenthau, George Kennan, Reinhold Niebuhr and Henry Kissinger, as well as so-called neo-realists, such as Kenneth Waltz and Robert Keohane. Notable realist tracts include Morgenthau's *Politics Among Nations* (New York: Knopf, 1973), Kennan's *Realities of American Foreign Policy* (Princeton: Princeton University Press, 1954) and Waltz's *Man, The State and War* (Princeton: Princeton University Press, 1978). See also R. Keohane, ed., *Neorealism and Its Critics* (New York: Columbia University Press, 1986); and S. Forde, "Classical Realism," 62–84, and J. Donnelly, "Twentieth Century Realism," 85–11, both in T. Nardin and D. Mapel, eds., *Traditions in International Ethics* (Cambridge: Cambridge University Press, 1992).

In terms referring specifically to war, realists believe that it is an intractable part of an anarchical world system; that it ought to be resorted to only if it makes sense in terms of national interest; and that, once war has begun, a state ought to do whatever it can to win. So if adhering to a set of just war constraints hinders a state in this regard, it ought to disregard them and stick soberly to attending to its fundamental interests in power and security.<sup>33</sup>

Kant's attitude towards realism is complex, but in the end constitutes, on the whole, a rejection. Consider first realism's descriptive side. On the one hand, Kant does believe that the international arena really is a state of nature. He also believes that states stubbornly refuse to accept any interpretation of their rights and interests other than their own—and that the result is a quite insecure and fearful environment in which the outbreak of war is always a danger and sometimes a devastating reality. He believes, in addition, that the instinctual side of our nature inclines us towards selfishness and power-seeking, and his emphasis on human antagonism clearly reveals his understanding of human relations, whether interpersonally or internationally, as being (fiercely) competitive. At the same time, Kant insists that, due to the duality of our nature, there is also, factually, an aspiration for something more, namely, the realization of a more just world and for more ethically adequate relations between people. He says that the very fact that states often seek to justify their self-serving actions in moral terms reveals that even states in the midst of anarchy display this longing. The reason why we long for such things is because of our rational nature, in which we actually find our deepest sense of self and identity.<sup>34</sup>

Moreover it is clear that, for Kant, it is both possible and meaningful to evaluate state behaviour *vis-à-vis* moral concepts. Indeed, his entire international theory of justice would not make sense unless that were the case. Kant does not believe that state behaviour is utterly determined by the demands of *realpolitik*; rather, he sees states as formulating intentional choices and policies, some of which may well be moral in motivation. And Kant adamantly refuses to accept war as an endemic reality of international life. We shall see, shortly, that the bulk of his just war theory is aimed at progressively limiting the incidence and destructiveness of war—a process whose end state, he hopes, will be one of perpetual peace.

So Kant believes that states can and ought to act morally, and that we can and ought to judge their behaviour in moral terms. Yet he also believes that, in the status quo of international affairs, states are, on the whole, inclined to be self-seeking. In the absence of progressive reform towards a cosmopolitan

<sup>33</sup> Op. cit., note 32.

<sup>34</sup> Kant, *Perpetual*, 102–03 (P 355).

federation, states will tend, descriptively, to be egoistic and focused on their relative level of power and security.

At first glance, Kant seems to reject utterly the prescriptions of realism. For nowhere does Kant advocate a foreign policy based on a prudential concern with national interests—rather, he staunchly advocates heeding the demands of justice, as contained in the UPJ and the SUPJ. Just as we are not individually to order our personal lives based on the pursuit of prudence and happiness, so states *qua* moral persons are not to run their foreign policies with an eye towards national interest and calculations of power and benefit. Kant is adamant that the purely prudential approach to foreign policy is “immoral and opportunistic.” A purely prudential foreign policy betrays our most fundamental identity as rational beings responsive to the demands of morality and justice. A prudential foreign policy can only be based on maxims violative of the UPJ and the SUPJ.

Not only is such an approach to war both immoral and unjust, Kant also questions its very feasibility, repeatedly questioning our capacity to accurately foresee, in a dispassionate light, all possible relevant consequences, all possible costs and benefits, of launching a particular war in the national interest. “(R)eason,” he proclaims, “is not sufficiently enlightened to discover the whole series of predetermining causes which would allow it to predict accurately the happy or unhappy consequences of human activities . . . But reason at all times shows us clearly enough what we have to do in order to remain in the paths of duty.”<sup>35</sup> Indeed, there is the hint (for instance in his remarks about the “illusions” of the conceptual device of the balance of power, so beloved by realists) that such sham calculations could well result in wars disastrous to the national interest. They could also result in far more wars than following the dictates of just war theory. Far clearer and more plausible, he contends, to follow the system of state rights and duties, SRs 1–5 and SDs 1–5, outlined above in his theory of international justice and law. Unfortunately, things do not seem to be so straightforward.<sup>36</sup>

While we do have Kant’s clear and forceful remarks on the need to reject as implausible and unjust any kind of prudence-based foreign policy, we shall see that he himself employs calculative reasoning, for instance when discussing “the right of anticipatory attack” (anticipation necessarily involving complex judgments of probability about the opponent’s intentions and future behaviour). And it does seem as if Kant believes that, in the face of serious non-compliance and egoism on the part of other states, states may well tend to their own citizens for the sake of protection and security. There is the further

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<sup>35</sup> Kant, *Perpetual*, 116 (P 370).

<sup>36</sup> Kant, *Perpetual*, 116–20 (P 370–86).

complication that, for Kant as for Plato, adherence to the dictates of morality and justice is also to the long-term prudential benefit of all (*qua* rational agents). So a sharp prudence-morality split is perhaps, at least in the international sphere, not as thoroughly sustainable as certain of Kant's remarks indicate he would like it to be.

Perhaps the most charitable and consistent reading would be to say that, for Kant, those circumstances which morally justify the resort to war (to be discussed below) also provide complementary (but much weaker) prudential grounds for doing so. This view clearly privileges the moral over the prudential in vintage Kantian fashion without committing Kant to various implausibilities, ironies or problems of self-reference that would seem to follow adherence to a sharp split between them.

The above considerations have only served to rule out realism as Kant's overall perspective on the ethics of war and peace. What remains to be done in this section is to demonstrate how Kant is not a pacifist. Pacifism, of course, is the view that no war is or could be just. As Jenny Teichman quips, "Pacifism is anti-war-ism."<sup>37</sup> In short, pacifists categorically oppose war *as such*, though their reasons tend to vary (from an extreme version, which eschews any kind of violence or killing as an intrinsic harm or evil to a more plausible version, which contends that it is the kind and scale of violence or killing that war involves which is insurmountably objectionable). So, unlike some realists, pacifists do believe that it is both possible and meaningful to apply ethical judgment to questions of international relations. In this they agree with just war theorists. But pacifists differ from just war theorists by contending that the substance of such moral judgments is *always* that we should never resort to war.<sup>38</sup>

So for Kant to be a pacifist would be for him to be opposed to all wars—for him to deny the justice, or the right, or the moral permissibility, of ever fighting a war. But Kant, in the *Doctrine of Right*, says that it is the "original right of free states in the state of nature to make war upon another (for example, in order to bring about a condition closer to that governed by right) [my emphasis]."<sup>39</sup> He also says that "(i)nternational right is thus concerned partly with the right to make war, partly with the right of war itself, and partly with questions of right after a war, i.e., with the right of states to compel each other to abandon

<sup>37</sup>J. Teichman, *Pacifism and the Just War* (Oxford: Basil Blackwell, 1986).

<sup>38</sup>The two most sophisticated defences of pacifism in recent English literature are: R. Holmes, *On War and Morality* (Princeton: Princeton University Press, 1988); and, indirectly, R. Norman, *Ethics, killing and war* (Cambridge: Cambridge University Press, 1995). See also J. Narveson, "Pacifism: A Philosophical Analysis," *Ethics* 67 (1967); and G. E. M. Anscombe, "War and Murder," in R. Wasserstrom, ed., *War and Morality* (Belmont, CA: Wadsworth, 1970).

their war-like condition and to create a constitution which will establish an enduring peace [my emphases]."<sup>39</sup>

Furthermore, when we think back to the passage in *Perpetual Peace*, mentioned at the outset, when Kant claims that hiring men to kill and be killed is at odds with their human rights, the explicit emphasis is on the *hiring* of those men for those dread purposes. The passage is an anti-mMercenary passage, not a pro-pacifist one. We know this because, immediately following it, he says that "it is quite a different matter [and thus, presumably, *not* a violation of human rights] if the citizens undertake voluntary military training . . . in order to secure themselves and their fatherland against attacks from outside."<sup>40</sup> Indeed, this last clause seems to indicate what for Kant may well be a just cause in fighting a war: the defence of one's state from external aggression. Perhaps most explicitly, Kant says that: "In the state of nature, the *right to make war* (i.e., to enter into hostilities) is the *permitted* means by which one state prosecutes its rights against another" [first emphasis Kant's; second emphasis mine]. "Thus," Kant continues, "if a state believes that it has been injured by another state, *it is entitled to resort to violence*, for it cannot in the state of nature gain satisfaction through legal proceedings . . . "[my emphasis]<sup>41</sup> It seems quite clear, in light of all these remarks, that Kant believes there *are* some circumstances in which states have the right to go to war. This is to say that there is the possibility of a just war for Kant, which means that Kant cannot be a pacifist.

#### 5. THE VERY POSSIBILITY OF KANT BEING A JUST WAR THEORIST

So Kant *is* a just war theorist: he believes morality has a place in international relations and that there are some circumstances and reasons which can morally (and not just prudentially) justify resorting to war. What remains to be shown is the core principles and the substantive content of his just war theory. But the first question which needs to be answered is: even if Kant is neither a realist nor a pacifist, and even if he seems to say explicitly that just wars are possible, *how* exactly is it possible, in a substantive sense, for Kant to be a just war theorist, given his other commitments, especially to the categorical imperative?

Consider first the passage in Kant's *Doctrine of Right* where he discusses a so-called "right of necessity." Here he says that, when A violently threatens the life of B, B may justifiably kill A in response: "a *wrongful* assailant upon my life . . . [is one] . . . whom I forestall by depriving him of his life." [his italics] Kant says that, in such an instance, "a recommendation to show modera-

<sup>39</sup> Quotes are at Kant, *Right*, 164–65 (P 344) and 167 (P 346), respectively.

<sup>40</sup> Kant, *Perpetual*, 95 (P 345).

<sup>41</sup> Kant, *Right*, 167 (P 346).

tion . . . belongs not to Right but to ethics." One may justly kill another human being in self-defence, though one is to be praised if one is able to repel the attacker in such a way as to spare his life. The most relevant conclusion to draw from this passage is that states, *qua* moral persons, would seem to possess quite similar rights to violent response in the case of an armed attack by another state which credibly threatened to seriously injure its body politic. We shall see that this is precisely true for Kant.

Kant proceeds to assert in this passage that there is no right to take the life of an innocent person (i.e., one who is not violently threatening one's life), even when doing so is reasonably deemed necessary to save one's own life. Kant's example is when, following a shipwreck, one person pushes another off the plank they both cling to for safety but which will quickly sink with the weight of both of them. However, he says that, while there is no such "right of necessity," such action is nevertheless excusable and ought not to be punished. It is understandable that, in the powerful, primordial grip of the fear of death and the desire for survival, an agent might undertake such brutal measures. Besides, there is no punishment, including the death penalty, which could suffice to deter the agent in such desperate circumstances: if he sincerely believes he is just about to face death anyway, no threat of imprisonment or possible execution in the future is going to be able to influence his decision-making processes. So his action, while unjust (and also ethically wrong), is nevertheless excusable and unpunishable.<sup>42</sup>

The main idea behind viewing Kant as extending permission to resorting to war under certain conditions is that such methods and measures—killing human beings for political purposes—can be justified if, and only if, they can be justified in terms of the nexus between the CI, the UPJ and the SUPJ, which resides at the very heart of Kant's moral and political doctrine. All three principles (which are, we have seen, variations of the same imperative, as applied to different spheres of action) require that all rational agents be treated equally in a fair and public manner, according to laws or rules to which they themselves can be seen to give their own rational consent (*qua* free rational beings). And we have already seen the core import of the nexus between these principles: it mandates that we must, wherever possible, preserve, protect and enhance each and every instance of rational agency. It is our rational agency which is the source of the "humanity" and "dignity" Kant makes so much of, and to such acclaim. This is so because the having of rational agency

<sup>42</sup> Kant, *Right*, P 235–36 (from the 1991 M. Gregor translation, 59–60, Cambridge University Press); and T. Hill, Jr., "Making exceptions without abandoning the principle: or how a Kantian might think about terrorism," in R. G. Frey and C. W. Morris, eds., *Violence, Terrorism and Justice* (Cambridge: Cambridge University Press, 1991), 196–229. I am indebted to this article for the reconstruction on just war which follows in this section.

is a necessary condition for having a good will, the only thing in the universe possessed of intrinsic value.<sup>43</sup>

How are we, *qua* rational beings, to preserve, protect, and enhance each instance of rational agency? (Which is to say: how are we to respect our mutual humanity and treat everyone with the dignity that he or she deserves as an “end-in-itself”?) We preserve, protect and enhance rational agency and human dignity, above all, by structuring and/or reforming existing political and legal structures so that they are in accord with the dictates of the CI-UPJ-SUPJ. We respect humanity and pay full tribute to human dignity only when we all live under a determinate, public, and universal system of laws which has as its purpose and function the effective protection and realization of our human rights. It follows that anything reasonably deemed to be a requisite part of such a system is consistent with the core Kantian principles on which it is based.<sup>44</sup>

The system of state rights, SRs 1–5, and state duties, SDs 1–5, is for Kant as close as we can possibly get to having a public, determinate, universal, and juridical international system which is designed to protect, preserve, and enhance the rational agency (read here as sovereignty, security, and integrity) of each and every state *qua* moral person, both via the domestic analogy and as the necessary and secure ordered context in which individual human beings can enjoy their human rights. The Kantian system of international law and order, contained in SRs 1–5 and SDs 1–5, is designed to allow each state its own full freedom, thereby enabling its citizens to live full and free lives. Thus, a state who wilfully crashes over these boundaries, violating SRs 1–5 and SDs 1–5, is violating its own requirements as a state. It is willing a maxim which violates the CI-UPJ-SUPJ. Thus, in spite of its instinctual inclinations, it must actually consent rationally to whatever is reasonably deemed necessary to secure the integrity of the international system. And for Kant the resort to war is one such grim necessity. Cast in looser language, such a rogue state presents a serious threat to, and hindrance of, the freedom that resides at the heart of Kant's practical philosophy. Such an outlaw regime (R) is seeking to impose its will by force on another political community (P) for no just cause, thus disrespecting P's own free choices and treating P as mere means to R's end (for example, of furthering its power, or augmenting its resource endowment). And armed force and coercion can be justified for Kant to the extent to which it can itself hinder such a hindrance to freedom.

States can go to war justly in the international system because the absence of any kind of international coercive authority leaves them vulnerable to just

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<sup>43</sup> Hill, “Terrorism,” 196–204.

<sup>44</sup> Hill, “Terrorism,” 204–16.

such violations and boundary-crossings, to just such threats to their freedom. "Thus," Kant says, "if a state believes that it has been injured by another state, it is entitled to resort to violence, for it cannot in the state of nature gain satisfaction through legal proceedings . . ." So, in the international arena, "the right to make war . . . is the permitted means by which one state prosecutes its rights against another."<sup>45</sup> States can only rely on armed self-help in the face of violations of their rights. Hence, when faced with a violation of one or more of their rights, they are entitled to respond with force. They have no other feasible, self-respecting option. By this Kant means, in contrast to the pacifist, that the defence of one's basic rights is something worth fighting for. Therefore, force is needed to vindicate those core rules and principles, SRs 1–5 and SDs 1–5, which, if adhered to, would secure for each and every state its rights and needs. The dictum appears paradoxical, yet is not: we can launch a just war when doing so is the only means available for vindicating those international rules and principles which, if they were adhered to correctly by every state, would result in perpetual peace. The very value we, as rational beings organized into states, put on having a just and lasting peace is what justifies resorting to war.

Perhaps it would be apposite to summarize this latter, important argument in a series of condensed propositions:

1. All states have moral rights, SRs 1–5 (in order to protect and secure the objects of the human rights of their citizens) and duties, SDs 1–5, *vis-à-vis* other states. These rights and duties are the foundation, and most fundamental priority, of concern for international justice for all.
2. These rights, SRs 1–5, entitle states to employ reliable measures necessary to secure the objects of these rights and protect them from violation.
3. There is no reliable or effective international authority which can currently assure states in the possession of (the objects of) their rights. Thus, states are on their own with regard to such assurance.
4. Currently, the most effective and reliable form of such self-help assurance with regard to rights-protection, at least in the last resort, is the use of armed force.
5. Thus, faced with serious violation of their rights, SRs 1–5, states are entitled to employ armed force and war in order to punish the rights-violator, vindicate their rights and re-secure their objects (and those of their citizens' human rights).

In this section, I have offered two substantive reasons or explanations as to how Kant can possibly be a just war theorist, given that he is neither a realist

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<sup>45</sup> Kant, *Right*, 167 (P 346). (Back to the Nisbet/Reiss collection.)

nor a pacifist about the ethics of war and peace. The first is that, since rational agents are entitled to use lethal force to defend themselves against violent attacks on their lives, and since states, *qua* moral persons, are rational actors, it seems to follow straightforwardly that they, too, must have such a right of armed self-defense. Secondly, and more profoundly, it was contended that the resort to war in Kant can be justified by appealing to his very core principles: the CI-UPJ-SUPJ. When war is reasonably deemed a necessary element for the security and integrity of a just system of international law and order, then it may be resorted to. When the system designed to achieve a just and perpetual peace can only be upheld and vindicated with the use of armed force and the launching of a war, then such a war is just.

We can see, then, the extent to which Kant's later work in the *Doctrine of Right* (1797) seems more sombre and less optimistic than his earlier work in *Perpetual Peace* (1795), *Theory and Practice* (1793) and *Universal History* (1784). The *Doctrine of Right* seems predicated on the ideal world envisioned by *Perpetual Peace* and *Universal History* being a very distant future prospect. It thus seeks to set the more limited and plausible ground-rules for how states are to behave during the long transitional phase from the international state of nature to, at long last, a cosmopolitan civil society peaceful and prosperous in structure. Since war is part and parcel of the state of nature, it follows that he must, and therefore does, draft guidelines and principles for regulating state behaviour even in that most extreme and harrowing of human experiences.<sup>46</sup>

#### 6. TRADITIONAL JUST WAR THEORY

We have seen that Kant is a just war theorist and that this fact is consistent with his most basic principles and commitments. What remains to be done is to lay out the specific principles of Kant's just war theory. Perhaps, before launching that investigation, it would be helpful here by way of contextualization to list some of the more traditional elements of the just war doctrine.

Just war theory, at least in terms of what we might call the Just War Tradition (composed of thinkers like Augustine, Aquinas, and especially

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<sup>46</sup>Thus, Makkreel's question, first raised in note 28, assumes considerable importance when we consider the contemporary context: where exactly are we in this transformation process and how far do we have to be along it before the right to resort to war loses its normative purchase on our attention? I do not pretend to have ready and satisfactory answers to these potent queries. But we may well wonder whether recent developments—the formation of the United Nations, the increased concern over human rights and augmented ties of globalization—have moved us further along Kant's proffered time line. If so, has the right to engage in war to vindicate international law been transferred from nation-states to the UN? Has it evaporated altogether? Or is the residual assurance problem sufficient to retain the standard assumption that, despite some progress, we remain mired in an international state of nature, and so states retain all their rights as listed in the text above? My own sense is that the latter would still hold true for Kant.

Grotius), typically makes a fundamental distinction between *jus ad bellum* and *jus in bello*. *Jus ad bellum* concerns the justice of fighting a war in the first place. It sets the normative criteria which must be met by any state considering the resort to armed force. Most typically, the traditional *jus ad bellum* criteria (JWT, for "just war tradition") include the following:

*JWT 1.* Just cause. A state must have a just cause in launching a war. The causes most frequently mentioned by the just war tradition include: self-defence by a state from external attack; the protection of innocents within its borders; punishment for wrongdoing; and, in general, vindication for any violation of the two core state rights: political sovereignty and territorial integrity.

*JWT 2.* Right intention. A state must intend to fight the war only for the sake of those just causes listed in *JWT 1*. It cannot legitimately employ the cloak of a just cause to advance other intentions it might have, such as ethnic hatred or national glory.

*JWT 3.* Proper authority and public declaration. A state may go to war only if the decision has been made by the appropriate authorities, according to the proper process, and made public, notably to its own citizens and to the enemy state(s).

*JWT 4.* Last resort. A state may resort to war only if it has exhausted all plausible, peaceful alternatives to the resolution of the conflict in question, in particular diplomatic negotiation.

*JWT 5.* Probability of success. A state may not resort to war if it can reasonably foresee that doing so will have no measurable impact on the situation. The aim here is to block violence, killing and destruction which is going to be futile.

*JWT 6.* (Macro-) Proportionality. A state must, prior to initiating a war, weigh the expected (universal) good to accrue from prosecuting the war against the expected (universal) evils which will result. Only if the benefits seem reasonably proportional to the costs may the war proceed.

*JWT 7.* Comparative justice. This final criterion is hotly disputed, even within the just war tradition. Grotius, for instance, vehemently denounced it as incoherent whereas Vattel insisted upon it as being essential to moderation within war. The idea here is that every state must acknowledge that each side to the war may well have some justice to its cause. Thus, all states are to acknowledge that there are limits to the justice of their own cause, thus forcing them to fight only *limited* wars.

Only if *JWT 1–6* (and perhaps *7*, depending on the theorist) can be, and are, jointly satisfied is a state justified in going to war.<sup>47</sup>

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<sup>47</sup> Contemporary restatements of traditional just war theory can be found in Walzer, *Wars*,

*Jus in bello*, by contrast, sets out the normative criteria for determining the justice of particular actions undertaken once war has begun. So, *jus ad bellum* considers the justice of going to war in the first place (the reasons for fighting, the ends for which states may fight) whereas *jus in bello* considers the justice of the fighting itself (the means employed in the pursuit of the end). There are two traditional *jus in bello* criteria:

*JWT 8. (Micro-) Proportionality.* Similar to *JWT 6*, states are to weigh the expected (universal) goods/benefits against the expected (universal) evils/costs not only in terms of the war as a whole but also in terms of each significant military tactic and manoeuvre within the war. Only if the goods/benefits of the proposed tactic or action seem reasonably proportional to the evils/costs may a state (or its armed forces) employ it.

*JWT 9. Discrimination.* It is sometimes wryly noted that just war theory is the one area in political philosophy in which discrimination is acceptable. The key distinction to be made here is between combatants and non-combatants. Non-combatant civilians, unlike combatant soldiers, may not be directly targeted by any military tactics or manoeuvres; non-combatants (thought to be "innocent" of the war) must have their human rights respected.

Here too, it is only when a state (through its armed forces) fulfils both *JWT 8* and *9* that it can be said to be fighting a war justly.

Two further comments are relevant here. The first is that most just war theorists insist that *jus ad bellum* and *jus in bello* are separate (though this is more clouded with those theorists who accept comparative justice). The idea here is that a war can be begun for just reasons, yet prosecuted in an unjust fashion. Similarly, though perhaps less commonly, a war begun for unjust reasons

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Holmes, *War*, 114–82; P. Christopher, *The Ethics of War and Peace* (Englewood Cliffs, NJ: Prentice Hall, 1994); J. B. Elstain, ed., *Just War Theory* (Oxford: Basil Blackwell, 1992); R. Wasserstrom, ed., *War and Morality* (Belmont, CA: Wadsworth, 1970); W. V. O'Brien, *The Conduct of Just and Limited War* (New York: Praeger, 1981); R. Regan, *Just War: Principles and Cases* (Washington, DC: Catholic University Press of America, 1996); R. Phillips, *Can Modern War Be Just?* (New Haven: Yale University Press, 1984); and P. Ramsey, *The Just War: Force and Political Responsibility* (New York: Charles Scribner's Sons, 1968).

In terms of the actual figures and corpus of the Just War Tradition, notables include Augustine, Aquinas, Grotius, Suarez, Vattel and Vitoria. The best historical studies of this corpus are in J.T. Johnson, *Ideology, Reason and the Limitation of War: Religious and Secular Concepts, 1200–1740* (Princeton: Princeton University Press, 1981) and J. T. Johnson, *Just War Tradition and the Restraint of War: A Moral and Historical Inquiry* (Princeton: Princeton University Press, 1981). For the primary documents themselves, see St. Augustine, *Basic Writings* (New York: Random House, 1948); St. T. Aquinas, *Summa Theologica* (London: Washbourne, 1912–22), II, Q. 40, A. 1; Q 64, AA. 6, 7; and the following from J. B. Scott, ed., *Classics of International Law* (Oxford: Clarendon, 1925): H. Grotius, *De Jure Belli ac Pacis Libri Tres*; E. Vattel, *The Law of Nations*; F. Vitoria, *De Indis et De Jure Belli Reflectiones*; and F. Suarez, *De triplici virtute theologica (De caritate, disputatio 13)*.

might be fought with strict adherence to *jus in bello*. The categories are at least logically or conceptually distinct. The second comment is that the *jus ad bellum* criteria are thought to be the preserve and responsibility of political leaders whereas the *jus in bello* criteria are thought to be the province and responsibility of military commanders, officers and soldiers.<sup>48</sup>

## 7. THE PRINCIPLES OF KANT'S JUST WAR THEORY

### 7.1. *Jus ad Bellum*

It seems to me that we can distinguish profitably between *jus ad bellum* and *jus in bello* within Kant's thoughts surrounding just war theory. We can also credit Kant for really being the first great thinker to stress, in a way the Just War Tradition had failed to do, the topic of justice after war, *jus post bellum*. In terms of *jus ad bellum*, Kant seems to stipulate the following criteria:

#### *KJWT* (Kant's Just War Theory)

*KJWT* 1. Just cause. A state may resort to armed force if, and only if, its rights (especially those of political sovereignty and territorial integrity) have been violated and/or are materially about to be violated. The key principle here is the defense, protection, and vindication of the fundamental rights of political communities and their citizens. Kant says that a state can resort to war either in response to "actively inflicted injury" (particularly an invasion or attack) or to "threats" (presumably the credible and imminent threat of such an invasion or attack). So, the right to go to war is, for Kant, not purely or literally defensive; provided there is a serious enough threat, "the right of anticipatory attack" can also be legitimate.<sup>49</sup>

*KJWT* 2. Right intention. A state may go to war only with the intention of upholding its just cause, as specified in *KJWT* 1.

*KJWT* 3. Proper authority and public declaration. This is a very important

<sup>48</sup> Op. cit., note 47.

<sup>49</sup> Kant, *Right*, 167 (P 346). Here, in the case of anticipatory attack, is where we see Kant employ some of that forward-looking, probability-based, calculative reasoning which he elsewhere denounces as muddled, at least relative to the clear dictates of morality and justice. The relevant reasoning would be: if we do not attack S, there is a very high probability that S shall materially violate our rights. Thus, we ought to launch a pre-emptive strike against S. Perhaps it should be noted how this conception of anticipatory attack can be squared with Kant's main justification of the resort to war, which has been framed in terms of the defence of rights, punishment of rights-violation, and rights-vindication. The looser formulation of coercion being justified as a "hindrance to a hindrance of freedom," is relevant here: the imminent and credible threat by S to violate the rights of A (i.e., S presenting a clear and present danger to A) is no less a hindrance to A's freedom than is the actual rights-violation by S because the threat produces, and is intended to produce, the same effect as the actual attack: the capitulation by A to S regarding the matter in question. A may reasonably and permissibly respond with lethal force in either case.

*jus ad bellum* criterion for Kant. He stresses time and again that the head of state does not have the right to declare war with impunity; rather, the people must be consulted on each and every declaration of war. "For a citizen," Kant intones, "must always be regarded as a co-legislative member of the state (i.e., not just as means, but also as an end in himself), and he must therefore give his free consent through his representatives not only to the waging of war in general, but also to every particular declaration of war. Only under this limiting condition may the state put him to service in dangerous enterprises."<sup>50</sup> The war in question must be justifiable to the people *qua* rational co-legislators; which is to say, it must be consistent with the CI-UPJ-SUPJ, as contended above. Furthermore, the resort to armed force must be publicly proclaimed to the enemy state so that duplicity and deceit do not mar the process.

*KJW*T 4. Last resort. Kant appears to have something like this in mind when he says that "an act of *retribution* . . . without any attempt to gain compensation from the other state by peaceful means is similar in form to starting a war without a prior declaration [his italics]."<sup>51</sup> Granted, there is no mention here of war being strictly the *last resort* (such an assertion does not appear to make much sense) but it ought not to be, according to Kant, the very first. Some serious attempt at a reasonable non-violent solution, perhaps through diplomatic negotiation, is to be made before resorting to war.

There does not seem to be anything in Kant which parallels the traditional criteria of probability of success and (macro-) proportionality. This is not that surprising since they make explicit appeals to consequentialist considerations, determining probabilities, and weighing costs and benefits, and so on. And we have seen that there is a strong anti-consequentialist streak in Kant's moral and political thinking. And although I have mentioned how such prudential concerns need not be utterly alien to Kant's views on these matters, there are simply no passages in the relevant works which even hint at his endorsement of these two just war criteria, which were common currency during his time. It would thus strain textual credibility to attribute them to him.

Whether there exists a criterion of comparative justice in Kant is more difficult to say. On the one hand, he does make some Hobbesian comments to the effect that the anarchy of the international arena rules out any determinate conception of morality and justice. He denounces what he calls "one-sided maxims backed by force."<sup>52</sup> On the other, appeal to the CI-UPJ-SUPJ, and the criterion of just cause resulting from it, would seem to question whether both

<sup>50</sup> Kant, *Right*, 166–67 (P 345–46).

<sup>51</sup> Kant, *Right*, 167 (P 346).

<sup>52</sup> Kant, *Perpetual*, 102–5 (P 356–57).

sides can always have some justice in their cause. If one state S attacks another T (in the absence of any "alarming increase" in the power of T which might justify an anticipatory attack), what is the comparative justice of S's cause?

I am inclined to think that, on balance, there is something like comparative justice in Kant's just war theory. For, the lack of central authority, and thus of a fully determinate positive system of juridical state rights and duties, does leave room for interpretative conflict between states regarding the justice of their respective causes. Of course, Kant is not here advocating some kind of thorough-going subjectivism with regard to the application and interpretation of *jus ad bellum* criteria; he does believe that the CI-UPJ-SUPJ clearly rules out some actions and clearly justifies others. However, there is enough residual indeterminacy regarding the international rules for it to be a requirement of reason to self-critically acknowledge some kind of limit to the justice of one's cause.<sup>53</sup> Thus:

*KJW*T 5. Comparative Justice. Although the CI-UPJ-SUPJ is sufficiently determinate for us to make accurate and authoritative judgments regarding the justice of (and in) war, the lack of total determinacy makes it reasonable to require that all states self-critically acknowledge limits to the justice of their own cause and thus the imperative of fighting only limited wars, circumscribed by the criteria of *jus in bello*.

*KJW*T 6. Consistency with the ideal of perpetual peace. This suggestive yet imprecise criterion seems to serve two functions. The first is to underline the fact that a state may resort to warfare only for the purpose of vindicating and upholding the universal system of law and order which Kant constructs. The second, and arguably more important, function is to force a state resorting to armed force to consider in advance whether it can do so while adhering to the norms of *jus in bello* and even to those of *jus post bellum*. In other words, *KJW*T 6 seeks to run a normative thread through all three just war categories: a state considering resorting to war must not only fulfil all the *jus ad bellum* criteria but to commit itself in advance to avoiding, as far as possible, any breach of the norms of *jus in bello* and *jus post bellum* as the war unfolds. This forward-looking commitment to just conduct and appropriate war-termination is needed, Kant suggests, if the idea of perpetual peace following warfare is ever to have a chance of becoming practical reality.

### 7.2 *Jus in Bello*

The principal aspect to note about Kant's account of *jus in bello* is that it is quite weak and diffuse, at least relative to that of the Just War Tradition and to his

<sup>53</sup> See Pogge, "Categorical," *passim* and Pogge, "Justice," for more on the residual indeterminacy of the CI and the UPJ.

own concerns with *jus ad bellum* and *jus post bellum*. In terms of the first standard criterion of *jus in bello*, Kant makes no mention of any consequentialist criterion of (micro-) proportionality. He does, however, appear to make one mention of discrimination: "(T)o force individual persons [in a conquered state] to part with their belongings . . . would be robbery, since it was not the conquered people who waged the war, but the state of which they were subjects which waged it through them."<sup>54</sup> Unfortunately, this is not a terribly precise account of the discrimination familiar from the Just War Tradition. The glaring omission in Kant is any kind of explicit mention and endorsement of non-combatant immunity. This is indeed disappointing, given the importance of the principle, but it seems to me that we can safely infer that Kant must have some such principle in mind because: 1) the quote just mentioned does enumerate an immunity of a kind upon the non-combatant civilian population; and 2) nowhere does Kant mention a *right* to kill innocent people (even in self-defence), which noncombatant civilians are presumed by traditional just war theory to be. Indeed, in the shipwreck/plank case cited earlier, he denied the existence of such a right. It is only rational actors (whether states or individuals) who either actually attack, or are imminently about to attack, that may be responded to with lethal armed force. So:

*KJW*T 7. Discrimination between combatants and non-combatants. Non-combatants are not to be made direct targets of armed force.

*KJW*T 8. No intrinsically heinous means. This seems to be the only truly explicit *jus in bello* category for Kant. For him, this rather vague and sweeping criterion rules out any wars of "extermination," "subjugation," and "annihilation." Civilian populations cannot be massacred or enslaved. It also means that states cannot employ "assassins or poisoners," or even spies.<sup>55</sup> In short, "(t)he attacked state is allowed to use any means of defence except those whose use would render its subjects unfit to be citizens. For if it did not observe this condition, it would render itself unfit in the eyes of international right to function as a person in relation to other states and to share equal rights with them."<sup>56</sup> Such a state would, in effect, be an outlaw and unjust state. So, it is clear that, for Kant the anti-consequentialist, the end or cause does not justify the use of any means to attain it. Kant asserts this quite clearly when he says that "(t)he rights of a state against an unjust enemy [i.e., one who violates state rights, SRs 1–5, and state duties, SDs 1–5] are unlimited in quantity or degree, although they do have limits in relation to quality. In other words, while the threatened state may

<sup>54</sup> Kant, *Right*, 168–70 (P 347–48).

<sup>55</sup> Kant, *Perpetual*, 96–97 (P 346–47).

<sup>56</sup> Kant, *Right*, 168–69 (P 347).

not employ *every* means to assert its own rights, it may employ any intrinsically permissible means to whatever degree its own strength allows." (his italics)<sup>57</sup>

KJWT 8 is explicitly and repeatedly connected up with what we might call, again for added emphasis, KJWT 9: No means may be employed which are inconsistent with the long-term ideal of perpetual peace. In Kant's words, "a state must not use such treacherous methods as would destroy that confidence which is required for the future establishment of a lasting peace."<sup>58</sup> As we saw in connection with *jus ad bellum*, this rather sweeping principle of "consistency with perpetual peace" enjoins upon the just state in question a commitment not to violate the other relevant just war categories. In particular, in its *jus in bello* form, this criterion demands that states not undertake measures which would undermine the process of war-termination and thereby render very difficult the search for a just peace treaty as the war draws to an end.

### 7.3. *Jus post Bellum*

Kant, unlike the Just War Tradition, is not content to rest with the two standard categories of *jus ad bellum* and *jus in bello*. Indeed, he essentially invents a new just war category, *jus post bellum*, to consider in detail the justice of the move from war back to peace. In terms of *jus post bellum*, we need to distinguish between more immediate and more distant rights and duties, as well as between particular wars and the problem of war in general. When it comes to talking about the relevant rights and duties of states in the immediate period after a particular war, Kant is, if anything, more elusive than he is about *jus in bello*. On the one hand, he firmly believes that victory in war does not, of itself, confer rights upon the victor which the vanquished is duty-bound to obey. Might does not equal right. The victor thus has no right to punish the vanquished or to seek compensation. In fact, the victor must respect the rights of the people of the vanquished country to be sovereign and self-determining. But against a vanquished enemy who was clearly unjust in terms of the war (for instance, by being the blatant rights-violating aggressor), Kant says the people of such a state "can be made to accept a new constitution of a nature that is unlikely to encourage their warlike inclinations."<sup>59</sup> This latter remark seems to form a limiting condition to what may be done to states in the aftermath of a war: provided that there clearly was a blatant aggressor S (whose maxims of action "would make peace among nations impossible") and that S has been defeated the very most that can be done to S in vindication of

<sup>57</sup> Kant, *Right*, 170–71 (P 349).

<sup>58</sup> Kant, *Right*, 168 (P 347).

<sup>59</sup> Kant, *Right*, 169–71 (P 348–49).

international law and order is the establishment of a more peaceable (presumably republican) constitution in S.

In terms of more distant duties of *jus post bellum*, and with a focus on war in general, Kant's very original and suggestive theory of *jus post bellum* is essentially that contained in his famous list of the six preliminary, and three definitive, articles of perpetual peace.<sup>60</sup> These articles really seem to constitute the final proposition, KJWT 10, of Kant's just war theory. These articles are as follows:

*1) The Preliminary Articles:*

*PA 1.* "No treaty of peace shall be considered valid as such if it was made with a secret reservation of the material for a future war."

*PA 2.* "No independently existing state, whether it be large or small, may be acquired by another state by inheritance, exchange, purchase or gift."

*PA 3.* "Standing armies will gradually be abolished altogether."

*PA 4.* "No national debt shall be contracted in connection with the external affairs of the state."

*PA 5.* "No state shall forcibly interfere in the constitution and government of another state."

*PA 6.* "No state at war with another shall permit such acts of hostility as would make mutual confidence impossible during a future time of peace. Such acts include the employment of *assassins or poisoners*, *breach of agreements*, *the instigation of treason* within the enemy state, etc. (his italics)."

*2) The Definitive Articles:*

*DA 1.* "The civil constitution of every state shall be republican."

*DA 2.* "The right of nations shall be based on a federation of free states."

*DA 3.* "Cosmopolitan right shall be limited to conditions of universal hospitality."

It is beyond the ambit of this paper to discuss these articles of long-term *jus post bellum* in great detail. What is relevant here is to point out that most of these articles (eg., PAs 1, 2, 5 and 6, and DAs 2 and 3) essentially mandate a post-war re-dedication to realizing Kant's ideal system of international justice—SRs 1–5 and SDs 1–5, within the context of a cosmopolitan federation—as previously detailed. What is perhaps most significant about these articles is that they mandate not just international, but also domestic, reform (eg., in DA 1, and PAs 3 and 4). A more just and peaceful world requires that states become republican (i.e., human rights-respecting, as enjoined by MPJ 1) and that they take

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<sup>60</sup>Kant, *Perpetual*, 93–108 (P 343–60).

confidence-building measures (eg., weapons reductions and decreased military spending), which can substantially reduce the fearful tensions inherent in the current world system. The emphasis on republicanism is key for Kant: he believes that when power is dispersed, when the people are sovereign, and when they have their human rights reasonably fulfilled on the domestic front, states will face dramatically reduced incentives to resort to war. A just and lasting peace, for Kant, begins at home with respect for human rights and is to be aided and abetted, on the international plane, by gradual and voluntary confidence-building measures.

So, even though Kant is more sombre about the prospects for lasting peace in his later writings, and even though he is much more explicit about allowing warfare (albeit under certain rigorous constraints), he never gives up on his earlier hopes for a more enduring solution to "the scourge of mankind." States are to come together, based on a "right of prevention" (of war),<sup>61</sup> to renounce both warfare and certain state actions or tactics which incline states to go to war in the first place. States are to reform themselves internally in a republican, human rights-respecting fashion and, eventually, to structure the international arena in such a way that all SRs and SDs stipulated by the SUPJ can be actually realized and fulfilled, as if there were an effective and fully instituted cosmopolitan federation of peace uniting each and every one of them.

#### 8. CONCLUSION

It has been argued that, contrary to the traditional reading, Kant does in fact have a just war theory. He is neither a realist nor a pacifist, and his belief that resort to war can be morally justified is consistent with his own core principles, notably the categorical imperative. War is just if, and only if, during the long transition from the international state of nature to a cosmopolitan civil society, armed force reasonably seems required to vindicate universal principles of international justice. Attention was then paid to developing the detailed set of rules constitutive of Kant's just war doctrine. Knowledge of these rules, KJWT 1–10, reveals that Kant differs from traditional just war theory by: 1) eschewing consequentialist appeals to proportionality and probability of success; and 2) going beyond the tradition's standard criteria of *jus ad bellum* and *jus in bello* by constructing, in addition, an ambitious and forward-looking account of *jus post bellum*. It seems that Kant's just war theory is quite coherent and both morally and politically defensible. At the very least, it is a systematic and suggestive account of the ethics of war and peace, as viewed by one of the true giants of moral and political philosophy. Unfortunately, I have not had time to offer a thorough critical evaluation of his theory. But it seems to me that,

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<sup>61</sup> Kant, *Right*, 167–68 (P 346).

whatever the theory's deficiencies,<sup>62</sup> it is very significant (for both Kant scholarship and incisive reflection on current issues of war and peace) to understand that Kant indeed has a just war theory and to be informed of what it consists.<sup>63</sup>

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<sup>62</sup> Amongst the deficiencies of Kant's just war theory, I would list the following: the weakness and vagueness of the account of *jus in bello* and short-term *jus post bellum*; and the relative neglect and/or denigration of consequentialism and the related unclarity of the link, if any, between morality and prudence.

<sup>63</sup> I would like to thank Marko Ahtisaari, Christian Barry, David Johnston, Frances Kamm, Bonnie Kent, Jane Lomic, Jonathan Neufeld, Jeremy Waldron and especially Thomas Pogge for constructive comments and criticisms. Thanks also to the anonymous reviewers and the editor of the *Journal*. Work on this essay has been supported by funding from Columbia University and the Social Sciences and Humanities Research Council of Canada.