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### **On the Philosophical Unique Realism of Kant's Doctrine of Eternal Peace in: Proceedings of the Eighth International Kant Congress, Memphis 1995, vol. I, Milwaukee 1995, 273-289**

I have to apologize in advance for my various teutonisms. Some are due to my poor English. Others result from my erradicable German way of thinking and the failure to give it an English touch. But whenever I touched English I lost my German thought. So, I gave it up. But, finally, there are teutonisms which I was not even ready to avoid: they refer to Kant (here, you even have an example of my teutonic accent; I have great difficulties to pronounce the name of this gentleman in the correct way; instead, I always give it that bad, some say: bawdy German accent). Some of my teutonisms, to repeat it, refer to Kant. There are essential terms, expressions, and even phrases which lose their specific Kantian meaning if they are not translated more or less literally and thus remain "teutonic". That is one of the reasons, and not the least, why my English probably quite often seems to be a bit strange. But one should not forget that Kant's German is also rather strange, - but nonetheless very good.

#### I

Kant's various teachings concerning (world)peace are characterized by a philosophically unique realism. Thereby, they are fundamentally distinguished from all preceding doctrines about peace. In passing, it may be remarked that exactly this deciding fact of realism is obscured or even lost in the various English translations. It may be supposed therefore that in the Anglosaxon world quite often the true position of Kant is either just unknown or misunderstood. In the written version I shall give evidence in abundance.

#### II

The concern of Kant's doctrine of Right is a possible association of (externally) *free* beings. Accordingly, the only anthropological presupposition, therefore made, is the very one which makes the quest for Right necessary: man's faculty of free agency within an unavoidable community with his equals. But no human ends, whatsoever and however motivated, are taken into consideration. The concept of Right follows purely analytically "from the concept of *freedom* in the mutual external relationships of human beings, and has nothing to do with the end which all men have by nature". Thus, for the concept of Right only external freedom qua freedom comes into account, absolutely regardless of its content.

#### III

Apart from the concept of Right, there is a second element in Kant's doctrine of Right which is of paramount importance, particularly for the doctrine of perpetual peace, and that is the rational idea of a natural state of mankind conceived in purely juridical terms. It is the Hobbesian idea of a state of men (not: man!) as bearers of natural right within a society not yet regulated by public Right: "the state of men without civil society".

Hobbes places the discussion of this state - rightly - under the heading: "liberty". According to him, man has by right of nature the liberty "to use his own power, as he will himself, for the preservation of his own nature". Analogously, according to the Kantian concept of Right, man has by nature ("by virtue of his humanity") the (innate) right to freedom limited by a universal law of freedom. A purely rational consequence of this with regard to the state of nature is that "each has its own *right* to do what seems right and good to it and not to be dependent upon another's opinion about this". And this is tantamount to a state of society in which everybody is his own judge. The state of nature, taken as a state of natural Right, appears in the juridical analysis as a state of universally possible dispute about rights; as a perpetual juridical war of everybody against everybody. From this, finally, it follows that man as a bearer of natural right has a duty of Right to leave, together with all others, the natural state and to establish a civil state, whose function is to make the Right of humanity, and possible private rights, effective so that everyone is able "to enjoy his right".

This result, i. e. the evidence for the (juridical) necessity of the civil state, again has been achieved by a purely rational analysis, the analysis of the rational idea of the natural state. The necessity for the establishment of public Right follows "analytically from the concept of *Right* in external relations". Again, no anthropological presuppositions, in particular, no assumptions about the moral quality of mankind have been made.

#### IV

What has been said about individual men in the state of nature, is also true for States. Before a condition governed by public Right is established, they, too, are in a juridical state of war of all against all. And this, again, is totally independent of the moral condition of the peoples. Thus, with regard to the external relations between States, the Right of humanity still remains insecure and a pure idea as long as these relations, too, are regulated by public Right. Therefore, practical reason declares it to be an unconditional (juridical) duty also of States to accord with each other. They have to give up their "state of externally lawless freedom" (which is, for that very reason, also the freedom to arbitrary warfare) and to enter commonly into a "federation of peoples" with a cosmopolitan "constitution, similar to the civil one", in order to bring about perpetual peace by not just terminating a single war, but by making war altogether impossible

A civil state of free peoples (States) can be thought of only as being established by a contract. That is why Kant, in his essay "Toward Perpetual Peace", outlined the steps to be made for achieving such peace, and the principles of Right to be observed in doing so, as a formal treaty. This, however, is not to be taken as a juristic draft of a contract, which afterwards, in reality, would have to be agreed on by the States. It is, rather, a "philosophical draft", with the function to constitute the rules and the basis of legitimation for internal and external State activity.

The purpose of the imagined treaty is the establishment of a universal and perpetual peace between the peoples. Thereby, the content of the treaty is already determined. But, first, the necessary conditions for the *possibility* of its conclusion (in Idea) have to be created. Accordingly, Kant makes use of the form of a double treaty, quite usual in international affairs in his time. The preliminary treaty aims at a preliminary peace. In this treaty, the States agree (in Idea) on certain conditions absolutely necessary for the abolition of the universal state of war. Only on this basis, the States can establish in a definitive treaty those conditions which are necessary for the *realization* of peace itself.

## V

A peace agreement between autonomous States primarily presupposes the mutual recognition of each other's external sovereignty. Then, the idea of a perpetual peace itself, agreed on in a contract, implies, firstly, the invalidity of all grounds for war which still may exist, secondly, the will to diminish the readiness for war, and, thirdly, with regard to a still possible war, the will not to make, by the very warfare, any peace treaty absolutely impossible.

Only under these conditions positive measures with regard to a lasting world peace can be viewed and taken into consideration, i. e. those juridical principles the adherence to which would establish, albeit only provisionally and precariously, a certain amount of peace reality.

In the state of nature, both individual men and States unavoidably and permanently "injure each other already by their being beside one another", because of the "lawlessness of their status" and the mutual abolition, resulting from that status, of the effectiveness of their rights. Therefore, in the lawless state of nature every individual and every State is the other's enemy and may rightly be treated as such as long as he does not comply with the request to enter commonly a state of public Right: who doesn't want Right, doesn't want peace.

Accordingly, the final and all-embracing postulate of practical reason, emanating from the Idea of Right, reads: All men ought to subject themselves to a (common) cosmopolitan constitution. The ultimate consequence of the Idea of Right is a "federation of peoples as a world republic".

In the light of the historical reality, i. e. taking the existing plurality of States into account, the postulate, then, reads: "All men who can mutually influence one another must belong to *some* civil constitution", i. e. be in some kind of law-governed state which guarantees their right, wherever the "mutual influence" may take place - on "national", on "international" or on "global" level. Hence follows, with regard to the Idea of world peace, the division of Public Right, according to the three levels, into the Right of the State, the Right of Nations and the cosmopolitan Right.

Even a provisional peace between peoples, let alone a conclusive world peace, is possible only under the condition that on each of these three levels of juridical relationships a state of public Right is established. Thus, the definitive treaty leading "toward perpetual peace" must be thought of as made up of three articles which contain the juridical principles for the shaping of those three levels.

1) (The national level) The juridical imperative of the first article requires that "the civil constitution in every State shall be republican". Such a "republican" constitution, firstly, is the only one

which guarantees (in principle) that within the society everybody is independent of any other's constraining choice. He can pursue his respective ends (happiness), as he pleases, without having to resort to violence in a case of conflict of action. Disputes can be settled by juridical means, thus peacefully. Therefore, the Idea of "republicanism" is the fundamental norm for all kinds of public Right, i. e. also for international and cosmopolitan Right. Who doesn't want republicanism, doesn't want peace.

Secondly, there is the persuasive empirical argument that a republican State will be less inclined to get involved in war. The decision-making process is more complicated and laborious than under a despotic regime, and public criticism, guaranteed by freedom of speech, can have an important impact on the decision-making process. The citizens, as the participants of that process, "would have to bring down on themselves all the miseries of war". There will be a tendency that the republican community will also in its external relationships prefer the (juridical) means of conflict solution which have internally proved their worth. There will be fewer reasons for escaping into international "adventures" in order to distract the people from internal problems caused by governmental mismanagement.

There is no doubt, by the way, that in our times, the quality of these empirical arguments strongly depend on the "republican" quality of the "fourth power", the mass media. Given their present standards, one may doubt whether they really have a positive effect on the public formation of a profound and differentiated political judgment, or whether they have not, on the contrary, degenerated to means of (hidden) persuasion and steering of the "law-giver" masses.

2) (The international level) A condition of universal peace can be thought of only as a cosmopolitan commonwealth, a State of peoples under public coercive laws. For the question, however, how such a state might, under historically given conditions, be established according to principles of Right, it is of the utmost importance that States, unlike individual men, already are themselves, as it were, islands of public Right within a global state of nature.

It is true that they also have to give up their "wild (lawless) freedom" in favour of a freedom determined and guaranteed by law. And they, too, are obliged by a postulate of pure practical reason to abolish the state of (world) war and to establish a state of (world) peace. But unlike individual men, in trying to fulfill this duty they also jeopardize the degree of civil constitution already realized internally. Thus, with regard to the Right of humanity, they have two duties, one arising from their existence as civil societies, and the other from the global state of nature. The first duty is to continue to secure the already existing (law-determined) freedom of their subjects. The second duty, ultimately aiming at the abolition of external sovereignty, is to participate in establishing and securing such freedom also worldwide and universally.

Here, Kant's doctrine of the Right of Nations gets its hallmark. The path to freedom and peace between peoples must start with their juridical autonomy and external sovereignty. By this, the clear direction of that path, but also its lengthiness is determined. The doctrine of the Right of Nations (as part of the doctrine of Public Right) deals with the conditions under which independent States can be united into one community based on public Right.

As already suggested, such unification can be thought of only as being established by mutual agreement. But in contrast to the foundation of a civil condition of individual men, in the case of (autonomous) States the contract has to be concluded in reality. "As States, they internally already have a juridical constitution and have thus outgrown the compulsion of others to subject them according to *their* concepts of Right to an expanded law-governed constitution." Every State, it is

true, has the unconditional juridical duty to strive steadfastly for the "continual approximation" to a worldwide civil condition. But from this duty, in no way follows a right of other States to exercise a corresponding coercion on it. And war, in particular, is under no circumstances juridically allowed as a means to achieve world peace.

The attempt to realize "the positive Idea of a world republic" "immediately and precipitately" may be absolutely counter-productive by producing a world tyranny, the "graveyard of freedom". That is why Kant pleads for "free federalism" as a "negative surrogate": a covenant ("Bund") of autonomous States, voluntarily agreed on and subject to notice at any time, open to every State, without common law-giving and common judge and thus without the right and power of coercion. The only purpose of this covenant is, as long as an international civil constitution is not (yet) available, to prevent real wars. Such a "federative state" is "the only *juridical* condition compatible with their [the States'] *freedom*". It, alone, both respects the autonomy of the member States, and it is the first step in the direction of a world republic and at the same time itself already the establishment of peace between peoples, although only provisionally. The member States commit themselves to settling their possible disputes "in a civil way, as if by a lawsuit, rather than in a barbaric way (the way of savages), namely by war". Just because of this, that federation, and it alone, is a priori in necessary harmony with the original right of each State to law-determined freedom. It cannot, thus, possibly harm the right of any State. Therefore, however insufficient, it definitely is a step forward on the road to world peace. And who doesn't want this federation, doesn't want peace.

For all further steps this a priori certainty does not exist. They may prove to be regressive and therefore they are not without risk. But, still, they have to be taken, somehow and at some time, if peace on earth is not to remain purely an idea. The States have to establish, again only voluntarily, other kinds of federation which transgress the purpose of mere prevention of war. That could, initially, be a "federation according to a commonly agreed on Right of Nations" with voluntary arbitral jurisdiction, but, again, without coercive power. Thereby, the Right of Nations would at least be determined according to a universal law, although without a guarantee. As time goes by, the States could then forgo their external sovereignty and, thus, their lawless freedom altogether, and enter commonly into a "cosmopolitan commonwealth under a sovereign head [Oberhaupt]".

The ideas of world peace and external sovereignty of States contradict with each other unsolvably. Positive international law is simply not public Right. It is private Right between sovereign States. As such, it regulates in a certain way the juridical state of war, but certainly does not abolish it in principle. In reality, so-called peace treaties between sovereign States are non-aggression pacts or armistice agreements in accordance with private Right. They establish a contractual state of nature from which the States at any time can return, according to their own sovereign judgment, to the "bare state of nature".

Kant, by no means, imagines world peace being realized within a gigantic centralized State. On the contrary, he is horrified by this idea. That is exactly the reason why the second definitive article requires a "*federalism* of free States". Kant thinks of a (world-) "republic of federated free nations", i. e. a sole, global civil state consisting of a multiplicity of self-governing political units. The degree of their autonomy may even reduce the function of the world republic to guaranteeing the "civil way" as the only way of deciding disputes. Thus, the road to world peace would end, as it began: with a federation of States in order to secure the freedom of its members.

But now, it would no longer be "merely provisional" and (at the most) general, but "peremptory" and universal. The constant peril of the outbreak of war would juridically be banished for ever: perpetual peace on earth. Even this peace, it is true, does not mean per se physical security; but what it does mean, is juridical security, safety of one's rights. As Hobbes already phrased it: "Indeed, to make men altogether safe from mutual harms, so as they cannot be hurt or *injuriously* killed, is impossible; [...] But care may be had, there be no *just cause* of fear". What is abolished, is the possibility of a violence which is arbitrary and still just. Therefore, physical peace is now *necessarily possible* and not only by chance.

3) (The cosmopolitan level) As long as the federation of States is not yet a global one and, thus, the Right of Nations is not yet transformed into public Right of a single world republic, there remains a third level of relationships, i. e. the global one, which needs a peaceful ordering by juridical determination. The respective principle limits cosmopolitan Right "to conditions of universal hospitality". Positively, this means, that individual men and peoples as citizens of a common world (Weltbürger) have a universal right of mutual visit, and only this. Negatively, it means the unconditional prohibition of usurping other people's possession and, in particular, of colonialism and imperialism. Even the right of a guest is excluded.

Just a glance into human history, not least into the last two centuries, suffices to give evidence particularly of the great realism of this cosmopolitan principle. And it is not realistic in spite of its being purely juridical, but because of it. Again, as long as men's (and peoples') domains of external freedom are not determined and guaranteed by public coercive laws of freedom, the only safeguard is the private sword. But whenever it is used, rightly or - probably most of the times - wrongly, it usually leads to repercussions. Even more important is, that by victories no right is decided. Therefore, a victory as such can never bring about a condition of peace, but only that kind of war which is called truce.

## VI

Kant mainly comes to his *realism* by simply not taking reality into account. This is firstly true for his purely rational concept of Right. It is secondly true for his equally purely rational proof of the necessity of a civil constitution. And furthermore it is true with regard to the steps pointed out as necessarily to be taken for the possibility of world peace. Here, again, one need not, and even must not, for their discovery, refer to the condition of mankind. This condition only plays a role in the *constitution* of the problem: beings with natural inclinations who have, in the pure state of nature, no chance for satisfying them other than by resorting to violence in the case of a conflict with others. For the *solution* of this problem, however, human nature is irrelevant. Kant is far from asking men, as so often is done, to give up their inclinations or at least some part of them, which, by the way, would always depend on personal value judgments and preference scales. What is at stake for Kant, is not to eliminate a *natural disposition* in man to quarrel, but to eliminate possible *juridical grounds* for it. The work of "civilizing" the human condition, therefore, does not mean that the well-known conflicts of interests between individual men, peoples, and States would disappear; on the contrary, they would still continue to exist. This work only means

- and here, exactly, lies the difference between war and peace - that those conflicts can be settled by rational means (of Right) rather than by physical means (of violence).

## VII

Only now, after the completion of his doctrine of Right, i. e. after having shown which juridical steps have to be taken with regard to world peace, Kant may, and does in a "supplement", put an empirical question. The all-embracing categorical imperative of Right says that world peace has to be strived for unconditionally. An empirical argument *against* this command is a priori impossible, because it would have to show the absolute impossibility of the adherence to it. Historical experience may well show that the command has not (yet) been lived up to, but history can not show that this is impossible. A look into the history of mankind may, however, give some positive hints with regard to the chances of realizing world peace. This purely practical interest is the only reason why Kant has worked out a (rather "frugal") philosophy of history "in cosmopolitan respect". He looks for "historical signs" as an (empirical) "guarantee of perpetual peace".

As every reader of his works knows, he does, indeed, find some special signs in the "antagonistic" nature of mankind itself, its famous "unsocial sociability". The empirical "guarantee", resulting from the "mechanism of human inclinations", does not, it is true, allow any (theoretical) forecast of the political development. But "in practical respect" it is sufficient, since it shows that the juridical duty to promote world peace is not directed towards a "merely chimerical" end.

At the end of his life, Kant finds a particularly promising sign in the French Revolution, that is to say, not in the event itself, but in the courageous and enthusiastic approval it found just in the non-participant spectators in other European countries. It is the "cast of mind" of the onlookers, publicly displayed as a "universal and yet disinterested sympathy", which proves, according to Kant, at least "a moral disposition within the human race".

In a second "supplement", Kant deals with the role of a doctrine of public Right within a system of (positive) public Right and thereby, in particular, with the (political) relevance of his own treatise with regard to the realization of the goal set in it. The result is one single "*secret* article": "The maxims of the philosophers on the conditions under which *public* peace is possible shall be consulted by the States armed for war." Those, who want (and ought) to establish the only world appropriate to man as a reasonable and thus free being, also ought to listen to the professional voice of reason. This, on no account, means the Platonic claim for philosopher-kings. On the contrary, it is desirable that each follows his own specific business, "since the possession of power inevitably corrupts the free judgement of reason". Both, for politics and for philosophy, for peace and for the reflection on it, it is sufficient and, at the same time, advantageous when this reflection can happen publicly, instead of letting "the class of philosophers dwindle or fall silent". With subtle irony concerning the practice usual with international treaties, Kant states the article, clarifying the role of the philosopher in politics, to be the only one that, although part of a treaty which aims to establish (provisional or preemptory) *public* Right, may, and even has to, be *secret*. Only the State, through its representatives, has the immediate right and duty to take the necessary steps towards international peace. It can and may neither give up nor share the corresponding responsibility (and dignity) by regulating through public Right its relationship to the philosopher.

And, moreover, the advice of the philosopher is not a possible object of public Right regulation. Thus, the relationship between "kings" and "philosophers" can be determined only "secretly": the Statesman follows his (*public*) business, as it has to be, on his own responsibility; but in doing so, he also lends his (*private*) ear to the philosopher.

## VIII

It is already significant, that Kant puts his considerations about the "guarantee of a perpetual peace" and about the "public" role of the philosopher into "supplements". They are not part of the treaty proper and definitely not of the doctrine of Right. They are not themselves steps to be taken, but rather reflections with regard to the significance and the chances of the treaty. One would expect to hear them in the corridors among the participants of the treaty conference. No word in the whole treaty (both parts) would have to be changed if the result of these reflections would be different. The cake is made long past; it is only about getting it served and eaten.

Much more so is true for the two appendices. They are, so to speak, meta-considerations with regard to the practical status of the treaty and of the doctrine of Right in it. More precisely, it is about the practical status of morality and of prudence and of their mutual relationship in politics.

The moral foundation for Right and its obligation has been laid outside the doctrine of Right altogether, namely in the "Groundwork" respectively the "Critique of Practical Reason". In the doctrine of Right, therefore, the moral law as the binding law for the use of human (inner and outer) freedom in any case may, and has to, be presupposed and taken for granted. Thus, also in the juridical considerations with regard to world peace, there is neither the possibility nor the necessity to discuss it anew. It is enough to remind the reader laconically that men *have* the unconditional and perfect duty to promote world peace. But what really has to be discussed, are the juridical duties themselves: and that is the field of *legality*.

Kant argues in favour of a strict adherence to legality, i. e. a strict abidance by the juridical duties, whether it be done "from duty" or "from inclination". And "how indeed can one expect something perfectly straight to be framed out of such crooked wood" as sensuous human nature is. One, thus, may not expect that human beings search for Right (and justice) for its own sake. But with regard to political reality, it completely suffices, and, moreover, it even does not make any empirical (visible) difference, when they do it simply from enlightened self-interest. That one makes it one's maxim to act in accordance with Right is not only a moral demand, but also a requirement of highest political prudence. Only a short-sighted judgment of so-called prudence can come to the conclusion that the disregarding of rules of Right is advantageous.

If one only takes the picture which world politics show at this very moment, in all its gruesome and shocking facettes, it is, through and through, the result of breaking rules of Right in the past, long ago or recently, and, of course, in the present. And wherever it shows pockets of peace and civilization, again, this is the result of civil constitutions, of the rule of law, and of abiding by these rules.

Thus, Kant adds to the unconditional argument about moral duties, which emanate from the principle of Right as a categorical imperative (of *morality*), a persuasive empirical argument by which the principle of Right can also be taken as a hypothetical imperative (of *prudence*). But, regar-

dless of whether the search for (juridical) peace is categorically "commanded" or hypothetically "advised", i. e. whether it is a question of morality or of prudence, it can be *successful* only under certain juridical conditions, many of which, by the way, were already pointed out by Hobbes. Nobody has understood better than this philosopher, that in the case of moral laws of *Right* (as distinguished from moral laws of virtue), their rationally derived binding character can, if necessary, be substituted by the authority of the State, and the voluntariness of their observance can be substituted by State coercion. The *problem of establishing peace* is solvable for mankind because mere *rules of expediency* are sufficient. The knowledge of prudence shows that behaving rightfully pays - "even for a people of devils (if only they have understanding)".