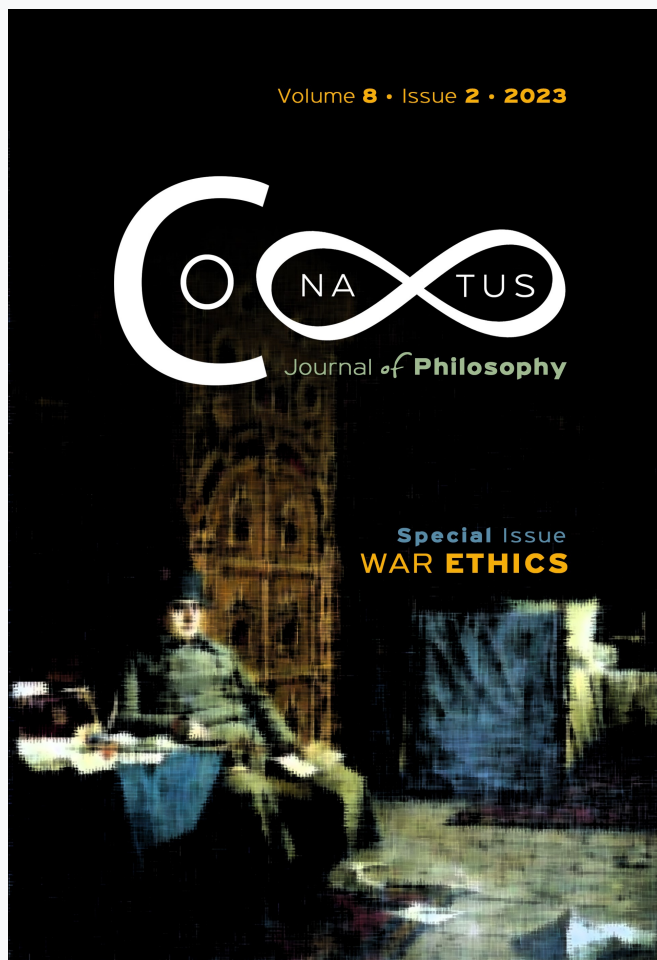


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# The Nature of War

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## **Abstract**

*The traditional definition of war given by classical authors is, that war is a violent conflict between sovereigns. This means that war cannot be outlawed by any higher authority, since the sovereign is the uppermost authority upon the lives of the persons that are subject to them. Only the sovereign has the right and the power to forbid the violent resolution of conflicts among their subjects, and as sovereign they are not subject to any higher worldly power, but only to the power of God. The obligations to God are for the most classical authors not of legal nature but constitute the realm of morality. Thus, the main question for the classical authors on war theory is the clarification of the moral conditions that justify a sovereign to wage war against another sovereign, the so-called theory of just war. Since the classical authors subordinate the concept of war under the concept of justice, the theory of just war includes reflections about the proper means of conducting a war from the point of view of justice. In other words, the theory of just war also formulates criteria for such acts that are considered as war crimes. In this essay I will not challenge the theory of just war itself, but the traditional definition of war in terms of exertion of legitimate violence. My alternative definition will be given in the third section of the essay, and relies on the Platonic concept of peace, and on the Aristotelian concepts of privation and analogy. I think that violence is not a constitutive characteristic of war, but the conceptual, i.e., logical consequence of its definition. In other words, the state of war can be declared and persist without any acts of violence. The use of violence is justified by the manifestation of the state of war.*

**Keywords:** *war; peace; truce; analogy; privation*

## I. Introduction

The traditional definition of war given by Hugo Grotius<sup>1</sup> and other classical authors is, that war is a violent conflict between sovereigns. This means that war cannot be outlawed by any higher authority, since the sovereign is the uppermost authority upon the lives of the persons that are subject to them. Only the sovereign has the right and the power to forbid the violent resolution of conflicts among their subjects and as sovereign they are not subject to any higher worldly power, but only to the power of God. The obligations to God are for the most classical authors not of legal nature<sup>2</sup> but constitute the realm of morality. Thus, the main question for the classical authors on war theory is the clarification of the moral conditions that justify a sovereign to wage war against another sovereign, the so-called *theory of just war*. Since the classical authors subordinate the concept of war under the concept of justice, the *theory of just war* includes reflections about the proper means of conducting a war from the point of view of justice. In other words, the *theory of just war* also formulates criteria for such acts that are considered as *war crimes*.

In this essay I will not challenge the theory of just war itself, but the traditional definition of war in terms of exertion of legitimate violence. My alternative definition will be given in the third section of the essay and relies on the Platonic concept of peace, and on the Aristotelian concepts of *privation* and *analogy*. I think that violence is not a constitutive characteristic of war, but the conceptual, i.e., logical consequence of its definition. In other words, the state of war can be declared and persist without any acts of violence. The use of violence is justified by the manifestation of the state of war.

In this essay I will not concern myself with the concrete moral aspects of war. These has been discussed extensively by classical and contemporary authors with respect to the various kinds of real conflicts that resort to acts of violence that are regarded as acts of war.<sup>3</sup> I

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<sup>1</sup> Hugo Grotius, *The Rights of War and Peace* (Indianapolis, IN: Liberty Fund, 2005), 240. Grotius regards as sovereigns not only states, or kings, but also private persons that exist outside any state authority. Since in present times there is no place on Earth that is not subject to state authority, present time wars are waged solely between states.

<sup>2</sup> With the exception of Hobbes, and perhaps of Spinoza in his interpretation of the relationship between the biblical Hebrews and God.

<sup>3</sup> For the contemporary discussion cf. Jovan Babic, "Ethics of War and Ethics in War," *Conatus – Journal of Philosophy* 4, no. 1 (2019): 9-30; Georg Meggle, *Terror und Der Krieg gegen ihn. Öffentliche Reflexionen* (Paderborn: Mentis, 2003); Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: Basic Books, 1977).

will give only a non-theistic or deistic account of the moral aspect that is based on the fact that acts of war are the result of judgments.

## II. Modes of definition

A concept can be defined by listing the features that characterise the objects or the situations that are referred to by it, or by listing its constitutive parts. Thus, for example, the concept of “Scandinavia” can be defined by listing the states that are commonly subsumed under this common name: Iceland, Norway, Sweden, Denmark – and sometimes Finland. The concept of “water” on the other hand, can be defined by listing the characteristic properties of this substance, namely being a colourless, tasteless, and odourless liquid at room temperature and normal pressure, freezing at 0° and boiling at 100° centigrade under normal pressure, having a certain specific density at said normal conditions, as well as some other specific properties like conductivity, dielectric constant, polarity etc.

This mode of definition is commonly called *list* or *extensional* definition. It is grounded on the principle of the ontological primordiality of the single thing or substance that is conceived as a “bundle” of its properties.

A second mode of definition is by stating or describing the crucial feature that distinguishes the object or the situation described by a concept in a unique way from any other object or situation in the universe. This crucial feature is also called the *specific difference*, and this mode of definition also requires the naming of the so-called “next genus” (*genus proximum*), that is the “family” of related objects, from which the object in question is distinguished in this unique way by the specific difference. This second mode of definition is grounded on the ontological distinction between species that belong to a genus and on the concept of the so-called “Porphyrian tree,” i.e., the hierarchical classification of species and genera that begins from the “lowest” species (*species infimae*) to the “highest” genus (*genus supremum*) that encompasses the whole classification.

## III. Definitions of war

To define war as a situation of human life, one can, according to the first mode, try to give a list with the characteristic features of a war-like situation. The intuitive understanding of war is a situation where violence prevails. However, this violence is exerted in a structured way between groups of persons that are organized in forms of military or

militia units that have a centralized command structure and obey the orders of their superiors. In the modern understanding of war these units are parts of greater political units that can be states in the narrow understanding of the term, or they can be political organizations that aspire to establish a state in a certain territory, like for example the Palestinian Authority or the Polisario movement. Furthermore, the acts of violence committed during a war observe a certain set of legal rules regarding the declaration and the conduct of belligerent acts, the transgression of which can be legally prosecuted. Thus, the list definition of war would look like this:

War	Characteristics
	Violence Structured Conducted by military or militia units Under the command of civil political leaderships In the service of states or state-like organisations Have inner command and rules of engagement Observation of specific legal rules regarding declaration and conduct Observation of rules regarding the use of weapons Obligation of protection of non-combatants and of citizens and property of neutral parties Respect of the territorial integrity of neutral states ...

This list may appear at first glance as adequate for the definition of war. A closer look, however, reveals some striking shortcomings. First, it appears that the list is neither complete, not that it can be completed in any meaningful way. There is no rule forbidding us to add more features as we see fit, to include specific situations into the scope of the concept of War. Today, for example, resistance groups – even civilians engaged in resistance acts – in occupied territories are regarded as legal combatants that are covered by the international treaties regarding the treatment of prisoners of war. So, acts of insurgency against an occupying power are regarded as acts of war if they are targeted against military or administrative units of the occupying power.

Second, it is not clear if the listed features are merely necessary or sufficient for the definition of war. Acts of violence, for example, may appear as inevitable during a war, but they seem to be rather a sort of contingent symptom of the existence of a state of war between states,

than a necessary part of it. Admittedly, most wars are characterised by fierce acts of violence, but there are war declarations between states that do not even have the possibility of physical interaction because they are situated on different continents, and they lack the means to engage in actual battle. Towards the end of World War II many neutral south American countries declared war against the Axis powers and did not participate in any actions in the Pacific or the European theatres. In other cases, the state of war is maintained between two countries even if they do not engage in any belligerent action and maintain cross-border economic and political relationships. Thus, the most striking and common feature of war, the violence, seems to be neither necessary nor sufficient for its manifestation. On the other hand, the existence of organised military and/or militia units seems to be a necessary condition for the outbreak of a war, but again its mere existence is not sufficient, as experience teaches. Almost every modern state has an effective army, but most states in the world are in a state of peace and a majority cooperates in maintaining this state. It is even so today that the world embracing political organisation of states, the UNO, has at their disposal army contingents of the member states that can be deployed in peacekeeping actions in many parts of the world. The existence of armies entails the existence of organisational structures at the military and the political level, as well as the existence of a legal framework at the national and the international level. Both are then necessary but not sufficient for the outbreak of a war. The same holds for the existence of rules of engagement, rules of conduct and the rules defined in the international treaties regarding the treatment of prisoners of war and non-combatants.

It seems then that the list definition of war is not complete, and that it contains characteristics that are not necessary and/or not sufficient for the definition of war. The list contains simply all those features that are intuitively regarded as in many aspects relevant for the existence of a warlike situation, but their relevance seems to rely on a more profound understanding of what War is that cannot be comprehended by merely citing the list.

Fortunately, there remains the alternative of determining the specific difference of war that separates it from other forms or species of human life. The first step towards this end is to determine the similarities between war and the other form or forms of life, from which War is separated by its specific difference. I think the fundamental similarity between War and non-War situations is the fact that a War can exist only between groups of persons that participate in a *political form of life*.

In other words, a war *cannot break out* between individual persons. Individual persons may be involved in a fight, a fracas, a quarrel, or an argument, but not in a war. The use of the word “war” for describing the fights between criminal gangs is only metaphorical, or, in the cases where it seems appropriate, it indicates that the groups involved have a certain degree of political autonomy. Since nowadays the prevalent form of political life is the life in a *constitutional state*, i.e., a state that is grounded on a basic set of rules, or a constitution, wars can break out only between constitutional states. In past times, when also other forms of politically organised groups existed, e.g., matriarchal, or patriarchal tribes, *gratia dei* kingdoms and empires, or city states, wars could also break out between them, but even then, a fight between individual persons was not regarded as war.

War is then – in the modern understanding – a form of relation between constitutional states that differs from other forms of interstate relations. The most prominent form of non-war relation is the relation of *peace*. It seems then that the specific difference that marks the state of war can be described as: “the absence of peace,” and war can be defined as: “a situation of relations between constitutional states (*genus proximum*) characterised by the absence of peace (*specific difference*).”

The “absence of peace” may be the desired specific difference, but it is a privative expression that relies on a positive definition of peace. Again, if we try to give a list definition of peace, we encounter similar problems as with the list definition of war. It seems, for example, that the state of peace is to a certain degree compatible with violence, since during peace time there is crime and violence in a state. And it is possible that there are skirmishes between the armed forces of states that are in the relation of peace, when, for example, the exploitation of exclusive economic zones of the seas, or the integrity of the land borders, or the air space is violated for any reason. Listing other characteristics of interstate peace, we see that it is in a similar way to war grounded on legal rules, requires a certain degree of political organization, and the existence of special state authorities commissioned with its protection and maintenance. The list definition of interstate peace would look very similar to the list definition of war, a circumstance that demonstrates that list definitions are not very helpful.

Furthermore, “peace” in the normal understanding of the word denotes more than a relation between constitutional states. The state of peace also describes a situation *within* a constitutional state as well

as a *state of the mind*.<sup>4</sup> So, if the specific difference between war and peace as a relation between constitutional states is the absence of peace in their relation, we must assume that peace as a specific relation between constitutional states is also a species of a more general concept of peace that encompasses peace as a relation between persons and as a state of the mind.

#### IV. The analogy of peace

Like most fundamental concepts, the meaning of “peace” is not univocal regarding all aspects of human life, including interstate peace as the positive complement of war. I think that there is a fundamental meaning of “peace” that refers to a state of mind,<sup>5</sup> to which all other meanings of “peace” are related in an analogous manner, in the same way, in which “being” is attributed by analogy to the categories of the accidents of a substance, while the fundamental attribution of “being” is the category of Substance itself.<sup>6</sup>

Regarding peace as a fundamental state of mind means that the term “peace” is a *primitive*, i.e., that it cannot be defined by either of the modes described above. Peace of mind is something that we learn by direct acquaintance, by experiencing it directly as a state of our individual mind. It cannot thus be defined, since there is nothing more general or simple to refer to, but it can be described. The best description of the state of peace of mind is that it is characterized by an order of our thoughts. This order is not imposed by force, but by also knowing the reasons for it. We normally describe this state with expressions like “I understand the situation,” or “I know what I must do,” or “I came to the conclusion that  $p$ ” or “I decide to  $\varphi$ .” This order does not mean that we do not have conflicting thoughts, but that the conflict between them is settled within the order that characterizes the state of peace of mind. This meaning of “peace” is primordial because it does not require a relationship to another mind to manifest and to maintain itself. It is the ontologically simplest manifestation of Peace.

The primordial meaning of “peace” is then applied by analogy on the situation where persons live in a state of resolved conflicts and mutual

<sup>4</sup> We also use the word in a paronymous way in expressions like “a peaceful landscape,” “a peaceful day,” or a “peaceful life.” For the concept of paronymy cf. Aristotle, *Categories and De interpretatione*, trans. John Lloyd Ackrill (Oxford: Clarendon, 1963), 1a1.

<sup>5</sup> This thesis was first formulated by Plato, *The Republic*, trans. Christopher Rowe (London: Penguin Books, 2007), 496d-496e.

<sup>6</sup> Cf. Mary Hesse, “Aristotle’s Logic of Analogy,” *The Philosophical Quarterly* 15, no. 61 (1965): 328-340.

respect. These persons live in a state of *social peace* and since every social form of human life has a political aspect, persons living in the state of social peace are also living in the state of *political peace*. It must be stressed that the states of social and political peace do not exclude the existence of conflicts between the involved persons. However, conflicts in a state of social and political peace are resolved in an ordered, rule-guided way, or in case that they cannot be resolved, are not allowed to escalate to acts of violence. Persons living in social and political peace, live under the *rule of law*. The practical consequence of this is that in a politically organised society, e.g., a modern state, the state itself has the monopoly of exerting violence to maintain the social and political peace.

Having defined the internal peace in a constitutional state, we can now proceed to the analogous definition of peace between constitutional states: The situation between states that is characterized by an explicitly accepted order that helps resolve interstate conflicts in a way accepted by all parties involved and encourages constitutional states to set and achieve common goals is what we call “peace between constitutional states” or simply “international peace.”<sup>7</sup>

It is then clear that international peace is not just a situation of mere truce,<sup>8</sup> i.e., the temporary refraining of using violence in resolving international conflicts, but a structured and ordered relation between constitutional states that is under the rule of *international law*, and commits the participating parties to cooperation and to a rule-guided procedure in resolving international conflicts.

The analogous meaning of “peace” makes clear that the primordial individual peace of mind that cannot be achieved by stipulation, since it marks the end of a long and complex mental process. In contrast to it, the political peace and the international peace must be stipulated explicitly because they have a contractual nature. This means that the parties involved in both kinds of peace agree explicitly on the terms and the procedures that ensure the peaceful resolution of conflicts between persons and between states.

## V. The nature of war

On the background of the analysis of the analogous meanings of peace given above, we can conclude that war has also a series of analogous

<sup>7</sup> From now on I will use the term “international” synonymously with “between constitutional states.”

<sup>8</sup> This is the definition of peace given by Hobbes in *Leviathan*, and by Pufendorf in *On the Duty of Man and Citizen According to Natural Law*, ed. James Tully, trans. Michael Silverthorne (Cambridge: Cambridge University Press, 1991).

meanings. However, the primordial meaning of war is correlated with the most analogous and conventional meaning of peace, the international peace, and the most analogous with the peace of mind. Since international peace is by nature explicit, conventional and law guided, war between constitutional states is also by its nature explicit, conventional and law guided. Based on the privative relation between peace and war, the most accurate description of the difference between peace and war in international relations is the *mutual denial of certain legal statuses* between the parties involved in a war. The most fundamental of these statuses are the right of a state to exert sovereignty over its territory and the right on the integrity of life and property of its citizens and of the foreign residents. This means that when in the state of war, the parties involved obtain *legal licences* to inflict damage on the lives and the properties of the natural and legal persons and on the infrastructure of their opponents. The description of these licenses, the *law of war* (*ius in bello*), are part of the international law. It is agreed that every destructive action that is not covered by those licenses is regarded as a *war crime* and must be sanctioned either by national or international courts.

It is obvious that this description of the nature of war between states is formal and that the material content of the licences to inflict damage and the sanctions against war crime perpetrators must be defined explicitly in international treaties. However, some aspects of the *ius in bello* are part of the so-called natural law that has historically evolved.

The fact that the primordial nature of war, i.e., of the international war, is legal and conventional has important conceptual, i.e., logical, consequences: First, international wars must be *formally declared* following a certain procedure.<sup>9</sup> Second, the parties involved *must observe the integrity of neutral states* and respect the diplomatic immunity of the missions of such states in the territory of their opponents. Third, the belligerent parties *must observe* the at the time valid rules of the *ius in bello*.

The legal nature of war as the licence to inflict certain kinds of damage on the opponent implies that the belligerent parties are not *legally obliged* to inflict said damages. From this follows the above-mentioned situation that states can be in a state of war without exchanging hostilities. The explicit agreement of refraining from hostilities between states in the state of war is called *truce*.

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<sup>9</sup> However, this procedure is not strictly formalised, and may allow for “implied” or “covert” declarations of war. Sometimes declarations of war have the form of retaliations for unprovoked attacks, or are declared as “pre-emptive” measures etc.

The analogous meanings of war are introduced in the opposite direction to the analogous meanings of peace, namely the war among the citizens of a state, the *civil war*, and the absence of the peace of mind or the *mental unrest*. The latter is obviously not a situation of conflict between persons, groups, or states, but a conflict of beliefs, desires, aims, and passions within the mind of a person. Since political and social life has the nature of a *common action*,<sup>10</sup> i.e., of an action that is the result of the interference of various individual actions that are ordered in a certain way. Individual actions are amalgamations of bodily motions and trains of thoughts, i.e., states of the mind.<sup>11</sup> War as a part of the political and the social life of humanity is a species of common action. This means that the manifestation of a war relies on the individual actions of the persons involved in it. Consequently, one of the necessary conditions for the manifestation of a war is the mental unrest of some persons involved, namely of persons that are for political and social reasons in position to start a war.

## VI. The moral aspect of war

The fact that wars do not occur by happenstance or by natural reasons but are the result of concrete decisions based on judgments of individual persons who are responsible for their actions constitutes the *moral aspect* of war. Because the moral dimension of war is grounded on the fact of individual human judgment and action, it determines the material rules that entitle a state to start a war, the so-called *ius ad bellum*, and the material rules that determine the allowed actions during a war, the so-called *ius in bello*. Both the material rules that are grounded on the moral aspect of war and the formal rules that are derived from the legal and conventional nature of international war are part of the international law.

The traditional theories of the just war that have been formulated by Augustinus, Thomas Aquinas, and Grotius are concerned mainly with the moral aspect of war and with the problem of the right to declare a war. Regarding the latter it seems that the traditional theoreticians of war agree unanimously that the right to declare a war lies exclusively with the sovereign.<sup>12</sup> In modern constitutional states the sovereignty stems from the citi-

<sup>10</sup> Cf. Nikos Psarros, "The Constitution of Social Objects by Common Actions," in *Facets of Sociality*, eds. Nikos Psarros and Katinka Schulte-Ostermann, 21-31 (Frankfurt: Ontos Verlag, 2007).

<sup>11</sup> Nikos Psarros, "The Ontology of Time – A Phenomenological Approach," in *Time and Tense: Unifying the Old and the New*, ed. Stamatios Gerogiorgakis, 361-407 (Munich: Philosophia, 2015).

<sup>12</sup> Cf. Aquinas, Grotius, etc.

zens and is exerted by the legislative branch of the government. Therefore, in modern constitutional states wars can be declared only by a legislative act, i.e., a law that gives the executive the necessary mandate to carry out the war.

Regarding the concept of the just war, the situation is not clear. As we have seen above, the declaration of a war relies on the judgment that the war is the appropriate means to achieve some aims in international relations. Based on the definition that war is the absence of peace and according to the idea that the primordial meaning of war leads to the analogous meaning of war as individual mental unrest, one can argue that every judgment leading to the decision to start a war is faulty – “every judgment” refers here to the judgments of all parties involved in a war. However, historical evidence and current experience teach that this is not always the case. In many war situations, at least some involved parties are forced to go to war because they have been attacked.<sup>13</sup> The decision of their leaders to declare war is not the result of an unrest of mind but the manifestation of their duty to defend the independence of their state, the integrity of the country, and the liberty of their people. On the other hand, there are some situations that seem to allow the initiation of a war as a pre-emptive measure, for example to prevent a serious terrorist attack or to impose order on a territory that has drifted into anarchy, or civil war, or is under the reign of an inhuman political regime. Such situations confirm the thesis that war is the result of judgments in a state of unrest of mind.

Despite of the uncertainties regarding the acknowledgment that a declaration of war is “just” in the moral sense, there is the unanimous agreement in the theoretical tradition of war, that international wars must aim at the state structures of the belligerent parties and not at the people. This means that after the cease fire and the capitulation of the defeated state, the victor or the victors may proceed with reconstructing the constitutional order or with the elimination of certain state structures.<sup>14</sup> However, elimination of persons and groups of persons, genocide, or obliteration of the cultural characteristics of the population cannot be the explicit or the implicit aim of war actions or of the war itself. Resorting to such measures by a belligerent party constitutes a war crime. Again, here also a “grey zone” exists since war actions may result in collateral damage of cultural objects and in the loss of non-combatant lives and property. The problem is wors-

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<sup>13</sup> The latest example being the efforts of the Ukrainians to regain the territories of the country that came under Russian occupation since the invasion of February 2022.

<sup>14</sup> For example, after the capitulation of Nazi Germany in 1944, the constituent states of the German Reich were dissolved and reconstituted except for the state of Prussia that was abolished with the Control Council Law No. 46 because “from early days [it] has been a bearer of militarism and reaction in Germany.”

ened by the fact that modern warfare can affect territories and people that are far away from the actual war theatres, so that it is not easy to define situations of tolerated collateral damage.<sup>15</sup>

Much more difficult to evaluate morally is the situation of a civil war. The parties involved in a civil war claim to act in defence of the constitutional order, or the good of the country, or for the betterment of the society, or similar noble reasons. Furthermore, since the persons involved in a civil war are citizens of the same state, and since they fight for their ideas, it is very difficult to observe the *ius in bello* rule requiring to preserve people and only to dismantle or reconfigure state structures. Civil wars clearly demonstrate the grounding of war on the unrest of mind of the citizens. Their termination can therefore take place only when all parties involved lay down the weapons and submit to the rule of a collectively accepted authority, which in modern states is defined by a constitution.<sup>16</sup>

### VII. Si vis pacem...

To establish and to perpetuate the peace among the citizens in a state, a constitution must treat all persons living in the territory of a state in a just and equal way. This means that the order imposed by a constitution must, at least upon reflection, be acknowledged by any person in the present and in the future as respecting human dignity and the existential needs of the human soul.<sup>17</sup> Such a constitution is a *humanistic constitution* and the state grounded on it is a *humanistic constitutional state*.<sup>18</sup> Such states have a *republican nature*, i.e., their existence and persistence are regarded by their citizens and the non-citizens residing in their territory as a *common cause* (*res publica*).<sup>19</sup>

Humanistic constitutional states are by their nature best suited to establish a peaceful international order, i.e., the state of international peace. Obviously, this state is not free of conflicts, humanistic con-

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<sup>15</sup> It seems that Thomas Aquinas allows for the unintended sufferance of the civil populace of a city during a siege; cf. Gerhard Beestermöller, *Thomas von Aquin und der gerechte Krieg: Friedensethik im theologischen Kontext der Summa Theologiae* (Köln: Bachem, 1990), 158.

<sup>16</sup> Cf. Thomas Hobbes, *De cive* and *Leviathan*; The constitution, however, must not be laid down in one document.

<sup>17</sup> Cf. Simone Weil, *The Need for Roots: Prelude to a Declaration of Duties Towards Mankind*, trans. Ross Schwartz (London: Penguin, 2023).

<sup>18</sup> A humanistic constitutional state fulfils John Rawl's criteria for justice, and its constitution is a valid answer to the question of the choice of the principles of justice under the "veil of ignorance." Cf. John Rawls, *A Theory of Justice* (Cambridge, MA: Belknap Press, 1999).

<sup>19</sup> Cf. Immanuel Kant, "Zum ewigen Frieden, ein philosophischer Entwurf," in *Philosophische Bibliothek*, ed. Heiner F. Klemme, Bd. 443 (Hamburg: Meiner, 1992).

stitutional republican states are, however, by their nature inclined to resolve such conflicts by peaceful means. Furthermore, humanistic constitutional republican states are also by their nature prone to form an alliance with the aim to preserve and promote the peace and discourage non-humanistic and non-republican states and groups of persons from resorting to war.

#### VIII. ...interdice bellum?

The establishing of an international peace order does, however, not mean that war can be formally banned or lawfully forbidden. This is so because of the very nature of war as the absence of peace and of the fact that wars are grounded on the unrest of mind of persons that are in position to pursue their aims by declaring war. The only viable method of preserving international peace is the voluntarily waiver of certain sovereign rights of constitutional states and the delegation of these rights to a supranational authority, in which they participate as equal members. This waiver of rights must render the participating states not only technically and legally incapable of waging wars among themselves but also must provide their citizens with rights that are derived from the legal structure of this supranational authority.<sup>20</sup> In other words, the states participating in such an authority must accept for their citizens a kind of dual citizenship, namely the citizenship of the state and the citizenship of the supranational authority. This means that the supranational authority itself must derive its power from the sovereignty of the people of the participating states, i.e., it must have the form of a humanistic constitutional republican state. Since this authority furnishes the individual citizens of the member states with its own citizenship its institutions reflect the *volonté générale* of the constituted citizenship and so the participating states cannot go to war against each other because this would mean that they would encourage their populations to a civil war.

The supranatural authority with the above-mentioned characteristics is called traditionally a *federation*. A first proposal for such a political entity can be found in Dante Alighieri's *De Monarchia*<sup>21</sup> where

<sup>20</sup> A first attempt to introduce this concept of a "supra-citizenship" was the granting of the rights of roman citizens to all free men and women of the Roman Empire by the so called "Constitutio Antoniniana," issued by Emperor Caracalla in July 212 CE. However, this citizenship was not subsidiary to the citizenships of the nations subdued by the Romans, but in a sense, it meant the dissolution of these nations and their integration into the *Populus Romanus*.

<sup>21</sup> Dante Alighieri, *On World Government*, trans. Herbert W. Schneider (London: MacMillan, 1957).

he describes a “supranational kingdom,” to which all Christian kingdoms and republics of his time should be subject. A more mundane and formal entity is proposed by Immanuel Kant in his seminal essay on eternal peace.<sup>22</sup> Both proposals admit that such a superstate would not exert actual political power but would have rather an advisory and admonitory function (Dante) or act as a forum for the arbitration of international disputes (Kant).

The first realization of a modern federal state in the above-mentioned sense are the United States of America, that managed to consolidate several economically and politically diverse British colonies on American soil to what today appears as a homogeneous humanistic constitutional republican state. The example of the USA has been followed by many colonial territories of the superpowers of the 17<sup>th</sup> and the 18<sup>th</sup> centuries in the Americas, in Asia,<sup>23</sup> and Australia with various degrees of success in creating humanistic constitutional republican states.

The European Union that was formally established 1993 by the Treaty of Maastricht is in this context an exceptional case, because it did not emerge in the course of a war of independence from a colonial power or an authoritarian empire, but was the result of the explicit aim to render war – at least in Western Europe – impossible by the conscious and deliberate renunciation of national sovereignty to the organs of the Union, and by the contractually waiver of the state of war in resolving conflicts among its member states. The main difference between the EU and a classical federal state like the USA is that the EU does not possess any tactical means for enforcing the observance of the rules of the union by a member state. The integrity of the Union is guaranteed by the overall benefit for its citizens and for the member states, allowing the separation of a member state by a contractually regulated process.<sup>24</sup>

## IX. ...divide mundum?

Another strategy to reduce the probability of a war outbreak has been the division of the world in “spheres of influence.” As a first such attempt in modern times can be considered the *Treaty of Tordesillas* between the Spanish and the Portuguese Empires signed on June 7<sup>th</sup>, 1494. This treaty

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<sup>22</sup> Kant.

<sup>23</sup> I think here of the Republic of India.

<sup>24</sup> The fact that the militaries of the majority of the EU member states are integrated in the NATO is another pillar of stability and peace preservation in Europe, but it is not an aspect of the abolition of war between the EU member states. In contrast the explicit waiver of the right to declare war on another member state is one of the necessary conditions for membership.

divided the newly discovered lands outside Europe along a meridian 370 leagues west of the Cabo Verde Islands.<sup>25</sup> Mediated by the Pope the treaty aimed at the creation of separate domains of influence – and exploitation – so that a future military conflict should be avoided. A similar attempt was undertaken with the treaties that became known under the title of the *Peace of Westphalia* of October 1648 that ended the thirty years war between the catholic and the protestant principalities of the Holy Roman Empire and established the freedom of religion in Europe. Both treaties didn't succeed in abolishing war completely, however the introduced modes of international etiquette among states and rituals of diplomatic relation that ensured long periods of military tranquility among the various western European nations. A similar attempt was made after World War II between the three powers that led the fight and defeated Nazi Germany and its allies, namely the British Empire, the USA, and the Soviet Union (USSR), in the famous conferences of Tehran, Yalta and Potsdam. Even though these conferences did not produce any formal treaty, it was tacitly agreed among the three powers to divide the world into a western and a soviet sphere of influence, especially guaranteeing the USSR a zone of buffer states that separated it from the states under western influence. This division shaped the fate of postwar Europe and still exerts a certain influence even after the dissolution of the USSR and the transformation of the majority of the states under its influence into western type democracies that have mostly already joined the EU and the NATO.

This kind of arrangement between major powers has been considered by some authors in international relations<sup>26</sup> as the highest possible level of ensuring “peace.” Especially Samuel P. Huntington in his book *Clash of the Civilizations*<sup>27</sup> pursued the idea of an almost “natural” division of the world in spheres of cultural and religious identities that according to his theory would dominate the future conflicts of humanity. Huntington does not propose actively the idea of semi-institutionalized spheres of influence as it was laid down in the conferences of Tehran, Yalta, and Potsdam, however, he seems to assert that the “normal” state of the world affair is a state of dormant war across the

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<sup>25</sup> Cf. Francis Gardiner Davenport, *European Treaties Bearing on the History of the United States and its Dependencies to 1648* (Washington, D.C.: Carnegie Institute of Washington, 1917), 84.

<sup>26</sup> A field that is considered by some scholars as a science in its own right. I strongly disagree with this attitude. To my opinion IR cannot be a science because it does not provide true knowledge about the nature of peace but rather utilitarian knowledge about ensuring and maintaining a fragile state of truce.

<sup>27</sup> Samuel P. Huntington, *The Clash of the Civilizations and the Remaking of the World Order* (New York: Simon and Shuster, 1996).

“fault lines” of the civilizations so that peace can ideally be achieved only within a “civilization.” Between the civilizations the best state that can be achieved is a kind of eternal truce.<sup>28</sup>

It seems then that the division of the world did never manage to establish peace but only a temporary ceasefire, a truce, that has been used by the parties involved only as a period to prepare for the next war, or for negotiations for a better position to prepare for a war. The most profound flaw of the concept of the semi-institutionalized spheres of influence is, however, the fact that it completely ignores the will of the people, i.e., the *volonté générale*, on which the legitimacy of each state power rests. It also ignores the fact that cultural affiliations are at best orientation instances and do not define the nature of a human being. Proposing the establishment of spheres of influence to ensure peace is then not only practically without effect but it also poses serious ethical problems that have not yet been discussed at depth.<sup>29</sup>

#### X. ... para bellum?

I argued in this essay that the appropriate definition of war is that it is a state of relations between states characterized by the absence of peace, and by the conventionally grounded right of the belligerent parties to mutually deny certain legal statuses. I also argued that exerting violence is not a constitutive characteristic of war, but the logical consequence of the mutual denial of legal statuses, and that the ontological foundation of war is the mental unrest of the persons that by virtue of the power vested in them by the constitutions of their states are entitled to declare and to conduct a war. War is then a privative mode of human existence, and as such war cannot be outlawed or forbidden, but can only be brought to an end by subduing the opponent or by negotiations, or it can be prevented by taking appropriate measures. The best strategy to prevent wars is to render states incapable of declaring and conducting a war by transforming them into humanistic constitutional republics and encouraging them to form alliances and federations.

However, at the time being not every state on earth is a humanistic constitutional republic, and there is no royal road to attain this aim. People are free, and this means that they are also free to accept to live

<sup>28</sup> The Clausewitzian doctrine of “politics by other means” can be regarded as a formulation of a policy of spheres of influence. Cf. Carl von Clausewitz, *On War*, trans. Michael Eliot Howard and Peter Paret (Princeton, NJ: Princeton University Press, 2008).

<sup>29</sup> For the case of the Yalta conference cf. Oleg Konstantinovich Shevchenko, “Question about the Ethics of Yalta Agreements in 1945. Archaeology of Power in Historiographical Discourses,” *Conatus – Journal of Philosophy* 4, no. 1 (2019): 99-108.

in a state that does not regard the protection of human dignity as its uppermost goal. On the other hand, even if all states were humanistic constitutional republics there is no guarantee that their governments should not judge that they cannot resolve a conflict with other states without resorting to war.

It is then necessary, even for states that are integrated into a federation or an alliance, to maintain means that discourage other states, federations, or alliances from declaring war than accepting an unresolved conflict within the framework of an international peace order. In other words, because of the specter of war constantly looming over the world, it is necessary to assure every state that going to war is futile, both from a political and from an economic point of view. And it is also necessary to assure every government willing to start a war that it has more to lose than to gain from such an action, including the possibility of the dissolution of its state – as it was the case with Prussia after World War II.

It seems then that the paradox of the necessity of preparing war to ensure peace is an existential truth of humanity. This may be so, but the challenge humanity faces is to render this truth irrelevant by developing other methods that render war futile. Such methods have historically evolved with the appearance of the modern humanistic constitutional republican state that respects the dignity and the rights not only of its citizens but of every person residing in its territory. Thus, citizens of other states can form interests in this state that oblige their respective states to avoid resolving conflicts by war because these interests would be harmed. In other words, the best option of minimizing the danger of war is – ideally – that every person is granted certain rights in every state. These rights, that can be subject to conditions, must include the right of free movement, the right of obtaining property, the right of residence, and the right of entering the labor market. Experience teaches that in every area of the world<sup>30</sup> where such rights have been implemented the number and the duration of wars has decreased significantly.

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<sup>30</sup> The best modern example so far is the European Union. The formation of the USA and of other large federative states in the 19<sup>th</sup> and the 20<sup>th</sup> centuries can also be regarded as part of this development.

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