

Towards a Contemporary Understanding of Perpetual Peace



Kant on the Necessary Conditions for a Perpetual Peace

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1. INTRODUCTION

Since the dawn of its existence the concept of peace has, of course, given rise to a plethora of meanings. The concept has been and still is consistently employed in both inter- as well as intrapersonal matters of discourse. In accordance with the former, one can rightly ask what the concept of peace is to mean within the domain of (international) politics and how it can be obtained in practice. What then are we to make of the idea of a 'perpetual peace'? If peace is negatively and stringently defined as a mere absence of war, it is not surprising to find that a *perpetual* peace has not been established, given the history and nature of humankind. Rather, the concept of a perpetual peace seems an ideal at best, the materialization of which difficult if not outright impossible to obtain. Perhaps it was with a similar hint of irony with which a Dutch innkeeper once decided to name his inn 'The Perpetual Peace', accompanied with an image of a graveyard on his signboard. It was this scenario that too, perhaps, prompted Kant to awake from yet another 'slumber', culminating in his often overlooked and underestimated essay 'Perpetual Peace: A Philosophical Sketch'.¹ In the first section of this foundational essay, Kant argues for six *Preliminary Articles* that he conceived as *a priori* conditions that need to be satisfied in order to approximate peace proper, viz., perpetual peace. In the second section, Kant outlines three *Definite Articles* in which he provides a foundational framework on which a perpetual peace is thought able to rest. The major aim of this thesis is to provide an analysis of Kant's Preliminary Articles as formulated in his *Perpetual Peace*.²

In doing so, I will focus primarily on the relevant sections of his essay and provide secondary commentary where I deem it valuable. Finally, I will situate each of these conditions in a contemporary context and investigate to what extent the Dutch political system as being embedded in international law conforms to the necessary conditions here specified. As will become clear, several key documents implemented within the international legal system do appear to have adopted elements of the Kantian framework discussed. In order to make the translation from the 18th century to the modern world feasible, I will make use of a broad interpretation of the conditions in question without thereby losing their conceptual core.

¹ Hannah Arendt, *Lectures on Kant's Political Philosophy*, pp. 7-8.

² For this task I will primarily focus on the work of Hans Reiss, *Kant's Political Writings*, Cambridge: Cambridge University Press, 1977.

2. FIRST PRELIMINARY ARTICLE FOR A PERPETUAL PEACE BETWEEN STATES: 'NO CONCLUSION OF PEACE SHALL BE CONSIDERED VALID AS SUCH IF IT WAS MADE WITH A SECRET RESERVATION OF THE MATERIAL FOR A FUTURE WAR.'

As regards the 1st necessary condition for the establishment of a perpetual peace, Kant initially analyses the proper meaning of the term 'peace', and distinguishes it from the term 'truce' as such.³ This signifies a crucial difference, since Kant argues that the introduction of peace proper cannot be accompanied with an implicit (or explicit) proviso for future conflict. Thus, *contra* peace, which incorporates the negation of *all* possible reasons that could in principle implicate conflict, the idea of a truce—or armistice, ceasefire—suggests a mere *temporal* notion of peace, thereby undermining a proper concept of it. That is, truce-based policies do in fact warrant a *post bellum* conservation of factors, e.g., reasons, armies etc., for future deployment, given that a mere truce does not necessitate a permanent state of peace.⁴

A quick glance at human history reveals that time and again peace treaties have been devised with an actual proviso for future conflict in the minds of the creators, due to practical reasons or simply to be in accordance with war tactics. Against such *pseudo*-diplomatic strategies, Kant objects that such mental provisos in themselves are to be identified as instances of "Jesuitical casuistry⁵; [and as such] they are beneath the dignity of a ruler, just as it is beneath the dignity of a minister of state to comply with any reasoning of this kind."⁶ Peace proper, then, already carries within it an *atemporal* element, which is why

³ It must be noted, however, that the actual establishment of a perpetual peace can be approximated only, since it is to be conceived as an ideal only. See: Reiss, Appendix II and p. 109. In the 1st Supplement of the essay in question, however, Kant seems confident in his view that a "Perpetual peace is *guaranteed* by no less of an authority than the great artist *Nature* herself (*natura daedala rerum*)." Although such a purposive natural force cannot be objectively determined as such, it here is considered *dogmatically* valid, viz., practically possible as a regulative idea. See: Reiss, pp. 108-9.

⁴ Gregg Lambert rightly points out a possible difficulty in this regard. That is, Kant's insistence on the necessity of an atemporal conception of peace as is materialized in a contract would imply a binding force for eternity. This, however, does not seem to take into account the apparent injustice of coercing this binding force to future generations who were not party to the original contract. See: <http://redraftingperpetualpeace.org/article-1/>.

⁵ With this Kant seems to scorn the Catholic order of Jesuits, of which the sophisticated yet contorted ethical reasoning employed intended to deceive was deemed typical in his time. See: Andrew Bailey et al., "Broadview Anthology of Social and Political Thought", Ontario: Broadview Press, 2008, p. 742.

⁶ Reiss, p. 94.

Kant considers the addition of the term 'perpetual' to be conceptually redundant.⁷ Rather, "peace means an end to all hostilities."⁸ In fact, the term 'perpetual' employed as an adjective to 'peace' is in itself suspect, since it does not recognize but merely reiterates the proper meaning of the latter, and as such "it is already suspiciously close to [a] pleonasm."⁹

2.1 ASSESSING THE ARTICULATION OF PEACE BY THE NETHERLANDS

Given that the foreign policies of the Netherlands are circumscribed by its Constitution as well as by its adherence to the international legal order, an analysis of the articulations of peace in both domains appears to be appropriate.¹⁰ By its promotion of "the development of the international legal order" the Dutch government adopts an articulation of peace that is in accordance with that as it is defined within international law. As such, the Netherlands aims for a peaceful resolution of international disputes, the insurance of internationally acclaimed human rights, the retaining of peaceful international relations and a lasting international state of peace and security.¹¹ Besides the explicit mention of human rights in the Constitution, the notion of peace here is not assigned a specific content. Indeed, any failure to define peace legally would rather *confirm* Kant's suspicion of its tautological employment rather than deny it. Before analyzing the articulation of peace as it exists within the United Nations (UN), which provides the relevant international framework fit for our purposes, it is valuable zooming in on the rationale that seems to have motivated Kant's

⁷ Lambert here differentiates between *logical*, *practical* and *moral* arguments that characterize the legal illegitimacy of a provisional peace treaty (*pactum pacis*) that incorporates a clause for material for future conflict. Logically speaking, then, the reservation of material for future conflict would reduce it to a mere truce. Practically, the treaty itself would be employed as a cause for future conflict, thereby granting the treaty a material status. Morally, the creation of such a treaty would reflect a product of undignified minds, i.e., the politicians involved would attest of the casuistry mentioned above. See: <http://redraftingperpetualpeace.org/article-1/>.

⁸ Reiss, p. 93.

⁹ *Ibid.*, p. 93.

¹⁰ For the compliance of Dutch national law to the international stipulations of peace and security, as well as the primacy of International Law over Dutch national law, see the 90th and 94th Articles of the Dutch Constitution, respectively. See:

<http://www.denederlandsegrondwet.nl/9353000/1/j9vviHf299q0sr/vgdei7c2vgu4?q=internationale>.

¹¹ The 90th Article of the Constitution states these aims explicitly, see:

<http://www.denederlandsegrondwet.nl/9353000/1/j9vviHf299q0sr/vgrnd7f9fty4>.

preliminary Article discussed here.¹² That is, the approach that Kant employs primarily seems to be theoretical in nature, since it consists of a *conceptual* analysis of what the term peace properly constitutes. It is on this analysis that Kant dismisses the concept of a truce as a viable candidate for peace thus understood, since this would imply a *contradictio in terminis*, viz., *atemporal* versus *temporal*. Still, the “secret reservations” or mental provisos that Kant mentions in this regard must not be understood as merely theoretical possibilities, but rather as *real* impediments to the worthy endeavor of approximating the ideal that is a perpetual peace. While the existence of mental provisos cannot, of course, be prevented, Kant dismisses these provisos in itself as undignified instances of reasoning (see above). What is needed, then, is a legal framework that prohibits any violation of peace proper *regardless of* the possible influence of existing mental reservations in the minds of rulers. In fact, ever since its status as being a member of the UN, the Netherlands—next to the other member states—is legally prohibited to *start* a war in the first place.¹³

While it is undeniably correct that even today any member state can *ex hypothesi* violate the dictates of international law, the negative legal implications that will be imposed on such culprit states will greatly diminish the chances of existing “secret reservations” to be realized.¹⁴ Besides a recognized affiliation with the UN and the role of providing for its member states a form of collective defence, The North Atlantic Treaty Organization (NATO) shares a similar conception of peace as it is articulated in its North Atlantic Treaty (NAT).¹⁵ The 2nd Article of the NAT, for instance, stresses the importance of free institutions

¹² See: <http://www.un.org/en/globalissues/internationallaw/>.

¹³ See, for instance, the 1st Chapter of the Charter of the United Nations:

<https://www.un.org/en/documents/charter/chapter1.shtml>. More on these legal restrictions is elaborated upon in relation to the 5th Preliminary Article discussed on page 25.

¹⁴ The United Nations Security Council (UNSC), in its function as one of the organs of the United Nations, has the power to impose negative legal implications such as economic sanctions (e.g., the freezing of funds or financial assets that are linked to terrorism). Also, see a relevant document by the Financial Action Task Force (FATF), which has “has collaborated closely with the United Nations since 2001”: <http://www.fatf-gafi.org/media/fatf/documents/recommendations/BPP-Fin-Sanctions-TF-R6.pdf>), interrupt multimedia communications or resort to military intervention. See the 7th Chapter of the Charter of the United Nations: <https://www.un.org/en/documents/charter/chapter7.shtml>. Additionally, the UNSC is authorized to introduce *ad hoc* tribunals whereby it can sanction culprit states and provide legal measures for the victims involved. See: http://www.un.org/en/sc/repertoire/subsidiary_organ/international_tribunals.shtml. Furthermore, *the principle of collective defence* as stipulated by the 5th Article of the NAT can also be understood as a risk-reducing factor in this regard.

¹⁵ See: <http://streitcouncil.org/uploads/PDF/UN-NATO%20Joint%20Declaration.pdf>.

and proper conditions of stability and well-being so as to establish peaceful and friendly international relations as such.¹⁶ Additionally, in the Preamble of the NAT the notion of peace is coupled with a concern of safeguarding “the freedom [viz., self-determination], common heritage and civilisation of their peoples, founded on the principles of democracy, individual liberty and the rule of law.”^{17, 18}



¹⁶ This 2nd Article reads: “The Parties will contribute toward the further development of peaceful and friendly international relations by strengthening their free institutions, by bringing about a better understanding of the principles upon which these institutions are founded, and by promoting conditions of stability and well-being. They will seek to eliminate conflict in their international economic policies and will encourage economic collaboration between any or all of them.” See: http://www.nato.int/cps/en/natolive/official_texts_17120.htm.

¹⁷ Ibid.

¹⁸ In the 1st *Definitive Article of a Perpetual Peace*, Kant assesses the conceptual legitimacy of different “civil constitutions”, and identifies democracy as that form of sovereignty (*forma imperii*) in which the supreme authority is exercised by *all* individuals who “constitute civil society.” Next, Kant considers the form of the government (*forma regiminis*), that “relates to the way in which the state, setting out from its constitution (i.e. an act of the general will whereby the mass becomes a people), makes use of its plenary power.” This latter form, it is argued, is either *republican* or *despotic*. Whereas a republican form of government implies a separation between *executive* and *legislative* power, its despotic counterpart subsumes both powers in *one* supreme authority, whereby it “reflects the will of the people only in so far as the ruler treats the will of the people in his own private will.” Democracy, then, is identified as despotic, since here all individuals possess the executive power to decide against the will of a single individual’s consent (i.e., rule of the majority). Thus conceived, democracy necessarily is a contradictory form of sovereignty, since the general will would simultaneously be executed and not: “*democracy*, in the truest sense of the word, is necessarily a *despotism* because it establishes an executive power through which all the citizens may make decisions about (and indeed against) the single individual without his consent, so that decisions are made by all the people and yet not by all the people; and this means that the general will is in contradiction with itself, and thus also with freedom.” See: Reiss, pp. 100-1.

3. SECOND PRELIMINARY ARTICLE FOR A PERPETUAL PEACE BETWEEN STATES: 'NO INDEPENDENTLY EXISTING STATE, WHETHER IT BE LARGE OR SMALL, MAY BE ACQUIRED BY ANOTHER STATE BY INHERITANCE, EXCHANGE, PURCHASE OR GIFT.'

For this 2nd necessary condition, Kant makes it clear that a 'state' does not reflect an object which can be possessed (*patrimonium*). Rather, an existing state here is to be identified with "a society of men, which no-one other than itself can command or dispose of."^{19, 20, 21} An externally imposed disregard for these forms of self-determination would in effect reduce the society in question to a mere article of commerce and infringe upon the *a priori* principles that properly constitute the civil state.^{22, 23} Kant here draws an analogy between a society and a tree: "like a tree, it has its own roots, and to graft it on to another state as if it were a shoot is to terminate its existence as a moral personality and make it into a

¹⁹ In the 3rd *Definitive Article of a Perpetual Peace*, Kant considers the case of the foreigner. Visiting from another state, the foreigner must be treated with respect insofar she can rightly claim a natural *right of resort*. Contrary to a state, since the earth is shared by all human beings, its surface is in principle *possessed* by all, and as such this grants the natural right to receive a hospitable treatment in foreign societies. It is on this basis with which Kant dismisses the inhospitable conduct of certain tribes against foreigners, insisting that doing so contradicts this natural right. From this it follows that practices such as colonization are illegitimate as well. See: Reiss, p. 106.

²⁰ While Kant understands the earth's surface as *naturally* possessed by *all* human beings, Patrick Hanafin emphasizes the contemporary delimiting function of private property in this regard. Since private property presupposes this surface as appropriable, the state thereby occupies a definite territory that needs to be defended from external independent states as such. This implies a transition from of a natural "mine and thine" (where external possessions are merely *provisional*, see: Kant's *The Metaphysics of Morals* (MM), p. 124., §44) to the *civic* state thus defined. See: MM, p. 121., §41, and: <http://redraftingperpetualpeace.org/2013/09/15/article-2/>.

²¹ Reiss, p. 94.

²² An emphasis on *men* here seems appropriate, since Kant does not grant women (among others) a civil independent status, but considers them *passive* 'associates' rather than *active* 'citizens': "All women and, in general, anyone whose preservation in existence (his being fed and protected) depends not on his management of his own business but on arrangements made by another (except the state). All these people lack civil personality and their existence is, as it were, only inherence [...] these are mere underlings of the commonwealth because they have to be under the direction or protection of other individuals and so do not possess civil independence." See: MM, p. 126., §46. This apparent inequality in, inter alia, civil status encourages Hanafin to reassess Kant's conception of the *polis* so as to argue for a contemporary conception that grants a *full* citizenship to all. As such, it recognizes the *unique* identity of the human being, whereby it departs from abstract forms of identity and instead identifies this plurality (i.e., uniqueness) with equality: our uniqueness is what makes us equal.

²³ These *a priori* principles are the *freedom* of every member of society as a human being, the *equality* of each with all the others as a subject and the *independence* of each member of a commonwealth as a citizen. See: Reiss, p. 74.

commodity.”²⁴ To be sure, any such commodification contradicts the foundation on which the rights of people are to rest, that is, it contradicts the idea of the original contract (*contractus originarius*).²⁵ Accordingly, the acquirement of independently existing societies through inheritance, exchange, purchase or gift effectively treats its object, viz., the society to be acquired, as a mere means and thereby violates the united will of the people—the rational nature of which would never permit such treatment in the first place.²⁶ An identical scenario obtains in which, for example, armies of the state are hired to another one. Here too does the hiring entity treat the subjects in question as mere means: “when the troops of one state are hired to another to fight an enemy who is not common to both; for the subjects are thereby used and misused as objects to be manipulated at [by an external] will.”²⁷

3.1 ASSESSING THE IMPERIALISTIC POSSIBILITIES OF THE NETHERLANDS

Although assuredly the term ‘imperialism’ generally has negative connotations attached to it, in this context it will be construed in the broad sense of extending the power of a state.²⁸ Given its dependency on the set of internationally binding regulations as defined within the

²⁴ Reiss, p. 94.

²⁵ Hanafin, when reassessing Kant’s political value, remarks that the *status quo* of existing political structures admits of differing degrees of inequality, expressed by asymmetrical relations in power, freedom and “access to wealth and the good life.” Furthermore, the independence of contemporary states is continually constrained by geo-economic factors such as size and wealth. This complex of contingencies, it is argued, still allows for the commodification of ‘moral persons’ (i.e., individuals or states), and as such the establishment of a perpetual peace remains an ideal still relevant today. See: <http://redraftingperpetualpeace.org/article-2/>.

²⁶ This hereditary aspect is also discussed in relation to what Kant considers the proper constitution in order to make the approximation of a perpetual peace possible. That is, the legitimacy of a *hereditary aristocracy* depends “entirely on whether more importance is attached to the superior *rank* granted by the state to one subject over another than is attached to *merit*, or vice versa.” Since it is the case that in such a constitution *rank* is contingently attributed on the basis of birth, it is by no means necessary that both *rank* and *merit* are mutually inclusive. In other words, it is not necessary that all subjects that are born with the appropriate *rank* at the same time are *meritorious* as well. This type of constitution thus is illegitimate, since this lack of necessity would never be accepted by the united or *general will* of the people in (the idea of) an original contract, the latter which is to be “the principle behind all rights.” See: Reiss, p. 99.

²⁷ *Ibid.*, p. 94.

²⁸ Merriam Webster defines this as: “the policy, practice, or advocacy of extending the power and dominion of a nation especially by direct territorial acquisitions or by gaining indirect control over the political or economic life of other areas; *broadly*: the extension or imposition of power, authority, or influence.” See: <http://www.merriam-webster.com/dictionary/imperialism>.

domain of international law, The Netherlands' legitimate scope of extending its power through "inheritance, exchange, purchase or gift" must be assessed in relation to the body of international laws to which The Netherlands is bound. As regards the acquirement of member states by means of (the threat of) *force*, The Charter of the United Nations stipulates two principles that are relevant in this regard. That is, the 2th Article introduces the principles of 'territorial integrity' and 'political independence' in order to demand respect for "matters which are essentially within the domestic jurisdiction of any state."²⁹

Territorial integrity can be understood as the *whole* entity that constitutes a state. The territorial aspect implies a geographical area, the physical scope of which is bounded by the jurisdiction of the governmental authority that is in place. As for the principle of political independence, the "whole people belonging to the territory without distinction as to race, creed or colour" are entitled to *equal rights* and autonomy or *self-determination*. This, in turn, implies that *all* people within the boundaries of the sovereign state in question possess the inalienable right to determine a political status of *choice*, as well as being free to "pursue their economic, social and cultural development" as such.³⁰

This seems to fit well with Kant's insistence on treating human beings as ends in themselves, since a disregard for a peoples' political independence undermines their worth as autonomous agents.³¹ The role of the United Nations Security Council (UNSC) is pertinent here, since it reflects the sole authority that, given a peace undermining scenario, can legally opt for a violation of the two principles mentioned above.³² Although the relevant documents here considered do not explicitly mention the recognized means of territorial acquisition, viz., through the means of inheritance, exchange, purchase or gift, it prohibits the act of enforced acquisition *simpliciter* (except in case of the abovementioned

²⁹ See: <https://www.un.org/en/documents/charter/chapter1.shtml>

³⁰ This is covered in the 5th principle of the "Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (DPIL), 24 October 1970, A/RES/2625(XXV)." See: <http://www.un-documents.net/a25r2625.htm>.

³¹ Disregarding a peoples' political independence also seems to be in direct opposition to the *a priori* principles that are mentioned in footnote 23 above.

³² This exception is stipulated by the 7th clause of the 2nd principle of the Charter of the United Nations. If the UNSC recognizes a given scenario as being a *threat*, *breach* or *act of aggression* in relation to peace proper, the 'violations' in question seem legally authorized. See: <https://www.un.org/en/documents/charter/chapter1.shtml>.

scenario). That is, given that an act of enforced acquisition *ipso facto* implies an infringement on the principles specified above, the employed means in order to guarantee its realization seem irrelevant as regards its legality.³³



³³ The 10th clause of the 1st principle of the DPIL reads: “The territory of a State shall not be the object of military occupation resulting from the use of force in contravention of the provisions of the Charter. The territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force. No territorial acquisition resulting from the threat or use of force shall be recognized as legal.” Notably, any act of enforced territorial acquisition seems to violate most if not all the clauses of the 1st, 3rd, 5th and 6th principles of the DPIL. See: <http://www.un-documents.net/a25r2625.htm>.

4. THIRD PRELIMINARY ARTICLE FOR A PERPETUAL PEACE BETWEEN STATES: 'STANDING ARMIES (MILES PERPETUUS) WILL GRADUALLY BE ABOLISHED ALTOGETHER.'

Given the content of the two conditions mentioned above, this 3rd necessary condition for the establishment of a perpetual peace is not surprising. Although the reservation of standing armies can hardly be considered a secret affair, it does comply with peace construed as a temporal notion.³⁴ As such, the existence of standing armies can rightly be regarded as 'the material' for future conflict, thereby violating the 1st condition. The mere presence of these armies, then, threatens the possibility of peace proper because of psycho-economic factors.³⁵ This psychological factor Kant identifies with that of an arms race, together with the costs that accompany such a progression, that is, "they [the standing armies] spur on the states to outdo one another in arming unlimited numbers of soldiers, and since the resultant costs eventually make peace more oppressive than a short war, the armies are themselves the cause of wars of aggression which set out to end burdensome military expenditure."³⁶ Given that during times of peace the cumulative costs of maintaining ever-growing yet idle armies seem to have no direct economic benefit, the recourse to conflict can only be considered an economically attractive possibility. Framed as such, it is the very existence of these armies that undermines the prospect of a perpetual peace. These armies, then, ought not to be considered a proper solution to conflict

³⁴ Louis Kriesberg's remark that the contemporary tendency to label standing armies as *defensive* forces can be understood as complying with a temporal conception of peace as articulated above. "The near universality of armed forces among the countries of the world", then, reflects the actualization of a collective motive for retaining defensive forces so as to prepare for potential future conflict scenarios. Kriesberg also identifies several advantages or what he calls "intrinsic benefits" of a standing army, apart from its apparent defensive or offensive value: "A country's standing army offers people in its country honorable careers, years of service to their country, working in close solidarity with others, and meeting exciting challenges. It provides jobs for people serving in the army and producing the goods and services for the military forces. It has symbolic significance, affirming the sovereignty of an independent state." See: <http://redraftingperpetualpeace.org/article-3/>.

³⁵ In the contemporary world, Kriesberg continues, these economic factors come into play where states invest in the necessary means in order to actualize the desired end in question, viz., the possession of military forces for allegedly defensive motives. Thus, "as each state prepares to defend itself, it generally develops equipment and strategies to defeat potential enemies." The psychological component, then, is effectuated by observing military progress of foreign states, the grass on this foreign side of the fence always being greener as such. Consequently, this form of international interplay between 'defensive' preparations in fact functions as a catalyst for potential conflict, thereby constituting a "security dilemma that can drive arms races and fuel tragic misunderstandings."

³⁶ Reiss, pp. 94-5.

scenarios, on the contrary, they are ultimately constitutive of it.³⁷ Given the occurrence of a conflict scenario, the externally imposed deployment of these armies in order to “kill or to be killed” directly violates the 2nd condition as well, since this, again, would imply a treatment as means rather than ends. Kant here is quick to emphasize that this radically differs from the attainment of military training on a *voluntary* basis, if only for defensive motives. This illustrates the importance that Kant confers to personal *freedom*, which functions as a crucial feature in determining what is to constitute *right*.³⁸ Next to the power of *armies*, Kant identifies two other powers that hinder rather than promote the possibility of a perpetual peace. The power of *money* cannot be underestimated in this regard, since the accumulation of wealth, it is argued, “would be seen by other states as a military threat; it might compel them to mount preventive attacks.”³⁹ This threat becomes evident when one realizes that the degree of wealth generally is a good indicator of the number of soldiers that a state could or does actually possess. It is therefore not surprising that Kant here opts for a concealment of accumulated wealth, since ignorance pertaining to the amount of wealth a state possesses most likely functions as a deterrent rather than an impetus for starting a war.⁴⁰ Both the power of armies and money, then, can be subsumed under that of

³⁷ Although Kriesberg is convinced that “abolishing military forces of all countries may reasonably appear to be a rash, indeed, impossible and undesired solution”, he does argue for a renouncement of mitigating measures pertaining to already existing military forces in favour of *reducing* the need for military forces in the first place. This reduction of need is threefold: “first, by creating other ways to provide the intrinsic benefits of having standing armies, second by reducing the incidence and severity of international and domestic conflicts, and third, by enhancing non-military ways of conducting and settling conflicts.” The 1st condition, then, can be satisfied by the introduction of “domestic police forces.” Current costs for equipment and training of military personnel could as such be directed to these police forces instead. Furthermore, rather than functioning as defensive forces, standing armies could be deployed for dealing with threatening natural phenomena only. As such, these forces would solely focus on the reduction of and recovery from the negative impact of natural disasters. The second way by which the reduction of the need of military forces could be realized is “to change the conditions that tend to result in severe international and domestic conflicts.” Kriesberg here provides the condition of shared cultural norms between countries as a telling example, since it is known that this state of affairs reduces the risk of conflict between the countries involved. Third, the deployment of UN peacekeeping and peacebuilding forces in order to put off the outbreak of wars or terminating them is considered as a non-military way of dealing with the conflicts at hand. So too are internationally imposed—e.g., as actuated by the UN or the OSCE—economic sanctions considered as pre-emptive or terminating measures in this regard.

³⁸ Kant’s articulation of *right* necessarily is conjoined with a conception of *freedom*. That is, Kant deems an action *right* where “by itself or by its maxim [it] enables the freedom of each individual’s will to co-exist with the freedom of everyone else in accordance with a universal law.” See: MM, p. 56., §C.

³⁹ Reiss, p. 95.

⁴⁰ Beside the positive implications that Kriesberg attributes to the actual realization of the three abovementioned conditions in order to reduce the need for military forces, the role of globalization is

alliance: the combination of both the standing armies as well as the accumulated wealth of the alliances within or between the states in question proves to be more of a threat than an isolated existence of these powers as such.

4.1 ASSESSING THE MILITARY AIMS OF THE NETHERLANDS

Of course, any attempt of a political comparison bridging a long temporal distance is accompanied by potential difficulties. As for the comparison in question, i.e., the extent to which contemporary Dutch political practices are in conformance with Kant's Preliminary Articles, the occurrence of conceptual difficulties seem inevitable due to the historical contingencies that took place after Kant's time, since these introduced a political landscape that Kant could not possibly have foreseen. Clinging to a narrow interpretation of this 3rd Preliminary Article would not permit the inclusion of the current Dutch military apparatus as such, since this would include military units such as helicopters and drones. In order to make this comparison feasible, however, I will aim for a broader interpretation without thereby losing Kant's conceptual core. In order to assess whether contemporary developments of the Dutch military apparatus conform to the necessary condition in question, then, I will need to investigate the military aims as they are written down in the relevant documents. One relevant document in which the abovementioned aims take form—as they are motivated by the intra- and international risks that exist in the world of today⁴¹, is the

mentioned as well. That is, rather than emphasizing the need for concealment of information, Kriesberg identifies the characteristic of globalization to be advantageous in relation to the outbreak of wars or terminating them. Not only does the typical rise of “global economic integration” equally imply a rise in financial costs of participation in war, the “global interdependence” indicative of globalization allows for an “amazingly rapid expansion of communication among people everywhere.” This possibility of *immediate knowledge* rather than *ignorance* of conflict scenarios taking place in the world can be considered advantageous in that it provides an effective means of control as well: Given a conflict scenario, (inter)governmental organizations such as the UN can readily be informed and act accordingly by mitigating or terminating the conflict in question by non-military involvement as such.

⁴¹ Contemporary assessments of these risks are captured by the former Chief of Defence of the Netherlands (Dick Lodewijk Berlijn) in *The Netherlands Defence Doctrine* (being based upon the NATO doctrine). In this document, five factors are considered paramount in assessing “the scale, composition and organization of our armed forces in the years ahead.” These factors to be taken into account are failing states, terrorism, rogue states, proliferation of weapons of mass destruction and interstate relations. See: *The Netherlands Defence Doctrine*, pp. 30-1., <http://www.government.nl/documents-and-publications/leaflets/2010/01/12/netherlands-defence-doctrine.html>.

document recently issued by the Dutch Minister of Defence (J.A. Hennis-Plasschaert), dubbed "In het Belang van Nederland." In it a reference is made to the 97th Article of the Dutch Constitution, in which there appears a threefold justification for the existence of an armed forces, namely in order to *defend* the Dutch kingdom, to *protect* its national interests and to *maintain and promote* the international legal order.⁴² This latter stipulation reveals the interrelation of Dutch security policy with international organizations, such as the NATO or the Organization for Security and Co-operation in Europe (OSCE).⁴³ In accordance with these stipulations, the *continued* existence of the Dutch Armed Forces is considered paramount in light of the constantly emerging and changing threats in the world of today.⁴⁴ As a function of the Dutch ministry of Security and Justice, the *National Security Strategy* provides an annual assessment of potential threats to the Netherlands. In its last report, the mention of new potential threats of *cybercrime*, *cyber spying*, *UAVs* (i.e., unmanned aerial vehicles or *drones*) and biological weaponry can be considered indicative examples that may be employed to justify the continued existence of the armed forces in question.⁴⁵

Prima facie, the abovementioned considerations seem to violate the Preliminary Article in question. That is, nowhere in the documents referred to (including the Dutch Constitution) is there mention of an aim in conformity with the ultimate removal of armed forces that Kant's Preliminary Article sets out as such.⁴⁶ On the contrary, the documents here discussed seem to place an emphasis on the *continuation* of the assessment of threats and the appropriate responses they are considered to give rise to.⁴⁷ However much this response implicates changing variables in the existing military apparatus, this obviously does not in itself guarantee or reflect the aim that the armed forces in question will "gradually be

⁴² See: <http://www.denederlandsegrondwet.nl/9353000/1/j9vviHf299q0sr/vgrndb9f5vzi>

⁴³ In het Belang van Nederland, p. 8., http://www.prodef.nl/pdf/Nota_In_het_belang_van_Nederland.pdf.

⁴⁴ In het Belang van Nederland, p. 7.

⁴⁵ Internationale Veiligheidsstrategie, "Veilige Wereld, Veilig Nederland", pp. 3-6. See: <http://www.rijksoverheid.nl/documenten-en-publicaties/rapporten/2013/06/21/veilige-wereld-veilig-nederland-internationale-veiligheidsstrategie.html>.

⁴⁶ The importance of retaining an armed forces is also recognized in the 1st clause of the 97th Article of the Dutch constitution, which reads: "There shall be armed forces for the defence and protection of the interests of the Kingdom, and in order to maintain and promote the international legal order." See: <http://www.denederlandsegrondwet.nl/9353000/1/j9vviHf299q0sr/vgrndb9f5vzi>.

⁴⁷ The response being in accordance with *the seven strategic functions*, which is employed by the government to, inter alia, determine the appropriate role of the military apparatus as such. See: In het Belang van Nederland, p. 12.

abolished altogether.” However, the fact that Dutch security policy to a great extent pays allegiance to internationally existing policies does seem to reduce the threat to peace that Kant associated with “states outdo[ing] one another.” The 5th Article of the North Atlantic Treaty (NAT), for instance, stipulates that any armed attack in one of NATO’s member states or parties must be considered as an attack to all of them, thereby permitting an armed response on account of defensive reasons.⁴⁸

This evidently confers a whole other dimension to “states outdo[ing] one another”, since it greatly reduces the chances of actual conflict scenarios. In fact, NATO’s essential purpose can be understood to bear resemblance to Kant’s idea of a league of nations (*foedus pacificum*). That is, NATO’s purpose being to “safeguard the *freedom* and *security* of its members through political and military means”⁴⁹ seems at first glance to be in accordance with the statement that “this federation [*foedus pacificum*] does not aim to acquire any power like that of a state, but merely to preserve and secure the *freedom* of each state in itself, along with that of the other confederated states.”⁵⁰ However, the (persistent) employment of *military* means in order to safeguard freedom and security does not unquestionably conform to the Kantian logic here discussed, given that such means would imply a *threatening* power in itself. So too would the deployment of UN Peacekeeping Forces in order to “create the conditions for lasting peace” most likely be received as practically *mutually exclusive* terms in Kant’s mind were he alive today.⁵¹ Another apparent difference pertains to the fact that NATO aims to promote “*democratic values*”, whereas

⁴⁸ See: http://www.nato.int/cps/en/natolive/official_texts_17120.htm?selectedLocale=en.

⁴⁹ See: <http://www.nato.int/nato-welcome/index.html>.

⁵⁰ Reiss, p. 104.

⁵¹ Although the multi-dimensional character of peacekeeping operations as well as the strict adherence of the deployed troops to the principles of “consent of the parties, impartiality and non-use of force except in self-defence and defence of the mandate” seems to be in accordance with Kant’s political philosophy as such. See: <https://www.un.org/en/peacekeeping/operations/peacekeeping.shtml>. The multi-dimensional character is articulated as follows: “peacekeeping operations are called upon to facilitate the political process through the promotion of national dialogue and reconciliation, protect civilians, assist in the disarmament, demobilization and reintegration of combatants, support the organization of elections, protect and promote human rights, and assist in restoring the rule of law. See: “United Nations Peacekeeping Operations: Principles and Guidelines, 2008, p. 6., http://pbpu.unlb.org/pbps/library/capstone_doctrine_eng.pdf.

Kant's ideal or 'enlightened' form of government properly is of a *republican* sort as such.⁵² Furthermore, the "collective defensive" principle that the 5th Article of the NAT stipulates may be understood as one effectively reflecting a *power of alliance*, which in turn may function as a threat to non-member states.^{53, 54}



⁵² Although it must be admitted that these forms of government may ultimately not be completely different, given that the content of their respective conceptions is dependent on cultural conditions. See: Reiss, pp. 99-102.

⁵³ The founding of the Warsaw Pact could perhaps function as an illustrative example in this regard.

⁵⁴ Reiss, p. 95.

5. FOURTH PRELIMINARY ARTICLE FOR A PERPETUAL PEACE BETWEEN STATES: 'NO NATIONAL DEBT SHALL BE CONTRACTED IN CONNECTION WITH THE EXTERNAL AFFAIRS OF THE STATE.'

Kant here departs with the notion that in scenarios of economic crisis, there is no intrinsic wrong committed or reason for suspicion involved in inter- or intranational requests for economic assistance. That is, there is no need for suspicion in case economic requests are made pertaining to factors that benefit the society, such as the creation of educational institutions or improvements of public transportation. However, if the prevalent financial system⁵⁵ is exploited by an existing authority so as to function as an aggressor between states, its only merit is that of blocking the way to perpetual peace. Since such a system allows for providing a surplus of loans and subsequent debts, sudden authoritative demands for the accumulation of soldiers, for instance, can in principle be met.^{56, 57} The sum-total of loans thus obtained could be staggering, while the debts incurred need not be paid off immediately, given the regulations that the creditors prescribe.

The only hiatus to such a sudden raise in resources, Kant insists, could be provided by fiscal deficits. Such a deficit "may be postponed for a considerable time by the commercial stimulus which industry and trade receive through the credit system", however, since the aggregate of financial institutions combined ensure a persistent influx of tax revenue.⁵⁸ It is here where Kant first refers to our "warlike" nature, which in itself facilitates our willingness to devise and exploit systems in reference to future conflict.⁵⁹ This nature, however, is not

⁵⁵ See: <http://encyclopedia2.thefreedictionary.com/Credit+Systems>.

⁵⁶ In assessing Kant's significance for the contemporary financial world, Adam Gearey remarks that Kant's analysis in this regard perhaps fails to capture all the complexities of today, "the contemporary relationship between national debt, finance capital and an international system of derivatives trading is perhaps more complex than the brief analysis in *Perpetual Peace* allows." See: <http://redraftingperpetualpeace.org/article-4/>.

⁵⁷ Geary does recognize that Kant's cosmopolitanism in several ways influenced the contemporary world, however, given that it "has had a real influence on approaches to human rights, international ethics and social justice." Kant's dichotomy between means and ends reappears in recent developments of radical cosmopolitanism, such as that of Laville, in which the economic worldview is considered as an 'end in itself' and its possible implications for economy in relation to a human meaning are assessed. Geary suggests that Kant's essay in question may demand new creative approaches that incorporate "intersections between Kant, heterodox political economy and a broader understanding of how we might think about economy differently."

⁵⁸ Reiss, p. 95.

⁵⁹ *Ibid.*, p. 95. Another articulation of this can be found in the 2nd *Definitive Article of a Perpetual Peace*, where in relation to the conceptual inadequacy of a mere peace treaty to end conflict *permanently*, human nature is

understood in a merely negative sense, but also conceived as functional in that it is employed *teleologically*—viz., as a *regulative* principle of a purposive nature in relation to our cognitive faculties.^{60, 61} This is expressed in the 1st Supplement of the essay here discussed, where Kant states that “she [nature] has driven them [human beings] in all directions by means of *war*, so that they inhabit even the most inhospitable regions.”⁶² The possibility of foreign debts, it is argued, will inevitably result in national bankruptcy, which in turn exacerbates existing relations between states. Foreign debts thus form an actual threat to the establishment of a perpetual peace in itself, which is why the actual possibility of these debts is to be prohibited as such.

5.1 ASSESSING THE FINANCIAL POSSIBILITIES OF THE NETHERLANDS

While the scope of this thesis does not permit a thorough comparison between the relevant economic realities of Kant’s time with those realities today, an analysis of the contemporary conditions for the possibility of receiving economic assistance when confronted with a national scenario of economic crisis is in place. Initially, there exist several national factors that reduce the possibility of realizing the hypothetical scenario in question, namely, the scenario in which the Netherlands aims for a sudden financial ‘investment’ in an excessive enlargement of its military apparatus as such. First, in case such an aim is actually proposed, the Dutch parliament must give its consent. This fact alone makes the realization of the scenario in question highly improbable, given its representative function. Second, the

characterized as “that general warlike condition within which pretexts can always be found for a new war.” See: Reiss, p. 104.

⁶⁰ See: <http://plato.stanford.edu/entries/kant-aesthetics/#3.2>. This teleological understanding of nature also appears in Kant’s *Idea for a Universal History*, where he writes that “the highest purpose of nature, a universal *cosmopolitan existence*, will at last [after many revolutions, with all their transforming effects] be realized as the matrix within which all the original capacities of the human race may develop.” See: Reiss, p. 51.

⁶¹ A more *positive* sense of our warlike disposition reveals itself where Kant deems it even a noble aspect of human nature: “War itself, however, does not require any particular kind of motivation, for it seems to be ingrained in human nature, and even to be regarded as something noble to which man is inspired by his love of honour, without selfish motives.” See: Reiss, p. 111. *Linguistic* and *religious* differences, then, are considered instruments of nature to “prevent them [nations] from intermingling”, and as such can initially function as the *seeds* of war. Over time, however, these differences will be subsumed due to growth of culture and its accompanying agreement concerning these initial differences. See: Reiss, pp. 113-4.

⁶² Reiss, p. 110.

Netherlands as being a member of the European Union (EU) is bound by international regulations that stipulate national fiscal policies, including a maximum set height of national fiscal deficit.⁶³ Third, the issuance of Dutch State Loans (DSL's) in order to finance the scenario here considered seems highly improbable, given that such an 'investment' will not generate money in order to redeem the liabilities thus contracted.⁶⁴ Furthermore, the Netherlands' status as a member state of both the UN and the NAVO can be mentioned here as well. Besides these organizations' persistent monitoring of both the intra- and international affairs of the member states in general, The World Bank (WB) as a UN international financial institution functions as a relevant actor by providing economic assistance in its issuance of loans.

For the sake of the scenario here discussed the Netherlands will be assumed to be an appropriate candidate for economic assistance as such.⁶⁵ In principle, at least, the stipulated aims of the WB seem to accord with Kant's emphasis on the *benefit* of the society that economic assistance must provide as such. Its accent being on, *inter alia*, *post bellum* restoration and growth of international trade, for instance, suggests a form of financial aid that is intended for pacifist rather than military purposes.⁶⁶ By its promotion of economic growth generally, the WB aims to "to conduct its operations with due regard to the effect of international investment on business conditions in the territories of members and, in the

⁶³ The Stability and Growth Pact (SGP) effectively determines the possible height of national debt: members of the EU may have a budget deficit of up to 3% of gross domestic product (GDP), and a maximum debt of 60% of GDP (cf., the Debt-to-GDP ratio). The SGP has both a preventive and corrective function, in order to deal with excessive national debts. See: <http://www.rijksoverheid.nl/onderwerpen/europees-economisch-en-monetair-beleid/stabiliteits-en-groeipact>.

⁶⁴ See: <http://www.dsta.nl/onderwerpen/kapitaalmarkt>.

⁶⁵ Given the positive credit rating of the Netherlands (i.e., it currently having a 'high grade' credit worthiness, see: <http://countryeconomy.com/ratings>) in conjunction with the general goals of the WB (viz., its focus on 'a world free of poverty', see: http://www.worldbank.org/en/news/feature/2013/04/17/ending_extreme_poverty_and_promoting_shared_prosperity), the chances of the Netherlands being actually considered an appropriate candidate is virtually non-existent.

⁶⁶ The 1st clause of the 1st Article of the Articles of Agreement (IBRD) reads: "To assist in the reconstruction and development of territories of members by facilitating the investment of capital for productive purposes, including the restoration of economies destroyed or disrupted by war, the reconversion of productive facilities to peacetime needs and the encouragement of the development of productive facilities and resources in less developed countries." See also the 1st section of the 3rd Article in this regard. See: http://siteresources.worldbank.org/BODINT/Resources/278027-1215526322295/IBRDArticlesOfAgreement_English.pdf.

immediate post-war years, to assist in bringing about a smooth transition from a wartime to a peacetime economy.⁶⁷ Similarly, another international organization in this regard, the International Monetary Fund (IMF), at first glance seems to be in accordance with the Kantian perspective as well, given that its creation resulted because of “the disastrous economic policies that had contributed to the Great Depression of the 1930s and the global conflict [i.e., WWII] that followed.”⁶⁸ Furthermore, the risk of a ‘Kantian misuse’ of financial aid (through, for instance, a sudden national ‘investment’ in an enlargement of its military apparatus) that the IMF may provide is reduced by several factors that function as necessary conditions for membership in the first place.

First, the aim of the IMF is to aid countries dealing with financial instability in order to “facilitate the exchange of goods, services, and capital among countries, thereby sustaining sound economic growth”, which seems to effectively preclude the possibility of financial aid being invested in the hypothetical scenario here discussed.⁶⁹ Similar to the WB, the IMF focuses on economic growth and ensuring the stability of the international monetary system—which guarantees the possibility of a viable international trade. Specifically, the IMF considers the stability of this system paramount “for promoting sustainable economic, increasing living standards, and reducing poverty.”⁷⁰ Second, in its aim to retain and facilitate international cooperation concerning financial matters, the IMF fulfils a monitoring role by implementing a principle of (bilateral and multilateral) surveillance.⁷¹

In so doing the IMF on regular intervals provides a thorough analysis and publication of the economic prospect of the member state in question, and proposes matching (structural) changes, e.g., through the suggesting of policy reforms.⁷² The implementation of these changes, then, conforms to the IMF’s aims to the extent that they contribute “to identify weaknesses that are causing or could lead to financial or economic instability.”⁷³ These

⁶⁷ This reflects the 5th clause of the 1st Article of the Articles of Agreement.

⁶⁸ See: <https://www.imf.org/external/about/whatwedo.htm>.

⁶⁹ See: <http://www.imf.org/external/np/exr/facts/surv.htm>.

⁷⁰ See: <http://www.imf.org/external/np/exr/facts/glance.htm>.

⁷¹ See: <http://www.imf.org/external/np/exr/facts/surv.htm>.

⁷² See: <http://www.imf.org/external/about/howwedo.htm>.

⁷³ See: <http://www.imf.org/external/about/econsurv.htm>.

things considered, the risk of the Netherlands actually aiming for and eventually actualizing the hypothetical scenario mentioned above seems to be greatly diminished or virtually nil.



6. FIFTH PRELIMINARY ARTICLE FOR A PERPETUAL PEACE BETWEEN STATES: 'NO STATE SHALL FORCIBLY INTERFERE IN THE CONSTITUTION AND GOVERNMENT OF ANOTHER STATE.'

In accordance with the 2nd condition, in which a forced acquirement can function as an illustrative example, Kant here insists that no disturbance or infringement upon the constitution or government of another state (*status civilis*) can in principle be justified.⁷⁴ A meddling with an external constitution or government would imply a violation of the *united will* that exists in the external state in question, which seems to contradict the 2nd condition. The 'scandal' which the act of interference in an external state would introduce cannot in its own justify the legitimacy of the act. The internal struggles of another state, Kant highlights, "should rather serve as a warning to others, as an example of the great evils which a people has incurred by its lawlessness."⁷⁵ Thus, whatever internal struggles a state admits of, by itself this does not justify any externally imposed interference as such, but perhaps at best allows for an agreement on a *modus vivendi*.

Kant then continues with the hypothetical scenario of a state being split up through internal friction. If subsequently these two states would claim independence and demand authority over both states, the intervention of a *third* foreign state so as to assist either one of the two resulting states is *not* to be considered a violation of the Article here specified. This is so because Kant identifies the scenario to which this third state responds as one of *anarchism*: the constitution of an anarchist state can be rightfully interfered with, since it reflects a situation in which law and freedom exist *without* legal enforcement.⁷⁶ However, if due to

⁷⁴ Paul Patton remarks that the contemporary relevance of Kant's arguments for the approximation of a perpetual peace needs to be assessed with an eye to the political zeitgeist of his time. Kant's conceptions materialized against the backdrop of prevailing political ideas characteristic of the 18th century. For one thing, "they [the Preliminary Articles] are framed in the light of practices current in the 18th century conduct of diplomacy and international relations, when limited wars fought between the armies of individual states were accepted means to resolve conflicts." Furthermore, it is argued that Kant operated under the temporally related conception of states being constituted by "ethnically and linguistically" homogenous human beings, a conception which cannot sensibly be retained in the world of today. The contemporary pluralistic reality of political globalization implies a growing interdependency of "the lives and wellbeing of peoples and states", a contingency Kant could not have foreseen, but which does perhaps detract from the value of his political thought for today. See: <http://redraftingperpetualpeace.org/article-5/>.

⁷⁵ Reiss, p. 96.

⁷⁶ Kant here seems to differentiate between lawlessness conceived as an *inappropriate* yet lawful scheme which *is* maintained by force and lawlessness or civil unrest that is not secured by force. Kant identifies anarchy as a form of civil legislation in which there exists "law and freedom *without* force [emphasis mine]", and it is

internal friction the splitting up of the state has not occurred as such, the scenario cannot (yet) properly be identified as one of anarchism, and interference in that case *would* in fact imply a violation of the Article in question.⁷⁷ This is the case because here the interference would “be a violation of the rights of an independent people which is merely struggling with its internal ills.”⁷⁸ In other words, interfering with an external state is *only* permitted in case the state in question has fallen prey to anarchism. If, however, the existing internal friction has not resulted in the splitting up of the state in question, no such interference is allowed, since “such interference would be an active offence and would make the autonomy of all other states insecure.”⁷⁹

6.1 ASSESSING THE INTERNATIONAL AFFAIRS OF THE NETHERLANDS

Given that the Netherlands fulfils its role as a member state of both the UN and NATO, its strict allegiance to the articles specified in these organizations to a great extent determines the formation of its international affairs.⁸⁰ Thus, in assessing to what extent Kant’s 5th Preliminary Article is in accordance with the Dutch international affairs in this regard, I will have to focus on just what these relevant articles of the UN and NATO are. *Prima facie*,

the middle term of *force* that must be implemented since it guarantees the effectiveness of law in connection to freedom—which defines the republic. See Kant’s *Anthropology from a Pragmatic Point of View*, p. 235.

⁷⁷ Besides the possible influence of the historical and factual contingencies indicative of Kant’s time, Patton attributes to this Preliminary Article (PA5) a conceptual difficulty as well. That is, the argument that Kant employs to support PA5 initially seems to be contradicted by its reliance on an analogy specified in the 2nd Definitive Article. This analogy, Patton asserts, consists of an identification of “individuals in a state of nature and peoples organized into states prior to the establishment of a system of international law or right.” Individuals situated in a dystopian Hobbesian state of nature (*status naturalis*) are not bound by law—in a sense they would only be committed to the Dostojevskian adage that “everything is permitted.” Thus situated, mere physical proximity between individuals may be the cause of harm (*status belli*), and nothing could prohibit this as such. For this reason, Patton continues, individuals “have the right to compel others to enter into a civil, law-governed state.” Since for Kant individual human beings here are identified with ‘peoples organized into states’—viz., individual states—a following through with this analogy would imply that, just as individual human beings, individual states *too* have a right to compel other individual states to be bound by coercive laws in order to approximate a cosmopolitan constitution or *Foedus Amphictyonum*, see: Reiss, p. 47. It is this coercion of other individual states, however, that can be identified with interference, which would clearly contradict PA5.

⁷⁸ Reiss, p. 96.

⁷⁹ *Ibid.*, p. 96.

⁸⁰ See the 93th and 94th Articles of the Dutch Constitution. See:

<http://www.denederlandsegrondwet.nl/9353000/1/j9vvihlf299q0sr/vgrnd9onfpzf>.

Kant's 5th Preliminary Article seems to reflect one of utmost *stringency*, given that it stipulates that interference in external states is *only* justified in case anarchism is the actual *status quo*. The rationale reflected by the UN, on the other hand, seems less strict. That is, the 1st Article of the Charter of the United Nations reflects an emphasis on maintaining international peace and security, where a *threat* or *breach* of peace is considered a legitimate reason for intervention—although “the use of armed force”⁸¹ is considered a last resort in order to restore peace proper.⁸² Ever since its implementation of *The Universal Declaration of Human Rights* (UDHR), the *United Nations General Assembly* (UNGA) provides an articulate circumscription of the concept of peace as such.⁸³ Thus, given a scenario in which a government is observed to violate the dictates of the UDHR, the application of measures so as to restore peace proper is justified.⁸⁴ At this point Kant's strict adherence to a *de facto* lawlessness (viz., anarchism) may indicate a difficulty, however, since it is not immediately clear how this can cope with scenarios in which a people's inherent dignity is (structurally) violated.⁸⁵ That is, if anarchism is to function as the sole justifying criterion for intervention, non-anarchistic yet *dignity-violating* or *freedom-impairing* governments are to fend for themselves, or in Kant's words, “they should rather serve as a warning to others.”⁸⁶

⁸¹ The 42th Article reads: “Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.” See: <http://www.un.org/en/documents/charter/chapter7.shtml>.

⁸² See: <http://www.un.org/en/documents/charter/chapter1.shtml>.

⁸³ See: <http://www.un.org/en/documents/udhr/index.shtml>.

⁸⁴ It is the assessment of such scenarios in which the UNSC plays a decisive role. See: <http://www.un.org/en/documents/charter/chapter7.shtml>.

⁸⁵ Such scenarios would necessarily reveal a non-republic form of government in Kantian terms, however, since the ideal of a republican state by definition indicates a scenario in which the ‘general will’ of the citizens—and thus their respective dignity—is actualized. See: <http://plato.stanford.edu/entries/kant-social-political/#RepEnIDem>.

⁸⁶ A contemporary political deviation from Kant's strict inviolability of state sovereignty can be recognized in the *Responsibility to Protect* (R2P) norm, which is articulated in a report issued by the *International Commission on Intervention and State Sovereignty* (ICISS) and subsequently has been adopted by the UNGA at the 2005 World Summit (see: <http://www.un.org/en/preventgenocide/adviser/pdf/World%20Summit%20Outcome%20Document.pdf#page=30>). In short, this ‘international security and human rights’ norm stipulates that state sovereignty alone cannot function as a barrier to external intervention as such. That is, if a state fails to fulfill its recognized ‘responsibility to protect’ its populations (e.g., against genocide or war crimes), the ‘failed’ state's sovereignty is temporally adjourned and a duty to intervene in such scenarios is deemed legitimate. This relationship

Not intervening in such scenarios, however, does not seem to fare well with Kant's insistence on respecting the *intrinsic worth* or *autonomy* of human beings.⁸⁷ Still, the resemblance of Kant's emphasis on freedom as the only proper basis of the state—as *the* universal principle of right—to the first chapter of the Charter of the United Nations is apparent. That is, the 2nd Article reflects the UN's aims of respecting and maintaining the "principle of the sovereign equality of all its Members", which reflects adherence to the dictates of international law.⁸⁸ Respecting sovereign equality, then, implies that the existence of the right of *self-determination* is internationally guaranteed for all the member states—thereby also allowing for the political, cultural and economic autonomy of its respective citizens—in question.⁸⁹ The importance of this right is recognized by Kant as well, given that autonomy fulfils a key function in his political philosophy as such. It is by the recognized importance of the autonomy of states that the aforementioned stringent character of the 5th Preliminary Article results. Furthermore, the *equal* appreciation of the sovereignty of states is also represented by Kant's emphasis on the *equal* qualification of each human being as a *subject*, which next to *freedom* and *independence* function as other principles underlying Kant's conception of the ideal state.⁹⁰



between internationally acclaimed national responsibilities and the legitimation of state intervention as justified by 'humanitarian' concerns seems not without its own difficulties, however. For an interesting analysis of its potential dangers, see: Jolle Demmers, "Theorizing the Politics of Judgment", in *Conflict, Peace, Security and Development: Theories and Methodologies*.

⁸⁷ Immanuel Kant, *Groundwork for the Metaphysics of Morals* (GMM), p. 45.

⁸⁸ See: <http://www.un.org/en/documents/charter/chapter1.shtml>.

⁸⁹ See: <http://www.unpo.org/article/4957>.

⁹⁰ See: <http://plato.stanford.edu/entries/kant-social-political/#FreBasSta>.

7. SIXTH PRELIMINARY ARTICLE FOR A PERPETUAL PEACE BETWEEN STATES: '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 WOULD INCLUDE THE EMPLOYMENT OF ASSASSINS (PERCUSSORES) OR POISONERS (VENIFICI), BREACH OF AGREEMENTS, THE INSTIGATION OF TREASON (PERDUELLIO) WITHIN THE ENEMY STATE, ETC.'

It is because of the intrinsically abject nature of the listed war strategies in this 6th Preliminary Article that Kant condemns them as viable possibilities to end conflict. That is, it is precisely this recognized nature that undermines the very possibility of a perpetual peace, since the employment of these strategies permanently annuls a trustful attitude of the enemy in question.⁹¹ By the introduction of these despicable strategies, the prospect of establishing a perpetual peace is nullified, and the risk of a deadly war (*bellum letale*), or worse, a war of complete extermination (*bellum internecium*) thereby seems inevitable. It is clear that war as an offensive strategy—rather than defensive, which the 3rd condition under certain constraints allows—in order to “assert one’s [viz., a state’s] rights by force within a state of nature” is liable to violating the 5th condition.⁹² It is here where the irony of the innkeeper’s signboard reappears, since a war of complete extermination ultimately implicates the non-existence of man as well as the possibility of right, where the existence

⁹¹ Although Kant’s distinction between legitimate and illegitimate (acts of) war cannot be wholly identified with contemporary laws of war (*jus in bello*), William C. Banks does consider Kant’s political body of thought to reflect anticipatory elements as such. The core of the *jus in bello* that is anchored in the Geneva Conventions, their Protocols and in customary law to an extent shows resemblance with Kant’s thought in this regard. However, Banks remarks, “Kant and the *jus en bello* did not anticipate the emergence as a significant contemporary phenomenon asymmetric warfare perpetrated by non-state entities, including terrorist groups.” In other words, Kant’s political thought of the time has a more *symmetric* character expressed in its application to *interstate* conflicts, accompanied by “state armies of roughly equal military strength and of comparable organizational structures”, rather than in the emergent phenomenon abovementioned. See: <http://redraftingperpetualpeace.org/article-6/>.

⁹² Characteristic of *postmodern* warfare, Banks continues, is its departure from modern scenarios of “interstate and typically large scale [conflict] between professional state armies”, to a state of affairs in which “equally lethal, smaller scale, urban-based war among the civilian populations” are more prevalent. Thus it is evident that contemporary offensive strategies employed in times of war have to deal with more dynamic and different variables when compared to Kant’s time of writing. Kant certainly would not approve, however, when in postmodern warfare a defending state or non-state entity—e.g., a terrorist group—forcibly employs locally situated civilians as a defensive strategy, since their status as *citizens* proper would thereby be infringed upon: “The attacked state is allowed to use any means of defense except those whose use would render its subjects unfit to be citizens [...] it must accordingly be prohibited for a state to use its own subjects as spies, and to use them, or indeed foreigners, as poisoners or assassins (to which class the so-called sharpshooters who wait in ambush on individual victims also belong), or even just to spread false reports.” See: Reiss, p. 168.

of a perpetual peace would only prevail “on the vast graveyard of the human race.”⁹³ Given that the listed war strategies will inevitably lead to a war of complete extermination—due to these not being confined to application in wartime only—Kant insists on an absolute prohibition of these ‘acts of hostility’, irrespective of their possible merits as such. The strategy of employing spies (*uti exploratoribus*) here functions as an illustrative example, since these were oftentimes used even during times of peace, thereby undermining the trustworthy attitude of the state in question and the possibility of a perpetual peace as such.

Next, Kant reassesses the binding force of all the six conditions formulated above. That is, all of the Preliminary Articles are to be considered prohibitive laws, yet a distinction is introduced between *strictly* prohibitive laws—whose implementation is to be necessary and uninfluenced by empirical contextual factors—and prohibitive laws that are *less strict* in the sense that contextual factors here are allowed to postpone their implementation.⁹⁴ The 1st, 5th and 6th conditions, then, are classified as strict prohibitive laws (*leges strictae*), whereas the 2nd, 3rd and 4th conditions are designated as less strict laws (*leges latae*) of the same sort. Due to the strictness of the former laws, the binding force is absolute. This demands that existing transgressions of the prohibitions that these conditions articulate are to be put to a halt *immediately*. Thus, any explicit or implicit reservations or provisos for future conflict—as prohibited by the 1st Preliminary Article—must according to its strict form be abolished at once, whatever the external circumstances may be. The latter laws—viz., the 2nd, 3rd and 4th conditions—then, are to be considered less strict in that the prohibitions that they specify

⁹³ Reiss, p. 96.

⁹⁴ Although evidently the existence of differences between Kant’s conceptual framework demarcating the *jus in bello* and that characteristic of more modern times can, as mentioned above, hardly be denied, Banks does refer to a conservation of political ethical values that seems indicative of a Kantian spirit: “Humanitarian attempts to regulate conduct in war has strong ties to the ethical philosophies that comprise post-Enlightenment humanism—the intrinsic value of human life, the role of equality and freedom in rights and dignity, and the importance of reason and conscience.” The intrinsic value of human life, for instance, seems to be in accordance with Kant’s formulation of the second formulation of the Categorical Imperative, which insists on the consideration of human beings as ends rather than means. See: GMM, p. 45. The concept of *freedom* fulfills a paramount function in Kant’s political philosophy, where it is understood as an *innate* right that entails an *innate* equality as well. See: MM, p. 63. The importance of reason in Kant’s philosophy is difficult to overestimate, since its recognition has clear implications in both his practical as well as theoretical philosophies. For one thing, it is *reason* that guarantees human beings’ autonomy and the possibility of morality in the first place. See: <http://plato.stanford.edu/entries/kant-moral/index.html#Aut>.

“need not necessarily be executed *at once* [emphasis mine], so long as their ultimate purpose (e.g., the *restoration* of freedom to certain states in accordance with the 2nd Article) is not lost sight of.”⁹⁵ Accordingly, the ultimate removal of standing armies need not happen in one instant. However, the realization of this goal therefore may not be postponed to an *unspecified* date (*ad calendas graecas*), since this would practically allow for an undetermined continuation of the existence of the armies in question. Indeed, such deliberate postponement would seem indicative of a cunning political strategy rather than an act of allegiance to the Article in question. Kant here remarks that “any delay [or postponement] is permitted only as a means of avoiding a premature implementation that might frustrate the whole purpose of the article.”⁹⁶ Hence, only if it is known beforehand that the ultimatum set by a specified date would *thwart* rather than *promote* the possibility of a perpetual peace—which is the ultimate or *whole* purpose of the Articles in the first place—the decision to postpone the abolishment of the armies in question *is* justified as such.

7.1 ASSESSING THE LEGITIMATE MEANS OF WARFARE OF THE NETHERLANDS

At first glance it is evident that Kant’s assessment of the *jus in bello* is indicative of his time. Due to a plethora of historical contingencies that have changed the ways in which contemporary wars are fought, the deployment of, for instance, *poisoners* and *assassins* rarely if ever takes place.⁹⁷ However, despite the virtual nonexistence of these antiquated trust-undermining entities in the military landscape of today, contemporary existing international bodies of lawful regulation *do* recognize and prohibit the deployment of illegitimate means—or illegitimate use of legitimate means—of warfare as such. In order to assess to what extent Kant’s 6th Article conforms with the Netherlands’ adherence to the international lawful system of rules and guidelines of today, then, it will be necessary to refer to the relevant documents in this regard. Being influenced by the pre-existing *Lieber Code*, it is the rise of *The Geneva Protocol* (GP, 1925) as an addition to *The Hague*

⁹⁵ Reiss, p. 97.

⁹⁶ *Ibid.*, p. 97.

⁹⁷ Although some authors identify assassins with contemporary *terrorists*, and poisoners with individuals that deploy *biochemical* warfare. See: Rudmin, <http://www.counterpunch.org/2010/01/01/kant-on-war/>.

Conventions (HC, 1899 and 1907)⁹⁸ that stipulates what are to count as legitimate methods and means of warfare in both intra- and interstate scenarios of conflict.⁹⁹ By being incorporated in *International Humanitarian Law* (IHL), the protocol in question reflects a dynamic entity, given that it is confronted by constantly changing methods and means of warfare.¹⁰⁰ As such, the formation and supplementation of additional conventions into the GP in order to deal with new military advancements has been an ongoing procedure since its inception. Originally, the GP together with the HC prohibited the use of *chemical, biological or poisonous* weaponry.¹⁰¹ Later supplements that deal with more recent trends in warfare include, inter alia, customary regulations pertaining to the deployment of booby-traps, land-mines and incendiary weapons.¹⁰² While the prohibition of these means of warfare conforms to the general aims of IHL, it is not immediately clear to what extent these prohibitions are to result because—as Kant would insist—they are recognized as making “a mutual confidence impossible during a future time of peace.”¹⁰³ Rather, the regulations involved are to articulate practical rules that states have agreed upon, in order to “strike a careful balance between humanitarian concerns and the military *requirements* of states [emphasis mine].”¹⁰⁴

Prima facie, the insistence on the need of military requirements seems to be in opposition to the 1st Preliminary Article, since it allows for a future deployment of specific means of warfare, as long as this is done in accordance with ‘humanitarian’ conditions. Given scenarios in which the right of going to war (*jus ad bellum*) is considered legitimate, however, both Kant’s 6th condition as well as the stipulations of IHL effectively delineate the range of legitimate means of warfare that can be employed.¹⁰⁵ That is, whereas the laws

⁹⁸ See: http://archive.org/stream/hagueconventions00inteuoft/hagueconventions00inteuoft_djvu.txt.

⁹⁹ See: <http://www.icrc.org/ihl/INTRO/110?OpenDocument>.

¹⁰⁰ It is here where the *jus in bello* is to be contrasted with the *jus ad bellum*, since the stipulations of IHL properly apply to *already* existing armed conflicts, taking effect *independent* of their respective causes.

¹⁰¹ See: <http://www.icrc.org/eng/war-and-law/weapons/overview-weapons.htm>.

¹⁰² See: http://www.icrc.org/eng/assets/files/other/icrc_002_0902.pdf, p. 14.

¹⁰³ The general aim of IHL is articulated as: “[that] set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict. It protects persons who are not or are no longer participating in the hostilities and restricts the means and methods of warfare. See: http://www.icrc.org/eng/assets/files/other/what_is_ihl.pdf.

¹⁰⁴ See: http://www.icrc.org/eng/assets/files/other/what_is_ihl.pdf.

¹⁰⁵ For Kant, the right of going to war is not illegitimate per se, since the ‘general will’ as a representative function in the ideal republican form of government may approve—after having factored in all the

inherent in IHL *negatively* achieve this by *constraining* the means and methods of warfare pursuant to the principles of *military necessity*, *distinction* and *proportionality*, Kant's 6th condition establishes this by assessing the value of the means of warfare in relation to a future peace, viz., this value recognized as either *negative* (as undermining the prospect of an eternal peace) or *neutral* (allowing for the prospect of an eternal peace).¹⁰⁶



accompanying costs. See: MM, pp. 151-2., §55, and <http://plato.stanford.edu/entries/kant-social-political/#RepEnlDem>.

¹⁰⁶ See: http://www.icrc.org/eng/assets/files/other/what_is_ihl.pdf.

8. CONCLUSION

With the 1st Preliminary Article, Kant provides a conceptual analysis in order to establish the proper meaning of the term peace. Peace proper, it is argued, signifies an atemporal concept as such and consequently it must not be confused with that of a truce. Whereas the concept of truce allows for a temporary laying down of arms, the concept of peace properly conceived negates the very possibility of ever picking them up again. That is, peace is to necessitate a permanent laying down of arms, or rather, it must eliminate their very existence in the first place, given that any *post bellum* conservation of factors undermining the prospect of an eternal peace contradicts its conceptual legitimacy. This effectively renders invalid any conclusion or treaty of peace that allows for the incorporation of a '(secret) reservation of the material for a future war', since this would accord with the temporal notion that is constitutive of a truce. Given that the concept of peace *ipso facto* imports an atemporal or permanent element, Kant is suspicious of the addition of the adjective *perpetual* in combination with the notion of peace, since the latter term is deemed conceptually sufficient.

When assessing the degree of conformity of these reflections in relation to the Netherlands' political affairs, one must refer to the international legal order to which the Netherlands adheres. Given that the Dutch Constitution stipulates the Netherlands' obligation to promote the development of the international legal order, its articulation of peace is in accordance with its integration in international law. By being a member of the UN the Netherlands is legally prohibited to start a war in the first place. The negative legal implications (e.g., economic sanctions) that will be applied due to violations of this prohibition will effectively diminish the chances of 'reservations of the material for a future war' to have any effect *in concreto*. Furthermore, the stipulations in the NAT too promote peaceful international relations and guarantees member countries the possibility of self-determination, which may be understood as conditions that conform to Kant's conception of peace proper.

With the introduction of the 2nd Preliminary Article, Kant puts forward the prohibition of acquiring independently existing states. Being identified with a society of men, the state is to be recognized as a self-determining unity, the disregard of which would not only

undermine the *a priori* principles that guarantee the state's possibility, but reduce the latter to a mere means as well. In other words, the acquirement of independent states through inheritance, exchange, purchase or gift would violate the united will (i.e., self-determination) of the people, thereby effectively undermining the rational foundation that is constitutive of it. As regards the contemporary legal possibilities pertaining to the acquirement of independent states through (the threat of) force, The Charter of the United Nations stipulates two relevant principles to which the Netherlands as a member state is bound. That is, both the principles of 'territorial integrity' and 'political independence' can be considered as contemporary articulations in order to guarantee a state's self-determination as such. However, in case a peace undermining scenario *does* occur (i.e., it being assessed as such), the UNSC as a principal organ of the UN reflects an entity of paramount importance, since it is the sole authority that can actually *enforce* a violation of the two principles mentioned above. Consequently, a state's self-determination can only be legally violated where the UNSC deems it legitimate.

The 3rd Preliminary Article is not surprising and can be understood in relation to the Articles mentioned above. First, the continued existence of standing armies could be conceived as a violation of the 1st Preliminary Article. Second, given the occurrence of a conflict scenario the externally imposed deployment of these armies would directly violate the 2nd Preliminary Article, since this would imply a treatment of means rather than ends. Furthermore, it is argued, the mere presence of these armies threatens the prospect of a perpetual peace because of psycho-economic factors. Next to the power of armies, Kant identifies money and alliance as additional powers that potentially undermine the possibility of a perpetual peace. Situating the Preliminary Article in question in the political landscape of today, the 97th Article of the Dutch Constitution provides a threefold justification for a continued existence of an armed forces. The annual assessment of potential threats to the Netherlands in order to anticipate new methods of warfare implies the alleged necessity to conserve the existing military apparatus as such. Although a strict comparison between the political *status quo* and the Preliminary Article here discussed does not allow for a complete conceptual identification, contemporary insights into current military trends *do* seem to reduce the threat to peace Kant associates with that of an arms race. However, the continued availability and employment of military means in order to

guarantee freedom and security may also be conceived as a threatening *power* in itself, thereby undermining Kantian logic.

With the 4th Preliminary Article Kant zooms in on potential economic factors that may impede the road to a perpetual peace. Although demands for economic assistance are not to be considered intrinsically wrong, it is argued that the exploitation of the existing financial system of the time would only exacerbate relations between states, i.e., this system could in principle allow for the possibility of suddenly attaining a surplus of loans which need not be paid off immediately. Given human beings' warlike nature, this would not only increase the risk of being used conform ill-willed ends but it may also affect another state's financial situation in case bankruptcy occurs, which effectively increases existing tensions between the states in question. Given the abovementioned flexibility of the financial system, foreign debts thus incurred form an actual threat to approximating perpetual peace and consequently the possibility of these debts must be prohibited as such.

In accordance with the prohibition stipulated in the 2nd Preliminary Article, the 5th Preliminary Article dictates that no forced infringement upon the constitution of another state can in principle be justified. This prohibition obtains because it is argued that a violation of this Article would imply a violation of the *united will* that exists in the external state in question—whereby it would contradict with the stipulations of the 2nd Article. Consequently, the mere observance of internal struggles in an external state does not grant *carte blanche* to invade it as such. The stringency of this Article becomes apparent by the conception that the interference with another state's constitution is *only* deemed legitimate in case the internal friction of the state in question reflects a scenario of anarchism, since the *status quo* here implies a context where law and freedom exist *without* legal enforcement. If, however, the internal friction has not (yet) resulted into the splitting up of the state in question, no such interference is legitimate because it would encroach on the state's autonomy—viz., the united or general will—as such.

Broader in scope than the abovementioned stringency of the 5th Preliminary Article, the rationale of the UN allows for a justification of interfering with another state's constitution in case a *threat* or *breach* of peace reflects the state of affairs. The conception of peace thus adopted is articulated by the UDHR. It is here where Kant's strict adherence to anarchism as

the sole justification for forced interference may indicate an ambiguity, since it is not immediately clear how this can cope with scenarios in which a people's inherent dignity is (structurally) violated. Whereas the stipulations enshrined in the UDHR seem conceptually equipped to deal with dignity-violating or freedom-impairing governments, it is not evident how Kant's emphasis on the sole necessary prerequisite of anarchism is able to achieve the same. Although in this regard Kant might be criticized for over-prioritizing the value of the autonomy of the state, it can just as well be considered a precursor to the right of *self-determination* as it is integrated in the body of contemporary international law.

As regards the final 6th Preliminary Article, Kant classifies several 'acts of hostility' as condemnable means of (entering into) conflict. It is argued that because the deployment of these war strategies permanently undermine the possibility of trustworthy relations between the parties involved, the prospect of approximating perpetual peace is nullified. Whatever possible merits these strategies may appear to have—even in times of peace—Kant deems them illegitimate simply because they will inevitably lead to a war of complete extermination. Next, Kant reassesses the binding force of all the Articles that are considered here. Whereas the 2nd, 3rd and 4th Preliminary Articles are classified as *less strict* to the extent that empirical contingencies may postpone their actual implementation, the 1st, 5th and 6th Articles are to be understood as *strict* as such. Any transgressions from the stipulations of these latter Articles, then, must *immediately* be prohibited, whereas the prohibitions stipulated by the former Articles need *not* immediately be executed—that is, only on the condition that the immediate execution would *thwart* rather than *promote* the approximation of perpetual peace is the postponement of these *less strict* Articles justified.

Given the emphasis placed on specific war strategies that are to be prohibited during times of conflict, the stipulations in this final Article can be understood as a predecessor of the *jus in bello* tradition. Despite the contemporary nonexistence of the specific entities listed in the Article in question, currently existing international bodies of lawful regulation do recognize and prohibit the deployment of illegitimate means—or illegitimate use of legitimate means—of warfare as such. In so doing these contemporary articulations reflect a dynamic entity, given that their content is constantly revised against the backdrop of new military developments. In retrospect, it seems legitimate to maintain that certain aspects of Kant's necessary conditions have been incorporated into the body of modern international law.

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