RETHINKING PEACE. NON-VIOLENT INTERVENTION STRATEGIES AND HUMAN RIGHTS[1]

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Abstract
Today's dramatic events, particularly the various war fronts, require us to revisit some themes that the legal-philosophical perspective has explored in depth over time. In this context, peace and human rights raise the issue of new definitions of international relations.

Keywords
peace, human rights, non-violent intervention, international law, global justice

Summary

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1. WAR AT THE GATES OF EUROPE

According to the Armed Conflict Location and Event Data (Acled), in the past five years armed conflicts and outbreaks of political violence in various regions of the world have significantly increased[3]. Recent studies show that human casualties have surged from one year to the next. Consider the conflict between Israel and Hamas, the regional tensions involving Iran, as well as numerous regions (e.g.: West Bank, Colombia, Lebanon, Myanmar, Nigeria, Pakistan, Sahel, Syria, Sudan) where hostilities (internal or external) are the defining trait of ongoing and evolving crisis areas.

In particular, the return of war at Europe's doorstep has profoundly affected the continent's security architecture, calling into question its very stability and safety. Luigi Daniele observes that the unexpected outbreak of war in Ukraine, triggered by Russian military aggression (24 February 2022), led to an immediate response from EU member states (see the Versailles Declaration of 10-11 March 2022) and unprecedented interventions by the Union and its member states, both in number and impact. Unfortunately, as the war in Ukraine drags on, the *unity* of the EU member states has shown cracks. Some member states, particularly Hungary, have used their veto power, inherent in the need for unanimity in CFSP decisions[4].

The EU has taken a firm stance on the Russia/Ukraine war, reaffirmed by the European Council, always in support of Ukraine's sovereignty, independence, and territorial integrity. Between 2022 and 2024, the EU increased military support both through bilateral contributions from member states and via the European Peace Facility (EPF), strengthening the resilience of the Ukrainian people. From 2021 to 2027, EPF has funded and will continue to fund various Common Foreign and Security Policy (CFSP) actions aimed at preserving peace, consolidating security and international stability.

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[3] acleddata.com – *Conflict index: December 2024*.
[4] DANIELE, 2024, 51.

In addition to providing military supplies and equipment – as per the regulation supporting ammunition production (ASAP) – and establishing a specific European Fund for Ukraine, the EU launched EUMAM Ukraine in 2022, a mission aimed at enhancing military capabilities through specialized troop training and adequate equipment provision. In 2024, the Council extended this mission until 15 November 2026.

Despite these and other measures adopted in response to the crisis, the Russia/Ukraine conflict has exposed the structural limits of European defense action[5]. First of all, the absence of a common foreign and defense policy capable of delivering a unified and autonomous response. European states show varying levels of sensitivity and military structure. Furthermore, the EU institutional mechanism requires unanimity for defense-related decisions, and certain provisions (e.g., Articles 36, 45, 52, 346, 347 TFEU) favor the protection of national interests over cooperation, clearly demonstrating the challenge of achieving a shared foreign policy. NATO remains superior in defense, deterrence, and security tasks, largely due to the significant contribution of the United States.

The current conflict has thus highlighted, on the one hand, the EU's shortcomings – notably the lack of military stockpiles and operational weapons systems. On the other hand, the need to achieve greater strategic autonomy. This would enable Europe to assert the geopolitical role it should play but has yet to fulfill, especially in light of growing international threats.

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[5] A clear limitation emerged already at the dawn of the European integration process, when it became evident that the treaty establishing the European Defence Community (EDC), although signed in Paris on 27 May 1952, would never enter into force, as the French National Assembly refused to ratify it. DANIELE writes that the refusal was linked not only to specific historical contingencies (such as the Korean armistice and the end of the Indochina conflict, in which France was involved at the time), but above all to an intrinsic flaw of the new Community. By joining the EDC, in fact, the states would have transferred to a supranational entity one of the essential attributes of national sovereignty: the task of defending national territory by armed force (2024, 11).

Hence the Commission's appointment of an EU Defense Commissioner and the EU Political and Security Committee. These decisions, including the first European Defence Industrial Strategy (EDIS), demonstrate a willingness to change course and respond to present and future challenges through increased integration and cooperation.

Here ends the overview of the EU's initiatives, despite the many limitations of its common defense policy.

2. THE TIMELINESS OF A PREMISE

Without underestimating its significance, the war at Europe's doorstep is only one of many active conflict fronts. Issues such as violence prevention, peaceful resolution of social and political conflicts, human rights protection, and the promotion of fair and inclusive societies remain unresolved. These persist despite the many models and reconstructions proposed by philosophers, jurists, and politicians over time to address and resolve conflicts and, more importantly, their causes. Today's dramatic events call for a renewed focus on certain themes, including the problem of war, the right to self-defense, proportionality of response, and civilian protection – all highly relevant to European and international law[6].

In his seminal project for perpetual peace, Kant emphasizes that, if international law is understood as the right to war, it is essentially meaningless. It would imply that men who think in this way deserve their fate if they destroy each other, finding eternal peace in the mass grave that buries with them all the horrors of violence. For states in mutual relations,

[6] The protection of human rights in the contexts of the conflicts in Ukraine and the Gaza Strip is currently the subject of three cases pending before the International Court of Justice. These cases were initiated by states that are "not directly injured", on the basis of the comprehensive compromissory clause included in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. Previously, in 2007, the Court had ruled on the issue of genocide in the former Yugoslavia, following an application by the Bosnian government, which had filed the case and requested the indication of provisional measures (see DANIELE, 1993, 373 ff.).

there is no rational alternative to exit the lawless state of nature – which is a state of war – than to renounce their wild (lawless) freedom, submit to coercive public laws, and form a federation of peoples (*civitas gentium*) extending ever further to eventually include all peoples of the earth[7].

As is evident, the issue here is not the conditions of war but the terms for a regulated and fair coexistence among states: the basis for a true international law of peace. The arguments can be summarized as follows.

The relationship between peoples or nation-states mirrors that of individuals in the state of nature: it can either be based on cooperative agreements or be anarchic, as Kant suggests, due to the absence of a central legal authority to maintain peace. Where cooperation exists, institutions, solidarity, and peace arise. In contrast, the natural state and international anarchy entail mutual injustice simply from proximity. In such conditions, recurring injustice leads inevitably to violence and war. In other words, law-bound freedom fosters security, while lawless freedom breeds mutual insecurity. When the latter prevails, conflict is inevitable – exposure to violence prompts violent reactions – and within international anarchy, this spiral generates the vicious cycle of arms races, military buildup, and power balancing.

The pressing question is: how can we break the violence-revenge spiral, the endless sequence of tit-for-tat atrocities that threaten peace? How can we foster cooperation among peoples, resolve disputes peacefully, and provide universal security?

To move beyond the analogy of state of nature/international anarchy and toward that of national society/international society, every state must not only enjoy its rights but demand that others adopt a constitution based on pure legal ideals, which alone offer the prospect of perpetual peace.

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7 KANT, 1795 (also available online at the following link: https://www.gutenberg.org/files/46873/46873-h/46873-h.htm).

Yet this demand is often denied! Despite widespread rhetorical commitment to peace, states are reluctant to recognize a supreme legislative power capable of ensuring rights, or an international court to assess state behavior[8]. Hence, legal guarantees must rest on a surrogate of civil society: a free federation that reason necessarily associates with international law if it is to have any real meaning. Thus, international law, as per Kant's second definitive article of perpetual peace, must be grounded on a federation of free states whose aim is to preserve liberty without subjecting them to public laws or mutual coercion. Instead of a universal republic, the *foedus pacificum* – a permanent and expanding peace league – is envisaged to ward off war and counter hostile tendencies[9].

Kant adds: nature fosters linguistic and religious diversity, often manifesting in the denial of other peoples and serving as a pretext for war. But as culture advances and people gradually converge on shared principles, hatred yields to peace, which must be grounded not on weakening powers but on their constant balance. Likewise, international law presupposes the separation of states, which is preferable to their unification under a single overpowering authority. This separation, maintained through a federation aiming solely to eliminate war, is the only legal condition compatible with liberty. In short, international society can avoid barbarism (perpetual war) only when legal relations are global, when a violation of right in one place is felt everywhere[10], and when inter-state disputes are settled by legal proceedings, as within a nation.

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[8] Contrary to what was foreseen by KELSEN, 1942.

[9] KANT, 1795.

[10] KANT continues: thus, the idea of a cosmopolitan right is not a fanciful notion conceived by exalted minds, but the necessary culmination of the unwritten code – of both domestic public law and international law – for the establishment of a public law in general, and therefore for the realization of perpetual peace, which we can only hope to approach ever more closely under this condition (*ibidem*).

2.1. THEORETICAL FRAMEWORKS FOR THE REAL WORLD

This premise is, in a sense, taken up by Rawls when he addresses the issues of war and international relations, emphasizing the classification of peoples and a justice-based conception of the law of peoples.

Peoples, not states: this is the core of Rawls' theory of international justice. In the ideal theory concerning relations among well-ordered societies (liberal and decent), the actors are peoples who, due to their moral character and the reasonably just (or decent) nature of their regimes, accept the following principles of justice: (1) peoples are free and independent, and their freedom and independence must be respected by others; (2) they are bound to honor treaties and commitments; (3) they are equals and participate in binding agreements; (4) they must observe the duty of non-intervention; (5) they have a right to self-defense, but not to wage war for reasons other than self-defense; (6) they must respect human rights; (7) they must observe specific restrictions in warfare; (8) they have a duty to assist other peoples living under unfavorable conditions that prevent them from having a just or decent regime.

Moving from ideal to non-ideal conditions, Rawls writes that it is likely that liberal-democratic and decent peoples will follow the law of peoples in their mutual relations, because it aligns with their fundamental interests, and each wants to honor agreements without jeopardizing its reputation for reliability. The principles most prone to violation concern just conduct in war against outlaw states and the duty to assist disadvantaged societies. This is because the rationale behind these principles requires foresight, and powerful emotions often push in the opposite direction. But it is the statesman's duty to persuade the public of these principles' great importance[11].

Rawls deserves credit for reviving debate on the law of peoples in the early 21st century. However, given international developments and new

[11] RAWLS, 1993, 36-68; ID., 2001.

conflicts, the central role he gives to the statesman could support a kind of benevolent unilateralism lacking legal tools to ensure legitimacy and impartiality. In other words, internal democratic structures do not automatically guarantee either.

This is especially relevant today, as current events reflect not the exportation of democracy but a redefinition of borders and interests, often with disproportionate responses and inevitable escalation. Such renewed focus on borders and interests calls for a reinterpretation of sovereignty[12] and international relations that transcends the view of sovereign states as sole subjects of international law and that redefines *raison d'État* even beyond a cautious power-politics framework. It would mean finally abandoning the idea that (limited) war is a legitimate dispute-resolution tool[13].

Among the various perspectives on democracy (export) and today's wars (e.g., Ukraine, Middle East), Habermas' view is especially worth discussing. It concerns the transition from the law of peoples to cosmopolitan law, which obliges us to confront issues while breaking free of pseudo-universal principles misused selectively and without regard for context or cultural forms of life[14].

Reviving Kant's vision of perpetual peace two centuries later[15], Habermas emphasizes both its historical-philosophical distance and its potential reformulation: rethinking the concepts of league of peoples and cosmopolitan state in light of today's world – marked by economic and sociopolitical interdependence, technological transformation, and the globalization of ideas and cultures. This global reality has a vested interest

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[12] As argued in *Stati postmoderni e diritto dei popoli*, Torino 2004.

[13] See MANGIAMELI, 2022, esp. 304-305.

[14] Regarding the pragmatic, ethical, and moral use of practical reason, see HABERMAS, 1996.

[15] This refers to the article published in *Kritische Justiz*, 1995, 293 ff. (also in HABERMAS, 1996).

in non-belligerent policies[16] and in promoting non-authoritarian governments internationally[17].

Economic globalization alone has reshaped the political landscape, gradually erasing the boundary between domestic and foreign policy. Non-state actors, multinational corporations, and private banks now alter traditional *Machtpolitik*, partly through democratization and human rights agendas, and partly due to dispersed power dynamics. Soft power replaces hard power; flexible soft law substitutes binding hard law, undermining the sovereignty that Kant's federation of free states presumed[18]. Yet a global public sphere and civil society are emerging, capable of addressing global social issues (e.g., ecology, demographics, poverty, rights) and exerting political pressure on national governments.

All this seems to support the transition from the law of peoples to cosmopolitan law. Yet current events suggest otherwise. We witness helplessly invasions, massacres, and genocide, and we express solidarity now with one side, now with another, reciting various (legal, moral, political) principles as if they were universally agreed[19].

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[16] Just like populations under a republican constitution: if (as must necessarily occur under such a constitution) the consent of the citizens is required to decide whether or not to go to war, it is only natural to assume that, having to bear all the calamities of war themselves (that is, to fight personally, pay the costs out of their own pockets, and endure the hardships of rebuilding the devastation left behind by war), they will think long and hard before embarking on such an ill-fated venture (KANT, 1795).

[17] HABERMAS, Jürgen, immediately adds: when value preferences and choices in favor of democracy and human rights extend beyond the mere affirmation of national interests, the very operating conditions of the 'system of powers' will be transformed (1996).

[18] *Ibidem*.

[19] Such is the case of the declaration of solidarity with Israel and with Jews in Germany, published on 15 November 2023 on the website of the Research Center Normative Orders at Goethe University Frankfurt, and signed by Nicole Deitelhoff, Rainer Forst, Klaus Günther, and Jürgen Habermas.

3. *SI VIS PACEM PARA PACEM*

These final reflections introduce a crucial theme. In classical *Machtpolitik*, the logic of power balance followed the adage *si vis pacem, para bellum*. Yet this clashes with the idea of law as the set of conditions under which the will of one can coexist with the will of another according to a universal law of freedom[20], and the idea of an original right to equal subjective freedoms[21]. Thus, the appeal to sovereign reasonableness and prudence – which historically justified *si vis pacem, para bellum* – is replaced by the legal duty of humanity: the call for states to relate legally, ensure civil legal order, accept a constitution, and abandon ever-growing war preparations, which are worse than past or present wars.

This opens the way for a new adage: *si vis pacem, para pacem*[22]. Abolishing war and its preparations is a demand of cosmopolitan law, which must complement an international law grounded in public laws supported by force, to which every state should submit (analogous to civil law to which individuals submit). This framework defines the proper relationship among individuals and states, and what holds true in theory by reason must also hold in practice[23].

The complexity of war factors – economic dependency, human rights violations, intolerance, insecurity – compels us to conceive of peace as a non-violent process not only to prevent war, but also to build real conditions for the peaceful coexistence of peoples and groups. For this to work, laws must not harm peoples existence, dignity, vital interests, or sense of justice. Political action must also use every available tool (including

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[20] KANT, 1797.

[21] And human rights are founded upon this innate right: freedom (independence from the coercive will of others), insofar as it can coexist with the freedom of everyone else according to a universal law, is the one original right belonging to every human being by virtue of their humanity (KANT, *ivi*).

[22] See SENGHAAS, 1995.

[23] KANT, 1793.

humanitarian intervention) to promote economic independence, democratic participation, cultural tolerance, and above all, respect for human rights. It must deploy non-violent intervention strategies that foster democratization and are justified by the fact that the networks of globalization now expose all states to external conditions, subjecting them to the soft power of constraints and indirect influences (which may extend to explicit economic sanctions)[24].

Peace-as-process policies and non-violent intervention strategies require shared awareness: wars and conflicts have specific causes, and those causes (tensions, imbalances, etc.) must be seriously addressed. They also require normative agreement on human rights, which have a legal nature from the outset, though they are subject to change or even abolition, like all rights.

Indeed, presenting human rights as (solely) moral rights gives them a kind of dual validity, locating their justification beyond national legal systems. Presenting them as constitutional norms further grants them privileged status. Fundamental rights, as constitutive elements of a legal system, define the framework within which ordinary legislation must operate. Being part of a democratic legal order, they possess an ideal validity in addition to their positive one. That is, they are not merely in force, but also claim legitimacy through rational justification[25].

Hence, fundamental rights hold a unique status among constitutional norms. Their legitimacy claim (or universal validity claim) is grounded in moral arguments: these rights reflect every person's interests. Still, this moral foundation does not undermine their legal nature, which defines their structure as enforceable subjective rights. For human rights to become enforceable legal claims, they must acquire the status of fundamental rights within an existing legal system: national, international, or cosmopolitan. In other words, positive law (national, of peoples, cosmopolitan) must ensure

[24] HABERMAS, 1996.
[25] HABERMAS, *ivi.*

that the legal person always remains cloaked in the mantle of morally well-grounded rights of freedom[26].

[26] HABERMAS, *ivi.*

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