

CONSIDERING HEGEL'S ACCOUNT OF WAR

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In response to acts of war, most people at some point are stirred by certain moral feelings. For some, morality demands that a war be fought — morality justifies war. For others, morality condemns war, if not absolutely then in a particular case. There are, of course, many differing moral conceptions. However, one which is currently favoured by many liberal and left-liberal intellectuals is that of Kantian morality, or what can be called 'Kantian cosmopolitanism'. By way of examining some of the limitations of the approach of Kantian cosmopolitanism to the problem of war, this article draws upon an often overlooked and heavily misunderstood tradition, that of Hegelian philosophy. The article puts forward the case for the continued relevance of Hegel's account of war. Specifically, Hegel's account of war assists contemporary moral, legal and political thought to better understand the role and status of violence within our own ethical conceptions and ethical demands. If we are to properly come to terms with the challenges of war and terror in the present, then the insights into the relation between ethics, violence and negativity given by Hegel's account need to be adopted and integrated into our forms of thinking about the world.

Introduction

This article attempts to develop an approach to thinking about ethics and the ethics of war. Through considering GWF Hegel's account of war, the article introduces a standpoint from which legal thinking might begin to comprehend the ethicality of war while still possessing the ability to critique competing claims over the moral validity or invalidity of particular acts of war. Drawing upon Hegel's critique of Immanuel Kant's account of war, the article stakes a claim for the importance of developing an ethics of war as an alternative to a Kantian, deontological approach.

The article draws upon two major figures of transcendental philosophy as a means of discussing differing approaches to thinking about ethics and to thinking about war as a question of ethics. In contemporary times, the approaches of Kant, and Hegel's critique of Kant, on the issue of war are not irrelevant. The approach of Kant's moral philosophy to the problem of war plays an interesting and not insignificant role with regard to how many modern actors think about war in the present. Kant's moral condemnation of war, his attempt to regulate the problem of war by moral principles and moral action,

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and his calls for the establishment of an international legal order to take up the moral challenge of war, occur as a theoretical precursor to many of the developments in the approach to war within twentieth century international law under the United Nations.¹ Further, as a moral critique of the inadequacies of international law and the continued occurrence of war under international law, Kant's voice can still be heard within the very 'Kantian' approaches to war taken by prominent intellectual figures such as Jürgen Habermas, Jacques Derrida and John Rawls.²

In a broader sense, in contemporary times, a distinctive moral language has emerged as a predominant means by which states, individuals and political organisations talk about war. Such a language sits alongside, and is often drawn upon to trump, a legal language and legal judgments over the validity or invalidity of acts of war. Significantly, such a moral language is not only used to condemn acts of war and terror, but is also drawn upon by powerful states and 'coalitions' of states to justify aggressive, neo-colonial-style wars in the name of peace, human rights, freedom and democracy.³ While Kantian moral philosophy should not be reduced to the operation of subjective and often dishonest moral claims, highlighting how Kant's approach to the moral thinking of war falls into difficulty helps to shed light upon some of the problems inherent within a wider contemporary trend towards the moralisation of war.

From this viewpoint, the article examines Hegel's account of war interpreted as a response to Kant. Hegel's account of ethics is radically different to that of Kant. Hegel resists Kant's claim that moral philosophy can develop a theory of how individuals and institutions *ought* to behave presented as an *a priori* rule held to be valid across space and time. Rather, Hegel draws attention to how ethical norms develop within the various complex inter-relations of differing forms of life, understood as ethical life (*Sittlichkeit*). For Hegel, comprehending ethics and what is 'ethical' involves focusing upon the concrete conditions of ethical life and how differing actors are positioned and gain self-awareness within differing forms of ethical life. For Hegel, the relations of civil society and the state are two significant spheres relevant to modern ethical life: the first relates to the operation of the market economy, liberal individualism, private moral judgment and individual autonomy within Anglo-European social life; the second refers to the operation of a political-juridical institution through which human individuals gain a sphere of freedom, protection, security and their *social being*. For Hegel, moral accounts of war such as Kant's need to be repositioned within these conflicting spheres of ethical life. Further, Hegel rejects the Kantian account of a regulative or

¹ On how Kant anticipates some of the developments of twentieth century international law which outlaws aggressive war and regulates war by the values of peace, security and human rights, see the discussions in Bohman and Lutz-Bachman (1997); Laberge (1998); Tesón (1992), pp 100–135.

² Habermas (1997, 1999, 2001); Derrida (1994, 2001); Rawls (1999).

³ Consider the account in Douzinas (2002). For a broader account of this development in the twentieth century, see Schmitt (1997).

legislative universal moral law. Instead, for Hegel, moral norms develop through the praxis of inter-subjective and inter-institutional recognition (*Anerkennen*) in which subjects and institutions create (or fail to create) guiding universal norms through their encounters with their others.

By examining Hegel's critique of Kant's approach to war, the article attempts to highlight how a Hegelian approach offers a different and significant account of ethics that retains its relevance in contemporary times. Such an account of ethics, which focuses upon concrete forms of normative human life, the mediation and perversion of moral claims by the process of (mis)recognition and the way in which ethics itself is bound up with the operation of violence, is worth holding on to. Such an ethics may not by itself offer all the solutions to the thinking about war. However, when understood as a valid form of ethical thinking, such an approach may help contemporary thinking to better navigate through the density of ethical questions and arguments relating to acts of war.

Preliminary Comments

Hegel's account of war has experienced a troubled reception within the Anglophone world. The first half of the twentieth century saw various claims that Hegel glorified war, that he was the official philosopher of Prussian militarism, and that he was a theoretical precursor to German Fascism.⁴ These claims were shown in the latter part of the twentieth century to be unjustified and have been extensively refuted.⁵ Yet, even when one conceives Hegel's account of war as not being a glorification of war, there still exist within Hegel's conception a number of difficult philosophical notions that make the 'entirety' of Hegel's account difficult to accept today. Given that the interpretation taken here looks at Hegel from the position of jurisprudence, some assumptions or philosophical presuppositions taken by Hegel may need to be put to the side. This is not to say that these assumptions should be dismissed outright; rather, it is merely beyond the scope of this article to discuss these assumptions in any detail. I will now briefly point to some of these presuppositions.

Hegel's account of war, as expressed in the *Philosophy of Right* (1821),⁶ at times draws upon three assumptions: a notion of progress, a notion of providence, and the relation of cause and effect. With regard to the first, Hegel's account of 'world history' may at times fall back into a notion of

⁴ See Dewey (1915); Hobhouse (1918); Popper (1945).

⁵ For early defenders of Hegel, refuting the linking of him to Prussian militarism and Nazism, see Watson (1915), pp 366–79; Muirhead (1917). For theorists who in the latter half of the twentieth century began to turn around the Anglophone misconceptions of Hegel and his position on war and the state, see Knox (1940), pp 51–63; Kaufman (1951), pp 495–86; Avineri (1961), pp 463–74; Bruggencate (1961), pp 58–60; Smith (1965), pp 282–85; Verene (1971); Harris (1980).

⁶ Hegel (1991).

'progress'.⁷ In this respect, his account can sometimes be understood to put forward an argument that takes on a form similar to notions that have come to be known as 'evolution' and 'social-Darwinism'. In this sense, war appears to be tied to the right of progress, of the 'civilised' against the 'uncivilised' and so on.⁸ This conception displays a European bias. In taking up Hegel's account of war, one would need to approach carefully the notion of progress and the danger that may arise in combining a notion of progress with a conceptualisation of particular acts of war. Such a combination might necessarily lead to the charge that one's account of war might retrospectively justify acts of violence through the 'cunning of reason'.⁹

Second, Hegel's account of world history presupposes a notion of 'providence'. Hegel states in his *Lectures on the Philosophy of World History*¹⁰ that his investigation of world history can be seen as a 'theodicy', as a justification of the ways of God in the world; further, this theodicy should enable us to comprehend all the ills of the world, including the existence of evil.¹¹ One might consider that, for Hegel, 'providence' refers to the religious truth that the world is not prey to chance and external contingent causes, but involves some form of reconciliation with a notion of 'reason'.¹² What can be seen in Hegel's opening on to the question of providence is something of a theological undertone within Hegel's thought where the consideration of war sits within a wider consideration of the divine's self-alienation occurring as activity, the work of the negative and as suffering. While this conception is important to Hegel's account of war any consideration of the notion of providence is beyond the scope of this essay and, as such, the relation of this element of Hegel's thought to the problem of war will not be taken up here.¹³

⁷ For differing readings on Hegel's account of history, see Perkins (1984); Wilkins (1974); O'Brien (1975, 1985); Houlgate (1991); Hyppolite (1969); Ritter (1982).

⁸ See, for example, Hegel (1991), § 351: 'The same determination entitles civilized nations [*Nationen*] to regard and treat as barbarians other nations which are less advanced than they are in the substantial moments of the state (as with pastoralists in relation to hunters, and agriculturalists in relation to both of these), in the consciousness that the rights of these other nations are not equal to theirs and that their independence is merely formal.'

⁹ The quintessential critique of any so-called 'dialectic of historical progress' perhaps resides in Walter Benjamin's *Über den Begriff der Geschichte*, in particular the images of the 'angel of history' and the 'puppet and the dwarf'. A wider consideration of Hegel's account of war and Hegel's philosophy in general benefits from a certain 'worrying' over some of Benjamin's critical insights. See Benjamin (1968).

¹⁰ Hegel (1975).

¹¹ Hegel (1975), p 42. Note also the argument by Kaufman (1970), p 166, who argues that Hegel attempted to solve the problem of evil by demonstrating that evil serves a positive function. On this point, see also Kierans (1992), pp 417–35. For a discussion of Hegel in terms of the philosophical tradition of coming to terms with the problem of 'contingency', see Kolakowski (1981), pp 9–80.

¹² Hegel (1975), p 35.

¹³ On this, see Küng (1987).

Third, Hegel's account of war within the *Philosophy of Right* at times assumes a relation between cause and effect. In particular, this arises in Hegel's contention that war holds a normative status in the ethical education of the populace.¹⁴ This draws upon the argument that the threat of death via war might bring peoples to discover that their self-identification through their property is inadequate, and that their true 'essence' lies in the ethical community and the necessary self-sacrifice for its defence.¹⁵ On this claim, Hegel seemingly draws upon images of a classical Greek conception of war and the honour of the citizen sacrificing their life for the *polis*.¹⁶ Further, Hegel might also be understood as drawing upon the figure of Napoleon, and the image of the Napoleonic wars as an educative or cleansing process. For Hegel, such wars may have resembled a 'strong wind' sweeping away the stale and oppressive feudal orders of old Europe — or at least the institutions of the Holy Roman Empire.¹⁷

Again, Hegel's claim that war has an effect in educating or raising the ethical awareness of the state's citizens should be approached with a degree of caution. This role of war cannot really be tested and, as such, it does not pass a 'burden of proof'. Further, the granting of normative value to a particular war has a tendency to fall back into a theory of 'just' and 'unjust' wars, and this might be understood as being inconsistent with Hegel's account of war in general. This third point will be addressed again shortly; however, it may be of some assistance to first situate Hegel's account of war within the context of Kant's writings on the notions of 'peace' and 'cosmopolitan right'.

Responding to Kant's Account of War

Hegel's account of war, at least in part, responds to Kant's treatment of the problem of war in the essays the *Idea of Universal History with a Cosmopolitan Purpose* (1784)¹⁸ and *Towards a Perpetual Peace: A Philosophical Sketch* (1795).¹⁹ This is not to say that the whole of Hegel's account of war is geared towards a response to Kant's approach. To say that Hegel takes up and responds to Kant's approach to war is not to say that Hegel is not engaging in a long set of traditions (philosophical and traditions of natural law) that, through history, have considered the problem of war. Merely, part of the manner or form by which Hegel takes up the particular problem of war is present within Kant's approach and, when understood in this way, one might be in a better position to consider the value of Hegel's contribution to the thinking of war.

¹⁴ Hegel (1991), § 324.

¹⁵ Hegel (1991), § 324.

¹⁶ On this suggestion, see Lukács (1975).

¹⁷ Note the comment by Avineri (1970), p 74, who notes that in 1806 the young Hegel explicitly welcomed the Prussian defeat by Napoleon at Jena. Hegel welcomed ending of medieval anarchy in Germany, the introduction of rational legislation and the codification of law based upon universal norms and principles.

¹⁸ Kant (1991a).

¹⁹ Kant (1991b).

I suggest that one can understand Kant's inheritance of and approach to the problem of war as structured by three principal themes or gestures. These involve: the moral condemnation of war; the enunciation of cosmopolitan right; and the establishment of a juridical order. As the focus here is upon Hegel's account of war, there is not space enough to cover Kant's essays in any great detail and the brief discussion of Kant's position given here is not presented as a thorough account of Kant's thoughts on war.²⁰ However, considering Kant's approach to war through three 'gestures' might give some insight into how Kant takes up a particular problem.

One strong theme that can be gleaned from Kant's essays is the first of Kant's three principal gestures, that of the moral condemnation of war. Kant's gesture towards the moral condemnation of war develops in the context of a response to a post-Westphalia natural law tradition, which with regard to the problem of war attempted to draw a degree of separation between state action and a moral or theological justification of this action.²¹ Part of this separation involved the jurisprudential configuration of the problem of war through framing the right to war in terms of a 'limited' sovereign right. This construal of international right can be viewed as an attempt to regulate the problem of war and avoid the carnage that occurred during Thirty Years War (1618–48) by de-moralising or de-theologising the sphere of inter-state relations.

Kant's approach to the problem of war occurs as a radical moment within a natural law tradition which did not accept a notion of international right and the right of the sovereign as the highest form of right. Against the 'sorry comfort'²² offered by the natural law jurists Grotius, Pufendorf and Vattel, Kant situates the notion of right as higher than the mere relation between sovereigns. In doing so, Kant reintroduces the position of morality into the thinking of the problem of war. In this conception, morality is not to give comfort to the action of sovereigns, but rather condemns war.

For Kant, the moral imperative demands that we transcend the ongoing relation of war between states and institute an international legal order that can guarantee 'peace'. Morality demands the overcoming of war by the juridical order. The burden of establishing this juridical order might be said to fall upon the shoulders of moral agents, these being states, or more specifically republics and moral statesmen who, through their actions, should attempt to construct an inter-state federation of peace. Kant argues that 'reason, as the highest legislative moral power, absolutely condemns war as a test of rights and sets up peace as an immediate duty'.²³ Further, he states that:

²⁰ See generally Habermas (1997); Archibugi (1995), pp 429–56; Covell (1998); Cavallar (1999). On interpretations on Kant generally, see Höffe (1994); O'Neil, (1989).

²¹ On the importance of this demoralisation of the spheres of law and politics, particularly as carried out by German natural law jurists, see Hunter (2001). On how this occurs with respect to the issue of war see generally, see Tuck (1999); Knutsen (1992); Clark and Neumann (1996).

²² Kant (1991b), p 103.

²³ Kant (1991b), p 104.

The concept of international right becomes meaningless if interpreted as a right to go to war. For this would make it a right to determine what is lawful not by means of universally valid external laws, but by means of one-sided maxims backed up by physical force. It could be taken to mean that it is perfectly just for men who adopt this attitude to destroy one another, and thus to find perpetual peace in the vast grave where all the horrors of violence and those responsible for them would be buried.²⁴

In one sense, Kant's moral condemnation of war stems from his inheritance of a natural law tradition and the tradition of Christian morality. Both, to differing degrees, share a 'common morality' that prohibits killing, as strongly voiced in the *Decalogue's* injunction: 'Thou shalt not kill.'²⁵ In this light, Kant frames war as something of a moral problem. War is not to be considered as simply the machination of politics; rather, morality must intervene to put an end to the ongoing evil occurring in the political world. Kant frames state action in terms of the operation of the moral law — that is, state action needs to become consistent with or guided by morality. This occurs in the sense that states should at least consider their actions through some form of moral theory. For Kant, state action is brought into a relation with the notion of the 'categorical imperative' as the basis of what might develop into a universal legality.²⁶

Kant's second principle gesture involves the enunciation of cosmopolitan right. Kant argues that the legal constitution of the sphere of international relations can be understood as being governed by three forms of right. As such, it could be argued that an individual anywhere in the world could understand 'right' as existing in three forms. The first involves a constitution based upon civil right (*ius civitatis*); this involves the right of individuals within a nation.²⁷ The second involves a constitution based upon international right (*ius gentium*); this involves the right of states in their relations with one another.²⁸ The third involves a constitution based upon cosmopolitan right (*ius cosmopoliticum*), which refers to the relation between states and individuals coexisting in an external relationship of mutual influences, who may be regarded as being citizens of a universal state of mankind.²⁹ Kant thus sees a notion of right that is beyond the right of states, a right which belongs to anyone anywhere by virtue of the fact of being 'human'. Kant can be

²⁴ Kant (1991b), p 105.

²⁵ Boyle (1992), pp 120–23.

²⁶ On this, note Anderson-Gould (2001), who argues at p 45 that: 'The idea of a moral life must include not only the unification of all of one's own acts/maxims but also an essential connection of these acts to the acts/maxims of other moral subjects. In other words, given the universality of the ascription of this propensity, the "moral life" must be represented as a social or collective undertaking.'

²⁷ Kant (1991a), p 98.

²⁸ Kant (1991a), p 98.

²⁹ Kant (1991a), p 99.

understood to have inherited cosmopolitanism from Stoic thought,³⁰ and as an 'enlightenment ideal'.³¹ Cosmopolitan right operates as an educative and political ideal, a way of thinking of one's identity beyond that of nationality or patriotism and in terms of the idea of being a citizen of the world.³²

Cosmopolitan right appears as a notion of right that is higher than the right of the state and is necessary in governing or regulating the actions of states. It occurs as a guiding principle that is grounded upon the notion of a 'universal community'. In this respect, the problem of war is to be challenged by the self-identification of states and their citizens in terms of members of a universal community of humanity. Membership of this involves a set of rights and duties that preclude hostile conduct between parties and unite them under reason and morality.

Kant's third gesture in approaching war's moral problem involves a call for the establishment of an international juridical order. The goal of such an order is not to regulate or bring about the temporary cessation of war, but rather to institute a peace that is 'eternal' or 'perpetual'. For Kant, the idea of an international juridical order transcends the warring relations between states, uniting them in a form of political constitution in which their rights and interests can be mediated without the recourse to war. Kant can be seen to have attempted to overcome the dilemma of specific moral claims being drawn upon to justify particular wars (and the subsequent position of moral relativism) by the setting up of an international juridical order. In this sense, war might only be overcome by the juridical, through the coming into being of a higher law — one that stands above the right of states. In this respect, Kant treats the relations between states that precede any international order as a lawless condition. This condition may be described as a 'state of nature', and this is a 'state of war'.³³

For Kant, just as individuals in the state of nature must seek union under a commonwealth and secure their peace and freedom through the institution of law, so individual nations can and ought to demand of their neighbours that they enter into a constitution similar to a civil one, through which the rights of each member may be secured.³⁴ War is to be overcome by the institution of a juridical order, a 'federation of peoples'. For Kant, this would not involve a world state, but a federation between independent nations interested in guaranteeing peace.³⁵ In proposing a peaceful federation of states, Kant follows in the tradition of Abbé St Pierre and Rousseau,³⁶ and extends Hobbes' social contract from the 'state of nature' into the sphere of international relations.³⁷

³⁰ On this point, see Nussbaum (1997).

³¹ Archibugi (1995), p 441. See also Schlereth (1977).

³² Nussbaum (2002), p 7.

³³ Kant (1991a), p 98.

³⁴ Kant (1991a), p 102.

³⁵ Kant (1991a), p 102.

³⁶ Kant (1991b), p 47.

³⁷ Hobbes (1996).

Kant argues that peace cannot be inaugurated or secured without a general agreement between nations — hence, a particular kind of ‘league’ is required, a ‘pacific federation’ (*foedus pacificum*) which would seek to end all wars for good.³⁸ This federation would not aim to acquire power like that of any other state, but merely to preserve and secure the freedom of each particular state.³⁹ Importantly, Kant argues that this idea of a federation is practicable, especially when thought as ‘extending gradually’ to encompass all states. He argues that, if by good fortune one ‘powerful and enlightened nation’ can form a republic that by its nature will be inclined to pursue perpetual peace, then this will provide a point around which other states will join together with the first. The federation would come into existence through the gradual spreading of alliances of this kind.⁴⁰ Kant was, of course, not unaware that the formation of an international juridical order would be a difficult task and one which, at times, might need to be defended by war.⁴¹

Against the Moral Condemnation of War

Hegel’s account of war can be interpreted as an inheritance of and response to Kant’s three principal gestures. Hegel’s taking up of and response to Kant’s first principal gesture, that of the moral condemnation of war, may be viewed from an earlier comment in *The German Constitution* (1798–1802).⁴² Hegel states:

Right is the advantage of a particular state, specified and acknowledged by treaties; and since, in treaties in general, the different interests of states are specified, despite the fact that these interests, as rights, are infinitely complex, these interests — and hence also the rights themselves — must come into contradiction with each other. It depends

³⁸ Kant (1991a), p 104.

³⁹ Kant (1991a), p 104.

⁴⁰ Kant (1991a), p 104.

⁴¹ On this point, note Höffe (1994), p 174, who states: ‘According to Kant, the rational concept of law is closely connected with the authority to use force. He does not see this authority as irrational violence or as an immoral usurpation on the part of the legal system but instead as an indisputable *a priori* element of all law. As paradoxically as it may seem, without the authority to use force, no legal system, which must nonetheless be committed to the co-existence of free subjects, can be conceived.’

‘Because the law is the very essence of the conditions under which freedom is compatible with the freedom of all others, every action which, in accordance with universal laws, is compatible with the freedom of all others, is legitimate from a legal standpoint. Any interference with this legal authority is illegitimate. Anyone who impedes me in my performance of legal actions does me wrong. Hence, the force preventing illegitimate interference is itself legitimate because it makes freedom of action possible. But with his justification of the forcible nature of law, Kant does not open the door to force of any sort whatsoever. Force is only legal insofar as it prevents injustice. Any other use of force is unjust.’

⁴² Hegel (1999).

entirely on the circumstances, on the combinations of power — i.e. on the *judgment* of politics — whether an endangered interest or right will be defended with all the force a power can muster, in which case the other party can also, of course, adduce a right of its own since it has itself exactly the opposite interest which collides with the first, and hence also a right. Thus, war or some other means must now decide — not which of these rights asserted by the two parties is the genuine right (for both parties have a genuine right), but which right should give way to the other. War or some other means must decide the issue, precisely because both contradictory rights are equally true and hence a third factor — i.e. war — must make them unequal so that they can be reconciled, and this occurs when one gives way to the other.⁴³

One might suggest that Hegel's approach to the moral condemnation of war involves two related issues. In one sense, in claiming that war involves the conflict between 'right and right', Hegel inherits a conception of war stemming from the post-Westphalia tradition of natural law. This involves the conception that sovereignty involves the right to war held as separate from moral or theological considerations. In another sense, Hegel's focus upon the right of the state to war involves a 'moral' conception of the state that is somewhat different to the conception of the post-Westphalia jurists. In this sense, Hegel takes up Kant's radical re-moralisation of the sphere of politics but not necessarily in the form of Kant's separation between the legal and moral spheres. Rather, against Kant, Hegel can be seen to posit a 'moral' value of the state at war as opposed to a conception that war is condemned by a universal morality. On this latter point, part of Hegel's rejection of Kant's moral condemnation of war turns upon Hegel's critique of Kant's conception of morality and the reframing of Kantian morality as one sphere within a wider notion of 'ethical life' (*Sittlichkeit*).

As Hegel's critique of Kant's conception of morality is generally well known, I will only note here a couple of points. One aspect of Hegel's disagreement with Kant involves the position of the *a priori*. Robert Pippin argues that Hegel's disagreement with Kant arises from the concern for what a 'free, self-determining life' requires. Hegel denies that a life determined by 'what any rational person ought to will' is sufficient.⁴⁴ Pippin notes further that Hegel disagrees with or gives up on the Kantian hope that there is a single formal rule of practical rationality in itself, a simply definitive *a priori* which tells us how to govern our actions and to be 'one among many'. He notes that Hegel gives up on the Kantian attempt to show how one could come to experience one's own concrete, individual freedom in acting as a 'rational agent', defined so formally.⁴⁵

It might be argued that, for Hegel, the question of what a free, rational, self-determining life requires falls upon the content or the circumstances upon which such a 'rational' determination of conscience is grounded. It depends

⁴³ Hegel (1999), p 70.

⁴⁴ Pippin (1997), p 92.

⁴⁵ Pippin (2000), p 162.

upon how the content and customs in which one is immersed are to be deemed moral or immoral, and of how one is to choose between moralities and the bulk of their inherent contradictions.⁴⁶ In this respect, part of Hegel's critique of Kantian morality is to reframe the moral imperative bound to the consideration of one's private conscience as 'one' moment within a broader notion of right which encompasses a number of spheres of ethical life.

Kant's conception of morality becomes a moment within the sphere referred to by Hegel as 'civil society' (*die bürgerliche Gesellschaft*): the ethical sphere that refers to the emergence or emancipation of the individual as 'individual' occurring through the revolution of legal, moral and economic relations in modernity. This sphere sits in a mediated relation (involving a degree of contradiction) with the sphere of the ethical life of the 'state'. This might be thought to occur (not exclusively) as: the conception of moral norms and customs as grounded in a sense of 'community';⁴⁷ the conception of the individual in terms of 'social being';⁴⁸ the conception of the individual coming to comprehend itself and its ethical relations in terms of the process of 'inter-subjective recognition';⁴⁹ and the conception of the state as the ground of the individual's 'freedom'.⁵⁰

From this position, one can understand Hegel's rejection of Kant's moral condemnation of war as the argument that Kant's approach is somewhat 'one-sided'. For Hegel, we cannot consider the problem of war solely from the perspective emerging from the sphere of civil society; rather, war needs to be understood in terms of its relation to the ethical life of the state and in terms of what war might mean to this sphere of ethical life. For Hegel, the state can be considered as an 'ethical entity' or 'ethical actor' whereby its actions, even in war, embody a living ethical life. From Hegel's position, when considering the problem of war one needs to consider the role of the state as a form of ethical life (as ethical-social being, as the ground of freedom) whose acts of war are directly related to a certain realm of ethicality.

Hegel refers to this 'right' of the state as its 'welfare'. The guiding principle of international relations is not that of a 'universal philanthropic thought', but of the welfare of the state that is threatened by others.⁵¹ From the Hegelian position, when thinking about morality in the sphere of war, the question of right is not simply one of individual moral judgment that seeks to determine 'universal law'. Rather, the focus needs to be upon the position of the state as a form of ethical life and the role of war in relation to this ethical life. The argument by Hegel is not that politics is superior to morality, but rather that when the notion of right is understood more broadly as *ethical life*,

⁴⁶ This is not to say that Kant's position completely ignores this point; rather, Hegel perhaps gives greater emphasis to the *mediated* nature of right.

⁴⁷ Taylor (1975).

⁴⁸ Avineri (1972).

⁴⁹ Williams (1997).

⁵⁰ Franco (1999).

⁵¹ Hegel (1991), § 337.

then politics and morality are no longer in such a fervent opposition. Hegel states:

There was at one time a great deal of talk about the opposition between morality and politics and the demand that the latter should conform to the former. In the present context, we need only remark in general that the welfare of a state has quite a different justification from the welfare of the individual [*des Einzelnen*]. The immediate existence [*Dasein*] of the state as the ethical substance, i.e. its right, is directly embodied not in abstract but in concrete existence [*Existenz*], and only this concrete existence, rather than any of those many universal thoughts which are held to be moral commandments, can be the principle of its action and behaviour. The allegation that, within this alleged opposition, politics is always wrong is in fact based on superficial notions [*Vorstellungen*] of morality, the nature of the state, and the state's relation to the moral point of view.⁵²

To a degree, Hegel takes up the 'realism' of the classical republicanism of Machiavelli in the location of the state as embodying the highest good. In this respect, the legitimization of war occurs as the expression or defence of this higher form of right. War, while an unenviable situation and something not to be brought on without caution, has a degree of 'necessity' in the preservation and survival of the ethical community. Where the ethical life of the state is constantly exposed to contingency and threat, then the question of what the state 'ought' to do is not necessarily a question to be answered by an individual's moral judgment. The state may be judged; however, by going to war, the state is not necessarily wrong or unethical. Rather, the state acts as a form of the 'living good', which in the course of its life must preserve and safeguard itself.⁵³

⁵² Hegel (1991), § 337, Remark.

⁵³ See Machiavelli (1950). Note Machiavelli's discussion on the relation between 'necessity' and the 'ought' at p 56: 'A man who wishes to make a profession of goodness in everything must necessarily come to grief among so many who are not good. Therefore it is necessary for a prince, who wishes to maintain himself, to learn how not to be good, and to use this knowledge and not use it, according to the necessity of the case.'

I am interpreting Machiavelli here as a republican and as one who is interested in what acts are necessary in fulfilling the common good of the republic; this is in distinction to an interpretation which sees Machiavelli as being interested in the crude workings of gaining and maintaining power. Hegel seems to have interpreted Machiavelli in the former sense and relies heavily upon Machiavelli in his early work. See Hegel (1999). Note Hegel's comment at p 80: 'Even Machiavelli's basic aim of raising Italy to statehood is misconstrued by those who are short-sighted enough to regard his work as no more than a foundation for tyranny or a golden mirror for an ambitious oppressor. But even if his aim is acknowledged, it is alleged that his means are abhorrent, and this gives morality ample scope to trot out its platitudes that the end does not justify the means, etc. But there can be no question here of any choice of means: gangrenous limbs cannot be cured by lavender-water, and a situation in which poison and

From this perspective, Hegel makes the claim that war has something of an 'ethical character.' However, Hegel perhaps extends this point too far and at this moment of extension, his account falls into some difficulty. This may be seen in Hegel's statement that:

war should not be regarded as an absolute evil [*Übel*] and as a purely external contingency whose cause [*Grund*] is therefore itself contingent, whether this cause lies in the passions of rulers or nations [*Völker*], in injustices etc., or in anything else which is not as it should be. Whatever is by nature contingent is subject to contingencies, and this fate is therefore itself a necessity — just as, in all such cases, philosophy and the concept overcome the point of view of mere contingency and recognise it as a *semblance* whose essence is necessity. It is *necessary* that the finite — such as property and life — should be *posited* as contingent, because contingency is the concept of the finite. On the other hand, this necessity assumes the shape of a natural power, and everything finite is mortal and transient. But in the ethical essence, i.e. the state, nature is deprived of this power, and necessity is elevated to the work of freedom, to something ethical in character. The transience of the finite now becomes a *willed* evanescence, and the negativity which underlies it becomes the substantial individuality proper to ethical essence. War is that condition in which the vanity of temporal things [*Dinge*] and temporal goods — which tends at other times to be merely a pious phrase — takes on a serious significance, and it is accordingly the moment in which the ideality of the *particular attains its right* and becomes actuality. The higher significance of war is that, through its agency (as I have put it on another occasion), the 'ethical health of nations [*Völker*]' is preserved in their indifference towards the permanence of finite determinacies, just as the movement of the winds preserves the sea from that stagnation which lasting calm would produce — a stagnation which a lasting, not to say perpetual, peace would also produce among nations.⁵⁴

This argument might be interpreted to involve two major claims. The first relates to the conception that war is a part of the ethical life of the state. This is in the sense that ethics, as ethical life, cannot be held apart from war and violence. Rather, war is 'necessary' to ethical life, in the sense that, historically, all states either found themselves in, or maintain themselves through, some form of violence. A broader notion of ethics might then take account of the position of war and violence within ethics itself. Further, as the ethical life of the state has some form of significant relation to war, an individual cannot, without a degree of hypocrisy, condemn war outright. Such condemnation cannot occur without considering the individual's ethical being and its wider existence (i.e. an individual's historical existence as the beneficiary of invasion, colonisation or revolution) through the state, founded

assassination have become common weapons permits no-half measures. Life which is close to decay can be reorganised only by the most drastic measures.'

and maintained through war and violence. For Hegel, ethical life, freedom and one's social being permit no such moral high ground.

In the second claim, Hegel stresses the 'necessary' aspect of war for ethical life. He does so by arguing that war performs a function that, at first, is not immediately apparent.⁵⁵ This is the sense, as described by Shlomo Avineri, that war operates as a 'test' of the 'health' of the ethical life of the state.⁵⁶ The possibility of a state having its boundaries breached, its political constitution destroyed, its form of life undone, and even perhaps remade, by another who is alien to it may shape the populace's self-conception and in doing so affect its internal constitution. The possibility of having one's existence destroyed by another group may encourage an individual to identify with a group whose members share a common fate. The threat from outside strengthens the conception of individuals as part of a unity, a togetherness that knows them to be dependent upon each other. The negative relation between states occurring in war may act to lift individuals from their conception of themselves as a particular within civil society. War acts to elevate individuals towards a self-conception in terms of the universal, as members of the state, as part of the state and as knowing themselves through the state as social beings.

In this argument, particularly in the use of the idea of 'health', Hegel might be seen here to draw again upon Machiavelli and his contention that, in the process of time, a republic's 'goodness' becomes corrupted unless something intervenes, either as an extrinsic accident or internal prudence, to bring the state back to its original principles.⁵⁷ Such advice is perhaps well taken by many contemporary 'princes' who not only use wars, but also the fearful imagery of an external threat (which also becomes an internal threat, i.e. 'reds under the bed', terrorists in the suburbs), to control or manipulate national political agendas.

In Hegel's account, any conception of 'necessity' (*Notwendigkeit*) with relation to war should be approached with caution. I have already suggested that such a point cannot be proved or tested, and the strength of the term 'necessity' implies that war contributes something to the health of ethical life

⁵⁵ Walt (1989), p 121 notes that 'necessary' in this sense relates to a moral justification, and is not by virtue of the nature of events. See Walt (1989), pp 112–23. Smith (1983), p 630 notes that war becomes the means of educating modern bourgeois-Christian citizens in the civic virtues that would otherwise be lost in the modern world.

⁵⁶ Avineri (1972), p 199.

⁵⁷ See Machiavelli (1950), pp 397–402. Note that Hegel (1977), § 455 took perhaps a more 'Machiavellian' view of war and its position as a form of ethical renewal. Hegel seems to have either abandoned this view, or at least ceded it to the forces of history: 'In order not to let them become rooted and set in this isolation, thereby breaking up the whole and letting the [communal] spirit evaporate, government has from time to time to shake them to their core by war. By this means the government upsets their established order, and violates their right to independence, while the individuals who, absorbed in their own way of life, break loose from the whole and strive after the inevitable independence and security of the person, are made to feel in the task laid on them their lord and master death.'

that cannot be given by some other condition — for example, good government. In this respect a jurisprudential interpretation of Hegel might put to the side this aspect of Hegel's argument and instead focus upon the notion of the state in war as an 'ethical actor' and the significance of war to a broader conception of ethics. Each of these points needs to be considered in light of Hegel's response to Kant's other principal gestures.

Cosmopolitan Right

The notion of cosmopolitan right is not absent within Hegel's account of war. It is, however, somewhat tempered. Hegel's position is certainly not averse to a degree of cosmopolitan thinking, at least to the extent that it represents a European ideal.⁵⁸ An element of the cosmopolitan ideal is evident in Hegel's statement that: '*A human being counts as such because he is a human being, not because he is a Jew, Catholic, Protestant, German, Italian, etc.*'⁵⁹ One might suggest that the notion of cosmopolitan right is present within Hegel's account of war; however, it is treated as a 'mediated' notion — that is, it needs to be understood as occurring *through the process of inter-state recognition* (*Anerkennen*). Just as the forms of right, the notions of freedom and ethics within Hegel's philosophy of law, can be understood as grounded in the relation of inter-subjective recognition,⁶⁰ so might forms of right within the sphere of the international be understood as developing through a somewhat similar process between institutions. Following the suggestion of Gillian Rose, this general process might better be considered through the notion of '(mis)recognition'. This implies that the process of acknowledging the status of the other, of knowing and coming to know one's self through the other always involves the operation mistake, error, slippage, limitation, self-centredness and negation.⁶¹

Approaching the notion of cosmopolitan right in this manner means that we do not reduce the Hegelian position to that of merely favouring community or 'cultural rights' over the 'universalism' of European human rights. Rather, the positioning of cosmopolitan right within the process of inter-state (mis)recognition draws attention to the question of: 'how' ethical relations might develop within the sphere of the international. Through Hegel, one might consider that a universal or cosmopolitan notion such as 'humanity' gains a specific content *through* the process of inter-state (mis)recognition occurring as both an educative (Stoic, enlightenment ideal) and as a destructive (war, terror, imperialism) process.

This suggestion is perhaps not explicit in Hegel's comments on war and the inter-state relation, yet it follows on from Hegel's positioning of the notion of international right within the process of (mis)recognition. For Hegel, the

⁵⁸ On the point that Hegel puts forward a 'weak cosmopolitanism', see Bohman (2001), p 66.

⁵⁹ Hegel (1991), § 209, Remark.

⁶⁰ On Hegel's theory of recognition, see generally Honneth (1995); Williams (1997); Pippin (2000).

⁶¹ See Rose (1981).

state comes to be constituted, in part, through the formal acknowledgment of it by other states. Hegel notes that ‘individuality’ appears as the relation of the state to other states, each of which is independent in relation to others and that in this sense of independence resides the primary freedom and dignity of the nation.⁶² This independence might be said to rest in part upon the (mis)recognition of a state’s sovereignty or ‘personality’ by its others. Through the process of inter-state (mis)recognition, the state’s existence and its rights are dependent upon it having, or acquiring, a certain legal form that is accepted by its others in communion. To not have this form is similar to not being acknowledged as a legal person. It would mean not even being treated at a level of formal equality with other states, and thus the prospect of being ‘acquired’ by another state as its property or dominion.

Hegel’s account opens a perspective on the operation of the notion of sovereignty and sovereign independence, placing it firmly within the ‘perception and will of the other state’.⁶³ The status of sovereignty and the content of any rights accorded to such an acknowledgment are dependent upon the process of (mis)recognition. This involves struggles for self-certainty, naïve self-conceptions, disputes over claims to truth (political, religious, geographical), the relative positions of power, ethical orientations, abstract and limited conceptions of the world, inability to comprehend, understand and tolerate difference and so on. In this light, Hegel states:

Without relations [*Verhältnis*] with other states, the state can no more be an actual individual [*Individuum*] than can an individual [*der Einzelne*] be an actual person without a relationship [*Relation*] with other persons. On the other hand, the legitimacy of a state, and more precisely — insofar as it has external relations — of the power of its sovereign, is a purely *internal* matter (one state should not interfere with the internal affairs of another). On the other hand, it is equally essential that this legitimacy should be *supplemented* by recognition on the part of other states. But this recognition requires a guarantee that the state will likewise recognise those other states which are supposed to recognise it, i.e. that it will respect their independence; accordingly these other states cannot be indifferent to its internal affairs. In the case of a nomadic people, for example, or any people at a low level of culture, the question even arises of how far this people can be regarded as a state. The religious viewpoint (as in former times with the Jewish and Muhammedan nations [*Volkern*]) may further entail a higher opposition which precludes that universal identity that recognition requires.⁶⁴

For Hegel, the ethical relations between states can be considered in similar terms to the development of ethics within the state. Determinations of right which posit a ‘universal’ but do not pay sufficient attention to how this

⁶² Hegel (1991), § 323.

⁶³ Hegel (1991), § 323.

⁶⁴ Hegel (1991), § 331, Remark.

universal comes into being through a process of mediation are not fully adequate. In this respect, the notion of cosmopolitan right is at least partially grounded in the inter-state relation; its content is given through this relation — that is, through the social-constitutive formation of norms and obligations developed through acknowledgment, identification and struggle between differing concrete spheres of ethical life.

One example might involve the content and limitations of the notion of 'humanity', the boundaries of which are not simply given, but are drawn and re-drawn through the recognition by states of some and not others. Not only is the notion of 'humanity' contested in every moment of war but, further, its universal content comes into being through war, through the ongoing process of struggle for the inclusion of a certain content and the forcing of certain states to acknowledge a particular content. One contemporary example is the notion of the war in the name of human rights or 'humanitarian intervention'. While this is not such a huge point, it is perhaps important to understand this perspective upon cosmopolitan right as located within Hegel's account of war. It is tied closely to Hegel's criticism of Kant's third principal gesture: the establishment of an international juridical order.

Against an International Juridical Order

Hegel is critical of the Kantian conception of an international juridical order, particularly the idea of a federation of states formed in the name of peace. As to Kant's suggestion, Hegel comments:

Perpetual peace is often demanded as an ideal to which mankind should approximate. Thus, Kant proposed a league of sovereigns to settle disputes between states, and the Holy Alliance was meant to be an institution more or less of this kind. But the state is an individual, and negation is an essential component of individuality. Thus, even if a number of states join together as a family, this league, in its individuality, must generate opposition and create an enemy.⁶⁵

Further:

Kant's idea [*Vorstellung*] of *perpetual peace* guaranteed by a federation of states which would settle all disputes and which, as a power recognised by each individual state, would resolve all disagreements so as to make it impossible for these to be settled by war presupposes an *agreement* between states. But this agreement, whether based on moral, religious, or other grounds and considerations, would always be dependent on particular sovereign wills, and would therefore continue to be tainted with contingency.⁶⁶

In something of a contrast to these statements, Hegel's position might be considered as not completely adverse to the formation of greater ethical

⁶⁵ Hegel (1991), § 324, Addition.

⁶⁶ Hegel (1991), § 333, Remark.

relations between states or the regulation of state conduct under a shared system of norms and values. Hegel notes that international law is an 'ought', and that states 'ought' to observe their obligations under treaties.⁶⁷ The suggestion that international law is an 'ought' can be thought of in at least two senses. The first relates to the point made by Hegel that the obligations under international law remain at the level of mere 'obligation' in the sense of 'contracts' between parties where there exists no higher power to enforce the contractual obligation.⁶⁸ The second involves the suggestion that, in order to limit the occurrence of violence between states (or at least the manner of violence within war, the *ius in bello*), states 'should' attempt to observe their obligations to one another. For Hegel, this second conception operates within the framework that any sense of shared obligation occurs through the process of 'custom' — that is, the stabilisation of norms of behaviour between states occurring over time. This might be seen in the statement that:

The European nations [*Nationen*] form a family with respect to the universal principle of their legislation, customs, and culture [*Bildung*], so that their conduct in terms of international law is modified accordingly a situation which is otherwise dominated by the mutual infliction of evils [*Übeln*].⁶⁹

One might reconcile the apparent contradiction between, on the one hand, Hegel's critique of Kant's third gesture and on the other, the (somewhat ambiguous) notion in Hegel that states 'ought' to observe their international obligations, through Hegel's positioning of inter-state relations through the process of (mis)recognition. The Hegelian position, perhaps more attuned to the violence inherent in the formation of law and ethics than the Kantian approach, recognises that the process of the formation of any higher international law will necessarily be a violent one. This formation of an international juridical order will involve ongoing wars in the struggle for recognition and the misrecognition of international law. That is, any formation of a juridical order would be bound to the act of war in the sense that the establishment of any higher law will necessarily occur through the dual process of states coming to a higher speculative awareness and the fall into violent struggles of recognition.

In one sense, Hegel's position offers an insight, later taken up by Carl Schmitt,⁷⁰ that the imperative to abolish the condition of war and set up a federation of peace leads to the possibility of a 'war against war' — a war against those states who wish to stand outside a universal juridical order or who might otherwise 'threaten' this order. Such a situation opens on to the possibility of the federation acting as a 'political alliance' while claiming a 'universal' legitimacy under the notions of 'peace', 'international law' or

⁶⁷ Hegel (1991), § 330, Addition, and at § 333.

⁶⁸ Hegel (1991), § 332.

⁶⁹ Hegel (1991), § 339, Addition.

⁷⁰ Schmitt (1996), pp 36, 54.

'humanity' against its opponent. Further, even in the situation where the 'intentions' of a federation of states were genuine, the formation of an international juridical order would still take place within the context of inter-state (mis)recognition involving moments epistemic and hermeneutical *aporia*. This would involve moments where differing states were unable to see into, comprehend or appreciate the concrete ethical (or religious or economic) standpoint of the other. In this regard, war might be seen to occur through the failure of a state or even a 'family' of states to fully recognise another.

In another sense, Hegel's position can be explained by the level of inter-state (mis)recognition existing in his time, particularly at the level of economic relations. Hegel notes that the relations between states possess the formal nature of 'contracts' in general, and that the subject-matter of these contracts is infinitely less varied than those that exist between persons in civil society, where individuals are mutually dependent in multiple respects.⁷¹ In contrast to the sphere of civil society, he argues that independent states are concrete wholes that are able to satisfy many of their needs internally.⁷² Under Hegel's assessment, unlike the person in civil society, the state has no 'need' to be mediated with its others through a universal system of law and ethical relations due to its relative independence from its others. Further, in Hegel's time, the only 'universal' which could be said to have manifested was the institution of the state and any notion of an international juridical order existed only at the level of thought.

In this latter sense, Hegel's critique of Kant's notion of an international juridical order could be read in the context of Hegel's attempt to comprehend the notion of right in his time and not attempt to anticipate its developments in the future.⁷³ From one perspective, given the coming into being of something of an international juridical order in the twentieth century, one might argue that some of Hegel's comments upon war and international relations retain a relevance only as a commentary upon an era that we have passed by. From another, one should consider Hegel's reflections upon his era to be not so far removed from the consideration of our own.

The Usefulness of Hegel's Account of War

The importance of Hegel's account of war for contemporary times resides in an account of ethics which departs from Kantian deontology but not from moral thinking altogether. Hegel's approach offers a way of thinking about ethics in which violence is not treated as an exception, but as a substantial moment of ethical life. Granted, Kant notes well that violence — or rather, coercion — occurs *a priori* as an element of law.⁷⁴ Yet, when faced with the possibility of state war as a violence or force which is necessary to the

⁷¹ Hegel (1991), § 332

⁷² Hegel (1991), § 332.

⁷³ Hegel (1991), p 23. On considerations upon whether Hegel points towards a 'tragic' or 'optimistic' view of history, see Williams (1997), pp 357–63; Peperzak, (1994); Avineri (1972); Bohman (2001); Hicks (1999); Mertens (1995).

⁷⁴ Kant (1996), p 26.

realisation of international law, or a federation of peace, Kant is relatively silent on the status of violence in relation to international law or, more importantly, in relation to the moral law standing above positive legal institutions.⁷⁵ The Kantian ambiguity over whether violence is an element of the moral law or whether it is something external may be thought to be present within the contemporary moral or moralisation of the language of war: the acts of war condemned as morally wrong, or evil, and the moral justification of aggressive and neo-colonial wars in the name of freedom, democracy, peace and human rights.⁷⁶ Within the moralised language of war, the act of violence itself is either condemned outright or is given a limited meaning by being described as an unfortunate *means* towards the attainment of peace or moral life. Moral actors attempting to realise a moral demand in the face of opposition and the breakdown of diplomatic discussions are constantly forced to rely upon war as a means of achieving a morally legitimate end. It may simply be the case that, for moral duty within the sphere of international relations, war (given the breakdown of diplomacy or impossibility of non-violent coercion) as force is necessary. This leads partly into the paradoxical suggestion that, for moral thinking, *war is necessary to end war*.

In part, Hegel's account of war picks up on this paradox and tries to conceptually come to terms with it. In a Hegelian sense, the paradox emerges when moral thinking artificially separates violence from ethics. Such thinking conceives violence as something external to morality — a mere means which is drawn upon in exceptional circumstances. Rejecting this, Hegel's account draws upon a broader concept of ethics which conceives violence as something that is internally connected to ethical thinking and ethical life: *the violence of negativity* present within both thought determinations and human ethical action.

A certain violence of negativity can be seen to be present in the demarcation of community and the marking of the physical and conceptual boundaries of state sovereignty. It can be seen also in the operation of the categorical imperative, in which someone, something or some thought is always left out and negated in the thinker's effort to determine a universal. When one thinks of the determination of a universal in a classroom, then the violence of this negation is not so apparent. Yet, when one thinks of the attempt to determine a universal related to the distribution of food aid or anti-AIDS drugs worldwide, then the failure to account for the needs of a small

⁷⁵ Kant goes as far as arguing that in a state of nature if one party does not give a guarantee that it will live peacefully then the first may treat the second as an 'enemy'. However, Kant is somewhat ambiguous as to whether a 'threat' (to peace) or an actual 'injury' is enough to legitimate a morally justifiable war. See Kant (1991a), p 98; Kant (1996), p 170.

⁷⁶ While the just war tradition meditates upon the use and limits of the use of violence, it still perhaps also treats violence as something external to morality which is drawn upon only as a means to a moral end. See Aquinas (1988); Walzer (2000). It is doubtful whether many politicians who invoke moral arguments to justify wars really reflect much upon the status of violence as being within or outside the moral law.

province in Bangladesh or a slum in Brazil results in physical consequences in which the violence of negation is more apparent.

Hegel's philosophy attempts to hold on to this connection between the operation of negativity in thought and negativity within physical life. For Hegel, this negativity and the operation of negation occurring within both thoughts and deeds and explained by the action of recognition and *mis*recognition plays a role within the concept of ethics. For Hegel, a broader concept of ethics develops by paying attention to the operation of negativity and the violence attached to the act of negation when any body (individual or institutional) attempts to realise a moral demand or act in accordance with moral duty.

Such an account of ethics is present within Hegel's approach to the problem of war. War occurs as one form of physical violence which expresses negativity and negation within large ethical institutions. In drawing attention to the violence of law and ethics, Hegel inherits much from Machiavelli.⁷⁷ Yet Hegel moves beyond a Machiavellian conception, and also beyond a more simplistic 'reason of state' position expressed by figures like Heinrich von Treitschke,⁷⁸ by drawing attention to how a broader concept of ethics contains within it conflicting spheres of ethical life. Such conflicts playing out between the spheres of civil society and the state allow Hegel to paint a more complex picture of the violence contained within human life and of the *forms* our reflections upon violence take.

By conceiving the Kantian condemnation of war (and the subjective moral or moralist condemnation of war) as a form or mode of ethical thinking which emerges from the social and economic conditions of ethical life within civil society, Hegel is able to present an account of the ethics of war at a level of meta-ethics. For Hegel, the ethics of war refers not simply to the determination of a particular war being 'right' or 'not right'. Rather, the category of 'right' (*Recht*), which occurs as both an ethical and legal category, contains within it a number of forms or modes of valid ethical thinking which draw their existence from the material and intellectual conditions of modern ethical life. In thinking and speaking about war, these forms of right come into conflict and might never be reconciled. While Hegel's account of the forms of ethical life, civil society and the state may be historically dated, his method remains sound and remains relevant today.

⁷⁷ For an account of the status of violence in the thought of Machiavelli, see Patapan (1998).

⁷⁸ Treitschke (1963), p 31 argues: 'The state, therefore, is not only a high moral good in itself, but is also the assurance for the people's endurance. Only through it can their moral development be perfected, for the living sense of citizenship inspires the community in the same way as a sense of duty inspires the individual.' Trietschke also states that: 'Without war no state could be. All those we know of arose through war, and the protection of their members by armed force remains their primary and essential task. War, therefore, will endure to the end of history, as long as there is a multiplicity of states. The laws of human thought and of human nature forbid any alternative ...'

In summary, Hegel's development of a *broad concept of ethics* can be seen to contain within it an awareness of the violence of negativity, an account of differing forms or modes of ethical reflection which are brought into conflict by both material conditions and intellectual self-reflection, and an account of how these modes of thought are brought together through the violence of misrecognition. When thinking about the moral condemnation of war voiced by elements of anti-war protest, or the dishonest moral rhetoric of war spoken by many state leaders (Bush, Blair, Howard), or the relatively honest moral justification of aggressive war by liberal intellectuals,⁷⁹ then Hegel's broad concept of the ethics of war is worth holding on to. Hegel's account cannot give a complete explanation or deconstruction of all the facets and machinations of contemporary war. However, it opens on to a way of thinking about ethics and the ethics of war which offers a critique of particular ethical stances without dismissing the relevance of ethics altogether. If jurisprudence is to hold on to a conception of ethics which is to have any relevance in addressing the problem of war today, then it is worth looking towards a broader concept of ethics developed by Hegel.

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⁷⁹ For example, Ignatieff (2004); Rawls (1999).

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