

# Conditions for a Future Peace between Israel and Palestine\*

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## Abstract

In this paper I aim to postulate which are the conditions for a future peace—if it is at all possible—between Israel and Palestine, in the light of the events of 7 October 2023, the unprecedented attack on civilians of Israel, mostly women, elderly people and children, by members of the terrorist group Hamas, and the counterattack by Israeli forces, which, unfortunately, killed many civilians too. Taking as a starting point mainly the theoretical grounds of Kant and Rawls, I intend to discuss the conditions for a future peace between the people of Israel and Palestine, and for the establishment of the UN's proposal for two states—the State of Israel and the State of Palestine. I wish to consider whether the present events prejudice or even exclude that solution, in the short, medium and long term.

## Keywords

Peace, War, Kant, Rawls, Law of Peoples

If it is our duty to realize a state of public right, if at the same time there are good grounds for hope that this ideal may be realized, although only by an approximation advancing *ad infinitum*, then perpetual Peace, following hitherto falsely so-called conclusions of Peace, which have been in reality mere cessations of hostilities, is no mere empty idea. But rather we have here a problem which gradually works out its own solution and, as the periods in which a given advance takes place towards the realization of the ideal of perpetual peace will, we hope, become with the passing of time shorter and shorter, we must approach ever nearer to this goal. (Kant, 2023)<sup>1</sup>

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<sup>1</sup>ZeF, B 112. Kant, *Perpetual Peace*. Transl. Mary Campbell Smith. Delhi/Mumbai, India: Grapevine India, 2023.

## 1. Introduction

In the first section of *Perpetual Peace*, in the preliminary articles, art. 6, Kant dissects about the conditions for future peace, which involve abstaining from actions that make difficult or even exclude the “reciprocal trust” between the States in conflict with each other.<sup>2</sup>

The recent blatant attacks both on the part of Hamas, which, it must be said, should bear the main responsibility—in the moral, political and juridical sense—for the beginning of hostilities, in the specific case—and on the part of Israel, make difficult or even exclude future peace, or at least, the “reciprocal trust”, according to the expression by Kant.

In what follows, I will (I) make a theoretical exposition on the grounds of *Perpetual Peace*, by Kant, and *Law of Peoples* and “Fifty Years after Hiroshima”, by John Rawls. Next (II), in the light of the aforementioned theoretical considerations, I will approach the attack of Hamas against Israel on the 7<sup>th</sup> of October, and the counterattack by Israel (III), which is still occurring at the moment of writing. Finally (IV), I will evaluate the conditions for a future peace, before my concluding words.

## 2. Theoretical Grounds for a Future Peace

### 2.1. Kant

Immanuel Kant (1724-1804), as it is well known, published in 1794 the article called *Perpetual Peace* (*Zum ewigen Frieden*, more literally, *Towards the Perpetual Peace*), also known as the *Project for Perpetual Peace*. Later, this project furnished the basis, in the XX<sup>th</sup> century, for the creation, first, of the League of Nations, and then, of the UN (United Nations). Much was written on this, and it is not my intention to scrutinize here the work *Perpetual Peace* in its integrity (Rouanet, 1994)<sup>3</sup>. Therefore, I will begin with Article 6 of the first section of Preliminary Articles, already mentioned and which text I quote below:

No state at war with another shall countenance such modes of hostility as would make mutual confidence impossible in a subsequent state of peace: such are the employment of assassins (*percussores*) or of poisoners (*venefici*), breaches of capitulation, the instigating and making use of treachery (*perduellio*) in the hostile state<sup>4</sup>.

If the list of hostilities may be seen as very restricted and modest in the face of the range of weapons and tactics employed in wars that go from Crimea (1853-1856) (Rouanet, 2022)<sup>5</sup>, in the second half of the XIX<sup>th</sup> century, to the civil war in Syria, including the two World Wars, the wars of Korea and Vietnam, to mention only a few, it does however suffice to give an idea of the kind of actions

<sup>2</sup>ZeF, Section I, Preliminary articles, art. 6.

<sup>3</sup>I examined the *Perpetual Peace* in my Master Dissertation, “To perpetual peace: a study on the political think of Immanuel Kant”, São Paulo: Universidade de São Paulo, 1994.

<sup>4</sup>ZeF, Section I, art. 6.

<sup>5</sup>See Rouanet, L. P., “Between realism and idealism: The contemporary dilemma in Peace debates”, *Philosophy International Journal*, Vol. 5, 3, August 2022.

from which the States should abstain, in view of the conditions for a future peace.

An idealism by Kant transpires in the text which, strictly speaking, we could identify as naïve when it is said that “the employment of assassins” should be avoided. One could argue: who are the soldiers in a war if not assassins supported by the States, under the pretext of hostilities? But let us assume, for the sake of argument, that Kant refers here to the introduction, in the enemy State, of snipers, saboteurs and other military or paramilitary people with the goal of physically exterminating specific targets e.g. political leaders, military personnel, religious and civilian authorities in general, scientists and people involved in the manufacturing of weapons; I do not consider here civilian targets not involved in any military activity, as was the case of the recent attack by Hamas. Even so, how to stop it? How to force the States not to employ such measures? By a gentlemen’s agreement or by means of specific legislation to be implanted by a State or supranational entity? This is perhaps more akin to wishful thinking.

Looking for a generous explanation, we can think of the prohibition of some weapons and specified means through resolutions from the UN, as stated in the Conventions of Geneva (four conventions in 1949, with additional protocols in 1977 and 2005)<sup>6</sup>. In particular, the Third Article, which is common to all four conventions, reads as follows<sup>7</sup>:

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions: 1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- b) taking of hostages;
- c) outrages upon personal dignity, in particular, humiliating and degrading treatment;
- d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2) The wounded and sick shall be collected and cared for. An impartial humanitarian body, such as the International Committee of the Red Cross,

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<sup>6</sup>Cf. <https://ihl-databases.icrc.org/en/ihl-treaties/gciii-1949>. Access on January 8, 2024.

<sup>7</sup><https://ihl-databases.icrc.org/assets/treaties/375-GC-III-EN.002.pdf>. Access on January 8, 2024.

may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

It should be noted that this article has been totally ignored by Hamas in the attack of 7 October. But I will have more to say on this in the third section below.

Returning to Kant, even if we consider his formulation as exceedingly idealist, or even naïve, it promoted the elaboration of documents, conventions and treaties which try to put into practice these dispositions. Let us see now Kant's commentary on article 6:

These are dishonourable stratagems. For some kind of confidence in the disposition of the enemy must exist even in the midst of war, as otherwise peace could not be concluded, and the hostilities would pass into a war of extermination (*bellum internecinum*). War, however, is only or wretched expedient of asserting a right by force, an expedient adopted in the state of nature, where no court of justice exists which could settle the matter in dispute.

In other words, wars, which should be an extreme resource, to which the parties resort only if there are no other means by which to settle the dispute, should have limits. In war, the use of all means should not be permitted. The goal must be restricted, specific, and not with a view to absolute victory and the absolute extermination of the enemy. Such a war, says Kant, would be a "war of extermination". Is this what is at stake in the present conflict? It is worth reading the continuation of the text:

In circumstances like these, neither of the two parties can be called an unjust enemy, because this form of speech presupposes a legal decision: the issue of the conflict—just as in the case of the so-called judgments of God—decides on which side right is. Between States, however, no punitive war (*bellum punitivum*) is thinkable, because between them a relation of superior and inferior does not exist.

War should be between States not between peoples (inhabitants, population). In this sense, the citizen of another country should not be targeted, individually; only the State can be a legitimate target. A punitive war must be avoided. On this matter, it is necessary to evaluate whether the reaction of Israel in the present conflict is restricted and aims only at military or paramilitary targets, or is directed at the civilian population. In the first case, it would be legitimate; in the second case, obviously not. It must be remembered that the militia of Hamas and other terrorist groups hide in the midst of civilian populations. Targeting these locations, the Israeli army necessarily hits civilian people. It can be asked if

Israel could not avoid these attacks when involving civilians as defined by the US army's publicized rules of engagement which restrict the engagement to self-defense and specific missions against "members of enemy armed forces or organized armed groups that have been 'declared hostile'." (Ford, 2018)<sup>8</sup>

Proceeding, Kant further explains the war of extermination:

Whence it follows that a war of extermination, where the process of annihilation would strike both parties at once and all right as well, would bring about perpetual peace only in the great graveyard of the human race. Such a war then, and therefore also the use of all means which lead to it, must be absolutely forbidden.

It is clear now that the means which must be avoided are all those which do not respect the limits in the making of war, limits that will be exposed by Rawls, as I will show in the next section. As regards the "perpetual peace (...) in the graveyard of the human race", it refers to the ironical remark by Leibniz, who mentioned the existence of a tavern in the Netherlands which was called "To perpetual peace" and had a sign with the illustration of a graveyard<sup>9</sup>. In other words, is it the war of extermination that can lead effectively to that "final war", or to the great illusion (Angell, 2002)<sup>10</sup>?

And continuing the commentary, Kant further says:

That the methods just mentioned do inevitably lead to this result is obvious from the fact that these infernal arts, already vile in themselves, on coming into use, are not long confined to the sphere of war (...) and would be carried over into the state of peace, where their presence would be utterly destructive to the purpose of that state.<sup>11</sup>

So, according to Kant, even in war there must be some limits, beyond which future peace is threatened. (Rouanet, 1994)<sup>12</sup>

Let's see now what Rawls has to say.

<sup>8</sup>As quoted by Christopher M. Ford: "The U.S. military Standing Rules of Engagement (SROE) restrict the use of force in armed conflict to either self-defense or 'mission-specific' rules of engagement, which refer to the use of force against members of enemy armed forces or organized armed groups that have been 'declared hostile.' ". Available in:

<https://academic.oup.com/book/4951/chapter-abstract/147391823?redirectedFrom=fulltext>.

Access in October 30, 2023.

<sup>9</sup>First sentence of *Zum ewigen Frieden*: "We need not try to decide whether this satirical inscription (once found on a Dutch innkeeper's sign-board above the picture of a churchyard) is aimed at mankind in general, or at the rulers of states in particular, unwearied in their love of war, or perhaps only at the philosophers who cherish the sweet dream of perpetual peace".

<sup>10</sup>The "great illusion" was the illusion that there would be a war that would end once and for all the conflicts. It is the title of a book by Norman Angell, *A grande ilusão*. Trad. Sérgio Bath, Brasília: Ed. da Universidade de Brasília, Instituto de Pesquisa de Relações Internacionais; São Paulo: Imprensa Oficial do Estado, 2002. It is also the name of the masterpiece by Jean Renoir, *La grande illusion*, France, 1937.

<sup>11</sup>*Zef*, loc. cit.

<sup>12</sup>In a certain way, it is the same spirit that presides over the book by Erasmus, *Enchiridion militischristiani* (Guide for the Christian soldier), which I have examined in my PhD thesis, forthcoming: Luiz P. Rouanet, *O enigma e o espelho*, São Paulo: Loyola.

## 2.2. John Rawls

In 1995 the American philosopher John Border Rawls (1921-2002), former US combatant in the Pacific War during WW2 (Pogge, 2007), wrote “Fifty Years after Hiroshima” (Rawls, 1999b). He makes therein severe criticisms of the launching of the bombs on Hiroshima (and Nagasaki, by extension) by American forces. He tries to establish principles and limits for what can be done in war. Contrary to the doctrine that “War is Hell” and that in it all is allowed<sup>13</sup>, Rawls argues that it is necessary to limit what can be done in and at war, and also that a hierarchy of responsibilities for war must be established, going from above to below, from political leadership to the citizens, passing from high ranking military officers down to foot troops.

Let’s see. Thus begins Rawls:

The fiftieth year since the bombing of Hiroshima is a time to reflect about what one should think of it. Is it really a great wrong, as many now think, and also thought then, or is it perhaps justified after all? I believe that both the fire-bombing of Japanese cities beginning in the spring of 1945 and the later atomic bombing of Hiroshima on August 6 were very great wrongs, and rightly seen as such. In order to support this opinion, I set out what I think to be the principles governing the conduct of war—*jus in bello*—of democratic peoples. (Rawls, 1999b: p. 565).

It is a point sustained by Rawls in this paper and reaffirmed in the *Law of Peoples* that democratic people only fight wars in self-defense. Here, in “Fifty Years after Hiroshima”, he presents six principles to regulate the waging of war, outlined as follows:

- 1) “The aim of a just war waged by a decent democratic society is a just and lasting peace between peoples, especially with its present enemy.”
- 2) “A decent democratic society is fighting against a state that is not democratic. (...)”
- 3) “In the conduct of war, a democratic society must carefully distinguish three groups: the state’s leaders and officials, its soldiers, and its civilian population. (...)”
- 4) “A decent democratic society must respect the human rights of the members of the other side, both civilians and soldiers (...)”
- 5) (...) peoples who are just, by their actions and proclamations are to foreshadow during war the kind of peace they aim for and the kind of relations they seek between nations. (...)”
- 6) (...) The norms of the conduct of war set up certain lines that bound just action. War plans and strategies, and the conduct of battles, must be within their limits. (The only exception, I repeat, is in times of extreme crisis.)” (Rawls, 1999b: pp. 565-567).

So, the aim of war is to reach peace, almost an inversion of the Latin saying *Si vis pace, para bellum* (If you want peace, prepare for war). It is for this reason

<sup>13</sup>Cf. Michael Walzer, *Just and Unjust Wars*, where Walzer also criticizes this stand.

that the waging of war should have limits in order to make future peace possible.

The hierarchy of the responsibility for war is necessary in order not to condemn an entire population for the crimes committed by their leaders. Even in the extreme case of Nazi Germany, when the German government was democratically elected and had the support of the citizens—at least those who were considered as such—during its entire mandate (cf. Gellately, 2002), even in this case it is necessary to differentiate political leaders and military from civilian populations, as a means to preserve the conditions for future peace. Future generations cannot be condemned in the name of their predecessors.

Rawls bears in mind, throughout this paper, the conditions for future peace. Commenting on the principles, especially the 4<sup>th</sup> and 5<sup>th</sup>, he says: “The way a war is fought and the actions ending it endure in the historical memory of peoples and may set the stage for future war. This duty of statesmanship must always be held in view.” (Rawls, 1999b: p. 567)

It is at this point, too, that Rawls establishes a notorious distinction between the statesman and the politician:

The ideal of the statesman is suggested by the saying: the politician looks to the next election, the statesman to the next generation. It is the task of the student of philosophy to look to the permanent conditions and the real interests of a just and good democratic society. It is the task of the statesman, however, to discern these conditions and interests in practice; the statesman sees deeper and further than most others and grasps what needs to be done. (Rawls, 1999b: pp. 567-568)

In a certain way, then, even if it is not explicitly put by Rawls, government by a statesman, democratically elected preferably, and the keeping of peace, are related issues. Concerning the philosopher, he has the classical role of “Prince’s counselor”. But this is another issue, which we can put aside here.

To complete the present analysis of Rawls’s thinking on war and conditions for future peace, it is necessary to introduce the expression, and concept, of “realistic Utopia”. In his words, “(...) political philosophy is realistically Utopian when it extends what are ordinarily thought to be the limits of practicable possibility and, in so doing, reconciles us to our political and social condition.” (Rawls, 1999a: p. 11; emphasis by Rawls). In other words, according to Utopian realism (my expression, LPR), we should begin with the real, the concrete, but should not limit ourselves to it. We should not give up our ideals, our dreams, even if they seem not feasible in the short term and provoke skeptical reactions, if not derision, on the part of our contemporaries.

It is also important, for our objectives in the present paper, to understand what Rawls calls Law of Peoples and Society of Peoples. In the Introduction of the *Law of Peoples*, Rawls clarifies what he understands by this:

By the “Law of Peoples” I mean a particular political conception of right and justice that applies to the principles and norms of international law and



practice. I shall use the term “Society of Peoples” to mean all those peoples who follow the ideals and principles of the Law of Peoples in their mutual relations. (Rawls, 1999a: p. 3)

Now we have the elements to proceed to the last section in order to examine the present conflict (war) between Israel and Hamas (not to be confused with the Palestinians).

### 3. The War between Israel and Hamas

The first point I would like to make is that the conflict between Israel and Hamas is asymmetrical, in the sense that it is a war between a State legally set out on the one hand and a terrorist group disguised as a political party on the other. It is not a war between two states. If we were to suppose that the State of Palestine was already totally constituted, as established by the UN resolution of 1947<sup>14</sup>, it would still not be a war between states because Israel is not fighting against the Palestinian nation as a whole but against a radical group settled in the Palestinian territory.

What does this mean? Such asymmetry introduces a number of difficulties, especially for Israel. Hamas, as it was startlingly clear in the attack of 7 October 2023, does not refrain from all possible means—exactly the means to which Kant referred in *Perpetual Peace*, such as the use of assassins, and not just soldiers—and makes no distinction between civilians and military people, contrary to what the Conventions of Geneva foresee, in particular article 3. I call attention to lines *a* and *b* of item 1 of this article, which state that “a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;” and “b) taking of hostages” should be avoided.

In view of that, my second point is that any analysis of the conflict must begin with the unilateral identification of Hamas as responsible for the attack against Israel on 7 October. It was a cowardly attack, coldly planned for years under the guise of the “diplomatic” and political face of Hamas, made without announcement and without discrimination between civilian or military targets, or worse still, directed especially against civilians—women, little children of all ages and the elderly. There is nothing, in the previous actions of the State of Israel throughout history that remotely justifies such a crime.

The difficulty for Israel is how to cope with this terrorist group mixed in and among the Palestinian people in the Gaza Strip. As a constituted state, and with a government democratically elected—even if a controversial right wing one and with some judicial and political issues—Israel could in fact fight only against another state. It must be a war of self-defense, a condition which is satisfied, but should avoid retaliation or a punitive war, to use Kant’s expression. Therefore this puts some limits, or should put, on the action by Israeli forces. It cannot just treat as an enemy the entire population that lives in Gaza. It is the necessity re-

<sup>14</sup>It is important to mention that, at the time of UN’s resolution which planned the creation of two states, the Arabs did not accept the proposal, and Israel created its own state in 1948.



ferred to by Rawls, to distinguish between the members of the nation against which we are fighting and to attribute levels of responsibility amongst them. In the present case, Hamas must be charged with the main responsibility; as should the countries, groups or individuals who supported Hamas logistically and financially over the years.

In spite of these difficulties, and this is my third point, Israel should make an effort, as a legally constituted state, to abstain from actions that hinder or even exclude a future peace. Israel should think in terms of the constitution of a Palestinian State to have a just match, or a partner if possible, and also perhaps if it were the case, to have an adversary legally constituted, as is the case, more or less openly, with some of the nearby countries: Egypt, Syria, Lebanon, Jordan, among others. At least Israel will be competing on a level playing ground, “without relation between superior and inferior”, as Kant says. The problem in this scenario is how to justify for part of their internal population, and also for external supporters—mainly the USA—the proposal of the creation of an enemy state which does not accept in its majority the existence of the State of Israel. But this would be a problem to address later.

At first sight, in the days following the attack, I thought that this attack would postpone or even exclude the solution of the two states. I further believe that this was one of the goals of Hamas, besides its radical anti-Semitism, which focuses on Jewish individuals and not on the citizens or the country. However, on second thoughts, it seems to me that the solution of two states is the only way to establish a dialogue on a par. This would isolate and weaken radical groups such as Hamas since one of the “reasons” publicized by them as a would-be justification of the attack is the non-existence of a Palestinian State.

This will not be an easy task of course but there is no other way, except for agreement. Well, there is, but that is the way of mutual extermination, the peace of graveyard, as described by Leibniz and Kant. If both Israeli and Palestinian people really want peace they need to accept the mutual right to existence. There can be no peace for either side if they deny the right to existence of the other. Therefore, starting with the reasonable assumption that the people of both Israel and Palestine (or Gaza, for now) have the desire to live, and live well, they will need to reach an agreement. Kant has a metaphor on this that seems quite appropriate in this context. He says that some conflicts between countries are similar to two people fighting in a fine chinaware store. The only sure thing is that both contenders will have to meet in a bar next door to share the bill<sup>15</sup>.

On the Palestinian side, if they do in fact want both future peace, and we must assume that most of the population does, and also the State of Palestine, in the terms of the UN resolution of 1947 including accepting the State of Israel, they will need to fight against the terrorist groups inside their own territory that strive against such a solution.

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<sup>15</sup>Kant, “The truth of the popular saying: What is true in theory is false in practice”.

## 4. Conclusion

What I tried to do throughout this exposition was to mobilize some theoretical references which still can, in my view, support the thinking related to the issue of war and peace in the present day. Even if written as long as 200 years ago in the case of Kant, and some decades ago in Rawls's case, we can see that their writings are still valid, both in what concerns the diagnosis of the conflicts and in their proposed solutions.

The fact that their writings are still valid in the present day is not flattering to humankind, who, from this viewpoint seems not to have developed as time goes on. Concerning the second point however, the validity of the solutions reminds us that even if there is a lot to be done in this field, some of their proposals, especially Kant's proposals in *To Perpetual Peace*, bring about concrete results such as, firstly the League of Nations then the UN. In spite of their respective faults, and there were many, these institutions did contribute to control or diminish tensions between states throughout time. If these organizations did not exist we would already be in the midst of a Third World War, something we have to keep in mind as a real possibility. It depends on us as citizens of our respective countries, as members of a would-be Society of Peoples, to put pressure on our governments in order to keep peace, seeking solutions which benefit people around the world, coping with such issues as starvation, unemployment, violence and immigration among others.

Our duty as intellectuals, multipliers and opinion makers is to discuss these and other related issues, as we are doing here, putting them in the public sphere through broadcasting interviews, lectures, etc. In short, using "public reason" (Kant). Our goal must be to secure peaceful solutions, mediated by dialogue and without violence. What we can and should do is to go on, keep trying, confident that dialogue, tolerance and mutual understanding will win the day.

## Conflicts of Interest

The author declares no conflicts of interest regarding the publication of this paper.

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