

territory for understanding how the epistemic and metaphysical components of idealism and realism relate to one another).

Let me close by again emphasizing that Proops' book covers an extraordinary amount of ground, and as such, I have been able to comment only on a small fraction of it. Among numerous other topics, I have not been able to comment on such interesting (and occasionally controversial) theses as the following: (i) that Kant embraces a methodological thesis he (mistakenly) takes to be a form of Pyrrhonism (pp. 15–29); (ii) that transcendental illusion *helps* empirical inquiry (pp. 450–2); and (iii) that thinkability and logical possibility must come apart for Kant, since transcendental realism is (on Proops' reading of Kant) logically impossible but nonetheless thinkable (pp. 459–60). I hope readers will explore these and other themes in Proops' extremely valuable contribution to the scholarship, which is, as far as I am aware, the most comprehensive exploration of the Dialectic currently available.

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Reference

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Arthur Ripstein, *Kant and the Law of War* New York: Oxford University Press, 2021
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Arthur Ripstein's new book is a learned and lucid analysis of Kant on the morality of war and morality in war. I say 'morality' because Ripstein argues that for Kant the demand for perpetual peace is the culminating imperative of the doctrine of right, and he clearly regards right as part of morality. He certainly has no truck with the so-called 'independence' thesis, that is, the view that for Kant right has a foundation independent of the fundamental principle of morality – nor should he, for in Kant's view the only alternative to the pure practical reason of morality is mere prudence, and a conception of right founded on prudence would be Hobbes, not Kant. However the details are parsed, morality requires the greatest possible but equal freedom of all, or freedom in accordance with universal law, while prudence does not require equal freedom for all if some have more force than others; and worldwide freedom under law – peace – is just the genuine application of this requirement of morality to *all*. However, Ripstein is firmly of the view, which I also hold to be correct, that Kant rejects the idea that peace requires a supranational organization with its own coercive powers in favour of a non-coercive federation of republics that would essentially be a forum for the arbitration of disputes, and this does raise a definitional question, namely how can the necessary conditions for peace be part of the doctrine of right when right is defined as the coercively enforceable part of moral obligation? Ripstein does not address this definitional question, but I would say that at the cost of the strictness of Kant's definition of right it shows all the more how important it is to

understand right as part of morality: the non-coercive enforceability of the conditions of peace shows that those in the position to influence decisions of war and peace must not merely conform to morality but must ultimately be motivated by morality itself; they must be what Kant calls ‘moral politicians’ rather than ‘political moralists’ (TPP, Appendix I, 8: 377).

I also say morality ‘of’ and ‘in’ war, because a major part of Ripstein’s argument is that Kant addresses the morality of both *jus ad bellum* and *jus in bello*, that is, the justice – which is to say morality – of engaging in war at all, or going to war, and that of the conduct of war once a state has become involved in one. His analysis is that Kant’s ‘preliminary’ articles in the exposition of *Toward Perpetual Peace* in the form of a treaty provide the rules for *jus in bello*, as conditions for the conduct of war with an eye to the necessity and therefore the possibility of future peace, while the ‘definitive’ articles, while not explicitly formulated as rules governing the morality of engaging in war in the first place, do concern necessary conditions for avoiding and ultimately eliminating war. Ripstein’s work is unusual for the attention that it gives to the preliminary rather than definitive articles of the treaty of perpetual peace, and is particularly valuable for this reason. One of his central arguments is that the rules for *jus in bello* expressed in Kant’s preliminary articles govern all belligerents in war, regardless of who may have started the war and whether their cause might be considered just or unjust: a state that may have unjustly started a war of aggression is certainly not liberated from the rules for the just conduct of war by that fact, but neither is a state that is justly fighting in self-defence thereby given permission to violate the rules that might make an ultimate, conclusive peace possible – the prohibitions of insincere treaties of peace, the maintenance of standing armies and national debts, the forcible interference in the ‘constitution and government of another state’, let alone the forcible acquisition of the whole or part of vanquished states, and the use of ‘such acts of hostility as would have to make [future] mutual trust impossible’, such as the use of assassins, breach of treaties, and incitement of foreign nationals to treason to their own countries (TPP, 8: 343–7; Ripstein, chapters 4 through 7). The ultimate realization of peace is the final duty of right among nations, therefore the culminating moral obligation of nations, and even in the imperfect times before the eventual realization of that goal all nations stand under the moral obligation to make it possible, as a necessary condition of making it actual.

Another distinctive feature of Ripstein’s book is his argument that Kant’s position on the morality of initiating war can be interpreted as, and was intended as, a criticism of both the ‘just war’ theory of St Thomas and Jesuits such as the Salamanca theorists Francisco de Vitoria and Francisco Suárez and the ‘regular war’ theorists of the ‘sorry comforters’ such as Grotius, Pufendorf and Vattel (TPP, 8: 355; Ripstein, p. 7) – and, one might add, although of course Kant could not have known his work and perhaps for that reason Ripstein does not mention him, Carl von Clausewitz, whose famous statement in his posthumous *On War* (1832) that ‘war is the continuation of politics by other means’ sums up the ‘regular war’ tradition. The ‘regular war’ tradition is that war is just the means that nations voluntarily agree to use to settle disputes when other means have failed, and is morally justifiable because nations agree to it as a means to settling disputes, while the ‘just war’ tradition holds that war is justifiable only when it is undertaken with the aim of correcting injustices in an opposing nation, although in such a situation each nation must be the

judge of the justice of its own cause. On Ripstein's interpretation of Kant, only self-defence is a justifiable ground for undertaking war, although Kant himself may interpret self-defence broadly enough to allow pre-emptive strikes against threatening aggressors rather than having to wait for the aggressor to strike the first blow. But, again, even a nation rightly fighting in self-defence against an unjust aggressor is still governed by the rules for *jus in bello* expressed in the preliminary articles of the treaty for perpetual peace.

Ripstein's interpretation of Kant's position as directed against the regular as well as the just war tradition distinguishes his work from the earlier book by Howard Williams (full disclosure: Williams is the editor of this journal), *Kant and the End of War: A Critique of Just War Theory* (Basingstoke: Palgrave Macmillan, 2012). As Williams' subtitle makes clear, he considers Kant's position only as a critique of just war theory. Ripstein's recognition of regular war theory as part of Kant's target is an advance, although oddly for a book with otherwise thorough scholarship, Ripstein does not mention Williams' book (although he does cite an article by Bernard Williams at p. 167, n. 25!). Both authors go too far in distancing Kant from the just war tradition, because, as Williams himself makes clear, at least Vattel clearly recognized that self-defence is *one* of the just causes of war (Williams, p. 49, citing Emmerich de Vattel, *The Law of Nations* (1758), book III, chapter III); indeed, what Vattel actually says there is that 'The right of employing force, or making war, belongs to nations no farther than is necessary for their own defence and for the maintenance of their rights'). Kant's real advance is not that he recognizes self-defence as the *only* just cause of war, but that, as Williams extensively and convincingly argues, he does *not* allow intervention to correct perceived injustice in another country, at least insofar as that other country has anything approaching a functioning condition of justice. Ripstein focuses on Kant's opposition to colonialism (chapter 8) rather than on his opposition to interventionism, a difference perhaps due to his having written his book further in time from the interventionist second Iraq and Afghanistan wars of the US and allies than Williams did. Williams also emphasizes Kant's insistence that nations not be the judge of their own causes but must submit their disputes to an international forum for arbitration as a distinction; this is indeed a genuine advance over Vattel.

Apart from this issue of whether the difference between Kant and just war theory is as complete as Ripstein (as well as Williams) makes it sound, I find most of Ripstein's work compelling. But here are two points that I think worthy of at least further discussion. First, Ripstein presses the idea that Kant's argument in his doctrine of right is intended to be entirely formal rather than material, or *a priori* rather than empirical, and thus derives his – correct – conclusion that Kant is committed to a strictly non-coercive federation of republics from the premise that each member state in such a federation 'is entitled to independence as a system of public law', from which it is to follow that no state can ever be rightly coerced to remain in the federation, *a fortiori* to abide by its rulings (p. 226). This insistence on a strictly formal character to Kant's arguments seems to me to overlook Kant's clear statement in the Introduction to the *Metaphysics of Morals* as a whole that both our juridical and our ethical duties arise from the *application* of the, to be sure strictly *a priori*, fundamental principle of morality, valid for all rational beings, to the specific circumstances of human existence, which can be known only empirically – such as the obvious but still contingent facts

that we humans are embodied, that we need the use of external objects beginning with land to survive and that we cannot avoid contact with each other on the finite surface of a terraqueous globe any point on which can be reached from any other (6: 217). This means that empirical considerations do properly enter into the derivation of the duties of right for us human beings. I would contend that a central part of Kant's argument for a non-coercive federation of republics is that a coercive federation would not be *needed* because the citizens of genuine republics would be much less likely to vote for war than an absolute monarch would be to undertake war for their own expected benefit. Kant clearly and in my view properly expresses this argument in the probabilistic language of something known empirically rather than *a priori* (TPP, First Definitive Article, 8: 350).

Second, although I think that Ripstein is right not to interpret Kant's conception of 'cosmopolitan right' as broadly as some other authors have, I think he may still go beyond Kant in his defence of a right to asylum. All that Kant himself says about cosmopolitan right in the Doctrine of Right is that it requires 'a thoroughgoing relation of each to all others of *offering to engage in commerce* with any other, and each has a right to make this attempt without the other being authorized to behave toward it as an enemy because it has made this attempt' (§62, 6: 352). That is, each has a right to present himself at the borders of other states with an offer to engage in commerce (which should be understood broadly, not as restricted exclusively to trade in goods) without fear of punishment for so doing (as is unfortunately not presently the case in the US), but also with no guarantee of admission. Ripstein correctly interprets this right as following from the innate right of every human being to be *sui juris* and beyond reproach, that is, to be subject to no punishment except for actual wrongdoing (p. 241, see Doctrine of Right, Introduction, 6: 237). But I think he goes further than Kant himself does when he adds that the 'right of refuge' is a 'juridical right, the right to be a member of some rightful condition somewhere' (p. 253), in other words, that everyone has a right to citizenship in a just state which places an obligation on all others to satisfy this right. This does not mean that anyone has a right to be admitted to citizenship in any state that they might happen to prefer to their present one for any reason, but does mean that people fleeing some territory the governance of which falls below some minimal standard of justice do have an absolute right to demand citizenship somewhere else. To me this seems to go further than Kant's claim in *Toward Perpetual Peace* that one who peaceably presents himself to another country with an offer of commerce can be turned away 'if this can be done without destroying him' (TPP, Third Definitive Article, 8: 358): this says that someone threatened with death if he returns home may have a right to asylum, but not someone threatened with some lesser harm. Ripstein's position may be preferable to Kant's, but it is surely more demanding than Kant's.

These are just issues that I would love to discuss further with Ripstein. On the whole, his beautifully written and thought-provoking book should be required reading for every student of Kant, political philosophy and international affairs.

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