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From Where Can War be Thought?

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Abstract

What is the importance of the perspective “from which” war is seen and studied? what consequences derive from its changing (e.g. thanks to legal rules and social institutions)? The perspective question can be instantiated by the modern dichotomy state of nature-civil society, and beyond war it is extensible to related concepts like “security”. When war is conceived as the authentic ontology of States’ relations, peace is an “empty” space incapable to offer any standpoint. The last decades developments show the “new” capability of a “peace standpoint”, a greatly institutionalised normative dimension offering different meaning to the common space. Once achieved this point of view, not only war ceases to structure an ontological dimension, but it can hardly be appealed to for its alternative “constructive” (or re-shaping) function in the era of terrorism and nuclear menace.

Keywords

Legal Philosophy – International Law – Political Theory – International Relations – Theories of War
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1. The opposition between peace and war is also a fracture between two visions of the world: war as a human condition vs. war as the denial of (the preconditions for) human coexistence, which is only preserved through peace. In the first hypothesis, war appears to mark the historical evolution of mankind, while times of peace are white pages. It represents the conflict that originates development, and although it is not the "hygiene of the world", it is a cyclic resource that redefines equilibriums and overcomes peace homeostasis. Peace is seen, in this case, as nothing more than an "interval" between two wars.

War remains the main characteristic of status naturae, which marks relations among States, the sign of an anomic world that revolves around the reality or the potential of wars. It seems an ontological condition of States, and for this reason of mankind as well; when it is not fought, it represents, at any rate, the cognitive viewpoint from which the sense of political reality can be grasped.

The vision of peace opposes this way of looking at the world and represents a radical overturning of paradigm, within which relations between men build or rebuild what war can only destroy, and enhance the obscure or invisible time of consolidation, of growth, the "white pages" that are in fact densely written, although without the chapters of

* This article re-elaborates on my contribution to the biennial Italian meeting of Legal Philosophy held in Sept. 2006 (Acta to be published as a volume on “War and the Road to Peace”, forthcoming 2007).

1 For a first example of the most simple and concrete character (and role) of the “perspective”, we can recall Carl Schmitt: e.g. when he writes that some temporary military activities in the thirties of ‘900, are “transitional and temporary formations between open war and true peace; they acquire their significance against the background of the possibility of total war and a quite understandable caution dictates the staking out of certain intermediate spaces [Zwischenräume]. Only in this perspective can they also be understood according to the international law.” (my Italics) (C. Schmitt, “Totaler Feind, totaler Krieg, totaler Staat,” in Positionen und Begriffe (1940), 236, cited by C. Schmitt himself in Id., The Theory of the Partisan: A Commentary/Remark on the Concept of the Political, transl. by A. C. Goodson, East Lansing: Michigan State University Press, 2004, p. 77 (ft 50). (German edition: Theorie des Partisanen : Zwischenbemerkung zum Begriff des Politischen, Berlin: Duncker & Humblot, 1963, p. 82).
catastrophe. War becomes, in this case, a "threat". Theoretical hypotheses mindful of peace, think of the state of nature as a state pre-historical to be abandoned. Whatever this latter “state of nature” is, war sums up its current or potential limits and it is at the basis of the imperative of modern natural law doctrine: *exeundum e statu naturae*. According to John Locke, the hypothesis of war forces to create an authority\footnote{J. Locke, *Two Treatises of Government*, ed. by P. Laslett, Cambridge 1988, II Treatise, chapter 3 (*Of the State of War*), pp. 278 ff.}; Kant believes that the prospect of “perpetual peace”\footnote{I. Kant, *Perpetual Peace and Other Essays on Politics, History and Moral Practice*, ed. by T. Humphrey, Indianapolis (In) 1983.} expresses the rational sense of mankind existence, which is incompatible with the state of destruction and brutalisation that war generates, as denial of humanity. War is considered an “evil”, no longer a condition for the human being; Kant believes that an evil is not only fought war but also war as the vantage point where to perceive of the world from; i.e. war as a *Weltanschauung*, under which the collective life eternally appears to focus on it or oriented to its preparation.

2. In the theory of international relations as well, war and peace are not just two “events” but two visions of the world: the Hobbesian and Kantian visions are examples of this\footnote{For a general reference see I. Clark, I. B. Neumann (eds.), *Classical Theories of International Relations*, London- New York 1999 II ed. See in particular essays by C. Navari on Hobbes, by B. Kingsbury on Grotius and H. Bull, by H. Williams and K. Booth on Kant.} and together with other visions they nourish conceptions of international relations that represent as many points of view from which it is possible to “know” the world.

By re-elaborating the “realistic” theory, Kenneth Waltz sees the structure of the international system\footnote{K. Waltz, *Theory of International Politics*, New York 1979, esp. pp. 79-128.} as intrinsically anarchical, static, power-prone and focused on self-defence; he believes that all this inevitably leads to the “self-interested” behaviour\footnote{For a general analysis of the meaning of the term, see Stephen Holmes, *The Secret History of Self Interest*, in J.J. Mansbridge (ed.), *Beyond Self Interest*, Chicago 1990, pp 267-286.} of States. On the contrary, the opposed vision of an international world regulated by norms and institutions is not based on the idea of war as authentic expression of sovereignty and of self-interest, but rather on the view that peace is not at all an anomic dimension. The latter vision is logically incompatible with the former one: rather than making reference to the “naturalistic” principle of the essential possibility of war, it explains the path of international politics on the basis of normative and institutional aims. In order for war to cease representing the ontological condition for international relations, the basic assumption of realism (which however cannot be conclusively founded) that States are all “genetically” determined in the same way must be rejected: although they enjoy sovereign equality\footnote{On the value of this category see B. Kingsbury, *Sovereignty and Inequality*, European Journal of International Law, 9 (1998), pp. 599-625.} under international law, they are different one from the other. This difference means that they manifest different roles and aspirations in the
international confrontation, something that seems to largely depend on the nature of their internal political regime\(^8\) (according to the division: liberal-democratic or not). Therefore, the “kantian” inclination of States to be factors of peace, of equilibrium, or of civilisation in international relations, could be seen as a possible consequence of the political constitution (republican in the kantian sense and democratic) of each individual protagonist\(^9\). As Bonanate wrote, “from accepting this approach, a theoretical path-breaking consequence derives: anarchy is not the original condition, but it is caused instead by the wrong behaviour of (some) States. It does not descend from the nature of international relations”\(^10\). It should be noted that not only the political regime per se, but also normative commitments made within States are important, as highlighted by Peter Kazenstein\(^11\).

Another observation is that international relations do not only implement sets of practices as instruments of self-defence as well as risk and uncertainty reduction: actors are not only rational and “selfish” and are capable of shaping even some sort of “morality” system, related to the obligations they assumed: these obligations become morally autonomous and self-standing, detached from the instrumental reasons from which they might have originated\(^12\).

In this international context, “institutions” are “persistent and connected set of rules, formal and informal, that prescribe behavioural roles, constrain activity, and shape expectations”\(^13\). In any case, the institutionalist theories show that even if the rational

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\(^11\) With reference to the different foreign security policies adopted by two countries that had shared common or parallel experiences in the 20th century (authoritarianism, war, defeat, economic development, democracy): “Germany’s active involvement in the evolution of international legal norms conveys a conception of belonging to an international ‘Grotian’ community. Japan’s lack of concern for the consequences of pushing terrorists abroad and its generally passive international stance is based on a ‘Hobbesian’ view of the society of States” (Peter Kazenstein, *Cultural Norms and National Security: Police and Military in Postwar Japan*, Ithaca 1996, p. 154).

\(^12\) How to explain the moral profile assumed by the respect for rules within international “regimes”? Robert Keohane called this tendency “empathetic interdependence” and expressed his hope that the “possibility” that international actors “may be interested in the welfare of others, both from empathy and from principle” may also be explored (R. Keohane in Mansbridge, *op.cit.*, p. 236).

and interested nature of States is assumed, there is a relationship between that interest and peace, and no longer just between interest, strength and war.

3. With reference to the content of peace – given that there are “social” contexts in the international realm, given that the “system” shows characters of actual interaction between States and other fundamental actors, it is very difficult to interpret behaviours exclusively according to natural law paradigms, which purely depend on coercive impulses. This is an aspect that scholars within the stream of “constructivism” highlighted, for instance by drawing attention to the social building up of the “identities” of individuals and of States as well, to the point of maintaining that these latter are not just pre-constituted, cannot be pre-supposed, but are the result of a progressive inter-subjective conformation.

In this context, reference should be made to the quality of regulated relations, not just to their quantitative structure; to the relationship between these rules and the principles to which relations are qualitatively inspired, not just to the rules that discipline behaviours.

All this leads us to see legal norms and therefore international law as an order not alien to or in contradiction with the world of international relations. The world built through constitutive social and legal rules differs from a world that can only be explained by

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17 A reference to “principles” emerges, significantly, when John Ruggie defines multilateralism “an institutional form that coordinates relations among three or more states on the basis of generalized principles of conduct: that is, principles which specify appropriate conduct for a class of action, without regard to the particularistic interests of the parties or the strategic exigencies that may exist in any specific occurrence” (Ruggie, Multilateralism: the anatomy of an institution, in Paul Viotti and Mark V. Kauppi eds., International Relations Theory, Boston (Allyn and Bacon) 1999, p. 335. (Also in J. Ruggie (ed.), Multilateralism Matters: The Theory and Practice of an Evolutionary Form, New York (Columbia U. P.) 1993).
means of the ultimate factors of power and war. The observation that “almost all nations observe almost all principles of international law and almost all of their obligations almost all the time” still has its importance. With reference to international law as well, the question becomes not if, but rather why States in general tend to obey its rules.

One of the main convictions that emerged in international law and that was defined by its rules is the one that stresses the notion of responsibility. The extent of such a notion depends on the impossibility to escape interdependence and as a consequence on the difficulty to honour responsibilities towards their peoples by sovereign States that follow a strategy of absolute disengagement, without any connection to the common action of others. The extent of the notion of responsibility is therefore to be focused as a place of crossroad between external and internal behaviour. Connection and engagement with other actors seems the only way to strengthen the hope of exerting a control on peace in general and on fundamental issues such as the environment, terrorism and economic prosperity in particular. Therefore the responsibility of States emerges both as an external issue (towards the other peoples) and as an internal issue (towards one’s “people”).

It is not by chance that the theme of “responsibility to protect” was highlighted with great emphasis by the UN Secretary General and was recently re-elaborated by the “High Level Panel on Threats, Challenges and Change” created by the UN, in a report with a meaningful title: A More Secure World: Our Shared Responsibility.

This Report assumes that problems and threats do not originate only from States, according to a rather outdated vision of the world scenario, but also from transnational actors that undermine general security: security does not only relate to the “political” border of States but also directly to human beings. On the other hand, according to the High Level Panel, the fact of assuming the status of “signatory States” of the UN Charter redefines the meaning of their sovereignty (something that the International Commission on Intervention and State Sovereignty began to affirm in 2001 in “The Responsibility to Protect”).

Therefore sovereignty does not only refer to the exercise of state control over a given territory, but implies the assumption of a responsibility, which is formulated in terms of “duties”. On the other hand, the High Level Panel, as aptly observed by Anne-Marie

Slaughter, goes beyond such a result: it deprives States of their intrinsic value, assuming that they have, rather, an instrumental value in the protection of their citizens. For this very reason they are bound by obligations towards the international community: this draws a clear separating line between States that are absolutely autonomous in the westphalian world and States that symbolically (and metaphorically) “go out of” that “state of nature” by becoming part of the UN community.

The two scenarios are different, and they imply radically different epistemic perspectives. In the latter scenario, which is “governed” by rules, sovereignty is no longer the frontier of a self contained and self standing subjectivity, to be protected as an ultimate value. It is rather, as said above, a “conditional sovereignty”.

On the one hand, the theory of international relations was able to recognise, in addition to war, a set of principles generating the relations and obligations that structure the world of States. In the meantime, international law has shifted from its role of “containment”, which limited its sense within the field of attraction of war (a centripetal force in a world ordered by the ultimate nature of westphalian sovereignty), to a normative structure for peace. Peace is no longer the “negative” of the ontological war between state actors, but a complex pattern rich in content: international law represents its normative manifestation, in which, as we have seen, the legal order goes as far as depriving sovereign power of its very character of unquestionableness. This issue was already underlined, though in “pure” legal terms with a view to a civitas maxima, in the analysis of the problem of sovereignty made by Kelsen as early as 1920.

If one can look at sovereignty from the viewpoint of its dependence upon the legal and social international order (and not vice versa), one can also look at war from the point of view of peace, a perspective that is epistemologically forbidden as long as international relations are considered (from a deterministic or natural law viewpoint) the place of “bellum omnium contra omnes”.

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24 Lee Feinstein, Symposium, Commentary by Experts, Northwestern University Journal of Intl Human Rights, 4 Dec. 2005, pp. 39 ff., and pp. 10-11: “In the face of the genocides of the 1990s and later the Security Council rupture over Iraq, the older ideas about sovereignty began to yield to newer ideas, in which a state's sovereign rights are a function of its behavior. The High-Level Panel speaks to these issues very eloquently, even if some of its members may disown these points. The first principle of conditional sovereignty is the idea that sovereignty entails rights as well as responsibilities. A government's first sovereign responsibility is to its people, to protect them from grave harm, atrocities, and crimes against humanity. If a state fails to live up to this primary responsibility, through acts of omission or commission, it cannot expect to enjoy the full benefits of sovereignty. The corollary principle is that when a state fails to live up to this fundamental responsibility, other states have a duty to take action to spotlight, prevent, or stop the oppression. By action I mean everything from diplomacy to economic pressure and, if necessary, the prompt use of force”.

4. Although the subject of war seems to be regulated by its own laws, separated from everything from which war stems (life, social order, political order), our view on war, the perspective from which we tend to analyse it, must not necessarily be a view from nowhere.

In the natural-law based tradition, a dual concept parallel to that of “peace-war” is represented both on the epistemological and on the analytical plane by the couple “state of nature-civil society”. In this case, terms refer one to the other, exactly as it should be in the case of peace and war. According to natural-law theorists, it is possible to re-conceive anew the civil society state only from the vantage point of the state of nature. Although the state of nature hypotheses can be interpreted as a claim to a view from nowhere, subtracted to the partiality of viewpoints that any current history would propose, the mutual reference between the two terms reveals that in fact the state of nature coincides with a well defined “mental” place: it contains the necessary premises, the best logical foundations, neither neutral nor abstract, for a determined ethical and social project.

Modern natural law doctrine would deny that even its state of nature perspective is itself inescapably historical, instead of offering a supposed tabula rasa. But the state of nature ends up showing it possesses an identity, it indicates a foundation and it represents a solid and concrete ubi consistam.

Likewise, today we should not view war ignoring that it represents, to say the least, an epistemological and hermeneutical dual concept with peace; to put it more clearly, we should recognise that perhaps, contrary to the many accepted theories, studying and understanding war is only possible from one point of view, i.e. peace.

In the natural-law doctrine, the state of nature “functions” as an element of rational argumentation. It is the internal definition of the structure and contents of the state of nature that determines the physiognomy of the designed civil state, both as an instrumental, rhetoric, logical-argumentative expedient and in ideological, political, constructivist, organisational terms. The natural-law doctrine views civil state or outlines it by previously making reference to the state of nature. This relation is neither a way to “ennoble” the civil and political project of a “just” society, nor a path towards the legitimisation of political obligation upon the laws of nature. It is a statement of sense: the sense of the state of nature (as a theoretical notion) is providing us with the preliminary conditions for understanding and building up of something like the civil society state. Certainly a state beyond war, so to speak.

Spinoza\(^\text{26}\) reminds us that peace can be thought as the “absence of war” or as a different qualitative state, a wanted state, a virtue in positive terms. The sense of the relation within the dual concept peace-war is often underestimated. Instead, war is “understandable”, in fact, if we see it from the point of view of the peace we are ready

\(^{26}\) B. Spinoza, Tractatus Politicus: “For peace is not mere absence of war, but is a virtue that springs from force of character” (ch. V, sec. I /4). (For an English ed. see Political Treatise, transl. by Samuel Shirley; introduction and notes by Steven Barbone and Lee Rice, Indianapolis (Hackett Pub.) 2000.
to obtain. The meaning of war, if it has one, can only be revealed if we also define the idea of peace we have in mind.

The “problem” of war is not purely strategic or military, it is not an issue “internal” to war itself; it rather seems to be translated into the problem of the peace we had before and of the peace we want afterwards. Looking at war from this perspective does not imply at all the impossibility to think of it, but rather that of overturning its relation with history: war is indeed a parenthesis between two periods of peace, not vice versa. Although deontological pacifism has good reasons to reject war in every case and at all costs, others refuse to resign to peace, when this latter is considered deprived of justice; despite the fact that peace is the only project that law should be able to support (Kant), war was often necessary as a last resort against oppression, or according to Hans Kelsen as an international “sanction”\footnote{On Rechtsmaessiger Krieg in Kelsen, see a reconstruction that includes the main points of the many controversies on this concept, by Carlo Nitsch, Paradigma Bellum Iustum. Un itinerario nella riflessione internazionalistica di Hans Kelsen, Archivio Giuridico, 2005, pp. 513-578.}; today it causes a fracture among international lawyers and political theorists, who draw inspiration from the UN Charter itself either to claim absolute unlawfulness of war or its lawfulness under pre-defined conditions.

Although war lost – according to many- the features that were ground for establishing its ethicality\footnote{See, most recently, the book by U. Staico, La guerra giusta: fine di un’ideologia?, Roma 2006.} (its being “just war”, in the ethical sense), for others it remains potentially justifiable and a subject to be dealt with within the logics of the “lesser evil” (Ignatieff).

Despite the fact that war remains, for every realist thinker, simply the internal logic of the natural anomy of international relations, our conception of peace is apparently prior and provides the vantage point from which war must be studied: because the conception of peace and the imagined ways to peace are notions capable of revealing how we perceive the use and aim of war; they alone can reveal what war really is, what are the underlying elements of war, which purposes should ever show it as “inevitable”.

The “peace prospect” is the only consistent critical point of view which explains explicitly what a war can be about, and whether its claims of rightness and its objectives are permissible, just, true, from whichever ideology, philosophy, strategy. The peace prospects, then, can unveil the lie of war. If Carl Schmitt’s warning, according to which “those who say humanity, are lying”, is still valid, then another statement might be considered as one which also applies: those who say war, are lying.

5. A similar logic can be used, mutatis mutandis, for the concept of security (internal and international security). When security is mentioned, one presupposes an intuitive and general idea, considered uncontroversial. The core of both discussion and analysis concerns the ways in which security can be guaranteed, the limits that are defined by law to the reach of such an objective, the constraints and the balance with other primary social values, the borders where the fulfilment of security objectives must stop, in any case. The potential for safety imperatives to violate the protective network...
of fundamental rights, with special reference to human and civil rights, assumes primary importance.

However, not even the concept of safety depends on a view from nowhere. The universal and “neutral” notion of security is naïf and inadequate, at least to the extent of that of “war” (when conceived abstractly, unrelated to “peace”). The internal content of security, instead, is extremely important. It is known that from Locke and Hobbes one can infer different concepts of security.

The question that sciences of security analyse essentially concerns the “levels” of security and therefore the quality and standards of the guarantees that different instruments are able to offer. However, there is also a different front: which security prevails over other social values? The security of “what”, of which life model, of which goods is worth prevailing over the life of the opponent-enemy, or over freedom rights of individuals? And finally, all benefits, all goods that form part of our lives should be protected by means of the absoluteness of the concept of security?

We can imagine that the civil organisation and the institution of public power have the purpose of protecting minimum goods, such as life or the simple “peaceful” order, or maximum goods, which include additional values that belong to a given society, its economic model, its constitutional faith, etc.: John Locke offers many elements to reconstruct this latter alternative, distinguishable from the hobbesian one to which reference is made more often. A model that can now be drawn from Locke is that of the trust between subjects and their sovereign, which founds the social project upon the respect of demanding qualitative prerogatives, individual goods and political resources.

It assumes, therefore, that the whole structure, the whole liberal-democratic patrimony should be guaranteed, should be ensured by the sovereign, as well as representing the justification for his power and for the shift to the civil state itself. The whole set of tick standards is entirely not-doggable. It is therefore to be entirely secured.

This model, however, is at the origin, on the one hand, of the idea that any prerogative of the privileged status quo of Western countries falls under the ideological “protection” of security and on the other hand, of the idea that the consistency and indivisibility of the normative contents of such a model prevent a “dull” and absolute security from being put before the respect for those same constituent values of tolerance, freedom, democracy, both towards citizens and “strangers”.

Those who imagine a global world based on the hobbesian state-of-nature model should accept instead, for the sake of consistency, that in such universe (conceived as a sort of picture—enlarged to States—of the societal pattern, of the relations between individuals, according to the recurrent domestic analogy) the logic of interest and power cannot provide but a spartan security, aimed at the recognized hobbesian objectives, the survival of society, order and the cure of the fear for death.

The Hobbesian concept of security, therefore, relies exclusively on the imperative of social survival, whereas the lockean idea of security defends a much wider set of

advantages and faculties related to the most demanding needs of liberal democracies. This is why an unspecified reference to the concept of security can become misleading: it can conceal choices that do not always appear equally worthy of being safeguarded individually as part of a minimum vital whole.

The common language about “security” diminishes the importance and neutralises the specific content that every “security” defends, by making reference to a generic right to the moral intangibleness (which precedes the legal one) of the own spheres of individuals, groups or States.

Today, fundamental questions are on the forefront, concerning the content to be given to security, which costs can be imposed upon the “others” and which costs “we” should bear ourselves: without this previous moral “unveiling”, the confrontation between universality of rights, civil liberties, and priority of security appears abstract.

The indefiniteness of the concept of security derives from its general meaning and from the fact that its content cannot be determined impartially, since its appreciation solely depends on the “directly interested parties”. The concept of security also appears as a public good, which however can be socially determined due to tolerable insecurity, which in turn is not only socially identified, but also socially generated. Therefore, the concept of security, seen as a universal key for legitimisation (of all those behaviours which are intended to pursue “security”), includes at the same time the limitations to freedom denounced by US citizens during the fight against terrorism over the last few years, the decision of the Security Council to freeze the patrimonies of long lists of people who were simply “suspected”, as well the pretension of the current Iranian government to enrich uranium: officially for energy reasons, interpreted by the Western world as an attempt to increase the country’s power, whereas the Iranians see them as national security issues.

As in the case of relations between peace and war, and now also in the case of domestic or international security, relations defined between terms appear decisive. On the other hand, peace remains an unquestionable universal value, which however must be

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31 Important cases on this issue were examined by the EC Court of First Instance, such as case T-306/01, Yusuf & Al Barakaat International Foundation v. Council and Commission, and T-315/01, Kadi v. Council and Commission. About these two cases, see Ch. Tomuschat's comment in “Common Market Law Review”, vol. 43, n. 2 (2006), pp. 537-551. On the possibility to exert a control over the powers of the UN Security Council that affect the personal conditions of individuals, see Enzo Cannizzaro, Machiavelli, the UN Security Council and the Rule of Law, Global Law Working Paper 11/05, NYU School of Law. As Cannizzaro wrote, the Court of First Instance recognises that the powers of the Security Council should be limited by the respect of Jus Cogens and it admits that national courts can verify the validity of UN Security Council decisions that violate the Jus Cogens. However it excludes that the Jus Cogens includes “the right of individuals to have recourse to an impartial and independent tribunal against measures affecting their individual legal position, which is expressly laid down in the major human rights conventions on the universal and on the regional plane” (ivi, p. 18).

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defined: it can be distorted in the terrible silence of Polyphemus' cave, as in the pax romana: "ubi desertum faciunt, pacem appellant". Security and peace can be defined in many ways and have many possible contents.

Their indefinite character relates, therefore, to the character of the notion they rely upon, an abstract concept which is therefore capable of universality. In this way it keeps its moral strength: however, the purpose of political and legal analysis is restoring the link between such concepts and what they are ideally or materially connected to, or opposed to (peace and war, security and rights, civil state and state of nature), relating their critical potential to their capacity of unveiling, from time to time, the roots and context of the viewpoints, which are never abstract or olympic.

6. To conclude, the same notion of war should be placed on a plane of historic concreteness. Even accepting to reason within the paradigm of realist theories, self-defence and the logic of power could not and cannot be taken for the apology of war as the ultimate goal.

War is not represented as a good in itself, the ultimate objective, but only as the logical structure necessary within international anarchy for the exercise of sovereignty. War is not an end in itself, but rather, even according to realists, the way of being for the world of States; moreover, the reasons for war are not occasional or pathological, but rather the expression of an existential relation. Carl Schmitt identified this relation in the friend-enemy dual concept, as well as the inter-subjective relation as political relation.

The well-known relation stressed by von Clausewitz, between war and politics, is defined by Schmitt as an ontological unity: this ontological continuity between war and politics takes different forms (in politics or in war), marked by the same underlying logic.

If war is not an end in itself, but rather the intimate logic of political-type social relations among States, it has a precise relation with the nature of the world order, it is a sort of recourse to the supreme decision for the manifestation or re-production of the order. War produces new forms of social political order, and redefines the scenarios of coexistence, though along the lines of the friend-enemy dual concept.

However, the evolution of the world as well as that of technological capacities and the appearance of non-state actors in the scenario of international conflict, seem to deprive war of its once current meaning. The effort to understand war through peace, i.e. through the idea of which social relations the war should produce, does not seem either epistemologically or critically prone to any success. This happens when it becomes impossible to see peace as the outcome of every war, when “the” war changes nature, so

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32 See C. Schmitt, The Theory of the Partisan, cit., (cfr. footnote 1, supra) at p. 35 (German ed.: pp. 55-6):”What Lenin learned from Clausewitz, and he learned it well, was not just the famous formula of war as the continuation of politics. It involved the larger recognition that in the age of revolution the distinction between friend and enemy is the primary distinction, decisive for war as for politics. Only revolutionary war is true war for Lenin, because it derives from absolute enmity. Everything else is a conventional game”. 
much so that it represents a type of conflict that cannot be “won” and maybe not even “concluded”. This is highlighted by changes in war, up to the XX and XXI centuries.

The risk of nuclear conflict and global terrorism promote a change in paradigm that deprives war of the possibility to be what it should be: it removes its ultimative character. When the hypothesis of a nuclear war emerges, war cools down, it denies itself, and actors are no longer able to stake everything. The nuclear conflict and terrorism deprive war of its traditional identity and prevent it from being conducted sensibly. Its “solemn” functions disappear: i.e. functions related on the one hand to the chivalrous confrontation between sovereign States and on the other to the affirmation of a “final” dominium, and therefore to the purpose to “re-order” the world, to undergo the cyclic redefinition of the “sense” of international political reality. War, instead, threatens nuclear destruction, or an endless repetition and dissemination, in forms totally uncontrollable by States, through terrorism.

This situation has recalled to many the words of Carl Schmitt’s, _Theory of Partisan_, were he addresses the “absoluteness of the enmity” as it is conceived by the new fighting figure of the “partisan”: “In comparison with a war of absolute enmity, the contained war of classical European international law, proceeding by recognized rules, is little more than a duel between cavaliers seeking satisfaction”.

The no-return character of nuclear war and of the war of or against terrorism radically change the scenario: the idea that a war can be “won” appears deprived of any reasonable meaning. It used to indicate a point of finalisation, a closure and a process of reformulation, represented by the cathartic power of violence and destruction, which however were considered capable of stopping within foreseeable limits.

Nuclearisation and terrorism, though different, render out of place one of the most recurrent expressions of the last twenty years, such as “winning the war in Iraq”. If politics could have represented the prosecution of a war with other means, today it is not. War is all but a “continuous form of politics”: its political meaning is, in any case, dispersed, inhibited by the no-return effect and by the impossibility of a “victory”; it is hampered by the incapacity of war to express an existential order, to put an end to itself, to generate a “form”. To day, the result of war seems instead the denial of whatever forms, the perpetuation of violence, both in the terrorism stage and in that of nuclear desertification.

33 Schmitt, _Theory of Partisan_, cit., p. 36 (p. 56). What is behind this is however the ontological character of the relation toward enemy. “It really is something rare, indeed improbably human, to bring people to the point of renouncing the discrimination and defamation of their enemies. For it was precisely this that was now again called into question by the partisan.” (Ivi, p. 64 ; original ed. p. 92). Under this perspective it is still war the point of view from which war is cognizable, and the self-referential discourse prevents us from critically apprehend what the war means or what its sense would be from the perspective of something else, i.e. of peace, which peace, which order, which kind of “existence”. This would require to conceive of peace itself as an existential meaningful “connoted” place, as I said in the pages above.