

第十五單元：歐盟法與生命對話 歐盟法研討會

列強權力衝突間的緩衝區政經策略

EU Conflict Management , the Strategy of Politics and Economics in “Neutral Area” within Conflict of Super Powers

On perpetual Peace
Emmanuel Kant Philosophy of Peace

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□ 伊曼努爾·康德 有兩種東西，我對它們的思考越是深沉和持久，他們在我心靈中喚起的讚歎和敬畏就會越來越歷久彌新，一是我們頭頂浩瀚燦爛的星空，一是我們心中崇高的道德法則。他們向我印證，上帝的法則在我頭頂，亦在我心中。《實踐理性批判》
(Kritik der praktischen Vernunft)



Wisdom of Kant

- 美是道德的象徵
- 世界上祇有兩樣東西是值得我們深深景仰的，一個是我們頭上的燦爛星空，另一個是我們內心的崇高道德法則
- 祇有善的意志才是道德的真正試金石
- 自由不是想做什麼，就做什麼；自由是教你不想做什麼，就可以不做什麼
- 道德確實不是指導人們如何使自己幸福的教條，而是指導人們如何配享有幸福的學說
- 自由即自律
- 教育之目的就在於使人成為人
- 一個人沒有信心，第二天都不想起床
- 我已選擇了一條路，將要終身實行；我要繼續我的事業，任何事都不能加以阻擋

Eternal Peace

- The universal and lasting establishment of peace constitutes not merely a part, but the whole final purpose and end of the science of right as viewed within the limits of reason.

Eternal Peace (1795)



康德 論永久和平

▣ 《論永久和平》（*Zum ewigen Frieden*），或譯《永久和平論》，是德意志哲學家康德的一篇著名論文。論文分為兩個部分，闡述了康德關於國際社會如何保持和平的法哲學理論。第一部分 關於各個國家之間的永久和平預備條款

「任何和平條約如果在簽訂時保留了在將來發動戰爭的隱蔽的可能性，則不應認為是和平條約。」

「任何一個獨立自主的國家，不論大小，均不得由另一個國家用繼承、交換、買賣或贈送的手段收為己有。」

「常備軍應當逐步完全廢除。」

「國債不應當用於國家對外鬥爭方面。」

「任何國家都不應當用暴力干涉其他國家的憲法和政府。」

「任何國家在與他國交戰時，都不應當採用那些必定會使在未來和平條件下建立互相信任成為不可能的敵對行動，諸如向交戰國遣派刺客，撕毀投降書，策動叛變，等等。」

1. 共和制 Republican constitution
2. 自由國家的聯邦制 Federal free and equal relationship
3. 世界公民法應依據普遍受到友好對待原則 Cosmopolitan Universal hospitality

第二部分 國家之間永久和平的正式條款

- ▣ 第一項正式條款：每一個國家的公民憲法都應當是共和制（Republican）
- ▣ 第二項正式條款：國際法應建立在自由國家的聯邦制之上
- ▣ 第三項正式條款：世界公民法應依據普遍受到友好接待的條件加以限制
- ▣ 附加條款 三項關於永久和平的保證
- ▣ 第一部分的六項條文從消極方面（negative）鼓勵締結和平合約，並藉此逐步使常備軍失效，進而廢除常備軍。第二部分則積極（positive）且明確地要求共和制的公民憲法、聯邦主義為基礎的國際法，與世界公民權。值得注意的是，康德並不認為建立一個「世界政府」是可行的。他希望以共和制國家的聯合來實現國際社會的持久和平。康德提出的國際永久和平思想，在面世後反響平平，卻在之後深刻影響了現代國際法和外交準則。國聯、聯合國，都被視作是康德理論的某種嘗試，而正在進行中的歐盟的實踐，則更證明了康德理論的生命力。但是，康德「民主國家間不會發生戰爭」的論證被一些學者質疑。當代某些熱衷推廣民主的組織也往往以康德的理論論證他們工作的必要性。
- ▣ 《論持久和平》看似是關於國際政治的理論，但其實它和康德的道德哲學一脈相承，都體現了理性對行為的約束力。如果將本文放入康德的哲學體系中，不難發現它是康德關於個人、國家的實踐理性理論的進一步提升。

1. 共和制 Republican constitution
2. 自由國家的聯邦制 Federal free and equal relationship
3. 世界公民法應依據普遍受到友好對待原則 Cosmopolitan Universal hospitality

In his three definitive articles, Kant foresaw three basic elements of:
republican democracy

“1.The civil constitution of every state should be republican;
league of nations: federation of free states

“2. The right of nations shall be based on a federation of free states”,
and universal hospitality

“3. Cosmopolitan right shall be limited to conditions of universal hospitality”).

In the first supplement, he reflects on the role of nature guaranteeing perpetual peace while the second supplement contains a “secret article for perpetual peace”. Finally, in the appendix, Kant reflects “on the disagreement between morals and politics in relation to perpetual peace” as well as “on the agreement between politics and morality under the transcendental concept of public right”.



第一項正式條款：每一個國家的公民憲法都應當是共和制 (Republican)

1. Every citizen is free
2. Every citizen is equal
3. Every citizen is equal before the law
4. Law is unique law which is constituted and codified under the mutual content of all citizens

Immanuel Kant and his Treatise of “Eternal Peace” (1795)

- Every nation must be so organized internally that ... the people who pay for it have the decisive voice as to whether or not there should be war”. In this democratic system of rule, “succeeding generations ... will be able ... to make ever more progress towards bettering themselves”.
- Kant concludes that given the insecurity in an anarchic system and the high costs for “the preparation of defense that often makes peace more oppressive and destructive of internal welfare than even war can never be relaxed” the only remedy is a state “of international [law] ... based on public laws backed by peace brought about by a so-called balance of power in Europe is a mere figment of imagination”



- So perpetual peace, the ultimate goal of the whole right of nations, is indeed an unachievable idea. Still, the political principles directed toward perpetual peace, of entering into such alliances of states, which serve for continual *approximation* to it, are not unachievable (DR, § 61).



- In the theory about what the relation among men and nations ought to be that derives from the principle of right and that recommends to the earthly gods the maxim always so to proceed in their conflicts that such a universal cosmopolitan nation will thereby be introduced, and thus to assume that it is possible (in praxi) and that it can exist. At the same time I also trust ... in the nature of all things to compel man to go where he would prefer not to.



- Kant was no pacifist who opposed armed forces for defence. He called for a militia system for the defence of the homeland. This is a reference to the “Bill of Rights” (1776) that in Art. 13 declared “that standing armies in time of peace should be avoided as dangerous to liberty”. The militia system does not pose a threat. For Kant:
- The state of peace must therefore be established, for the suspension of hostilities does not provide the security of peace, and unless this security is pledged by one neighbour to another ..., the latter, from whom such security has been requested, can treat the former as an enemy .



TOWARD PERPETUAL PEACE

- Kant argues for a stable peace among states. In order to achieve this goal, he suggests that states join together in order to constitute a league of nations.
- Nations, as states, can be appraised as individuals, who in their natural condition (that is, in their independence from external laws) already wrong one another by being near one another; and each of them, for the sake of its security, can and ought to require the others to enter with it into a constitution similar to a civil constitution, in which each can be assured of its right (PP, 8: 354).



- This would be a league of nations, which, however, need not be a state of nations. That would be a contradiction, inasmuch as every state involves the relation of a superior (legislating) to an inferior (obeying, namely the people); but a number of nations within one state would constitute only one nation, and this contradicts the presupposition (since here we have to consider the right of nations in relation to one another insofar as they comprise different states and are not to be fused into a single state). (PP, 8:354)



- In accordance with reason there is only one way that states in relation to one another can leave the lawless condition, which involves nothing but war; it is that, like individual human beings, they give up their savage (lawless) freedom, accommodate themselves to public coercive laws, and so form an (always growing) state of nations (*civitas gentium*) that would finally encompass all the nations of earth. But, in accordance with their idea of right of nations, they do not all want this, thus rejecting *in hypothesis* what is correct *in thesis*; so (if all is not to be lost), in place of the positive idea of a world republic only the negative surrogate of a league that averts war, endures (PP, 8: 357).



- So perpetual peace, the ultimate goal of the whole right of nations, is indeed an unachievable idea. Still, the political principles directed toward perpetual peace, of entering into such alliances of states, which serve for continual *approximation* to it, are not unachievable (DR, § 61).



The 7 things you can't talk about in China

- ❑ Universal values: freedom, equality, human rights.
- ❑ Freedom of speech: The CCP sees control of public discourse, particularly the media, as crucial to its hold on power. But the spread of social media has radically undermined party control, and the press has begun to show more independence in speaking out.
- ❑ Civil society: What does the CCP have to fear from “civil society,” meaning community groups and non-governmental organizations? Well, from the party’s perspective, any organization — whether a student association or a spiritual exercise group — that is not controlled by the CCP is potentially a threat.
- ❑ Civil rights: No surprise here. Given that the government regularly jails and relentlessly harasses lawyers who defend the legal rights of petitioners, peasants and women forced to have abortions, there is no doubt that individual rights are a taboo subject.
- ❑ The historical errors of the CCP: For years, the party has tried to enforce selective historical amnesia, teaching students about the suffering of China under Western colonial powers in the 19th century, but skimming over many of the country’s worst 20th-century traumas, which were caused by CCP misrule.
- ❑ Crony capitalism: Over the last year, few things have infuriated Beijing as much as the foreign reports about the immense wealth amassed by China’s supposedly socialist leaders. The reason is obvious: the CCP justifies its rule by pointing to China’s incredible economic growth. If Chinese people begin to believe party officials and their friends have been pocketing too much of the profits, their credibility frays.
- ❑ Judicial independence: In China, some 99 per cent of criminal cases brought to trial end in conviction. As with the media, the CCP sees the courts as an arm of its control. In 2007, a Chinese legal official said that “the power of the courts to adjudicate independently doesn’t mean at all independence from the party. It is the opposite, the embodiment of a high degree of responsibility vis-à-vis party undertakings.”



Danke !
Lukas

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