



**University of
Zurich** ^{UZH}

Institute of Philosophy

Doctoral Programme: "Philosophy – Language, Mind, and Practice"

Master Class

**Power's Tribute to Reason:
Kant and the Law of War**

Arthur Ripstein

University of Toronto

17th – 18th November, 2017

Synopsis

Morality and international law address the horrors of war by imposing two types of restrictions on killing in war. The first is that a nation is only entitled to use force against another nation if it has a just cause. The second is that the same rules apply to both sides in a war, regardless of who was in the right: most significantly, soldiers on both sides can be deliberately killed but civilians cannot. These two ideas seem to be inconsistent: the first says that (at most) one side is entitled to use force; the second that both sides are. Since the 16th century, philosophers, international lawyers and political leaders have tended to subordinate one of these ideas to the other.

This course draws on Immanuel Kant's legal and political philosophy to develop a systematic account of how these ideas of war fit together. Kant argues that a special morality governs the permissible use of force. He characterizes war as barbaric, because in war might makes right – which side prevails does not depend on who is in the right. The very thing that makes war wrongful also provides the appropriate standard for evaluating the conduct of war, and the only basis for law governing war.

Kant's analysis of war begins with an account of the relation between the state and its own citizens. Wars are fought between states, and Kant's account of the purposes for which a state may act, and the demands that it may place on its citizens, have important implications for both the grounds and conduct of war. War requires rules because its results are determined by force. This very possibility opens a space within which questions of right can arise. For Kant, all questions of right depend on the use of acceptable means, rather than the ends for which they are used. The acceptable means for conducting a war are identified by considering the means that are forbidden even in the case of defensive war. Kant also argues that war must be fought in such a way as to be consistent with future peace: the very thing that makes war barbaric is the basis of the morality that governs it.

We will start by looking at Kant's conception of right, with a specific focus on the public nature of a rightful condition. We will then consider the grounds for going to war, focusing on national defense, then at the moral principles governing the conduct of a war, including the doctrine of discrimination, which prohibits force against noncombatants, and the prohibition of perfidy. We will then turn to two issues of justice after war: the acceptable terms of a peace and the restriction of cosmopolitan right.

Programme and Readings

Friday, 17th November, 2017

9:00 – 12:00: Overview: War as a Problem of Right

Kant, I.: *The Metaphysics of Morals*, 6:229–239, 311–324, 339–342.

Ripstein, A.: Just War, Regular War, and Perpetual Peace.

Suárez, F.: *Of War*, Disp. XIII, Sec. 1.

Grotius, H.: *The Rights of War and Peace*, book III, chapter 3.

13:00 – 15:30: Going to War: *Ad Bellum*

Kant, I.: *The Metaphysics of Morals*, 6:337–355.

Kant, I.: Perpetual Peace, 8:343–360.

Ripstein, A.: Property and Territory.

Ripstein, A.: National Defence.

de Vitoria, F.: *On the Law of War*, “Just Causes”.

16:00 – 18:00: Rules for War: *In Bello*

Summary of the Geneva Conventions and their Additional Protocols.

Kant, I.: Perpetual Peace, 8:370–386.

Kant, I.: On a Supposed Right to Lie from Philanthropy.

Ripstein, A.: *In Bello*, Symmetry I.

Saturday, 18th November, 2017

9:00 – 12:00: Noncombatant Immunity

Ripstein, A.: *In Bello*, Symmetry II.

Lauterpacht, H.: The Limits of the Operation of the Law of War, pp. 211–216.

McMahan, J.: Laws of War.

14:00 – 16:00: *Post Bellum*

Ripstein, A.: Kant’s Juridical Theory of Colonialism.

Margalit, A.: Decent Peace, pp. 214–223.

16:30 – 18:00: Cosmopolitan Right and Perpetual Peace

Ripstein, A.: Cosmopolitan Right and Republican Freedom.

Registration: phd@philos.uzh.ch

Details: <http://www.philosophie.uzh.ch/doktorat/meisterkurse.html>

Venue: Philosophisches Seminar
Zollikerstrasse 117
8008 Zürich

Room: ZOA-E-14

No fees apply. Participants are expected to have read the texts.

PhD students at the UZH are required to book the module in order to get credit points.