TERRORISM, WAR, AND PEACE[1]

JÜRGEN STOLZENBERG
University of Halle (Germany)

Abstract

The article tries first to analyse the different use of the concept of war made by George W. Bush with reference to the terrorist attack of 09/11 and to the invasion of Afghanistan. In order to do this, the paper will start from an analysis of the concept of terrorism itself and from the question whether terrorist acts can be designed as acts of war. It turns secondly to the more philosophical aspects of the question of terrorism, war and peace, starting from questions about the applicability of just war theories to the so called "war on terrorism" and discussing finally what is called "The Kantian Project", that is the Kantian arguments for the establishment of "eternal peace" among the states of the world.

Key words: terrorism – (just) war – peace – international relations – Kant

"Nun spricht die moralisch-praktische Vernunft in uns ihr unwiderstehliches Veto aus:
Es soll kein Krieg sein".
Kant, *Metaphysik der Sitten*.

If one talks about *War and Peace* in our present day, one has to talk about *Terrorism*, too. Since the 11th of September 2001, questions about terrorism and war have arisen with new vigour. One day after the 11th of September 2001, George Bush declared the destruction of the *Twin Towers* to be an *act of war*: "The deliberate and deadly attacks which were carried out yersterday against our country were more than acts of terror. They were *acts of war*".

Shortly after this, Georg W. Bush used the concept of war in yet another respect. Bush stated that the struggle against Afghanistan and the Taliban were "*a war against terrorism*". This formula was accepted by leading politicians abroad and by the international press. Four years later, in August 2005, Bush repeated that the United States were "*at war* against an enemy, who had attacked us on the 11th of September." (SZ, 8.8.05, S.1) Is this true?

This question may be more easily asked than answered. What is at stake here is not only a question regarding the right use of a certain concept in our daily life; it is a highly complicated question concerning a wide range of problems which belong to politics, to jurisprudence, especially to the law of nations, and to ethics. Therefore, it is impossible to give an answer which will be satisfying in all respects.

In what follows, I shall first try to analyse the use of the concept of war in the two respects just mentioned. After this I shall turn to the more philosophical aspects of the question of terrorism, war and peace, discussing what one has called "The Kantian Project", that is the Kantian arguments for the establishment of "eternal peace" among the states of the world. The very first step, however, should be an analysis of the concept of terrorism itself. Therefore, my first question is: What is terrorism?

1. The concept of terrorism

If one follows recent overviews in scientific literature on terrorism, more than one hundred current definitions of "terrorism" can be found. This may be considered as a mirror of the conceptual diffusion in our days, arising, in part at least, from the polemical nature of the contexts in which the concept is used. One of the most comprehensive definitions, collected and published by the *Terrorism Research Center in the USA* is the following one: "Terrorism is the illegitimate use of force or violence against persons or property in order to intimidate or compel a government, the civil population or parts of them in pursuit of political or social aims" (Coady (Meggle) FN1).

Though this formulation, published by the *FBI*, may be regarded as a helpful attempt to define the concept of terrorism, it needs some further explanation. First, it says nothing about the actors. But it should do so. The actors can be a single person, a group or collectives, as well as organisations, institutions and their networks, and even states or a coalition of states. Secondly, it must be emphasized that those who are the direct addressees or victims of terrorist attacks are as a rule innocent. Though this aspect is not really necessary for the definition of 'terrorism', it is true and it should be noticed that the effect of a terrorist act depends on this very point: They are the more effective the more innocent people are murdered or violated.

Another aspect of the efficacy of terrorism is the unpredictability especially of international terrorism: Everybody must face the fact he may fall a victim to a terrorist attack. So, in August of this year the Al-Qaida-terror-network threatened Great Britain with new attacks "with hundreds of thousands of dead" (SZ). The future attacks, as the representative of Osama Bin Laden, *Aiman al-Sawahiri*, said, would put the attacks of the 11th of September in the shade. (SZ) This, of course, is one of the most horrible aspects of terrorism. Saying this, I am aware of leaving the mere analysis of the concept of terrorism and pronouncing a value judgment, a judgment, however, which needs no further explanation.

So far this description of the concept of terrorism which will be clear enough for our present purpose. Now, I shall turn to the question, whether the terrorist acts can be called "acts or war".

2. Are terrorist acts acts of war?

Again, I quote an argument which can be found in scientific literature, but which seems less well-known, at least in German discussions on this head. Many lawyers hold that the attacks of New York and those of London are cases of murder and – I quote the statement of *Christian Tomaschat* – "a murderous act against the civil population of a country is not an act of war, but very simply a crime, for which the actors are to be arraigned" (Zan. 123,12/13). As to the reasons for this statement they refer to the differences between the characteristics of the international terrorist attacks and traditional wars. Wars, according to the classical understanding, are large-scale activities of a country or society, which by means of organised violence are intended to realise political aims which are generally known before. These were the wars among states of the 18th and 19th century, regulated by certain generally

accepted rules, as were the "total wars" of the 20th century. Wars represent the power of a state or of an alliance of several states; terrorist acts, on the contrary, are committed by individual persons or groups. Wars are armed conflicts, declared and carried out in an offical way, whereas terrorist acts are underground actions. The aim of traditional wars is to be superior to the enemy either with regard to the force of arms or the technology of war; hereby, victims among civil populations are not intended, they are considered – and accepted – as "collateral damage". Terrorist acts are purposely directed against civil populations. Finally, traditional wars are or were usually limited with regard to time and space, whereas terrorist acts take place at unexpected places and the duration plays no real role. With regard to this conceptual picture one must conclude that terrorist acts are by no means acts of war.

Clearly, such reasons may be responsible for a certain wariness of using the concept of war which one may notice even in the case of *Donald Rumsfeld* or the US-Chief of Staff *Richard B. Myers*; the latter may be quoted as follows: "If you are speaking of a war, then you suppose that people in uniform are the solution" (SZ). In place of a military solution Myers argues for a diplomatic and economic one, and the challenge, as he says, should be held to be more a political than a military one. George W. Bush till today constantly rejects these arguments.

One of the reasons for using the term "war" with regard to terrorist acts may be described as follows. It concerns change in the national politics of safety. In the light of the resolution of the *East-West-Conflict* violent conflicts from outside the western world gain a new significance. Using the word "war" expresses this new situation where safety politics are threatened and the danger to the western world from terrorism is increasing. Therefore one may say, naming terrorist acts "acts of war" there are tactical or rather psychological reasons at play. It can be understood as a *topos of earnestness*, which emphasizes the significance of danger both to one's own country and to the whole western world.

Obviously, it is this sense which *Colin Powell* had in mind in an interview he gave the 13th of September: "We are speaking of war", he said, "as a way of focussing the energy of America and the energy of the international community." (Zan.123,14) The political consequences, however, are no less severe: Speaking of *war* with regard to terrorist attacks amounts to justifying *war against terrorism*. But *is* there a justification at all?

3. The "Just War" against terrorism?

If one tries to answer this question, the problem may be interpreted as the classical question whether a war is just or unjust. Therefore, it seems worthwhile comparing the main aspects of the classical theory of the just war with our present problem. As is well known, there are two different parts which establish the criteria for a just war: the first part explains the *ius ad bellum*, the second part concerns the *ius in bello*. With regard to these traditional topics it can be shown that the war against terrorism and especially the war against Afghanistan and the Taliban cannot be called a just war.

The *ius ad bellum* involves the following criteria:

1. A war must be declared and there must be a reason to justify violence.
2. The war must be the "ultima ratio".
3. The success must be probable.
4. The expected gain must justify the damage.

For the *ius in bello* on the other hand we may name the following criteria:

1. Violence must be necessary to achieve the intended aims.
2. Violence must not be intended against innocent people.
3. There must be no great collateral damage e.g. no severe injury or death of great numbers of innocent people.
4. Violence must not cause more damage than the original crime would cause or has caused.

I cannot discuss here the numerous problems and difficulties which are connected with these topics. For our present purpose it is sufficient to state, that the murder of thousands of innocent people can be considered as a sufficient reason to justify violence against the enemy, since in terms of damage done it is the equivalent of an armed attack. If one takes into account that the first attack on the *World Trade Center* organized by Bin Laden took place in August 1993 and was followed by the attacks on the embassies in Tanzania and Kenya in 1998 and on the US war-ship in the harbour at Aden in October 2000, then in the present case there seems to be sufficient justification for self-defence and for preventive self-defence, too.

With regard to the second criterion of the *ius ad bellum*, however, one may ask whether the war really was the *ultima ratio*. Many governments in other parts of the world - among them Germany -, could not see this. There are good reasons for claiming that the story about the existence of a great arsenal of chemical arms was not true at all and that it was fabricated in order to provide a strong "ultima ratio" in the sense that there was genuine danger of these weapons being deployed against the population of the western world.

As to the third criterion, the condition of *probable success*, it cannot be said that the success could have been estimated as problable, if by 'success' one means the destruction of the basis of terrorism. In 2001, as today, it was known that the terrorists operate on a widely scattered basis and that they are in rather loose contact with the Al Qaida-Centres, if at all. In our days, one can say that the Al Qaida has become no more than a misty idea. But that does not mean that the terrorist danger is banished; on the contrary, its worldwide diffusion has increased the imminence of danger dramatically – *this* is one of the 'successes' of the war against terrorism! Therefore, instead of having destroyed the source of terrorism the war destroyed the hated Taliban Government (which the USA had supported earlier) and guaranteed the presence of US-Army soldiers in an economically important country. But the struggle and the murder of innocent people continue.

Finally, it does not seem evident that *the expected gain justified the damage done*. Would one really claim that the destruction of the Taliban Government, *without* having found Bin Laden, justifies 20.000 dead, the devastation of the country and the destruction of civil life?

If one considers the *ius in bello,* the picture is not very different. Thousands of innocent people were killed, the USA used thousands of "cluster bombs" which did not explode and till today constitute a serious threat to the civil population; they used depleted uranium bombs to destroy the bunkers of the Al-Qaida-members; they did not observe the laws concerning the treatment of victims and finally, they attacked not only the bases of the terrorists but the Taliban-Government itself. Thus, the so called "war against terrorism" violated the *ius ad bellum* as well as the *ius in bello* in nearly all respects.

This analysis, however, though it may look rather convincing, cannot be satisfying. The reason is that in the field of the modern law of nations the theory of "the just war" is no longer recognised. Today, instead of discussing the idea of a *just* war one has rather to examine the idea of a *justified* war, and that means the question of the use of force *in accordance with the law of nations*. Therefore one has to examine the conditions under which the use of force is permitted by the law of nations and to compare them with our present problem. This is the next step of my paper.

4. Justified war and the *Law of Nations*

Let me once again start with a quotation. Shortly after the 11th of September the Security Council characterised the attack in its famous Resolution 1368 [I quote] "like any act of international terrorism as a threat to *international* security and the peace of the world." There is no doubt that this declaration refers to a collective response *under the guidance of the UNO*, as laid down in *Chapter VII* of its Charter. The threat referred to, however, leads to another declaration. I quote: "The Security Council admits the *inherent right of individual or collective self-defence* in accordance with the Charter".

Obviously, this amounts to permitting an immediate reaction on the part of the attacked state, and clearly it was this permission which the USA claimed for their political and military activities. Accordingly, on the 14th of September 2001, the Congress authorised the President to use any necessary and suitable means of military force (Tal.105). But exactly here lies the problem. According to *Article 51* of the UNO-Charter, the right to immediate self-defence is guaranteed, if a state is the victim of an "armed attack", but [I quote the decisive passage] "until the *Security Council* has taken the necessary steps for the preservation of world peace and international security" (Art 51, S.2 2. HS).

Here, there are at least *three different problems* which need a discussion. The first, however, seems to be less crucial. It concerns the use of the concept of *armed attack* with regard to the terrorist acts. To get this point clear, it should be noticed that the Security Council after the 11th of September avoided speaking of an "armed attack", but rather preferred the formula of a "terrorist attack" A terrorist attack is defined as an armed attack by *private persons* which according to the law of nations is *not* an act of war. According to the law of nations *acts of war* are armed attacks by *a state* or

organs of a state. If one admits, however, that the two aeroplanes were used as arms and that the damage done was equal to that resulting from an armed attack, then it may be accepted that the terrorist attacks can be considered as a sort of armed attack. This, by the way, is the accepted opinion in scientific literature, too (Tal.143).

But, and here arises the second problem, the terrorists acts were *not* executed by *a state or by an organ of a state*. If there is such an attack, then it is recognized as a sufficient reason for the right of self-defence of a state. The Al-Qaida, however, cannot be considered as an organ of a state, say of Afghanistan or the Taliban. The Al-Qaida must rather be classified as a private international organisation of terror. Following the leading scientifique opinion even the fact that the Taliban clearly supported the Al-Qaida cannot be a sufficient reason for ascribing the attacks to the Taliban. Following a statement of the *FBI*, there were no signs that states did *directly* or *essentially* contribute to the attacks of the 11th of September (Tal.152). One may add that since Afghanistan in the view of the USA did not possess a recognized government, it was neither able to act in a political sense nor could it made responsible for the attacks. Therefore, the problem lies in the question whether a terrorist attack like this is to be considered as a *sufficient* reason for a counter-attack using military force.

If you recall the declaration quoted above, there is no doubt that the right to self-defence of the attacked state is *classed next after* the authority of the collective system of defence of the peace of the world and international security. Here lies the third problem: This means – and here I may quote one of the leading lawyers and interpreters of the UNO-Charter – that it is only "for the *Security Council* to decide whether, and on what conditions, to authorize the use of force against specific states", which "protect, tolerate or promote" the action of terrorist organisations (Zan.129). And it should be emphasized, that the right to self-defence is bound by the rules of the traditional law of war, too. One of these rules provides that self-defence must occur immediately after attack – but only *until* the collective security system takes up its work.

But as you know it was George W. Bush who took up his work in forcing the Security Council either to accept his politics against Iraq – or to exposure the Security Council to ridicule. So, the members of the Security Council accepted the communications of the USA and Great Britain on the 7th of October 2001, that they had decided to use military force against "Usama Bin Ladens's Al Qaeda terrorist organization and the Taliban regime that is supporting it"(Tal. 161). The General Secretary of the United Nations declared in his press-conference referring to these communications: "The Council discussed it and did not seem to object to the discussions they had." (Talm. 161) It is a matter of fact, however, that the Security Council in neither of its Resolutions *authorized* the USA to armed counter-attacks – and the USA never appealed to the authorisation by the Security Council.

What does this mean with regard to the standards of the Charter of the United Nations? Most of the interpreters agree, that this development is to be understood as a sign of a change of paradigm with respect to International Law (Tal., Zan.). The change consists in the following facts: firstly, that the terrorist attack itself was considered to be a sufficient reason for military actions; secondly, that for the first time *private* agents, carrying out *terrorist* attacks (and not a *state*, carrying out an *armed* attack)

were held as aggressors, and finally that the right of reactive self-defence was enlarged into the right to a *preventive* self-defence.

On 19th September 2001 Chancellor Gerhard Schröder, in agreement with other national representatives in the *United Nations* expressed precisely this thought in his address to the German Parliament (Bundestag):

> "In the fundamentally important resolution 1368 the *Security Council of the United Nations* has unanimously declared that the terrorist attacks in New York and Wahington constitute, in the terms of the resolution, "a threat to world peace and security".

The United Nations Security Concil has thus undertaken an enlargement of the law of nations. Up till now an armed attack was defined as the armed attack of one state on another. With this resolution – a step of decisive importance – a legal basis in the realm of international law has been created which allows decisive action including military action to be taken against international terrorism"[2].

The 11th of September therefore has been called "the Big Bang of a new right to self-defence" (Tal.167) in International Law.[3] Now, should one say as the proverb states: "Hard cases make bad law"? It is in my opinion difficult to deny that there is a real danger that the power-orientated interests of individual states particularly those of the major powers receive special treatment. And there is the danger, as Jürgen Habermas casting a critical eye on the politics of George Bush pointed out, that the moral-political standards and ethical values of an individual state have a strong influence on deciding what has to be done or not done in a concrete situation but that this state may force other states to accept its decision.

Avoidance of just such a situation was among the reasons for establishing the United Nations after the experiences of the Second World War. According to Habermas, the politics of the Bush-Government and its pressure upon the the Security Council amounted to the abandonment of the idea that the international Law of Nations is superior to particular national systems of government and law. In doing so, and here again I quote Habermas, "the Bush-Government abandoned the 220-year-old Kantian project of putting international relations under the rule of law and substituted the use of mere moral phrases".

Habermas's remarks on the "Kantian Project" and the relation to the United Nations, however, need further explanation. Obviously Habermas is referring to Kant's famous writing *On Eternal Peace* ("Zum Ewigen Frieden") from the year 1795 and its political significance at the present day.

5. The Kantian Project

Many historians of the modern period agree that Kant's „Philosophical Sketch" *On Eternal Peace* must be considered as the conceptual basis for the foundation of the *United Nations* in 1945. This basis is the Kantian thesis that the political conditions for establishing a lasting peace among sovereign

states require the establishment of a world-wide peace agreement which would regulate the relationships among nations by law. Article 1 of the Charter of the United Nations gives the basic aim, i.e. the establishment, preservation and development of world-wide peace. In Article 2 the prohibition of violence, i.e. the eradication of war is declared as belonging to the jurisdiction of the Organisation. "There shall be no war" is according to Kant in his theory of world citizenship the "irresistible veto of the moral practical reason and the goal of a legal relationship among the nations". (MS, VI, 354). After the failure of the League of Nations in the Second World War the United Nations was the first attempt to institutionalize the Kantian veto internationally and on a legal basis. In the following concluding reflections I would like to show that in spite of the historic gulf separating our own global political situation now and that of Kant's time we can use the arguments which Kant has developed for the constitution of a law of the nations concerning peace and find a criterion in the philosophy of law for the assessment of the present global situation. More than this, it will become clear what a spirited defence of the Kantian Project can mean today in our present world situation and in relation to the constitution of the United Nations.

Of decisive importance here is the argument used by Kant to establish the "Second Definitive Article for Eternal Peace", the central piece of his book. This Article is framed in the following terms: "The law of the nations is to be founded on a federalism of free states". Kant's argument operates with an analogy between states and individuals. Individuals in their natural condition, i.e. a condition of "freedom from any constraints of law from without" can, in the interest of their own safety, reasonably demand of one another that they enter upon some kind of constitutional relationship which will provide them with legal and personal security. In the same way states, in the interests of their own security, can move forward from their natural condition, which is free from any constraints of law from without and therefore highly dangerous and always threatened by war, to accept a relationship founded upon law. This Kants calls a "League of Nations" and distinguishes it from a "State of Nations".

Here lies the decisive point and also the problem. Now a state of nations is a union of nations on the basis of public compulsory law (thus corresponding to that civil constitution which individual citizens agree to for the sake of their own security); but this is precisely the route which sovereign states according to Kant cannot and will not choose; they will refuse to do so because as sovereign states they have already established for themeselves their own legal constitution and so will not submit to the compulsory laws of a new constitution regulating the citizenship of the nations (civitas gentium), but will point to the terms of the law of nations under which they already live. And therefore, Kant concludes:

> instead of the positive idea of a worldwide republic (if all is not to be lost) only the negative surrogate of a durable and ever spreading league to ward off war can possibly hold back the law-avoiding, hostile propensities, and omnipresent is the danger of their renewed outbreak. (Furor impius intus – fremit horridus ore cruento. Virgil)[4].

This then is Kant's argument for a league of nations which cannot be a state of nations but only an association of sovereign states. This league of nations is naturally concerned with the preservation and security of freedom in these states; their contractual agreements, however, have no legally binding force owing to the "lack of common constraints imposed from without" which simply means no-one has the right to use force, no-one possesses the power of implementation (as would be the case under a civil constitution). This means that the real aim of the agreements - in this case, peace in the world - does not have any real guarantee secured by law.

If we take this argument of Kant's as our basis, we can effectively describe the situation which arose when war was declared on Afghanistan: Insofar as the USA ignored such legal preconditions for the deployment of military force as were envisaged by the Security Council of the United Nations, they not only posited as absolute their own political-moral convictions and ethical values - this the view of Habermas -, but, what is more, they regressed as a matter of fact to a natural condition among the nations, a condition, which Kant would have described as "a condition without law, containing nothing but war." This should be overcome by the United Nations.

There is a further consideration of Kant's which seems no less convincing, no less relevant today. In situations of conflict the readiness to abandon the rule of law and resort to violence is described by Kant as the "rooted evil" of human nature which "makes its unconcealed and unambiguous presence immediately felt in the outward relationships of the nations towards one another". (375), the reason being the absence of "a common constraint from without". With unmistakeable irony Kant remarks that there may still be some residue of moral sentiment – "at present deep in slumbers" which we can deduce from the fact that the nations the fine "show of innocence" with which the nations are always at great pains to justify an act of war (355). In this respect at least, it would appear, not a great deal has changed since Kant's day.

Finally we must ask, however, if Kant's argument is convincing. Is Kant's analogy between states and individuals plausible? Is the thesis which he derives from this analogy plausible, namely that because of their sovereignity and self-determination which the law of nations guarantee them states cannot join together in a legally constituted state of nations for the purposes of overcoming that (natural) lawless condition in which they otherwise find themselves. Is it really as Kant maintains "a contradiction" that sovereign states should unite in a state of nations?

Of course there would be a contradiction if indeed the priniciples upon which a constitutional state is established are incompatible with the principles on which a state of nations would be established. This, however, does not necessarily seem to be the case. For a union of states may well be possible, given a "concurring unified will of all" (MS § 47). The system of a newly emerging state of nations may well be able to guarantee the sovereign members freedom and the right to self-determination, provided basic rights and democratic rules of procedure are recognized and observed. In this way rules made according to constitutional law can have as much binding force in a state of nations as in any constitutional state. Thus it is not plausible to argue with Kant that "the relationship between a superior (legislating body) and an inferior (those who obey)", present in each and every constitutional state, must contradict

the very idea of the sovereignty of the individual state. For the "superior" legislating body owes its very existence to the assent given by all individual nations, and in a state of nations with such a constitution the same freedom under the law, the same equality and independence of the nations is in principle given and guaranteed as in any constitutional state. The surrender of some competences and a small portion of sovereignty on the part of the nations which is necessary is to be considered as a voluntary act carried out in general concord, and it furthers nothing else than the preservation of their own security and the right to self-determination.

A defence of the Kantian Project will not therefore confine itself to revealing the common ground between Kant's thoughts on the theory of peace and the constitution of the United Nations nor will it only mark out for improvement those deficits which on a closer comparison with Kant's thoughts become evident (we could mention here among other things Kant's demand for the "abolition of 'standing armies'" i.e. the abolition of weapon-systems in permanent readiness and the principle of non-intervention in the constitution of another state). Defending the Kantian Project means that we adopt the criticism of Kant just developed and demand that the member states strive in common to grant the organs of the United Nations an executive authority beyond that which they possess at present.

In the constitution of the United Nations the principle of the separation of powers is clear for all to see. The legislative corresponds to the General Assembly, the government (the executive) corresponds to the Security Council and the judiciary to the International Court of Justice to which has been added since 1994 the International Tribunal for the Law of the Sea. Only the Security Council, however, has the character of a genuine executive authority. Chapter VII of the Charter of the United Nations, which we mentioned above, empowers it to take political, economic and military measures against members who threaten or violate the peace. The General Assembly, by contrast, has only the power of recommendation. The International Court of Justice and the International Tribunal mentioned above also have no power of force or power of implementation at their disposal. These therefore correspond more closely to the Kantian model of a league of nations while the Security Council has some similarity to the state of nations – which Kant rejected.

We should bear in mind, however, that the United Nations have not often been able to prevent armed conflict and frequently enough they have looked on without taking action, while law was violated. This is matched only by the widespread lack of respect accorded their resolutions, particularly in connection with conflicts in the Near and Middle East and in South Africa (cf. Höffe, KA, 253). There are many reasons for this, - among others and in particular one must point to the ever present egoistic aims of the major powers which slow down and hinder the task of eradicating war. Self-interest on the part of the sovereign states including the major powers, properly understood, ought to mean the long-term preservation of their own security by guaranteeing the security of all states. The political requirements for this would be met by a legally constituted community of states whose organs would have more power of force at their disposal than is now the case with the United Nations. This naturally presupposes that the member states adopt as their own that universal perspective which is part of the enlightened

conception, grounded in legal reason, of the modern state as the expression of the "united will of a people".

If the position of power of the United Nations can be strengthened, other postulates of practical reason in its cosmopolitan use will come into play. Here at the conclusion it must suffice simply to name them (vid. Höffe, Habermas). The supreme principle is objectivity and the equal treatment of member states in cases of conflict. A sensitive and finely structured political public must be created. Not only justice but also cooperativeness, solidarity and generosity are the qualities which must be cultivated by the states in their relations to one another. Individual states should be required to join together in regional networks perhaps along the lines of the European Union which could play an intermediary and mediating role in establishment of a state of nations. Finally, a sharpened awareness and greater readiness to take effective action are required in clear knowledge of the fact that the nations of the world on account of the presence of international terrorism have long since become a community at risk and that this risk can only be met by a common effort of a community of states.

Notes

[1] Conference given at the International Colloquium "War and Peace" at Florianopolis (Brazil), September, 12th – 14th 2005.

[2] **"**Der Sicherheitsrat der Vereinten Nationen hat in der grundlegenden Resolution 1368 einmütig festgestellt, dass die terroristischen Anschläge von New York und Washington eine, wie es in der Erklärung heißt, Bedrohung des Weltfriedens und der internationalen Sicherheit darstellen. Der Weltsicherheitsrat hat damit eine *Weiterentwicklung bisherigen Völkerrechts* vorgenommen. Bislang galt ein bewaffneter Angriff [...] immer dann, wenn es sich um einen Angriff von einem Staat auf einen anderes Staat handelte. Mit dieser Resolution – das ist das entscheidend Neue – sind die völkerrechtlichen Voraussetzungen für ein entschiedenes, auch militärisches Vorgehen gegen den Terrorismus geschaffen worden." (Tal.160/161)].

[3] One has tried to provide an explanation of the new situation by pointing to the changed role of the Individual and the new possibilities of world-wide activities supported by the Internet. So international terrorism has become an aspect of globalization, carried out by individuals. (Tal.172) Another reason has been seen in the failure of the government of certain states and the absence of central government authority which allowed the terrorists to establish themselves and to organise their networks.

[4]...kann an die Stelle der positiven Idee *einer Weltrepublik* (wenn nicht alles verloren werden soll) nur das *negative* Surrogat eines den Krieg abwehrenden, bestehenden und sich immer ausbreitenden *Bundes* den Strom der rechtscheuen, feindseligen Neigung aufhalten, doch mit beständiger Gefahr ihres Ausbruchs. (*Furor impius intus – fremit horridus ore cruento.* Virgil)"

References

*LUTZ-BACHMANN, M. e BOHMAN, J. (eds.).*Frieden durch Recht. *Kants Friedensidee und das Problem einer neuen Weltordnung, ed. Matthias Lutz-Bachmann/James Bohman, Frankfurt a. M. 1996.*

MEGGLE, G. Terror & der Krieg gegen ihn. *Öffentliche Reflexionen, ed. Georg Meggle, Paderborn 2003.*

TALMÓN, S. Stefan Talmòn*:* Grenzen der „Grenzenlosen Gerechtigkeit*". Die völkerrechtlichen Grenzen der Bekämpfung des internationalen Terrorismus nach dem 11. September, in: Wolfgang März (ed.), An den Grenzen des Rechts. Berlin 2003, 101 – 183.*

HÖFFE, O.(Hg.). Immanuel Kant: Zum ewigen Frieden. *Ed. Otfried Höffe (Klassiker Auslegen), Berlin 1995.*