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INSIGHT

THE RUSSIAN WAR AGAINST UKRAINE AND THE LAW OF THE EUROPEAN UNION

edited by Charlotte Beaucillon, Teresa Cabrita, Melanie Fink,
Stefano Montaldo and Jed Odermatt

THE EU AND RUSSIAN AGGRESSION: PERSPECTIVES FROM KANT, HOBBS, AND MACHIAVELLI

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ABSTRACT: This *Insight* examines the stance the EU should adopt towards the Russian invasion of Ukraine on the basis of the political thought of Immanuel Kant, Thomas Hobbes, and Niccolò Machiavelli. Taking as its starting point Josep Borrell's comment that "we are too much Kantians and not enough Hobbesians" at the 2022 EU Ambassadors' Conference, this *Insight* offers a revisionist interpretation of both Kant and Hobbes while suggesting Machiavelli as a third possible inspiration for EU external action. Although he is often portrayed as a proto-"realist" intent on increasing state power, Hobbes in reality favours stability above all else and would therefore presumably not support a more "aggressive" foreign policy. Kant, on the other hand, has traditionally been seen as more of a philosophical idealist, but his political philosophy in fact supports a more assertive conduct by states in their external relations. Both of these philosophers are thus quite different from how Borrell portrays them. The *Insight* also introduces the perspective of a third thinker, Machiavelli, whose philosophy suggests that the EU should adopt a pragmatic diplomatic strategy, forging alliances, supplying Ukraine with weapons, and maintaining strong ties with allies.

KEYWORDS: Russian invasion – aggression – Immanuel Kant – Thomas Hobbes – Niccolò Machiavelli – international relations.

I. INTRODUCTION

On 10 October 2022, EU High Representative for Foreign Affairs and Security Policy Josep Borrell Fontelles delivered a speech at the annual EU Ambassadors' Conference in which

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he scolded the EU and its diplomats for not having acted decisively in response to Russia's invasion of Ukraine earlier that year and exhorted the gathered EU diplomats to be bolder in bearing out the EU's message.¹ Closing his speech, Borrell stated that

"We, Europeans, we have this extraordinary chance. We live (...) in this part of the world where political freedom, economic prosperity and social cohesion are the best, the best combination of all of that. But the rest of the world is not like this. Our fight is to try to explain that democracy, freedom, political freedom is not something that can be exchanged by economic prosperity or social cohesion. Both things have to go together. Otherwise, our model will perish, will not be able to survive in this world. *We are too much Kantians and not enough Hobbesians, as the philosopher says.* Let's try to understand the world the way it is and bring the voice of Europe".²

Borrell mentions two philosophers as potential inspirations for EU external policy: Immanuel Kant and Thomas Hobbes.³ He seems to regard Kant as the one who has been more representative of the EU's policy in the past – a rather weak stance aimed at spreading one's "democratic values" through forms of international cooperation – but evidently that was not enough: the EU should be more "Hobbesian", relying more on unilateral action and the exercise of hard power. This distinction is borrowed from Kagan's *Of Paradise and Power*, which contrasts the EU's reliance on multilateralism and international cooperation with the United States' unilateral exercise of hard power – most famously in the 2003 invasion of Iraq.⁴ In terms of modern international relations theory, Kagan's "Hobbesians" can be thought of as "realists"⁵ while the "Kantians" might be more akin to "idealists" or "liberal internationalists".⁶

¹ E Zalan, 'Borrell wants a bolder, faster EU - and scolds diplomats to get to it' (11 October 2022) EU Observer euobserver.com.

² EEAS, EU Ambassadors Annual Conference 2022: Opening speech by High Representative Josep Borrell (10 October 2022) eeas.europa.eu (emphasis added).

³ It was not the first time Borrell referenced these two; see e.g. M Kerres, 'De EU als *soft power*, dat is niet meer genoeg' (11 November 2021) NRC Handelsblad, 10-11.

⁴ R Kagan, *Of Paradise and Power: America and Europe in the New World Order* (Alfred A Knopf 2003) 3; cf SM Shell, 'Kant on Just War and 'Unjust Enemies': Reflections on a 'Pleonasm' (2005) Kantian Review 82.

⁵ Although Hobbes is often seen as a forerunner of the realist tradition in international relations (see e.g. EH Carr, *The Twenty Years' Crisis, 1919-1939: An Introduction to the Study of International Relations* (Macmillan 1962) 64; CW Beitz, *Political Theory and International Relations* (Princeton University Press 1999) 27-34), this association becomes awkward when made by Robert Kagan, who seems to align himself with "Hobbesian" America yet is decidedly not a realist himself but a neoconservative proponent of American interventionism (see recently e.g. R Kagan, 'A Free World, If You Can Keep It: Ukraine and American Interests' (2023) 102(1) Foreign Affairs 38). Unlike Kagan, many IR realists have opposed military intervention: Hans J. Morgenthau, the "godfather" of realism, staunchly opposed the U.S. intervention in Vietnam, so much that his obituary referred to him primarily as a Vietnam War critic (M Weil, 'Hans Morgenthau, Vietnam War Critic' (21 July 1980) The Washington Post at C4; see further JW See, 'A Prophet Without Honor: Hans Morgenthau and the War in Vietnam, 1955-1965' (2001) Pacific Historical Review 419).

⁶ DS Grewal, 'The Domestic Analogy Revisited: Hobbes on International Order' (2016) Yale LJ 618, at 620-622 (with many further references). For a "liberal internationalist" interpretation of Kant see MW Doyle, 'Kant, Liberal Legacies, and Foreign Affairs' (1983) Philosophy & Public Affairs 205.

Although Borrell is not particularly known as a political philosopher, his speech offers a very recognizable perspective on the political philosophies of Hobbes and Kant. This *Insight* attempts to put Borrell's remarks into context by offering a more nuanced view of these two thinkers and discussing their potential relevance to EU external action. It also introduces the perspective of a third thinker, Niccolò Machiavelli, whose work offers a distinct perspective on statecraft that complements the dichotomy between the previous two approaches. While Kant and Hobbes represent contrasting views on the use of power and cooperation in international relations, Machiavelli's ideas introduce a pragmatic dimension which emphasizes the practical pursuit of state interests, often through a combination of both coercive and diplomatic means. By considering Machiavelli alongside Kant and Hobbes, the *Insight* aims to provide a more comprehensive understanding of the philosophical underpinnings of EU external action.

II. HOBBS: POWER AND PEACE

Thomas Hobbes takes as his point of departure the idea of a state of nature where no individual has significantly more power than another and everyone seeks to increase their power at the expense of others. In such a world there is no single "objective" truth that can be established: moral or political judgements are to be made by everyone for themselves, and there is no objective standard for what should count as good or evil.⁷ Even establishing "simple" facts about the world cannot be done with complete objectivity, as different observers may make different observations and there is no single objective truth by which to measure them.⁸ This leads to an extreme relativism in moral matters,⁹ but also means that politically mankind finds itself in a state of anarchy where no one can ever be secure in their being or belongings. The world is thus in a perpetual state of war – a war "as is of every man, against every man"¹⁰ – where life is "solitary, poor, nasty, brutish and short."¹¹ The only solution to this anarchy is the establishment of an all-powerful sovereign, the Leviathan, to whom the citizens transfer their judgement in

⁷ T Hobbes, *Leviathan* (RF Tuck ed, Cambridge University Press 2019) 39 (Ch 6); cf at 70 (Ch 11): "there is no such *Finis ultimus* (utmost ayme), nor *Summum Bonum* (greatest Good), as is spoken of in the Books of the old Moral Philosophers."

⁸ MC Williams, 'Hobbes and international relations: a reconsideration' (1996) *International Organization* 213, at 217-218.

⁹ T Hobbes, *Leviathan* cit. 39 (Ch 6): "But whatsoever is the object of any mans Appetite or Desire; that is it, which he for his part calleth *Good*; And the object of his Hate, and Aversion, *Evill*; And of his Contempt, *Vile* and *Inconsiderable*. For these words of Good, Evill, and Contemptible, are ever used with relation to the person that useth them: There being nothing simply and absolutely so".

¹⁰ T Hobbes, *Leviathan* cit. 88 (Ch 13).

¹¹ *Ibid.* 89 (Ch 13).

all contentious matters: most obviously those relating to politics and the law, but also moral judgements are to be made by the sovereign.¹²

II.1. ONE, TWO ... MANY SOVEREIGNS?

The relations of this sovereign to other sovereigns are not something Hobbes discusses explicitly: he attributes to the sovereign the right "to be judge both of the meanes of Peace and Defence" and "to do whatsoever he shall think necessary to be done ... for the preserving of Peace and Security",¹³ but these are discussed merely as internal matters of the state. The idea of "Hobbesian" international relations mainly relies on an analogy between states and individuals where states find themselves in a more or less lawless situation without any superior to decisively settle their disputes. This concept is very familiar to modern international relations scholars; the idea of a state of anarchy in international relations is at the basis of "realist" IR theory,¹⁴ and many self-professed realists see Hobbes and his idea of the state of nature as the basis of their views.¹⁵ The Hobbesian view does not rely on any particular conception of morality (either on the interpersonal or international level)¹⁶ and instead sees the pursuit of power and security as the primary motivation for states in their interactions with one another.¹⁷ Hobbes does not offer a similar solution to this anarchy as he does to that of individuals: there is no plan for an "international Leviathan" of the kind later proposed by the Abbé de Saint-Pierre.¹⁸

There are some significant points at which the analogy between individuals and sovereigns in their respective states of nature does not hold up.¹⁹ In a state of nature, any individual is at risk of being overpowered by their neighbour; but because humans are not all that different in physical abilities, two or more of them may work together to

¹² Cf T Hobbes, *On the Citizen* (RF Tuck ed, Cambridge University Press 1998) 79 (Ch 6): "All judgement, therefore, in a commonwealth belongs to the possessor of the swords, i.e. to the holder of the sovereign power. (...) [A]ll disputes arise from the fact that men's opinions differ about *mine* and *yours*, *just* and *unjust*, *useful* and *useless*, *good* and *bad*, *honourable* and *dishonourable*, and so on, and everyone decides them by his own judgement." (emphasis in original). See further Williams, 'Hobbes and international relations' cit. 219.

¹³ T Hobbes, *Leviathan* cit. 124 (Ch 18).

¹⁴ J Kirshner, *An Unwritten Future: Realism and Uncertainty in World Politics* (Princeton University Press 2022) 13-14.

¹⁵ MC Williams, 'Hobbes and international relations' cit. 213-214, citing the arch-realist Hans Morgenthau (HJ Morgenthau, *Scientific Man versus Power Politics* (University of Chicago Press 1967) 113); DS Grewal, 'The Domestic Analogy Revisited' cit. 643-644.

¹⁶ T Hobbes, *Leviathan* cit. 90 (Ch 13).

¹⁷ *Ibid.* 70 (Ch 11): "I put for a generall inclination of all mankind, a perpetuall and restless desire of Power after power, that ceaseth only in Death."

¹⁸ See RF Tuck, *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant* (Oxford University Press 2001) 140-141 (who calls Saint-Pierre's proposal a "naïve Hobbesianism"); MC Williams, 'Hobbes and international relations' cit. 224-225.

¹⁹ We discuss but one aspect here, but see MC Williams, 'Hobbes and international relations' cit. 226-227 for other relevant differences.

defeat a supposedly stronger neighbour, leading to a sort of balance of powers.²⁰ When applied to relations between several sovereigns, this does not hold: unlike individuals, states vary greatly in size and power and as a consequence a larger state may easily subdue its smaller neighbours.

II.2. INTERNATIONAL RELATIONS, THE HOBBSIAN WAY

The very idea of international cooperation itself, at least in the binding form exemplified by international organizations such as the EU or the United Nations, is quite difficult to square with Hobbes' conception of sovereignty.²¹ If the sovereign is to be truly sovereign in Hobbes' sense, they cannot be bound by international standards: the very essence of sovereignty is to be the ultimate arbiter on any matter, and so any deference to an external or even "higher" standard would imply that the sovereign is not quite sovereign.²² This is why, as pointed out above, Hobbes does not – and cannot – extend his idea of the Leviathan creating order from anarchy to the international level: no Leviathan could acknowledge another above himself. The idea of the sovereign as not subject to any other rule and the ultimate arbiter within their jurisdiction bears some similarity to the autonomy of EU law, in particular as it pertains to the jurisdiction of the European Court of Justice (ECJ):²³ the ECJ, as if were the Leviathan itself, claims a position as the ultimate arbiter on any matter of EU law and refuses to be subjected to any external control such as the jurisdiction of the European Court of Human Rights (ECtHR).²⁴

²⁰ T Hobbes, *Leviathan* cit. 86-87 (ch 13).

²¹ MC Williams, 'Hobbes and international relations' cit. 228-229.

²² *Ibid.* 229 points out that this would in turn make the sovereign vulnerable to criticism from "below", that is citizens, and thus to revolution.

²³ For theories of the autonomy of EU law see generally e.g. T Schilling, 'The Autonomy of the Community Legal Order: An Analysis of Possible Foundations' (1996) Harv Intl LJ 389; J Lindeboom, 'The Autonomy of EU Law: A Hartian View' (2021) European Journal of Legal Studies 271; C Eckes, 'The autonomy of the EU legal order' (2020) Europe and the World: A law review 19. While this *Insight* was at the proofs stage, European Papers published a lengthy and most interesting Special Section on the autonomy of EU law; see J Lindeboom and RA Wessel, 'Introduction: The Autonomy of EU Law, Legal Theory and European Integration' (2023) European Papers www.europeanpapers.eu 1247 and the various contributions following. None of these makes any mention of Hobbes, except the incidental reference in E Cannizzaro, 'Nine Theses on Autonomy: Making Sense of a Controversial Doctrine' (2023) European Papers www.europeanpapers.eu 1317, at 1319. See also the contribution of Jakob Rendl, 'The Sphere of Intervention: EU Law Supranationalism and the Concept of International Treaty' (2023) European Papers www.europeanpapers.eu 1333, who makes extensive use of the work of Immanuel Kant as an inspiration for the autonomy of the EU legal order.

²⁴ See most notoriously Opinion 2/13 *Accession of the EU to the ECHR* ECLI:EU:C:2014:2454, especially at paras 181-186. On the relation between the autonomy of EU law and EU strategic autonomy see recently C Rapoport, 'Setting Norms and Promoting a Rules-based International Legal Order: Enhancing Strategic Autonomy Through the Autonomy of the EU Order' European Papers (European Forum Insight of 27 July 2023) www.europeanpapers.eu.

Imagining a “Hobbesian” EU – as suggested by Borrell – runs into some conceptual difficulties. For one, Hobbes is adamant that “the Rights, which make the Essence of Sovereignty” are “incommunicable, and inseparable”.²⁵ Sovereignty cannot be divided: the sovereign power is to be located in one person (in case of a monarchy) or group of persons (in case of an aristocracy or democracy) and not divided over several entities.²⁶ The EU, of course, is the paradigmatic case of division of sovereign powers – one need only think of the *Van Gend and Loos* formula²⁷ – and although Hobbes was presumably thinking more of “horizontal” division of sovereign powers within a state, on which he blames the English Civil War – it is difficult to see why a “vertical” division of powers like that within the EU would not run into the same issue. Moreover, as set out above, the very idea of binding international cooperation is clearly at odds with Hobbes’ conception of sovereignty. Working within Hobbes’ idea of sovereignty, it is quite impossible to imagine anything like the EU actually existing.

II.3. LESSONS FOR THE EU

If one were nonetheless to attempt to draw lessons from Hobbes for the EU’s foreign policy, one might point out that a Hobbesian ruler in charge of the EU should be acutely aware of the inherent unreliability of other states. As states (sovereigns) share no higher authority and they can never quite trust any other sovereign,²⁸ a more “Hobbesian” EU, as Borrell wants, should be very cautious in its dealings with others.²⁹

At the same time, one should be very careful not to conflate “is” and “ought” in Hobbes’ thought: the fact that states may strive to increase their own power by potentially aggressive means does not mean that they necessarily *should* do so. Hobbes is in fact quite explicit that “the first, and Fundamentall Law of Nature” is “*to seek peace, and follow it.*”³⁰ Even if states may be in a perpetual state of war and uncertainty, that does not mean that they should increase it – quite to the contrary, their objective should be to create a peaceful situation. This can even include international cooperation in a non-binding form: much like individuals in a state of nature can cooperate without instituting

²⁵ T Hobbes, *Leviathan* cit. 127 (ch 18).

²⁶ See T Hobbes, *Leviathan* cit. 129-138 (ch 19) where he explains the differences between these three types of commonwealth.

²⁷ Case 26/62 *Van Gend and Loos* ECLI:EU:C:1963:1 “the Community constitutes a new legal order of international law for the benefit of which the states have limited their sovereign rights, albeit within limited fields”; more recently Opinion 2/13 cit. para. 157: “the founding treaties of the EU, unlike ordinary international treaties, established a new legal order, possessing its own institutions, for the benefit of which the Member States thereof have limited their sovereign rights, in ever wider fields”.

²⁸ MC Williams, ‘Hobbes and international relations’ cit. 224-226.

²⁹ S Anderson-Gold, ‘Philosophers of Peace: Hobbes and Kant on International Order’ (2012) *Hobbes Studies* 6, 12.

³⁰ T Hobbes, *Leviathan* cit. 92 (Ch 14) (emphasis in original).

a sovereign, sovereigns can cooperate voluntarily without losing their sovereignty.³¹ This not only contributes to their own security but also to the realization of peace and stability.

Humans' inherent need for self-preservation means that even within a state, individuals will be reluctant to go to war and risk their lives unless they feel that the sovereign's decision to do so is legitimate.³² This does not mean that citizens have a right to resist the sovereign's decision to go to war, but Hobbes is well aware that they are nonetheless likely to do so. To avoid inciting a rebellion by pressuring the population too hard, the sovereign should not draw citizens into a potentially highly unpopular war, especially a war of aggression.³³ A similar maxim could be applied to relations between the EU and its Member States: to avoid instability within the EU, its leaders should pursue unity among the various members, possibly at the cost of a more assertive foreign policy. If certain EU Member States – one could think in particular of Hungary, which has resisted supporting Ukraine in any way³⁴ – refuse to support an undertaking and threaten to undermine stability within the EU, Hobbes would counsel to take their complaints very seriously indeed.

The main goal of Hobbes' political philosophy, in the end, is the pursuit of stability, even if that may come at the cost of perpetuating an authoritarian regime.³⁵ Although this may mean that the EU should be more cautious in dealing with others, Hobbes' primary focus on stability over all else suggests that the EU might mean that a more truly "Hobbesian" EU would prefer to keep some distance from wars in its neighbourhood to preserve stability in its own ranks instead. To say that the EU should only support Ukraine insofar as that does not result in any internal discord is a perhaps rather cynical conclusion, and presumably quite different from the "Hobbesianism" Borrell desired.

III. IMMANUEL KANT AND INTERNATIONAL RELATIONS

III.1. HUMAN NATURE AND THE STATE

Although the two are often contrasted as thinkers on political philosophy – as pointed out at the beginning of this *Insight* – and their outcomes are indeed radically different,³⁶ Immanuel Kant's point of departure is surprisingly similar to that of Hobbes: mankind is in a state of nature where rights are fundamentally indeterminate and everyone is at risk

³¹ S Anderson-Gold, 'Philosophers of Peace: Hobbes and Kant on International Order' cit. 9.

³² MC Williams, 'Hobbes and international relations' cit. 221-222.

³³ *Ibid.* 232-233; S Anderson-Gold, 'Philosophers of Peace: Hobbes and Kant on International Order' cit. 11.

³⁴ H Foy, 'Brussels to unfreeze Hungary funds as it seeks help for Ukraine' (3 October 2023) Financial Times ft.com.

³⁵ Cf MW Doyle, 'Kant, Liberal Legacies, and Foreign Affairs' cit. 208 (who sees Hobbes' "[a]uthoritarianism to preserve order" as the prototype of modern right-liberals and neoconservatives along the lines of Jeane Kirkpatrick).

³⁶ S Anderson-Gold, 'Philosophers of Peace: Hobbes and Kant on International Order' cit. 6-7.

of being harmed by their neighbour.³⁷ Despite popularly being seen as a naïve idealist, Kant starts out somewhat pessimistic about human nature, a position derived from the “presumption of badness” elaborated in his theological writings.³⁸ His political philosophy therefore explicitly relies not on a supposed “good will” of the various members of society or on his moral philosophy (the famous categorical imperative), but on rational self-interest: as he remarks in *Perpetual Peace*, even a “nation of devils” could form a well-functioning political system, “if only they have understanding.”³⁹

For Kant, too, the solution to the problem that is the state of nature is the creation of a state so as to create peace, but unlike Hobbes he sees this as an explicitly *moral* and *legal* obligation and not one simply justified by some good the state could provide; the principle “that a people is to unite itself into a state” is “not based upon prudence but upon duty.”⁴⁰ This obligation is not merely one which one must fulfil for oneself, but it is in fact so strong that one must actively strive to include others in the rightful condition as well – if necessary by force.⁴¹ If the creation of a state were merely based on rational self-interest, one could not force anybody else into a state; because it is also a legal obligation, however, such an authority to coerce does in fact exist.⁴²

Unlike Hobbes, Kant does not think of the state as a necessarily despotic entity that must oppress its subjects seeking peace at all cost; limiting the power of the state through a “republican” government is of the very essence to Kant’s idea of peace. Republicanism here means a separation of the executive and legislative powers, which by itself also necessitates a system of representation.⁴³

III.2. STRIVING TOWARDS PERPETUAL PEACE?

On the international level Kant’s political philosophy at first seems to resemble that of Hobbes as well: much like between individuals, the state of “a people in its external relations” is one in which “civilized peoples stand vis-à-vis one another in the relation of raw nature (the state of constant war) and have also firmly taken it into their heads not to get out of it”.⁴⁴ It is here that Kant takes a step that Hobbes did not (and indeed could not)

³⁷ A Hurrell, ‘Kant and the Kantian paradigm in international relations’ (1990) 16 *Rev Intl Stud* 183, 186.

³⁸ I Kant, ‘Religion within the boundaries of mere reason’ in I Kant, *Religion and Rational Theology* (AW Wood and G di Giovanni eds and trs, Cambridge University Press 2001) 39, at 79-80 (AA 6:32). See further BS Byrd and J Hruschka, *Kant’s Doctrine of Right: A Commentary* (Cambridge University Press 2012) 189-193.

³⁹ I Kant, ‘Toward perpetual peace: A philosophical sketch’ in I Kant, *Practical Philosophy* (MJ Gregor ed and tr, Cambridge University Press 199) 335 (AA 8:366).

⁴⁰ *Ibid.* 345 (AA 8:378). See further JJ Waldron, ‘Kant’s Theory of the State’ in I Kant, *Toward Perpetual Peace and Other Writings on Politics, Peace, and History* (P Kleingeld ed, Yale University Press 2006) 179, 182-183.

⁴¹ I Kant, ‘Toward perpetual peace’ cit. 322 (AA 8:349).

⁴² BS Byrd and J Hruschka, *Kant’s Doctrine of Right* cit. 192-194.

⁴³ I Kant, ‘Toward perpetual peace’ cit. 324-325 (AA 8:352-353).

⁴⁴ I Kant, ‘Religion within the boundaries of mere reason’ cit. 81 (AA 6:34).

take;⁴⁵ more or less analogously to how individuals form a state because they have no arbiter among themselves, several states ought to form a “federation of free states”⁴⁶ to settle their disputes by legal means instead of by war (he complains of the “sorry comforters” such as Hugo Grotius: esteemed legal authors whose writings “are still dutifully quoted in *justification* of military aggression” but never against it).⁴⁷ This “league of nations”, however, should not develop into an aggressive or expansive league that seeks to forcibly gain new members, even if the goal were to make them more republican.⁴⁸

Kant also suggests that the members of this league should be republican states; that is, have a separation of powers and some form of representative government. Some – most notably Michael Doyle – have suggested that through the general requirement of republicanism Kant endorses an early version of what has become known as “democratic peace theory”, the idea that liberal democracies (almost) never go to war with each other.⁴⁹ Although Doyle’s theory is dubious both as an empirical claim and as a reading of Kant’s political philosophy,⁵⁰ the requirements of both republicanism and a gradually expanding league of nations are both essential to Kant’s idea of international relations and to his project of peace.

The EU to some extent resembles such a “pacific league” in that it is a voluntary grouping of states who retain their separate existence. Kant also mentions that this league “would provide a focal point of federative union for other states”⁵¹ who share the same commitment to peace. A gradual expansion of the EU to neighbouring states would be well in line with Kant’s proposal: expanding the league both supports the Kantian project of creating an international order based on law, not war, and the league’s capabilities in self-defence against external threats. Expanding the EU to include its eastern neighbours, including Ukraine, would therefore be a cornerstone of “Kantian” foreign policy. That in itself does not provide a solution to the many issues that come with EU expansion,⁵² but expansion should be high on the agenda of a Kantian EU.

⁴⁵ A Hurrell, ‘Kant and the Kantian paradigm in international relations’ cit. 186-187.

⁴⁶ I Kant, ‘Toward perpetual peace’ cit. 325 (AA 8:354).

⁴⁷ *Ibid.* 326 (AA 8:355). Grotius is the ultimate “apologist” in Koskeniemi’s sense: always legitimizing state practice through international law, never opposing it (MA Koskeniemi, *From Apology to Utopia: The Structure of International Legal Argument* (Cambridge University Press 2006) 19-22 and 104-105.

⁴⁸ I Kant, ‘Toward perpetual peace’ cit. 327-328 (AA 8:356-357). There is some debate on this question, but we find the argument against forcible expansion more convincing. See P Kleingeld, *Kant and Cosmopolitanism: The Philosophical Ideal of World Citizenship* (Cambridge University Press 2012) 52-54.

⁴⁹ MW Doyle, ‘Kant, Liberal Legacies, and Foreign Affairs’ cit.

⁵⁰ See G Cavallar, ‘Kantian perspectives on democratic peace: alternatives to Doyle’ (2001) *RevIntlStud* 229 for an excellent critique of Doyle’s interpretation.

⁵¹ I Kant, ‘Towards perpetual peace’ cit. 327 (AA 8:356).

⁵² See e.g. S Fleming and H Foy, ‘The ‘monumental consequences’ of Ukraine joining the EU’ (6 August 2023) *Financial Times* ft.com; ‘The war in Ukraine is a powerful reason to enlarge—and improve—the EU’ (28 September 2023) *The Economist* economist.com.

III.3. UNJUST ENEMIES AND EXTERNAL ACTION

A further grounding for potential EU foreign policy in relation to Russia is provided by Kant in his *Metaphysics of Morals*. After setting out the (limited) circumstances in which war may be justified, Kant focusses on one particular type of war, namely that against an “unjust enemy”. Such an enemy is “someone whose publicly expressed will ... displays a maxim which would make peace among nations impossible and would lead to a perpetual state of nature if it were made into a general rule.”⁵³ He adds that “violation of public contracts” is one form of this behaviour. Against such an enemy almost all means are permissible – some have argued that in certain circumstances even pre-emptive warfare would be allowed⁵⁴ – although that does not mean that it would be legitimate to break up the state in question after the war.

It is not difficult to see in this how Russia might constitute precisely such an unjust enemy: its repeated violations of specific agreements and of some of the most basic rules of international law (such as Art. 2(4) of the UN Charter, the prohibition on the use of force) fall squarely within Kant’s definition of an “unjust enemy” in that they make international life inherently insecure and “affect the interests of all nations.” Russia’s “publicly expressed will” and indeed behaviour have already made peace in the EU’s neighbourhood impossible – not only in Ukraine, but also in Georgia in 2008 – and, should the maxim of invading other states under the pretence of self-defence or “genocide prevention” be made into a general rule, the “perpetual state of nature” Kant speaks of would not be far off.⁵⁵

Against such an unjust enemy, it is permitted to use almost any means available. As long as it adheres to the laws of war (Kant at several points stresses the importance of *jus in bello*)⁵⁶ the EU’s response to Russian aggression has “no limits with respect to quantity or degree”, which means that it “may use those means that are allowable to any degree that it is able to”.⁵⁷ This does not mean that the EU (or its allies) should invade Russia,

⁵³ I Kant, ‘The metaphysics of morals’ in I Kant, *Practical Philosophy* (MJ Gregor ed and tr, Cambridge University Press 1999) 487 (AA 6:349).

⁵⁴ See SM Shell, ‘Kant on Just War and “Unjust Enemies”’ cit. 98 ff.; for a response G Cavallar, ‘Commentary on Susan Meld Shell’s “Kant on Just War and “Unjust Enemies”: Reflections on a “Pleonasm”’ (2006) *Kantian Review* 117.

⁵⁵ See ICJ *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation: 32 States intervening)* (Request for the indication of provisional measures) [16 March 2022], paras 37–42 for Russia’s allegations of genocide as motivation for its invasion of Ukraine.

⁵⁶ I Kant, ‘The metaphysics of morals’ cit. 485 (AA 6:347–348); I Kant, ‘Toward perpetual peace’ cit. 320 (AA 8:346–347). On Kant and *jus in bello*, see e.g. A Ripstein, *Kant and the Law of War* (Oxford University Press 2021) 103–151; AR Ganesh, ‘Between Wormholes and Blackholes: A Kantian (Ripsteinian) Account of Human Rights in War’ in SEM Herlin-Karnell and E Rossi (eds), *The Public Uses of Coercion and Force: From Constitutionalism to War* (Oxford University Press 2021) 151.

⁵⁷ I Kant, ‘The metaphysics of morals’ cit. 487 (AA 6:349).

much less try to break it up so as to prevent a possible future war; it does however mean that the EU is justified – and to some extent even obliged – to do what it can to counter Russia's aggression and create a more “rightful” condition.

In the longer term Kant's project implies that the EU should strive towards the creation of a more stable international order where disputes are settled through litigation and negotiation, not through war. That is obviously a rather ambitious goal – the United Nations has precisely this purpose and yet war still exists – and Kant is well aware that “perpetual peace ... is an unachievable idea”,⁵⁸ but he sees it as an ever-ongoing process in which every step contributes in part to peace.⁵⁹

Whereas Hobbes, as shown above, tends towards a very restrained foreign policy and that might rely more on appeasement and isolationism so as to retain stability, Kant's international thought offers a grounding for a foreign policy that is both open about confronting potential adversaries and also compatible with the EU's self-identification as an organization that promotes peace and international cooperation. If Borrell truly wishes for a more assertive EU external policy, he might prefer to take some lessons from Kant instead of Hobbes – if only he knew what Kant actually said.⁶⁰

IV. MACHIAVELLI AND THE ARTS OF DIPLOMACY

IV.1. A PRAGMATIC RULER

Niccolò Machiavelli's realistic thinking can be traced back to his idea of human nature, as he argued that humans were ungrateful, fickle, false, cowardly, and greedy.⁶¹ For Machiavelli, this meant that men themselves are the reason for the instability of their world caused by conflict.⁶² If a state is to survive in the competitive and anarchic environment of geopolitics, its ruler must act in a pragmatic way to maintain power, by negotiating and protecting the state's interests.⁶³ Machiavelli recognizes that maintaining power is not a position in which the ruler should subject himself to moral principles.⁶⁴

It may be pointed out that Machiavelli shares with Hobbes and Kant a pessimistic view of human nature and, like them, aims to achieve stability within a state. Hobbes' and Machiavelli's perspectives on power and its uses, however, differ significantly: while Machiavelli emphasises the strategic use of power by the ruler to maintain stability,

⁵⁸ *Ibid.* 487 (AA 6:350).

⁵⁹ EH Ellis, *Kant's Politics: Provisional Theory for an Uncertain World* (Yale University Press 2005) 101-104.

⁶⁰ One of us has argued this before in JTJ van de Riet, 'Book Review: *Rightful Relations with Distant Strangers: Kant, the EU, and the Wider World*, by Aravind Ganesh (Oxford: Hart Publishing, 2021)' (2023) CMLRev 913, at 915-916.

⁶¹ N Machiavelli, *The Prince* (T Parks tr, Penguin 2009) 88.

⁶² *Ibid.*

⁶³ D Ilodigwe, 'Machiavelli and the Limits of Realism in International Relations' (2019) *Journal of International Relations and Foreign Policy* 20, 21.

⁶⁴ *Ibid.* 26.

Hobbes focusses on individual self-preservation as the basis for a stable state. This contrast is particularly noteworthy when examining the EU's response to Russian aggression.

If Machiavelli were a European leader today and needed to face Russian aggression, his reaction would likely be driven by his pragmatic and realistic approach to politics. Machiavelli acknowledges the necessity of employing violence to maintain power over European territory, which goes against the EU's current approach of relying mostly on economic sanctions. Although he has often been perceived as evil, Machiavelli's writings offer an interesting analysis of how knowledge derived from historical events can inform responses to contemporary challenges. Hans Morgenthau, one of the fathers of the "realist" school in international relations, stated that in a world of nation-states there are only three options for engaging with other states: diplomacy, war, and renunciation.⁶⁵ This part explores the most effective strategy for a "European leader" in the context of the invasion of Ukraine from a Machiavellian perspective.

IV.2. INACTION OR MILITARY ACTION IN INTERNATIONAL CONFLICT?

Renunciation can most easily be ruled out as a form of engagement in international politics: in the scenario of facing aggression from another state, this approach would imply self-destruction.⁶⁶ This is especially important given the current shortage of natural resources, forcing states to interact with each other.⁶⁷ In Machiavelli's perspective, the focus is on enhancing power and maintaining the security of the state; relinquishment would therefore be entirely incompatible with his standpoint.

The second option involves war. Machiavelli prefers war above the other options, as he believes that military service makes citizens learn to respect their country's laws, authority, and religion.⁶⁸ Serving in the military therefore is of great importance for the state's strength and greatness.⁶⁹ Machiavelli argues that military force should be used when a crisis arises and the ruler's power is in danger: in times of crisis, the need to ensure survival justifies the extraordinary.⁷⁰ This implies that when confronted with Russian aggression, the EU may be justified in resorting to extraordinary measures, including the possibility of employing violence. Machiavelli does not think this immoral or moral; it is simply a necessary means to ensure the survival of a state or organization.⁷¹

However, we cannot yet conclude that going to war would be Machiavelli's recommended strategy for a European leader in the context of Russian aggression. Although

⁶⁵ F Rosch, 'Realism, the War in the Ukraine, and the Limits of Diplomacy' (2022) *Analyse & Kritik* 201, 212.

⁶⁶ *Ibid.* 212.

⁶⁷ *Ibid.* 213.

⁶⁸ GR Berridge, 'Machiavelli: human nature, good faith and diplomacy' (2001) *RevIntlStud* 539, 555.

⁶⁹ *Ibid.* 555.

⁷⁰ T Beeckman, *Machiavelli's left: Levensfilosofie voor de vrije mens* (Boom 2020) 71.

⁷¹ D Ilodigwe, 'Machiavelli and the Limits of Realism in International Relations' cit. 26.

Machiavelli is often associated with the aphorism "the ends justify the means," it is worth noting that this phrase has been misinterpreted: Machiavelli did not advocate immoral behaviour without any regard for consequences.⁷² The problem with this sentence is that the means used to achieve these goals can affect the desired result.⁷³ For example, if strategic goals such as taking control of new cities are achieved through methods that are generally considered unfair, this can make it more difficult to achieve the desired results.⁷⁴ The same applies if unfair methods are used to achieve ethical goals, like ensuring people's freedom or protecting the homeland.⁷⁵ Machiavelli therefore emphasizes the importance of effective leadership in achieving positive outcomes for the state.⁷⁶

In the context of a European response to Russian aggression this means that the use of violence cannot always be justified, as this stands in direct contrast to numerous liberal ideals that the EU strives to uphold. Secondly, and perhaps even more importantly, Ukraine is not an EU Member State or NATO treaty party, which means that the invasion does not directly target the power of both organizations. This implies that one cannot argue that the power of a European leader is directly under assault, which makes it difficult to argue that the current situation requires the EU to consider the option of war.

Even if one could assert that the Russian invasion of Ukraine reaches a level where it impacts the power of the European Union — for instance, through economic repercussions or the spread of Russian opposition to liberal democracy affecting neighbouring European states — Machiavelli's preference for military involvement would still pose a challenge for the EU, which does not possess its own army, with Member States retaining exclusive authority over their individual armed forces.

IV.3. CRAFTING DIPLOMATIC SOLUTIONS

This leaves the third option, namely employing diplomacy in response to Russian aggression. Although it is not Machiavelli's primary choice, he also considers diplomacy an important aspect of international politics.⁷⁷ Machiavelli acknowledges that not all states have the military power to defend themselves;⁷⁸ necessity therefore gives rise to the importance of diplomacy.

As mentioned above, however, Ukraine is not a member of either the EU or NATO, and therefore the EU is not under direct attack from Russia.⁷⁹ What would then be the

⁷² N Machiavelli, *The Prince* cit. 93.

⁷³ E Benner, *Machiavelli's Ethics* (Princeton University Press 2009) 343.

⁷⁴ *Ibid.* 343.

⁷⁵ *Ibid.* 343.

⁷⁶ N Machiavelli, *The Prince* cit. 117.

⁷⁷ GR Berridge, 'Machiavelli: human nature, good faith and diplomacy' cit. 542.

⁷⁸ *Ibid.*

⁷⁹ We do not discuss a potential nuclear war here because of the "paradox of deterrence": if two powers both have nuclear weapons, the probability of a direct conflict decreases. See GS Kavka, 'Some

motivation for the EU to use diplomacy against Russian aggression, from a Machiavellian perspective? As mentioned, it is important to Machiavelli that the ruler enhances his power and maintains the security of his state. This not only implies that the ruler should defend his own territory but also support the progress and security of his neighbouring territories. Ensuring a stable environment around the state is advantageous for the ruler, as it ensures the safety of their own borders as well.⁸⁰

This means that there is sufficient motivation for a European leader to care about the fate of Ukraine and to oppose Russian aggression. Because the EU does not have its own army, it can only do this through diplomacy. But what does diplomacy entail in the case of Russia's invasion of Ukraine? According to Machiavelli, a leader should imitate the fox and the lion: the lion cannot protect himself from traps, and the fox cannot defend himself from the wolves.⁸¹ In practice, this could for example refer to the supply of weapons to Ukraine. Furthermore, Machiavelli emphasizes the importance of continuing to enhance international relations by forming alliances and signing treaties to improve the reputation of one's own state.⁸² This remains a task for a European leader, who will have to continue to work on international relations to ensure that his relations with allies are good and can count on them in case of necessity.

Two conclusions can be drawn from Machiavelli's perspective on the invasion of Ukraine. First, Machiavelli does not see war as the only strategy in international affairs, as he firmly believes in the importance of diplomacy as well. This means that Machiavelli's philosophy can be interpreted as less "Machiavellian" than it is often perceived. Secondly, the European leader's diplomatic approach should combine the "shrewdness of a fox" with the "strength of a lion", reflecting a pragmatic stance in foreign policy.

V. CONCLUSION

This *Insight* has explored three potential political philosophies as a grounding for EU external action in response to Russia's invasion of Ukraine, taking as its basis Borrell's comments about Hobbes and Kant and adding Machiavelli's perspective. We have not taken an explicit position on which of these three would be most suited for the EU today, but our discussion of them does provide

Hobbes takes as his point of departure the state of nature between individuals and the "nasty, brutish and short" life there; to remedy this war of all against all he proposes the institution of a strong sovereign that enjoys autonomy both from its citizens and from other sovereigns. Although this idea itself is somewhat difficult to square with the

Paradoxes of Deterrence' (1978) *The Journal of Philosophy* 285–302; M McCanles, 'Machiavelli and the Paradoxes of Deterrence' (1984) *Diacritics* 12–19.

⁸⁰ C Lefort, *Machiavelli in the Making* (Northwestern University Press 2012) 115.

⁸¹ J Leung, 'Machiavelli and International Relations Theory' (2000) *Glendon Journal of International Studies* 3, 7–8.

⁸² *Ibid.* 8.

structure of the EU, Hobbes' overarching emphasis on stability as the primary focus of the state would more likely favour appeasement and compromise in the face of Russian aggression, rather than the more assertive posture Borrell desires.

Kant's international thought, which incidentally takes a similar basis as that of Hobbes, is more realistic than Borrell suggests it is: Kant is acutely aware of the dangers of international politics and although his overarching project is indeed to replace war by law, he is not certainly not a pacifist either. Quite to the contrary: Kant supports a strong response to external threats, especially those of an "unjust enemy" that would destabilize the system. A more "Kantian" EU would therefore in fact be more assertive on the international stage, responding to Russia's aggression by almost any means at its disposal while supporting the accession of Ukraine (and other states in the neighbourhood) to the EU.

Lastly, Machiavelli's pragmatic realism provides a third possible approach, stressing the importance of a ruler's ability to adapt to the complexities of international politics. His emphasis on the combination of cunning and strength in diplomacy suggests a nuanced approach for the EU in the face of Russian aggression, forging alliances, supplying Ukraine with weapons, and maintaining strong ties with its allies.

