CONTEMPORARY INTERNATIONAL SOCIETY AND LAW
KANT VERSUS HOBBES

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ABSTRACT

In the Age of Enlightenment people began to believe that knowledge provided the power to change society in order to move towards a better, more progressive international society and law. The new issues dealt with concerned political freedom and sovereignty. How have these views affected the contemporary understanding of society and law? In the general context we can speak of two opposing approaches towards international society and law:[1]

REALISM VERSUS NORMATIVISM

Realism, focusing on "international anarchy" and "power politics" in the area of sovereignty, dates from between the 15th and 17th centuries in Europe when economic development facilitated better communication and the formation of armies.[2]

Machiavelli and Hobbes, both among the founders of realism, highlighted the idea of international relations as an unlawful natural state, *bellum omnium contra omnes* (war of all against all). The government is primarily necessary for the establishment of security and order in society. There can be no justice, international society, and law where power dominates. To survive, states must have power and security. In order to govern and protect states, power and force are primary necessities, not democracy, solidarity or human rights. In this way, Hobbes compared the sovereign with authority and not law. Hobbes identified the state – the Leviathan – as the man-made *magnum artificium*, the truth and right of which is self-contained.[3] This state is no longer in need of God because the publicly important truth is the truth of the state. A contract of all with all terminated the natural state according to Hobbes and elevates the Leviathan to sovereign status.[4] By appointing a sovereign, individual freedom is exchanged for individual security.

Following Grotius, Hobbes believed that the universal self-preservation instinct is the fundamental basis of power and law, and that the state is created as its tool. The state is the only political society and moral community that helps prevent the "war of all against all".[5] Absolute authority is necessary because people do not trust each other. "I Authorise and give up my Right of Governing my selfe, to this Man, or to this Assembly of men, on this condition, that thou give up thy Right to him, and Authorise all his actions in like manner".[6] Such a person or an assembly of persons is a sovereign. A sovereign is not merely a higher authority but also a higher judge upon the resolution of issues that are of importance for the state. One may think that it was not part of Hobbes's intentions to justify unlimited power because the authority of the sovereign and the limits of power end outside the boundaries of the state. First, if imprisoned in war, for example, one must be loyal not to the person

1. See E. Grauberg, I. Grauberg. 2017. Tõe ja õiguse legitimeerimise modernistlikust piirist (The Modernist Boundry of Legistimising Truth and Justice). Argo, pp.177- 189.
2. M. Wight. 1991. International Theory: The Three Traditions. – London: Leicester University Press for Royal Institute of International Affairs.
3. C. Schmitt. Der Leviathan in der Staatslehre des Thomas Hobbes: Sinn und Fehlschlag eines politischen Symbols. Köln 1982, p. 70.
4. T. Hobbes. Leviathan. Available at https://www.ttu.ee/public/m/mart-murdvee/EconPsy/6/Hobbes_Thomas_1660_The_Leviathan.pdf
5. See I. Grauberg. 2013. Sovereignty in International Law and Politics: Theory and Practice. Kings College London, pp.47- 60.
6. T. Hobbes. Leviathan. Available at https://www.ttu.ee/public/m/mart-murdvee/EconPsy/6/Hobbes_Thomas_1660_The_Leviathan.pdf

who sent him to fight but to the person who imprisoned him. Second, the sovereign still proceeds from natural law within the state because he is not completely free in his governance. It is his duty to protect the well-being of the state. The state is characterised by peace and welfare. Third, the lack of full freedom is usually compensated for by defending the freedom of private property.[7]

Freedom can be inhibited not only by laws and violence but also by economic regulations. A conflict arising from economic inequality also needs to be resolved. The question is what mechanisms could be used to ensure the minimum of freedom necessary for everyone. As the subjection of personal goals and choices to the state is considered important in negative freedom, such freedom is generally not characteristic of a democratically organised state. Hobbes analysed society, too, from the same perspective. The fact that people are free means that they lack the opportunity to combine freedom with coercion and power. However, this does not yet mean that it would be possible to live free. The other precondition on which Hobbes founded his approach was that people were egoistic by nature. This is caused by the self-preservation instinct. That is why the natural state is never a pleasure but a war of all against all. Freedom precludes a secure society. For this reason, it is practical for people to forget freedom for the sake of security. This gives rise to the social contract theory in the 17th and 18th centuries.

Schmitt opines that Hobbes is greatly concerned about the absolute power of the sovereign as, according to such an interpretation of the sovereign, the state will inevitably acquire divine status. Hobbes's view of sovereignty, according to which the state should be an ultimate source of political power, continued to develop along with the upsurge of absolute monarchy in Continental Europe in the 18th century.[8]

From the perspective of **value-normative apology,** the international society is, first and foremost, a community of states that is closely bound by justice and other moral values. From this angle, sovereignty resembles a Lego brick by means of which we create different structures. The **value-normative approach** is attributed to Kant. His characterisation of the international society is based on the idea of "moral unity". Kant asks, "Are we now living in an enlightened age? The answer is, No, but we live in an age of enlightenment. ... Still, we have some obvious indications that the hindrances against general enlightenment or the emergence from self-imposed nonage are gradually diminishing."[9] Kant published his three critiques[10] and the legendary "Perpetual Peace"[11] that outline the cosmopolitan order. Kant's ideal form of statehood was a parliamentary republic. According to Kant, the benefit for people does not lie in happiness but in the conformity of the organisation of state with legal provisions.

According to Kant, the law, the legal basis of the state, has to originate from the principle of justice. The principle itself has been substantially influenced by Rousseau. Being a human is a goal in itself because an individual is a value, the acknowledgement of which is due to moral law.[12] Proceeding from Kant, a responsible moral actor should, first and foremost, adopt moral laws and not act only in response to obligations imposed by a superior power. Kant was an advocate of a global federation of constitutional republics united in global citizenship, respect for the rule of law and common interest in trade, which would create perpetual peace.[13] At the same time, according to Kant's "perpetual peace doctrine", not a single state is allowed to dominate over another, regular armies have to be banned, and not a single state is permitted to interfere with the governance of another state. No agreement is valid if it refers to war as a tactical option and, in the case of war, it is necessary to avoid anything that might lead to distrust later on. Internal obligations are, first and foremost, derived from moral laws, while the

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[7] T. Hobbes. Leviathan. Available at https://www.ttu.ee/public/m/mart-murdvee/EconPsy/6/Hobbes_Thomas_1660_The_Leviathan.pdf

[8] Q. Skinner. In: Political Innovation and Conceptual Change. – Cambridge University Press 1989.p. 214.

[9] I. Kant. What is Enlightenment.1784. Available at http://www.columbia.edu/acis/ets/CCREAD/etscc/kant.html.

[10] I.Kant. Three Critiques: Critique of Pure Reason, Critique of Practical Reason, Critique of Judgment. Hackett Publishing Company 2002.

[11] I.Kant. Kant, I. Perpetual Peace: A Philosophical Essay (1917 ed.) 1795. Translated by Camell Smith, M. with a preface by Letta, L. – George Allen and Unwin.

[12] K. Einbund. Õiguslik riik. (Lawful State) Tartu. 1918, p. 40.

[13] I. Kant. Perpetual peace. Available at https://www.mtholyoke.edu/acad/intrel/kant/kant1/htm

external ones stem from the law. Law and morality are both necessary in order to ensure freedom because a man may abuse his freedom vis-à-vis others of his kind.

Kant's categorical imperative – "Act only according to that maxim whereby you can, at the same time, will that it should become a universal law" – has been compared with Kelsen's concept of the basic norm, the foundation of later continental European states with written constitutions.[14] Kelsen maintained within the framework of his "pure" theory of law that it was impermissible to link the basic norm to political or ethical principles. Nevertheless, we can ask regarding Kelsen's basic norm as well as Kant's categorical imperative: why should they be observed? Where does the justification of the objective coercion of the norm lie? Why should one behave in a certain manner and not in any other? What is the basis for the applicability of general norms? If, according to Kant, a hypothetical imperative has authority only under certain conditions, the categorical imperative, just like Kelsen's basic norm, is an unconditional and irrefutable obligation. It lays down the format and the principle that must be adhered to in a particular behaviour. It is a kind of general form that gives content or validity to other norms of the same system.[15] Consequently, the basic norm is the foundation of all provisions of law.

Habermas has noted that Kant arrives at his idea of a cosmopolitan order by extending the concept of a "constitution" from the national to the global level (the type of constitution which, in his day, had just emerged from the American and French Revolutions). In this way he anticipates the present idea of the constitutionalisation of international law. The innovation consists in the transformation of "international" law as the law of states into cosmopolitan law as a law of individuals.[16]

The Peace of Westphalia in 1648 recognised the sovereign rights of all European states, including the sovereign rights of vassals of the Holy Roman Empire. It created the basis for the present-day international political system and international law. The Peace of Westphalia was pivotal for separating the church and the state.[17] The international society spread beyond Europe to other countries, international relations developed. "Science and technology represented progress – not only in the sense that they improved the material well-being and labour conditions but also in the sense of advancing the form of life called civilisation."[18]

Law becomes a neutral system of codified subjective rights that enables people to pursue their goals instead of supporting a common communitarian concept of kindness. In modern society, status starts to be replaced by law. The rise of the rule of law when relations between individuals are, first and foremost, contractual is closely related to the technification of the society in the 18th century.

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How have the ideas of freedom and sovereignty introduced by Hobbes and Kant influenced today's understanding of contemporary international society and law? Needless to say that today one can refer to a variety of versions of both realism and normativism.[19]

The views of Hobbes on the need to limit freedom in the interest of general security and protection of human rights started to be taken seriously only in today's globalising society that is focusing on the issues of cyber space alongside the protection of global peace, security and humanitarian law. Contemporary realism can be broadly divided into extreme and moderate

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[14] H. Schneider. Riigiteoreetilisi probleeme: miks nad on tekkinud ja kuidas neid lahendada (Theoretical Issues Related to the State).– Juridica 1998, Vol. 7 (in Estonian).

[15] H. Kelsen. Pure Theory of Law. – University of California Press 1967, pp. 201, 217.

[16] J. Habermas. A Political Constitution for the Pluralist World Society. Available at http://www.yale.edu/sociology/colloquia/2005/fall/habermasPluralWorldSoc.pdf pp. 1-10

[17] H. Schilling. War and Peace at the Emergence of Modernity: Europe between State Belligerence, Religious Wars, and the Desire for Peace. – Münster: Westfalishes Landesmuseum 1998, pp. 23–46.

[18] G. H. Wright. 1996. Progressi müüt.- Minerva öökull (Myth of Progress. The Owl of Minerva), p. 62.

[19] C. R. Beitz 1999. Political Theory and International Relations. – Princeton, NJ: Princeton University Press.

varieties. The extreme arm, with its roots already in the works of Hobbes, is of the opinion that in general the international policy of states is always based on interests, not on international law.[20] It is stressed that national interests have to be defined by means of power.[21] In the opinion of realists not a single sovereign state actually has an obligation to obey any other sovereign state. International law is seen mostly from the perspective of major powers, of their interests and responsibility. Moderate realism has been substantially influenced by the rationalism of Grotius and partly by Locke. Grotius was immortalised by his work "Rights of War and Peace"[22] (1625) published more than two decades before the Peace of Westphalia (1648), when the international society only started to take shape. Grotius was of the opinion that states form a universal community due to their natural law status. Grotius has, among others, influenced Hobbes who, like Grotius, considered that the universal instinct for self-preservation is the fundamental basis of law. The state is created as its tool. The state is the only political society and moral community that helps to prevent the "war of all against all."[23]

Hobbes' model of power – law as power – has impacted more the international behaviour of major states (e.g. the USA and Russia). Over the last decades their international behaviour in preventing violence has focused on the use-of-force principle. The authors think that the Charter of the United Nations is also based on such extreme realism. We know that the right to secure peace and security in the world has been put in the hands of five superpowers (the USA, Russia, China, the United Kingdom, and France). The UN Security Council has been endowed with an extraordinary constitutional responsibility to maintain international peace and security. The Security Council acting in this way resembles a Hobbes-type sovereign. States may join the UN or decline to do so but generally they have no right to disregard the edicts of the Security Council. Their compliance is scrutinised by five major powers that have a permanent right to veto. The Security Council became especially active at the end of the Cold War. At that time, the Security Council started acting simultaneously as a legislator, an adjudicator as well as an executive. Naturally, from the perspective of the separation of powers this is something unheard of. From a political standpoint, however, this fact has been subjected to different interpretations. In the case of the conflict in the former Yugoslavia, its resolution by the UN is highly appreciated, primarily because of its speed.[24][25][26] Instead of the traditional, time-consuming process of international agreements, the Security Council started to provide fast and effective case by case solutions. Nevertheless, this raises questions about the legitimacy of the so-called effective legislative drafting. To what degree is it acceptable to ignore international agreements in law at all? Can an international agreement be sacrificed to the principle of procedural effectiveness *et cetera*? International law is seen mostly through the prism of interests and the responsibility of the major powers.[27] Moderate realists emphasise that in international relations one must be guided by "integrity, moderation, modesty, and generosity towards others".[28] At the same time, it is acknowledged that national interests have a leading and legitimate role in international relations.

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[20] H. Morgenthau. Politics Among Nations: the struggle for power and peace. – New York: Knopf 1948.

[21] M. Hirsh. 2003. At War With Ourselves. Why America Is Squandering Its Chance To Build a Better World. Oxford University Press, p. 129.

[22] H. Grotius. 1992. Rights of War and Peace: An Abridged Translation. – London.

[23] T. Hobbes. Leviathan. Available at https://www.ttu.ee/public/m/mart-murdvee/EconPsy/6/Hobbes_Thomas_1660_The_Leviathan.pdf

[24] A. Obote Odora. 1997. The Judging of War Criminals: Individual Criminal Responsibility Under International Law. Stockholm.

[25] G. Sluiter. 1999. Obtaining Evidence for the International Criminal Tribunal for the Former Yugoslavia: An Overview and Assessment of Domestic Implementing Legislation. – Netherlands International Law Review. Vol. XLV, pp. 87- 112.

[26] Notable is also the promptness and speed at which the International Criminal Tribunals for the former Yugoslavia and Rwanda were set up upon relatively short debates (in 1993 and 1994 respectively). For instance, the resolution of the Security Council on the establishment of the criminal tribunal for Yugoslavia, published in 1993, offered the General Secretary of the UN just 60 days to issue an opinion. "The charters of the tribunals set out the main features of modern international criminal law, including the necessary elements of war crimes against humanity ... The activities of the Security Council are referred to as "shortcut legislation". See M. Roger. Rahvusvahelise õiguse kujunemine ÜROs ja Eesti võimalused (Development of International Law in the UN and Opportunities for Estonia).- Diplomaatia: 1

[27] See H. Grotius. 1992. Rights of War and Peace: An Abridged Translation. – London.

[28] See G. F. Kennan. 1984. American Diplomacy. The University of Chicago.

While in recent years the USA has rather relied on Hobbes' principle of power (i.e., the prevention of violence by the use of force) in its international behaviour, the European Union has in post-World War II military conflicts tried to follow the idea of the legitimacy of the agreement-based mechanism of power derived from Kant's concept of "perpetual peace".[29] The large-scale and bloody conflicts in the first half of the 20th century forced Europe to seek a new model for society and power that would, instead of conflict, be based on consensual power relations among the nations of Europe. Such a model has been sought since the 1950s. The first step towards this was made by signing the Treaty establishing the European Coal and Steel Community by six states – France, Germany, Italy, Holland, Belgium, and Luxembourg – in Paris, on 18 April 1951.[30] Regularisation of European integration processes continued in 1957 when the same six states signed, in Rome, the Treaties establishing the European Economic Community and the European Atomic Energy Community; that is, the Treaties of Rome which entered into force on 1 January 1958.[31] The three aforementioned alliances became known as the European Communities. Their task was to underpin the establishment of the common market and the monetary union. Nowadays, the ideas put forth by Kant are still influencing the apologists of the European Federation as well as the authors seeking cosmopolitan support for human rights.[32]

Robert Kagan, comparing Europe and the USA, says that while Europe is entering into the post-historical paradise of peace and relative prosperity, the dream come true of Immanuel Kant's "perpetual peace", the United States remains mired in history, exercising power in the Hobbesian world where international laws and rules are unreliable, where true security and the promotion of a liberal order still depend on the possession and use of military might.[33] Given America's willingness to spend considerable sums on the protection of Europeans, the latter prefer to spend their own money on social welfare programmes, long vacations, and shorter working weeks.[34] The authors do not fully share Kagan's viewpoint, especially as far as the protection of Europe is concerned. In order to justify this opinion, it should be stressed again that the USA and the European Union represent different models of society and power.

Nowadays, Kant's ideas keep influencing those who justify the creation of the European Federation as well as those who seek support for the cosmopolitan protection of human rights. Revolutionists have laid emphasis on moral solidarity, human rights, and on 'world' citizenship. They believe that the interstate system and anarchy are a temporary departure from the conscious path towards the establishment of "federative unions" (Kantianism) or the "world government" born out of a revolution.[35]

Revolutionists are united in their humanistic values and their belief in the moral unity of mankind which are elevated above the state. In their opinion, a solidarity-based cosmopolitan society is more important than the state accepting pluralism. Often the revolutionist international theory has an outright messianic flavour. It aims to improve the world by means of revolutionary social change derived from a great idea – be it Christianity, republican liberalism or Marxism-Leninism.[36] In their opinion, history is not a succession of events and facts. It is human destiny that gives history its meaning. The ultimate

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29 I. Kant. Perpetual Peace. Available at https://www.mtholyoke.edu/acad/intrel/kant/kant1.htm

30 The Treaty of Paris. Available at https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:11951K:EN:PDF Was concluded for 50 years and it was ratified in June 1952. In the preamble the Treaty of Paris sets out that the contracting states "resolved to substitute for historic rivalries a fusion of their essential interests; to establish, by creating an economic community, the foundation of a broad and independent community among peoples long divided by bloody conflicts; and to lay the bases of institutions capable of giving direction to their future common destiny."

31 The Treaty of Rome. Available at http://www.gleichstellung.uni-freiburg.de/dokumente/treaty-of-rome

32 I. Kant, op. cit., pp. 143–160.

33 R. Kagan. 2004. Paradiis ja jõud: Ameerika ja Euroopa uues maailmakorralduses (Paradise and Power: America and Europe in the New World Order) . Tallinn, p. 7.

34 Ibid.

35 K. Marx. F. Engels. Manifesto of the Communist Party. Available at http://www.marxists.org/archive/marx/works/1848/communist-manifesto/index.htm

36 M. Wight. 1991. International Theory. The Three Traditions. London: Leicester University Press for Royal Institute of International Affairs.

value of history is the attainment of freedom. Karl Marx was of the opinion that in order to transcend the total alienation of an individual and achieve freedom, it is necessary to demolish the state based on capitalist values and to establish a communist society instead.[37] In their later works Marx and Engels associated the development of a communist society with the extinction of any statehood and with a "world society" where the workers of the whole world are united.[38]

Modernist dreams of a cosmopolitan society of free and equal people, mainly from the 19th century and the first half of the 20th, found new support even as late as the end of the previous century. The interstate system and anarchy were considered to be a temporary departure from the conscious path towards the establishment of "federative unions" or the "world government" born out of a revolution[39], or of a "cosmopol" created by the unification of various forces.

Nowadays, one of the most "airtight" arguments for the justification of "world governance" or "world society" arises from the great risks and dangers the globalising world is facing.[40][41] It is difficult to deal with the risk of militarism and terrorism, economic uncertainty, loss of freedom, inequality and ecological catastrophe, genocide, and so on, solely within the borders of one state. It is possible to tackle these issues only on the international level. This is why the last decades have seen an increasing number of advocates for the replacement of the classical doctrine of sovereignty by the concept of shared sovereignty.[42] As the idea of a world government did not find much support among politicians and the peoples of the world alike, it was replaced with the idea of "world governance".[43]

Held has observed that globalisation has not only integrated people and nations but has also created new forms of antagonism.[44] This creates the preconditions in the globalising world for global governance. The institutional aims of "world governance" are related to the rule of law, political equality, democratic policies, global social solidarity, and the realisation and development of ideas about the economic efficiency and ecological balance of the community.[45] Harvey argues that the introduction of the new concept is related to a shift in the globalising world, whereby the welfare state has started mutating into a workfare state. In such a society the integrated socio-political government is being replaced by fragmented economic and political governance. It is important to note that in the authors' opinion, Estonia, with its recent social and political reforms, is undergoing the transformation from the socio-democratic welfare model to the mainly neoliberal workfare model. Under these new circumstances a supporting state is turning into an opportunities-offering state.[46] The authors feel that the launch of a new term in this context is a case of terminological hocus-pocus rather than a fundamental desire to change the meaning of the concept "world governance".

Today, when speaking of the USA as one of the leading global countries from the perspective of "ruling the world", it is interesting to remember President Woodrow Wilson, who introduced the principle of "destroying every self-governing state in the world which separates itself from others and insidiously and out of its free will violates world peace; or if it cannot

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[37] K. Marx 1982. Majandusteaduslikud ja filosoofilised käsikirjad (Economic and Philosophic Manuscripts).Tallinn. Eesti Raamat.

[38] K. Marx, F. Engels. Kommunistliku partei manifest (Manifesto of the Communist Party). Available at http://www.marxists.org/archive/marx/works/1848/communist-manifesto/index.htm.

[39] *Ibid.*

[40] U. Beck. 1992. Risk Society: Towards a New Modernity. – London: Sage.

[41] A. Giddens. Available at https://www.amazon.co.uk/Runaway-World-Professor-Anthony-Giddens/dp/1861974299

[42] R. Cooper. 2000. The Post-modern State and the World Order. London: Demos, Foreign Policy Centre.
R. Cooper. 2003. The Breaking of Nations: Order and Chaos in the Twenty-First Century. London: Atlantic Books.

[43] See D. Held. 1995. Democracy and the Global Order: From the Modern State to Cosmopolitan Governance. Cambridge: Polity; D. Held. 2008. Global Covenant. Cambridge: Polity.

[44] D. Held. 2004. Global Covenant. The Social Democratic Altrnative to the Washington Consensus. Polity Press. USA, p. 164. Held stresses that the global covenant manifests itself in law -- "Convene an international convention to begin the process of reconnecting the security and human rights agendas through the consolidations of International humanitarian law"

[45] *Ibid.*, p. 165.

[46] D. Harvey. See From Managerialism to Entrepreneurialism: The Transformation in Urban Governance in Late Capitalism (below)

be immediately destroyed, it must be practically divested of legal competence."[47] This means that in Wilson's opinion any secretive diplomacy is suspect, and one has to accept open relations between citizens and states. Wilson considers this to be the conditional precedent of world peace. In his vision, the post-World War I world had to be based on principles, not on force; on legality, not on self-interest – because there were no longer any winners or losers. This view is usually looked upon as the idealistic or liberal trend in American foreign policy, which is deeply engrained in the democratic tradition of the United States.

In his famous address to Congress of 8 January 1918, which contained 14 points on ending World War I and the creation a safer world for democracy, Wilson highlighted eight mandatory and six recommended points.[48] "The mandatory points, which had to be executed at any cost, laid stress on open diplomacy, access to seas, general disarmament, removal of trade barriers, impartial solution of colonial conquests, restoration of Belgium, return of the occupied Russian territories, and finally – as a crown jewel – the establishment of the League of Nations."[49]

Never before had such revolutionary plans been made with such meagre instructions on how these goals were to be met. Wilson envisioned that thereafter the world was to rely on principle, not force; on lawfulness, not self-interest – because there were no longer any winners or losers. After World War I, millions of people all over the world were convinced that it had been – to make reference to an observation by Wilson – the war to end all wars. Unfortunately, the authors of the Versailles Peace Treaty – the winners – made a number of errors that fuelled World War II. The humiliation of the enemy after World War I kept the flame alive and created the conditions for the convergence of nationalist forces in order to take revenge.

The self-determination of nations put forth by Wilson in Point 14 after World War I, has, alas, until now had no practical application in international law. Furthermore, Wilson obviously had no clear idea of the repercussions his thesis on the right of nations to self-determination might have in Eastern Europe or that "it would be the beginnings of the aspirations to independence of non-Russian nations in the Russian Empire".[50] Among others, the right of nations to self-determination took hold also in the Baltic states, and at least in the first half of the 1920s it seemed that Wilson had come up with a truly novel idea. The Charter of the League of Nations, adopted at the Paris Peace Conference in 1919, aimed to maintain peace and resolve conflicts all over the world. In addition, it dealt with collective security, peaceful dispute settlement, international arbitration, disarmament, defining an aggressor, and economic and military sanctions against aggressors.

After World War I, a number of important changes took place in international law. The principle supporting *de jure* recognition of nation states – *ex factis jus oritur* (the law arises from the facts) – was replaced by a new principle *ex injuria jus non oritur* (law does not arise from injustice). The USA devised the doctrine of non-recognition based on the Kellogg-Briand Pact adopted in 1928, which banned war as a political means. The Kellogg-Briand Pact was developed further by the Montevideo Convention in 1933, originally signed by six Latin-American countries. Later on, the United States and eleven European countries also became signatories of this Convention on the Rights and Duties of the States. Article 1 of the Convention gives a definition of the state as a person of international law. The state has three characteristics: a permanent population; a defined territory; government, and capacity to enter into relations with other states.[51] The last trait, according to the three-parameter doctrine of the state by Georg Jellinek, is an aspect of the government. Under Article 3 of the Montevideo Convention, the political existence of the state is independent of its recognition by other states. The Convention was a further development of the Kellogg-Briand Pact, stressing that no occupation has any legal validity and that conflicts have to be ended.[52]

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[47] 1918.

[48] W. Wilson's speech. Available at http://www.historyplace.com/speeches/wilson-points.htm

[49] H. Kissinger. Diplomacy. – London: A Touchstone Book 1944, pp. 230–232.

[50] V. Made. 2008. Välispoliitika võimalustest julgeoleku kadudes: 1920–1930 (Opportunities of Foreign Policy under Disappearing Security: 1920-1930). Tuna 1, pp. 52–58.

[51] Montevideo Convention on the Rights and Duties of States. Available at https://www.ilsa.org/Jessup/Jessup15/Montevideo%20 Convention.pdf

[52] Kellogg-Briand Pact 1928. Available at: http//www.uni-marburg.de/icwc/dateien/briandkelloggpact.pdf

To sum up the Paris Peace Conference, it could be said that, on the one hand, "the entire historical experience and the usual practices of major powers were overturned".[53] This perspective has usually been treated as an idealistic or liberal trend in American foreign policy with its deep roots in the democratic tradition of the United States. On the other hand, time has shown that Wilson's idea of a collective security system was not viable. Furthermore, the United States was not involved in the Versailles Peace Conference or in the League of Nations. In 1925, the United Kingdom announced that it would not ratify the League of Nations Geneva Protocol for the Pacific Settlement of International Disputes, which established conditions for the implementation of sanctions against aggressors set forth in Article 16. Soon other members of the League of Nations followed the example of the United Kingdom.

It is assumed that one of the reasons why the League of Nations system created after World War I failed was embedded in the Versailles Peace Treaty, which made it possible to compromise the sovereignty of a state. The system was in contravention with the principles of the Peace of Westphalia respected so far, under which it was unacceptable to interfere with the internal affairs of a state, even if it was done for the protection of democracy and overall security.[54] Since the League of Nations had been founded, sovereignty was treated more as a source of conflict and not as its solution. For example, the League of Nations had the authority to curb the sovereignty of states in order to serve the common good. We know from history that the restrictions were applied mostly in the case of Eastern European countries. For example, the *de jure* sovereignty of Finland, Czechoslovakia, and Poland was recognised already either during the war or at the Paris Peace Conference. The Baltic states (Estonia, Latvia, and Lithuania), Ukraine and others were *de facto* not recognised and had to wait their turn. The Entente recognised the Baltic countries *de jure* only in 1921 and the USA in 1922.

Kennan, one the most renowned representatives of extreme realism in the 20th century, has been very critical of the legalistic-moralistic trend in the foreign policy of the United States, acknowledging at the same time that national interests have the leading role and legitimacy in international relations.[55] Hirsh is of the opinion that the disputes of today focus on the issue of how to create international order in the contemporary multipolar society.[56] When new small states started to emerge, some major ones, first and foremost the USA, were apt to reconsider their position in international relations. The USA did not "wait simply for the development of free institutions and did not limit itself only to warding off the threats endangering its own security. Instead it was urgent to actively promote democracy by helping the countries that followed American ideals, while punishing those that did not."[57]

In the opinion of Kissinger, American foreign policy should be based on realistic calculation with limited choices. Kissinger believes that both statesmen and citizens should always consider the balance of hope and opportunity in international politics. "It is the touchstone of society whether or not it is capable of repressing its differences in the name of common goals and whether it keeps in mind that the prosperity of a society is always achieved through reconciliation, not conflict. America failed that test in Indochina."[58] The authors agree with Kissinger that the world can never be made permanently secure for democracy. It is a naive hope but the possibility should always be recognised. Hence, such ideas must be defended or else we allow someone else to govern the international society. This, Kissinger notes, might not be in the national interests of the United States of America.[59]

In fact, the international political system of states and international law was created by Westphalian sovereignty. If before 1648 the main authority organising Europe was religion, the embodiment of unity in the Christian world, then, after the Peace of

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[53] *Ibid.*, p. 279.

[54] S. D. Krastev. 2014. Demokraatia tõus ja langus? Meritokraatia? (Rise and Fall of Democracy? Meritocracy?) Vikerkaar. Available at http://www.vikerkaar.ee/archives/650

[55] G. Kennan. 1954. Realities of American Foreign Policy. – New York: Princeton University Press.

[56] M. Hirsch. 2003. At War with Ourselves. Why America Is Squandering Its Chance to Build a Better World. Oxford University Press, p. 29.

[57] *Ibid.*

[58] H. Kissinger. H. Kissinger. Diplomacy. – London: A Touchstone Book 1944

[59] *Ibid.*, p. 754.

Westphalia, it was the balance of power between nation states.[60] According to Westphalian sovereignty, the highest legitimate power for controlling domestic conflicts, including ethnic conflicts, is the state. The highest power in any state can establish its own rules concerning the nations residing on its particular territory, including in issues pertaining to the protection of human rights. Interference in the domestic matters of a state by other states violates its sovereignty. In the context of the present globalising world, many countries, international organisations, corporations, and so on, have considerably increased opportunities to act outside the territory of their own country with great impact. This also applies to the settlement of domestic conflicts. From the viewpoint of international law, the most important provision in a constitution is the one setting out that the state has been established on the right to national self-determination. For example, the preamble to the Constitution of the Republic of Estonia proclaims that the Estonian State "… embodies the inextinguishable right of the people of Estonia to national self-determination and was proclaimed on 24 February 1918, which is founded on liberty, justice and law, which is created to protect the peace and defend the people against aggression from the outside..."[61]

In general international law, the right to national self-determination was declared by the Atlantic Charter in 1941 and conclusively by the Charter of the United Nations in 1945. The Charter of the United Nations has been viewed as the only universally applicable document protecting world peace,[62] according to which the right to interfere can be applied. When speaking, on the one hand, about the principles of equality between nations as well as their self-determination and sovereignty and, on the other hand, about refraining from the threat to use force in any manner inconsistent with the purposes of the United Nations, it is emphasised in the UN Declaration 2625(XXV) of 1970, adopted by the General Assembly,[63] that in international relations states shall refrain from military, political, economic or any other form of coercion if aimed against the political independence or territorial integrity of any state. No territorial acquisition resulting from a threat or the use of force shall be recognised as legal. States shall settle their international disputes and conflicts without exception by peaceful means. In the case of an immediate threat to peace or a breach of peace, or act of aggression, the UN Security Council has the right and duty to apply various enforcement measures, including military intervention, by using either the military forces of the UN itself or of its Member States. It is mandatory for Member States to comply with such decisions.

Such an interpretation of sovereignty refers to its firmly established links with the territorial-nation state. This provides the only context in which sovereignty can be realised. Only in a nation state can its leaders acquire the decision-making monopoly in the fields of their authority that no longer require any supreme power or limitation. Although nation states of the international community are sovereign, they are bound to follow generally recognised international norms and rules, and to meet their obligations. Order and stability are ensured by the principles underlying the Peace of Westphalia: first, the balance of powers, the aim of which is to prevent the rise of larger and mightier states, thus limiting the possibility of aggression; second, the obligation of all parties to follow the rules and principles engrained in international law; third, the resolution of major conflicts by international consultation; fourth, the enhancement of diplomatic communication in order to improve contacts between states to solve problems.[64]

In the Westphalian system of nation states, the sovereign or nation and their representatives continue to be the source of *de facto* law. Their power has three key features. First, absoluteness as independent nation states cannot be limited. Second, unitary because power must apply to all things and acts, and cannot be divided or relinquished. Third, it is the supreme power because power has to be final in all its decisions. Westphalian sovereignty laid the foundation for the entire international political system and international law. It started the aspiration to create an international society whereby independent nation states have full power over the territory under their jurisdiction, whereby they consider the interests of other states and do

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[60] R. Cooper. *Id*, p. 16.

[61] Põhiseaduse teel. Dokumente ja materjale kogunud ja selgitanud Eerik- Juhan Truuväli (On the Road to Constitution. Documents and Materials Collected and Explained by Eerik-Juhan Truuväli). Tallinn. 2008, p. 399.

[62] Charter of the United Nations. Available at https://www.riigiteataja.ee/akt/555597

[63] UN General Assembly Resolution 2625. Available at https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/ROL%20A%20RES2625%20(XXV).pdf

[64] A. Watson. European International Society and its Expansion. Oxford. Clarendon Press. 1984.

no harm to the interests of their own population. The Westphalian Peace is the pillar of sovereignty by which the church was separated from the state.[65] Included are realist concepts based on the consideration of interest and power balance by a modern state, as well as extreme versions of value-normative concepts according to which chaos and anarchy can be replaced by the hegemony of the "world government" or by a system of collective security.

The United Nations as a global international organisation is undoubtedly an integral part of the modern world. On the one hand, it emphasises the sovereignty of its member states, however on the other hand, it attempts to stabilise the current modern order, and, if need be, resort to force for this purpose as interventions into other states are illegal as a rule. Nevertheless, there are quite a few recent or current examples of certain behaviour or actions undertaken by states that may lead to international intervention, regardless even of relations laid down in formal agreements. It happened to Iraq, in the aftermath of its occupation of Kuwait, or to Serbia for its treatment of Albanians in Kosovo. Such cases are usually justified by the need to protect global peace and security. But how should we interpret a situation when the main argument justifying aggression turns out not to be true? For example, let's consider the intervention of the US and its allies in Iraq that began in 2003 or the annexation of Crimea by Russia in March 2013. As we know, the above-mentioned acts of aggression were also justified, in the first case, by the need to protect world peace and global security allegedly threatened by the nuclear arsenal of Iraq, and in the second case "by the need to protect the interests and sovereignty of Russians in their ancestral Crimean homeland." Today we know that in both cases these arguments found no proof. However, the annexation is still ongoing. In the debates the world is having on international law, the case of Kosovo included, there are references primarily to Kant. On 9 December 2007, addressing the Security Council, Prime Minister of Serbia V. Kostunica summed up the situation by saying that in the opinion of Serbia, from 2004 onwards, anyone can apply the Kantian concept based on human rights as opposed to the Grotian concept focusing on the state.

The 21st century began with an attempt to reconsider and re-word the concept of humanitarian intervention through the "Responsibility to Protect" doctrine.[66] The report on the panel discussion in 2004 is being looked upon as a mere policy document. Actually, there are no grounds for optimism in the development of international law and collective security. Since the report by the High Level Panel in 2004,[67] not a single state has succeeded in starting proceedings for the amendment of the UN Charter, which is still considered to be a robust legal document despite the controversies it contains. For instance Article 2 (7): "Nothing contained in the present Charter shall authorise the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII," could be a full guarantee of sovereignty of a UN member state but, on the other hand, it is emphasised that the sovereignty of member states is not important when implementing a decision of the UN Security Council if it serves to "maintain or restore international peace and security".[68] The 2004 report of the High Level Panel has been treated as a mere policy paper. It may be taken into account but there is no obligation to do so. Following Kant, a responsible and moral actor should above all recognise the moral laws and refrain from acting merely upon obligations imposed by supreme power.

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[65] H. Schilling. 1998. War and Peace at the Emergence of Modernity: Europe between State Belligerence, Religious Wars, and the Desire for Peace. – Münster: Westfalishes Landesmuseum, pp. 23–46.

[66] The issue was first discussed by the International Commission on Intervention and State Sovereignty in its report *The Responsibility to Protect* in 2001. In 2004 the idea was developed further by the UN High Level Panel on Threats, Challenges and Change in its report *A More Secure World: Our Shared Responsibility*. It was followed by the report of the UN General Secretary *In Larger Freedom: Towards Development, Security and Human Rights for All* which, eventually, reached the General Assembly and is included in the ***UN General Assembly 2005 Outcome Document.*** One is free to take it into account or not.

[67] UN Report. A more secure world: our shared responsibility. Report of the High-level Panel on Threats, Challenges and Change. Available at https://www.un.org/ruleoflaw/files/gaA.59.565_En.pdf

[68] UN Charter. Chapter VII, Article 51. Available at https://www.un.org/en/sections/un-charter/chapter-vii/index.html

The collapse of communism in the 1980s and 1990s gave such a boost to the development of the information society and liberalism that it enabled Fukuyama to declare the end of history.[69] Fukuyama believed only a few decades ago[70] that the state emerging at the end of history would be liberal as its system of laws recognises and protects the right of people to universal freedom. It would also be democratic as it exists only by the consent of the government. The universal homogeneous state has overcome all prior disagreements and strife and there is no fight and conflict over "major" issues. Therefore, there is no need for generals and statesmen. The thing that remains is primarily economic activity.[71] The end of history in Fukuyama's interpretation is, first and foremost, the end of any kind of ideology. Ideologies are going to be replaced by solutions to problems in economy, environmental matters, and consumption.[72] Fukuyama is of the opinion that religion and nationalism pose the only threat. Huntington remarks in this context that there are two perceptions of the might of the West. First, after the collapse of the Soviet Union the Western countries became the only ones on whom the future of the world depends. "As the only remaining superpower the United States, together with England and France, takes decisions on the issues of politics and security. The United States, with Germany and Japan, make fundamental decisions in the sphere of economy. The other understanding of the West is very different from the first. It is considered to be a civilisation in decline whose relative importance in political, economic, and military power is diminishing in comparison with other civilisations."[73]

The Post-Cold War period can be looked upon as a period of rapid globalisation that has had an unprecedented influence on the financial integration of a large number of states. The global financial order is now virtually universal in its reach (e.g. cf. World Bank and IMF).[74] Issues related to technological systems and the political order of the globalising society are reflected in postmodern values of the value and cultural world. "Parts of the least developed world are suffering from hunger and growing relative poverty while fighting desperately for a larger chunk of the progress and modernisation pie."[75] The imperial ambitions of major powers for a new world order have not disappeared either, no matter whether they act under the banner of liberalism or democracy. One could mention the US intervention into the Philippines, the war in Vietnam, the issue of Jerusalem in the dispute between Israel and Palestine, the aggression in Iraq and Afghanistan, the occupation of Crimea by Russia, etc. The European Union is often quoted as a sterling example of our hyper-globalising and profit-oriented world.[76]

In this context it is important to ask for an explanation for why sovereign states have started to give up part of their national sovereignty and subject themselves to the jurisdiction of a semi-global government.[77] Might Fukuyama still be right about the end of history? The desire to turn liberalism into a universal ideology is directly related to the hegemonic aspirations of the West. While for Fukuyama liberalism is the universal ideology of the contemporary globalising society, then Huntington has equated liberalism with Western civilisation.[78] In light of the serious crisis of liberal ideology and its diminishing importance in contemporary society, according to Huntington, it is possible predict that the importance of Western society is on the decline in the whole world. The desire to turn liberalism into a universal ideology is directly related to the Western aspiration

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[69] F. Fukuyama. 1992. The End of History and the Last Man.

[70] See F. Fukuyama, 1990. Ajaloo lõpp (The End of History). Looming nr. 3, pp. 376- 388; F. Fukuyama 2006. Riikluse ehitamine: valitsemine ja maailmakord 21. sajandil (State-Building: Governance and World Order in the 21st Century). Tänapäev. Marx believed that the development of history is purposeful and determined by the mutual impact of material forces, and it would end only when the Communist Utopia has been achieved, putting an end to all earlier conflicts.

[71] F. Fukuyama. 1990. Ajaloo lõpp (The End of History). Looming nr. 3, 1990, pp. 326- 388.

[72] *Ibid.*, p. 388

[73] *Ibid.*, pp. 107- 108.

[74] I. Clark. 2005. Globalization and the Post- Cold War Order.- The Globalization of World Politics. Oxford University Press, p. 735.

[75] G.H. Wright. 1996. Progressi müüt (Myth of Progress), p. 44.

[76] Soros believes that the only goal of today's hyper-globalised world is to earn more profit. It is a difficult task as systems and money have become the main drivers of society instead of personal responsibility. According to M. Weber it was capitalism that set and realized this goal.

[77] See I. Grauberg. Sovereignity in International Law and Politics: Theory and Practice. Kings College London. The Dickson Poon School of Law. 2013.

[78] S. P. Huntington. 1999. Tsivilisatsioonide kokkupõrge ja maailmakorra ümberkujunemine (The Clash of Civilizations and the Remaking of World Order). Fontes. 1999.

for hegemony. The authors are of the opinion that compared to Fukuyama, Huntington is more realistic in his viewpoints. Life has shown that Fukuyama made a mistake predicting the end of ideology. Later on he acknowledged the error himself. [79]

At the end of the 20th century, people still believed that the Cold War had ended, primarily because the rivalry of the two superpowers, the USA and Russia, seemed to be over. The collapse of the communist system allowed many countries, the Baltic states included, to restore their independence. Robert Cooper has said that "what ended in 1989 was not merely the Cold War, not even the Second World War. What ended in Europe (and not in Europe alone) was the end of a political system prevalent during the last three centuries: the balance of power and imperial aspirations."[80]

The European political elite trusted that the end of the Cold War meant the establishment of a new order in Europe. At the end of the 20th century, it was optimistically assumed that the confrontation between the two political systems was over and the threat of war diminished. Therefore, military expenditure could be reallocated to the globalising economy in order to strengthen one's power in the world. The White House advisers and political analysts Nye and Owens stressed that knowledge was power, more than ever before. "The one country that can best lead the globalisation and the information revolution will be more powerful than any other. America has apparent strength in military power and economic production more than anybody else"[81] The Post-Cold War period can be looked at as the period of rapid globalisation that has had an unprecedented influence on the financial integration of states. The global financial order is now virtually universal in its reach (e.g. cf. World Bank and IMF).[82] Today the world is borderless, more multicultural, more pluralistic, more fragmented, and more prone to conflict. One of its important characteristics is the coexistence of different worlds – the pre-modern world, the modern world and the postmodern one.

"Even at a glance it is apparent that in the last ten years a paradigmatic shift has happened in the society – the modernist paradigm has disintegrated in its final stages (postmodernism, hypermodernism, transmodernism): in addition to the banking crisis that had the characteristics of a general economic crisis, we have seen a surprising growth of populism and nationalism."[83] It is hereby important to note that the discourse of the post-postmodernising world tries to get rid of all kinds of closed systems and look at the world in relation with other systems. Consequently, in pragmatism, derived from instrumentalism, the meanings of international law concepts (e.g. sovereignty, human rights, etc.) may not correspond to any "real world". One and the same concept could, depending on the aim of its use, acquire different meanings in different linguistic contexts. Everything hinges on the objective behind why a concept is used, and on the context, for example, often on the specific goal sought when an international conflict is being resolved.

Creation of the postmodern world was boosted by two international agreements: the Treaty of Rome (1957), the well-known source of integration in Europe, and the Treaty on Conventional Armed Forces in Europe (CFE in 1990), which, according to Robert Cooper, was born of the failure, wastefulness, and absurdity of the Cold War. "The path toward this treaty was laid through one of the few real innovations in diplomacy – confidence-building measures."[84] In the core of the CFE Treaty is intrusive verification, which Cooper believes is a key element of the postmodern order where state sovereignty is no longer an absolute. In a situation where sovereignty has been sacrificed to state security and foreign policy, one follows the principle which allows intrusion upon the internal aspects of foreign affairs. The aspirations of the Organization for Security and Co-operation in Europe (OSCE) to provide internal standards of conduct (freedom of press, the treatment of minorities, etc.) for sovereign states are even more far-reaching.

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[79] Fr. Fukuyama. 1999. Suur vapustus. Inimolemus ja ühiskondliku korra taastamine (Great Disruption: Human Nature and the Reconstruction of Social Order). Tänapäev.

[80] R. Cooper. The Breaking of Nations: Order and Chaos in the Twenty-First Century.

[81] J.S. Nye and W.A. Owens.1996. America`s Information Edge. Foreign Affairs. 75(2), p. 20.

[82] Ian Clark. 2005.Globalization and the Post-Cold War Order.- The Globalization of World Politics. Oxford University Press, p. 735.

[83] J. Soolep. 2018. Digitaalreaalsusest ja postmodernse haridusparadigma kujunemisest- Eesti jätkusuutlik areng ja haridus: kutse- ja kõrghariduse stsenaariumid 2020- 2035 (On Digital Reality and the Shaping of a Postmodern Paradigm in Education – Sustainable Development in Estonia and Education: Scenarios for Vocational and Higher Education). Nord kirjastus, p. 36.

[84] R. Cooper 2004, p. 34.

In Cooper's opinion, the postmodern world resembles the world prior to the establishment of the modern order because it was also an era when the system of states was on the verge of collapse. However, the difference lies in the fact that the present collapse leads to organisation rather than to order. If the first is characterised by post-imperial chaos and pre-state status when the state has lost its legitimacy (Somalia, Liberia, Chechnya, etc.), then the modern world operates in the classical system of states, manly of nation states.[85] In such a world the states retain their "monopoly of force and may be prepared to use it against each other. If the system enjoys order, the reason for it is in the balance of power or in the presence of hegemonic states which see an interest in maintaining the *status quo*, as the United States does in the Pacific. The modern world is for the most part orderly, but it remains full of risks."[86]

An important characteristic of the new postmodern world is the loss of distinction between internal and foreign affairs, which inevitably impinges upon state sovereignty. "Mutual interference in some area of domestic affairs and mutual surveillance (of food safety, of state subsidies, of budget deficits) is normal for postmodern states. (…) In most European countries the judgements of the European Court of Human Rights on all kinds of domestic matters (whether you can beat your children, for example) are accepted as final. Force is rejected as a way of settling disputes."[87] As the postmodern world is borderless, the borders of postmodern states are losing their importance. Even "court decisions are enforced across state borders, right down to parking fines. In this environment security, which was once based on walls, is now based on openness and transparency, and mutual vulnerability."[88] At the same time, some postmodern relations are restricted by agreements, for example, with Russia, the transparency is restricted by the CFE Treaty. The old imperialism is dead in the postmodern world because states are reluctant to war with each other. The European Union and NATO have attempted to maintain greater openness.

However, in the search for the new world order, little attention has been paid to the fact that the Western society makes up but a third of the whole world. This means that on top of Western civilisation, comprising mostly of Christian Europe and America, there are many other civilisations that do not share the Western values of freedom and democracy. Earlier, these civilisations used to be separated and did not pose any particular danger. Today, however, the situation has changed as "a country without much law and order can still have an international airport".[89] Such countries may evoke our sympathy; television may bring their suffering to our own homes.

In such a radically new situation the democratic world is confused. "We have imposed sanctions but the situation is escalating. We have no unanimous solution as to what to do next. But we have to understand that when rules – the Helsinki Accords and all other agreements – have been dismissed by one of the signatories, the situation has changed for all of us. It is important to understand that we do not talk only about Ukraine. The ongoing crisis is not specifically the problem of Eastern Europe, the problem of "our region". The issue is Russia, the relations of Russia with the West and with the Western values of free society"[90] And so we are back in the situation described by Hobbes in the 17th century, in the situation when agreements have lost their validity and we face "the war of all against all".[91] We have to agree with Žižek that today we see the downside of "perpetual peace" in the "perpetual war" against those who are perceived as a threat to peace, that the war against terror is today's reality of perpetual peace.[92]

It has also become absolutely clear that the imperialist ambition of superpowers for a new world order has not disappeared at all. It does not matter whether it is pursued under the banner of liberalism or democracy. We can mention the occupation of

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[85]   R. Cooper. 2004. Riikide murdumine, kord ja kaos 20. Sajandil (Breaking of Nations: Order and Chaos in the Twenty-First Century). Fontes, p. 31.

[86]   *Ibid.*, p. 31.

[87]   *Ibid.*, p. 37.

[88]   *Ibid.*

[89]   R. Cooper 2004, p. 28.

[90]   T.H. Ilvese kõne 2014. Muutuv julgeolukord ja Euroopa väärtused (Address by T.H. Ilves. 2014. Changing Security Situation and European Values.) Tartu Ülikooli aulas (At Tartu University). 12.12.2014. Available at http://www.uttv.ee/naita?id=21016

[91]   T. Hobbes. Leviathan. https://www.ttu.ee/public/m/mart-murdvee/EconPsy/6/Hobbes_Thomas_1660_The_Leviathan.pdf

[92]   S. Zizek. 2010. Living in the End Times. Verso. London-New York.

Crimea by Russia, the US invasion of the Philippines, the issue of Jerusalem in the dispute between Israel and Palestine, the aggression against Iraq and Afghanistan, etc. Sometimes the European Union has been cited as a shining example of today's hyper-globalised and fast-profit oriented world.[93] Still, how to explain why sovereign states have started to give up part of their national sovereignty in order to submit themselves to the jurisdiction of semi-global governance?[94]

As the model of a welfare society prevalent after World War II and the long-dominant system of modernist international society (enjoyed in Europe for quite a while) are about to exhaust themselves, then, alongside that, Kant's concept of "perpetual peace", the foundation of liberal ideology in modern society, has also reached its breaking point.[95] Žižek, one of the most forceful critics of contemporary liberal capitalism, has been critical of Kant's concept of "perpetual peace" in a number of interviews, primarily because Kant designed his "perpetual peace" world order without any external enemy. In reality it means that the enemy is contained everywhere within the self. Žižek notes that today we can see the enemy in the way the West has been bragging about its role as the world policeman over the last decades, as if the world state were actually the long dominant system of modernist international society.[96]

The authors believe that the key question in the evolving international society and world order is how the states, as subjects of international law, communicate with each other in the shared world. Are relations built on international society as a large network-based institution where relations between states are regulated by laws drafted via consensus and not conflict? Or to put it another way: would relations be based on the method of conflict whereby major powers, especially the United States, set themselves against all of Eurasia, or will it be a method of consensus that attempts to find common interest among all the differences?[97]

Old solutions for the issues of international order – balance or hegemony – seem to have lost their appeal. If balance means the balance between a growing number states in possession of nuclear or other arms of mass destruction, then we are facing a problem, not a solution. In the "world in fluctuation" where "context, mood and personalities have a greater impact on international relations than we can assume by reading textbooks"[98], it is necessary to change the context. Robert Cooper thinks that "what ended in 1989 was not merely the Cold War, not even the Second World War. What ended in Europe (and not in Europe alone) was the political system prevalent during the last three centuries: the balance of power and imperial aspirations." The postmodern system is not based on the balance of power nor does it stress sovereignty or the separation of internal and foreign policy. It discards the use of force as a means of conflict resolution and favours consciously the interdependence and vulnerability of European states."[99]

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[93] Soros believes that the only goal of today's hyper-globalised world is to earn more profit. It is a difficult task as systems and money have become the main drivers of society instead of personal responsibility. According to M. Weber it was capitalism that set and realised this goal.

[94] See I. Grauberg. 2013. Sovereignty in International Law and Politics: Theory and Practice. King's College London. The Dickson Poon School of Law.

[95] I. Kant. Perpetual Peace. 30.06.2007. A Philosophical Sketch. – Filiquarian Publishing, LLC.

[96] S. Zizek. 2010. Living in the End Times. Verso. London-New York.

[97] I. Grauberg 2013, p.138.

[98] See R. Cooper. 2004. Riikide murdumine, kord ja kaos 20. Sajandil (The Breaking of Nations: Order and Chaos in the Twenty-First Century). Fontes.

[99] S. D. Krasner. 2001. Rethinking the Sovereign State Model—Review of International Studies. Available at https://books.google.ee/books?id=tHJ5m56sBX4C&printsec=frontcover&hl=et&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false