War as peace, peace as pacification

Mark Neocleous

> To stress one's own love of peace is always the close concern of those who have instigated war. But he who wants peace should speak of war. He should speak of the past one … and, above all, he should speak of the coming one.[1]

A remarkable consensus appears to have emerged on the Left: that in the context of the war on terror the distinction between war and peace has been destabilized. Alain Badiou suggests that the category of 'war' has become so obscured that ancient capitals can be bombed without serving notice to anyone of the fact that war has been declared. 'As such, the continuity of war is slowly established, whereas in the past declaring war would, to the contrary, have expressed the present of a discontinuity. Already, this continuity has rendered war and peace indistinguishable.' 'In the end', notes Badiou, 'these American wars … are not really distinguishable from the continuity of "peace".' Antonio Negri and Éric Alliez likewise comment that 'peace appears to be merely the continuation of war by other means', adding that because peace, 'otherwise known as global war … is a permanent state of exception', war now 'presents itself as peace-keeping' and has thereby reversed their classical relationship. Their reference to a concept made popular following Agamben's *State of Exception* is far from unusual in this new consensus. 'We no longer have wars in the old sense of a regulated conflict between sovereign states', notes Žižek. Instead, what remains are either 'struggles between groups of *Homo sacer* … which violate the rules of universal human rights, do not count as wars proper, and call for "humanitarian pacifist" intervention by Western powers', or 'direct attacks on the USA or other representatives of the new global order, in which case, again, we do not have wars proper, merely "unlawful combatants" criminally resisting the forces of universal order. Hence 'the old Orwellian motto "War is Peace" finally becomes reality.'[2]

The consensus is wide. From a diverse range of recent publications, let me just cite Daniel Ross's analysis of democratic violence in which he claims that in democracies 'peacetime and wartime … are increasingly convergent', Rey Chow's suggestion that war is now the very definition of normality itself, Gopal Balakrishnan's claim that the invasion and policing of 'rogue states' means that 'a long-term epistemic shift seems to be occurring which is blurring older distinctions between war and peace', and François Debrix's argument that the reason the war machine permeates everyday culture is because the distinction between peace and war has broken down.[3]

I have no interest in challenging this account in itself; as will be seen, despite its apparent boldness it is in fact a fairly uncontroversial position to hold. What I do want to challenge, as my starting point at least, is the major historical assumption being made within it. For these accounts rely on an assumption of a 'classical' age in which war and peace were indeed distinguishable; they assume that the destabilization is somehow *new* – hence the references to wars in 'the past', in the 'old sense' and in the 'classical' age. The nebulous nature of some of these phrases is remarkable, given the implied radicalism of the insight being expressed. Worse, in accepting the very claim made by the USA and its allies that everything has indeed changed from the time when the distinction between war and peace was categorical and straightforward, this account also reinforces the general fetish of '9/11' as *the* political event of our time. Perhaps there really was a time 'in the past' when mass killing possessed a greater conceptual clarity; but I doubt it. Felix Grob's *Relativity of War and Peace*, published in 1949, offers countless examples of states engaged in mass killing but either denying or sometimes just not knowing whether or not they were at war, which explains why a wealth of categories have existed to describe a condition that

appears to be neither war nor peace or that might just be a little bit of both: reprisals, belligerency, state of hostilities, measures short of war, intermediate state, quasi-war, and so on. And more than a few international lawyers in the early- and mid-twentieth century pointed out the artificial nature of the distinction between war and peace.[4] It really is a bad sign when supposedly key insights on the Left come half a century after the same insights are made by international lawyers.

The first aim of this article is therefore to make a historical point: that this consensus about a *recent* elision of the difference between war and peace is rooted in a deep historical misconception. Rather, I will aim to show that the distinction between war and peace has *always* been blurred. The second and more political aim is to suggest that this blurring was part and parcel of an ascendant liberalism which found an important political use for the language of peace within the context of international law. To accept the idea that there was a 'classical age' where the distinction between war and peace did make sense is thus to accept one of liberalism's major myths, one which circulates widely in academic discourse as part of 'the liberal peace' hypothesis: that peace is the focal dynamic of civil society, that the state exists in order to realize this 'liberal peace' within civil society, and that international law exists to ensure peace between states. On this view, war is an exception to peace. As a myth, this has served to gloss over liberalism's own tendency to carry out systematic violence and to call it peace; to gloss over, that is, the violence *of* the liberal peace. I therefore argue that it has *never* made sense for the Left to adopt a categorical distinction between war and peace.

This takes me to my third aim, which is to suggest that in accepting the major liberal assumptions about war and peace the Left has cut itself off from developing a concept of war outside of the disciplines of International Relations (IR) and strategic studies (within which, unsurprisingly, the idea of a 'classical age' is also constantly reiterated). For the liberal argument to hold, war has to be understood as a phenomenon of the international sphere: as a confrontation between militarily organized and formally opposed states. Not only does this contraction of the war concept ignore the transnational nature of a great deal of warfare, it also manages to obscure the structural and systematic violence through which liberal order has been constituted.[5] The Left has too easily bought into the idea of war as articulated in IR and strategic studies and has thus been driven by an agenda not of the Left's own making, replicating the idea of war as formal military engagement between states and aping IR and strategic studies in becoming little more than a series of footnotes to Clausewitz.[6] One of the wider implications of this article, then, is to move discussion of war away from the fairly restrictive account found in liberal mythology, IR and strategic studies, and to expand it to include what is after all the most fundamental war in human history: the social war of capital.

To make this case I will begin with the birth of international law and end with some comments on the ideology of security. Why? Because the formal liberal position is that the decision about whether war exists is a legal one and that peace comes through law. 'Law is, essentially, an order for the promotion of peace', says Hans Kelsen in his lectures on international relations: 'The law makes the use of force a monopoly of the community. And precisely by doing so, law ensures peace.'[7] Thus the proclaimed purpose of international organizations such as the United Nations is always peace, to be achieved through law and the legal regulation of war. And not just peace: it is always 'peace and security' that are expected to come together; a conceptual couplet performing the same ideological role internationally as 'law and order' performs domestically. I therefore focus on the early period in international law (or, as it was, the law of nations), since this was the period in which liberalism found in law a way to articulate its vision of peace and security. It did so in that crucible of capital's civil war: colonialism.

The humanity of Indians

Although there is much debate about when international law first emerged, with many treating it as an outcome of the Peace of Westphalia, there is a wide enough agreement that prior to Westphalia there was a 'Spanish age' of international law,[8] so called because the arguments developed at that point coincided with the rise of Spain as a colonial power. Spanish political thought was at this moment central to European intellectual life and it is no coincidence that it became so through its debates about war. In this context the work of Francisco de Vitoria is crucial.

Vitoria's work is regarded as one of the first statements of a universalist and humanitarian conception of international law. He is often regarded as the first to have 'proclaimed a "natural" community of all mankind and the universal validity of human rights', and to have presented a 'courageous defence of the rights of the Indians' against the Spanish.[9] This reading of Vitoria is rooted in his conception of 'the whole world which is in a sense a commonwealth' and the

idea of a law of nations which would have 'the sanction of the whole world'.[10] 'Vitoria was a liberal', notes James Brown Scott. Indeed, 'he could not help being a liberal. He was an internationalist by inheritance. And because he was both, his international law is a liberal law of nations.'[11] One reason for this interpretation is that Vitoria's 'humanist' tendencies meant his work was established against the more explicitly violent policies of Spanish colonialism: 'No business shocks me or embarrasses me more than the corrupt profits and affairs of the Indies … I do not understand the justice of the war.'[12] A second reason is his claim that the Indians had rights of *dominium*. Sinners and non-believers as they might be, they are nonetheless 'not impeded from being true masters, publicly and privately' and so 'could not be robbed of their property'.[13] One of the reasons they had rights of dominium, and the third reason for the interpretation of Vitoria as one of the first statements of universal and humanitarian international law, is because they are human beings with reason: the Indians are not monkeys but 'are men, and our neighbours', so 'it would be harsh to deny to them … the rights we concede to Saracens and Jews'.[14]

In suggesting that non-Christians are somehow equal with Christians, Vitoria challenges the idea of a universal Christian order administered by the Pope within which the Indians could be characterized as heathens and their rights and duties determined accordingly. He thereby disallows religion as the basis for war against the Indians or rule over them. Yet although the Indians are like the Spanish, their social, economic and political practices, including nudity, the consumption of raw food and cannibalism, mean they diverge from universal norms in such a way as also to make them unlike the Spanish. The Indian appears to have some of the social and cultural characteristics of civilized life, yet is markedly uncivilized; the Indian shares the characteristics of a universal humanity, yet is also set clearly apart. Thus the 'Indian problem' became the basis of a discussion about the relations between different groups of humans within a 'republic of all the world'. In effect, as Anthony Anghie points out, the problem for Vitoria was not one of managing order between formally equal sovereign states, but of constituting order among culturally different entities.[15] It is this tension between the claims of natural law against behaviour that is somehow 'unnatural', and the necessity of understanding *others* within the framework of a universal humanity, which runs though Vitoria's two 1539 lectures on the Indians and on the laws of war. And it is this tension which reveals the conjunction of violence and law running through the liberal imperialism which emerges, an imperialism in which the idea of peace becomes a key thematic.

Inspired by the dynamics of Spanish territorial possession, Vitoria places colonial domination – and thus dispossession – at the heart of international law. At the heart of this domination and dispossession are the laws of war and peace and the question of 'free trade'. According to Vitoria, the natural rights and duties of the law of nations are society and fellowship, trade and commerce, communication, participation regarding things in common, and the freedom to travel. Because trade is essential to human communication and to the exchange and development of human knowledge, the right to maintain lines of communication through trade and exchange is a right of natural law. Hence 'the Spaniards have the right to travel and dwell in those countries, so long as they do no harm to the barbarians', and 'they may lawfully trade among the barbarians, so long as they do no harm to their homeland.' A refusal by the Indians to trade with the Spaniards constitutes a refusal to maintain 'natural' lines of communication, and is barbarism. Moreover, 'if there are any things among the barbarians which are held in common both by their own people and by strangers, it is not lawful for the barbarians to prohibit the Spaniards from sharing and enjoying them.' The reason for this is based in part on the principle of trade and in part on the idea that in natural law a thing which does not belong to anyone becomes the property of the first taker. What this means is that should the barbarians try to deny the Spaniards what is theirs by the 'law of nations' – that is, by natural law – then 'they commit an offence against them'.[16]

If Vitoria's argument is a major contribution to some kind of emergent international law of nations, then it is equally an important contribution to an emergent discourse of political economy centred on commerce and accumulation; it is through this contribution that Vitoria helps shape natural law arguments for conquest, for the right to engage in commerce and trade is for Vitoria a natural right. As Williams points out, within the totalizing discourse of a universally obligatory natural law of nations, the profit motive occupies an extremely privileged status, in the sense that *not* engaging in trade is treated as contrary to the mutual self-interests shared by all humankind.[17] And this motivation must be allowed to triumph over common property rights. Put simply: customary land use by the Indians has to be treated as an *illegitimate* form of property. Any indigenous 'law of the commons' must therefore be abolished and replaced by the law

of private property, and dispossession legitimized on the grounds of natural law. As is well known, it is this dispossession and replacement of common property with private property that becomes central to the colonizing project and to bourgeois political economy thereafter. It is at this point that the question of war becomes crucial, as the Spaniards have the right to defend themselves against the offences committed by the Indians by availing themselves of the other main right of the law of nations: to go to war. 'If the barbarians … persist in their wickedness and strive to destroy the Spaniards, they may then treat them no longer as innocent enemies, but as treacherous foes against whom all rights of war can be exercised.'[18]
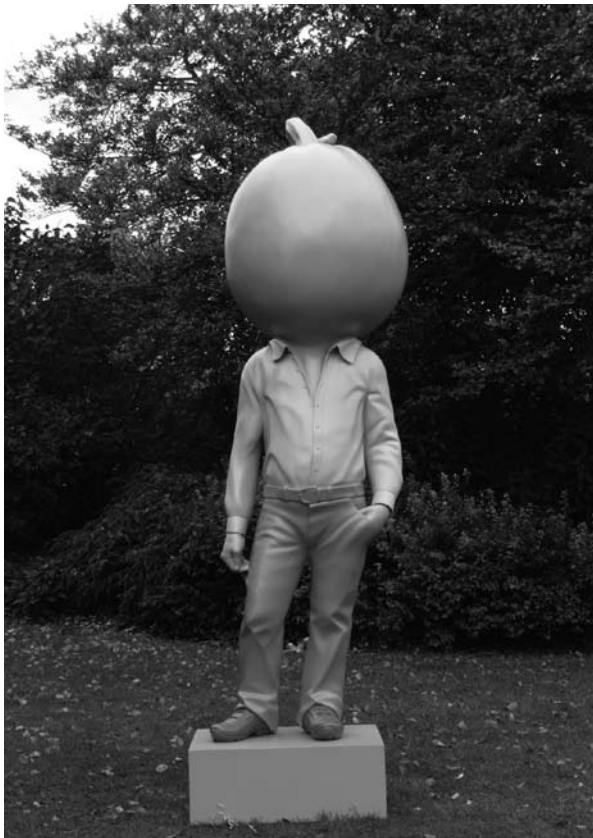
In making this argument Vitoria's lecture broke new theoretical ground for Western colonizing thought, providing a natural law source of Spain's right – and by implication any other state's right – to engage in war against native peoples and to rule in the New World as a means of securing the right to commerce. If the law of nations emerged to deal with war, then the war in question was one of accumulation.

As a war of accumulation this was recognized from the outset as permanent. 'Our war against the pagans is … permanent because they can never sufficiently pay for the injuries and losses inflicted.'[19] Because of this *a prince may do everything in a just war which is necessary to secure peace and security*', including

plundering the goods of the innocent, killing the innocent, and enslaving the women and children, to the point of absolute destruction:

> War is waged to produce peace, but sometimes security cannot be obtained without the wholesale destruction of the enemy. This is particularly the case in wars against the infidel, from whom peace can never be hoped for on any terms; therefore the only remedy is to eliminate all of them who are capable of bearing arms, given that they are already guilty.[20]

Vitoria's law of nations, then, gives us two options: permanent war in search of free trade or absolute destruction of the enemies of such trade.

In this light, James Brown Scott's description of Vitoria as a liberal is both interesting and historically important. A leading law scholar, Scott was solicitor to the US Department of State (1906–09), acted as trustee and secretary to the Carnegie Endowment for International Peace (1910–40), served as adviser to the US delegation to the second Hague Peace Conference of 1907, was president of the American Institute of International law (1915–40), wrote several major works on international law and the various Hague Peace conferences, edited and thereby made newly available a series of translations of the 'classics' of international law (including Vitoria), helped establish the Permanent Court of International Justice in 1921, and served under President Woodrow Wilson. In pursuing the idea that Vitoria is a liberal Scott sought to draw a link between the liberalism of the sixteenth-century law of nations and the liberalism of early-twentieth-century US foreign policy, albeit mediated by the Catholicism which he claimed also underpinned international law. The 'discovery' of America, in his view, gave birth to a modern law of nations which was originally Catholic but had now become entirely laicized in liberal form. For that reason, he sought to situate Vitoria within this liberal tradition. Now, Scott's argument has been widely challenged. Arthur Nussbaum, for example, was one of the first of many to respond to Scott by pointing out the decidedly 'illiberal' things Vitoria has to say or tries to justify.[21] Yet the argument of Nussbaum and others is founded on the rather naive assumption that liberalism could never engage in something so illiberal as systematic violence against weaker and even unarmed opponents for merely commercial reasons. But in that sense, and leaving aside some of the issues in Scott's reading of Vitoria, it seems to me that, without meaning to, Scott gets it more or less spot on: Vitoria is a liberal. But what Scott and his challengers fail to see is that

this is the very reason Vitoria defends the practice of war against the Indians. To understand why, Vitoria really needs to be understood in terms of the tradition of liberal imperialism that was then becoming established in Europe.

Peace, liberty, violence

Much has been made of what J.G.A. Pocock has called 'the Machiavellian moment' in the history of political thought, in which a new language was forged addressing the problems associated with constituting a republic of liberty through a dialectic of virtue and fortune.[22] Mikael Hornqvist has shown that this republican ideal of freedom was deeply implicated in the imperial project, in which acquisition becomes the touchstone of liberty. For in the century leading up to Machiavelli, as well as in the years to follow, writer after writer had stressed the importance of empire to liberty: Bruni on the right to lordship over the world; Dati on the centrality of empire to security and economic order; Palmieri on the links between civic unity and increase of empire; Savonarola on the importance of the empire to ancient Rome; the list is long and well-documented by Hornqvist. Thus when Machiavelli lays down the basic tenets of Roman and Florentine republicanism, namely that a city has two ends – one to acquire, the other to be free, he draws on and summarizes a position that had become well established over the previous century. This tradition assumes that liberty 'entails a commitment to empire understood as a defence and a militant extension of true liberty in a hostile world'. In concrete terms, this 'translates into a pursuit of territorial security which justifies the intervention in the political life of neighbouring states and the subjugation and annexation of foreign lands'. Far from being contrary values, notes Hornqvist, liberty and imperial acquisition are understood as together constituting the dual end of the healthy republic.[23] The liberal and 'humanitarian' concept of a world of universal being presupposes an expansive polity, which, in generating a politics of acquisition, in turn produces new enemies and thus requires the exercise of violence. For there can be no empire of liberty without arms. The art of politics is the *art of war*, as Machiavelli has it in the title of the only one of his major works to be published in his lifetime (in 1521). Or as he puts it in his better-known work: the successful Prince 'takes as his profession nothing else than war and its laws and discipline'.[24] This art of war is in Machiavelli's mind central to imperial politics but links back to the discipline of liberty needed for internal order. Empires of liberty are always already empires of violence.

As empires of liberty, however, this violence is carried out in the name of peace and security. 'The aim of war is peace and security', says Vitoria, over and again. War is waged specifically for the defence of property, for the recovery of property and in revenge for an injury, and it is waged more generally 'to establish peace and security'.[25] This is used to justify offensive as well as defensive war.

> The purpose of war is the peace and security of the commonwealth … But there can be no security for the commonwealth unless its enemies are prevented from injustice by fear of war. It would be altogether unfair if war could only be waged by a commonwealth to repel unjust invaders from its borders, and never to carry the conflict into the enemies' camp.

Indeed, pre-empting the idea of a 'humanitarian war' that would emerge centuries later, Vitoria insists that war might be carried out 'for the good of the whole world'.[26]

The significance of Vitoria's idea that war is made for peace and security lies in the fact that it was being articulated as a key principle in the emerging law of nations, that the 'permanent' colonial wars which gave rise to this law of nations were increasingly taking on the ideological form of peace, and that this was a key moment in the development and structural transformation of the state. The prolonged cumulative effect of new weapons technology, new disciplinary provisions, fortifications, increase in the size of armies and navies, and the changes in tactics and strategy which these developments aided and abetted, including a fiscal centralization necessary to sustain these developments, meant that not only was the development of the state machine being accelerated as the monarchs and republics of Europe centralized and nationalized, most notably in the major colonizing powers of England, Spain, the Netherlands and France, it was being accelerated as a war machine. War made the state and the state made war, as Charles Tilly puts it.[27] Concomitantly, this war machine received philosophical legitimation in a variety of forms: from the new and decidedly Machiavellian 'military arithmetic' found in the work of writers such as Girolamo Cataneo in Italy and Thomas Digges in England, to the most sustained commentaries on the nature of sovereignty, such as Bodin's *Six Books of the Commonweal* (1576) and Botero's *Della ragion di stato* (1589), both of which suggest that military discipline and training in arms are necessary for war with other nations and for disciplining one's own subjects.

Within this ideological transformation, 'peace' came to be addressed as a political issue. Humanists such as Erasmus suggested that an unjust peace was better than a just war; statesmen and sovereigns came to talk about a universal peace rather than perpetual war, some of them adopting *beati pacifici* ('blessed are the peacemakers') as their motto or styling themselves as *rex pacificus*, and pageants lauding peace increasingly took place with a pomp and performance that would have been unthinkable just a century earlier. Catherine de Medici, for example, took on the mantle of peacemaker using symbols of peace such as the rainbow or the Juno (arranger of peace-bringing marriages), and Charles V fashioned himself as the new Augustus, the emperor of peace – the famous painting of him by Titian has him riding through a landscape conveying the peaceful calm after a raging battle, while a sculpture of him by Leone y Pampeo has him 'dominating over fury'.[28] The issue here is not just a monarchical jockeying for the image of 'peacemaker', for the question of peace resonated culturally and intellectually – it has been noted, for example, that the mid-sixteenth century saw a proliferation of peace poetry.[29] As Ben Lowe has shown, by the sixteenth century 'peace' was becoming more complex and adaptable as an idea and more entrenched as a societal ethic. In personal form it was associated with charity, mercy and piety; in its religious mode it connoted tranquillity as part of a rigorous Christian ideal; in a more 'political' mode it meant the restoration of order and stability along with an end to lawlessness; and in becoming conjoined with a set of ideas associated with the rise of capital ('commerce', 'prosperity', 'wealth', 'profit') it connoted certain practical benefits to the nation. It was a discourse of peace outside and distinct from 'just war' doctrine and centred on the idea of the nation-state.[30]

Thus it is fair to say that amidst the 'military revolution' of the sixteenth century, new ideas of peace were evolving as part of political discourse. As the nineteenth-century liberal jurist Sir Henry Maine once commented, 'War appears to be as old as mankind, but peace is a modern invention.'[31] An invention, that is, that came about amidst the increasing monopolization of violence by the developing state and one which could be shaped and utilized by the state to help justify the violence under its control. The discourse of peace came to *permeate* the discourse of war in the very century in which war was being treated as an ineradicable feature of politics, as a necessity for the security of the state, and in which the 'permanent-war machine' was being perfected. A book such as Thomas Becon's *New Pollecye of War* (1542, published under his pseudonym Theodore Basille) could be retitled for its second edition later that year *The True Defense of Peace* and then reissued under its old title again after Becon's death without anyone finding anything odd in the changes. The changes are indicative of the extent to which 'peace', as an increasingly seductive ideal to the martial mentality of the European ruling elites, had to be subsumed under the logic of war. Hence, on the one hand, a staunch 'pacifist' such as Erasmus ends up accepting the right to wage war, not least for the 'tranquillity' and 'stability' of the Christian republic and to 'punish delinquents'; that is, for dealing with internal dissent and rebellion.[32] On the other hand, a staunch defender of the 'art of war' such as Machiavelli also writes of the 'arts of peace': to be exercised externally against one's enemies in the hope of breaking them down (due to the fact that 'the cause of union is fear and war') and internally as a mechanism for internal order (his example is to have the people believe in religion), and it is clear from his discussion that the arts of peace are continuous with the arts of war.[33] The war machine is a peace machine; the peace machine is a war machine. Permanent war normalized *as* peace.

This is nowhere truer than in that centrepiece of the art of war: empire. The concept *pax*, appropriated from the *Pax Romana*, was central to the articulation and development of the imperial theme in this period (and would remain so through the further growth of empires in the later *Pax Britannica* and *Pax Americana*). But in the Roman tradition from where it hails *pax* has more affinity with the word 'dominance' than with modern notions of 'peace'. What is connoted by the word is not simply an absence of conflict or making of a pact, but the imposition of hegemony achieved through conquest and maintained by arms: the goddess Pax was portrayed on Trajanic coins with her right foot on the neck of a vanquished foe. *Pax* thus had unmistakable military and hegemonic overtones and was deeply embedded in military codes and practices; it was and is a victor's peace, achieved by war and conquest.[34] *Pax* and *imperium* went hand in hand: peace as domination. Or, we might say, domination as pacification.

Pacification, law, security

In his series of lectures from 1975 to 1976, the recent translation of which has made them increasingly influential, Foucault explored the ways in which we might consider war as the matrix for techniques of domination: the ways in which politics is the continuation of war by other means, rather than Clausewitz's more famous formulation. On this view, the task of political

power lies in the perpetual inscription of relations of force through a form of unspoken warfare. Far from ending war, the 'civil peace' is in fact its continuation: 'If we look beneath peace, order, wealth, and authority … will we hear and discover a sort of primitive and permanent war?' It is not so much 'politics' that is the continuation of war by other means, then, but 'peace'. That is, *liberal* peace, alterations in which are merely episodes, factions and displacements in war. We therefore 'have to interpret the war that is going on beneath peace', because 'peace itself is a coded war'.[35] Coded, we might say, as pacification.

'Pacification' is often thought to have been developed as a term during the America–Vietnam war, following its adoption in 1964–65 as a substitute term for 'counterinsurgency'. In fact, the term enters political discourse in the context of the colonial wars of the sixteenth century. In July 1573 Philip II came to believe that the continued violence being meted out in the conquest of the colonies was causing a certain discontent among his own people. He therefore proclaimed that all further extensions of empire be termed 'pacifications' rather than 'conquests'.

> Discoveries are not to be called conquests. Since we wish them to be carried out peacefully and charitably, we do not want the use of the term 'conquest' to offer any excuse for the employment of force or the causing of injury to the Indians … Without displaying any greed for the possessions of the Indians, they [the 'discoverers', 'conquerors'] are to establish friendship and cooperation with the lords and nobles who seem most likely to be of assistance in the pacification of the land.[36]

As Tzvetan Todorov notes, the conquests themselves are not to be stopped, but the idea of 'conquest' is to be replaced with 'pacification',[37] a mystification still in place centuries later.[38] The violence remains unchanged, but in taking from the Roman tradition of imperial glory through military domination, in which *pax* implied 'pacification', it was understood in terms of the verb 'pacificate', now obsolete but which in the seventeenth century meant 'to make peace'. Playing on the constitution of internal order in ordinary language, 'pacification' quickly came to describe the *enforcing* of a certain kind of peace, order and security. Pacification, then, is a police action: a military act dressed up as peace. Through pacification, (colonial) war becomes (colonial) peace, a rhetorical move devised in the context of the wars of the sixteenth century and perfected over the centuries to follow: from the 'Edicts of Pacification' of the late sixteenth century to the treaty

taken by many to be the definitive original document of international law, the Treaty of Westphalia, which several times refers to itself as a Treaty of Pacification; from the pacification of Vietnam to the streets of Baghdad in the 'war on terror'. If peace itself is a coded war, then pacification is core to the codification.

So too is law. 'Law is not pacification', says Foucault. Well, no, not least because pacification is also very much about culture and ideology ('hearts and minds'), productivity and development ('modernization'), welfare and sexuality (from population censuses and surveys through to 'erotic' pamphlets), and much more, a range of activities which explain the numerous name changes undergone by specific pacifications such as the war on Vietnam: Reconstruction, Rural Construction, Revolutionary Reconstruction, Land Development, Civic Action, and so on, all expressing the 'productive side' of power, as Foucault might have said and President Johnson more or less did say.[39] But that is not Foucault's point. Rather, for Foucault, law is not pacification because 'beneath the law, war continues to rage in all the mechanisms of power.'[40] With this comment, Foucault's unwillingness to deal properly with the question of law comes to the fore: looking 'beneath' the law is one of Foucault's ways of implying that law is not important to questions of power–war, a point he makes on many occasions in his attempt to move beyond the 'juridico-discursive' concept of power. Yet to try to understand war without recourse to the question of law is a serious mistake, as Foucault himself came to acknowledge.[41] It is far more the case that *through* the law, war continues to rage. Such a claim *does* require grappling with law, as it means grappling with the violence and war that take place through law but which law itself does so much to mask – not least because the violence of law is always exercised in the name of 'peace'.[42] Contra Foucault, law *is* pacification. Moreover, and even more contra Foucault, this was the crowning achievement of liberal contract theory.

The story told about this tradition is that war is replaced by law; the social contract sees the natural right to use force given up to the state, which then monopolizes the means of violence and thus the war power. This is the story told about the tradition by IR and strategic studies and is also very much the story told by Foucault: 'basically, Hobbes's discourse is a certain "no" to war'.[43] This view is reinforced in Foucault's more substantive works where he suggests an approach which 'takes as its model a perpetual battle rather than a contract'.[44] But this is an incredibly one-dimensional reading of Hobbes and contract

theory, in that it fails to recognize the extent to which seventeenth-century contract theorists *retained* a notion of perpetual battle within their model of the contract and despite their attempt to say 'no' to war.

It is usually said that Hobbes thinks the creation of the mighty Leviathan somehow resolves the problem of war: the perpetual war of the state of nature can be overcome with the creation of a sovereign entity which monopolizes the means of violence and thus the powers of war. In so doing, wars between states come to be the 'proper' form of war and wars within states an 'illegitimate' form of violence. That is, Hobbes's argument legalizes one type of war and interpellates another type, civil war, as illegal or criminal. Yet there is more to be said about this. For the connection between the external–foreign relation of war and the internal–domestic importance of peace is centred on the exercise of violence, not just in Hobbes's sense that men who worship 'peace' at home will do so in vain if they cannot defend themselves against foreigners, but also because the control of violence is always already turned inwards: in the form of law. 'We must understand, therefore, that particular citizens have conveyed their whole right of war and peace unto some one man or council; and that this right, which we may call *the sword of war*, belongs to the same man or council, to whom the sword of justice belongs.' Two swords: the sword of war and the ancient sword of justice, held together in one and the same 'supreme authority'. On the one hand, then, the violence monopolized by the state is expressed as war when directed against foreign powers and as law when exercised internally. The concept of order being articulated here thereby sets out its historical stall as offering peace through the restriction of war-making to the sovereign state. On the other hand, however, and this is the point missed by Foucault, the problem of civil war can not be circumvented so easily, and thus remains for Hobbes a *permanent* feature of social order. Why? Because for Hobbes those who remain dissatisfied with their sovereign and the contract end up 'waging war'. One must bear in mind that despite Hobbes's state of nature often being interpreted as an abstraction, in *De Cive* he relates it explicitly to the civil war which had recently been affecting his country. Indeed, even questioning the need for obedience on the part of subjects constitutes one of the 'true forerunners of an approaching war'. In *Leviathan* this becomes clearer still: the challenge to authority is 'a relapse into the condition of warre, commonly called Rebellion … for *Rebellion*, is but warre renewed'.[45]

Thus despite Hobbes's attempt to 'annex' war to the state, he cannot give up the idea that the multitude is always already on the verge of rebellion, the people always already on the verge of revolution and thus civil society always already on the verge of chaos. To grasp this Hobbes has to invoke once more the category war, and he does so not for relations between states but for the social order constituted by the contract. For all the talk about the 'peace and security' of the juridical order generated by the Leviathan, then, in Hobbesian terms what one should really speak about is the pacification of an otherwise permanent civil war.

The same logic of pacification is found in other writers in the social contract tradition which supposedly sought to say 'no' to war, such as Locke. It appears in Locke's acceptance of slavery, which is 'nothing else, but *the State of war continued*' and which is then reincorporated into civil society through the place of the slave within the domestic situation. But it is most explicit in Locke's theory of punishment, which stems from the idea that those who commit crimes against us or even show enmity towards us have 'declared War against all Mankind'. This argument about punishment in Chapter II of the *Second Treatise* runs straight into the argument about war in Chapter III, where it is suggested that '*Force without Right, upon a man's Person, makes a State of War.*' This appears initially to concern the state of nature: 'force … where there is no common Superior on Earth to appeal to for relief, *is the State of War*'. Yet within a few lines Locke adds that force without right makes a state of war 'both where there is, and is not, a common Judge'. This is war saturating the social body following the creation of political society; indeed, war as a constitutive feature of political society. One might note that despite Locke twice suggesting that this account of punishment will seem to many a 'strange doctrine', it is actually not far from the doctrine of punishment held by Vitoria, and, moreover, when Locke comes to flesh out the theory of punishment he does so in the context of colonialism and the right of war against the Indians.[46] The introduction of government in Locke's argument, then, often understood through the lens of the liberal search for peace, is in fact comprehensible only through the logic of war, exercised in a permanent fashion against rebellious slaves, antagonistic Indians, wayward workers, and criminals with something unsocial in mind: a liberal war masquerading as liberal peace.

In other words, the civil society created by the contract in the name of peace and security remains for

liberalism a space of war. Regardless of its desire to restrict war to the international realm, civil society is *always already at war*. On the one hand, and *pace* the myth of peace and commerce as congenital twins, there is the permanent war of capital (spelt out by Marx in his treatise on this war, namely Volume 1 of *Capital*). On the other hand, there are the manifold permanent or semi-permanent wars against the various 'enemies within': war on crime, war on drugs, war on poverty, war on unemployment, war on scroungers, and on it goes until the war that has been articulated as the one that will probably never end: the war on terror. All are code for the permanent pacification required in/of the bourgeois polity and all are a product in one way or another of the supreme concept of bourgeois society: security. 'Fundamental to pacification is security', commented someone with more than a little first-hand experience.[47] The demand for peace and security, then, is a demand for pacification.

Beyond peace

In an essay on 'African Grammar', Roland Barthes once highlighted the ways in which official French reports on African affairs functioned not as communication but as intimidation, often employing that standard tactic of bourgeois ideology: giving something the name of its contrary.

> GUERRE/WAR. – The goal is to deny the thing. For this, two means are available: either to name it as little as possible (most frequent procedure); or else to give it the meaning of its contrary (more cunning procedure, which is at the basis of almost all the mystifications of bourgeois discourse). War is then used in the sense of peace, and pacification in the sense of war.[48]

Barthes's insight is clearly gleaned from French colonialism, but his point is a general one about one of the most important mystifications which has accompanied bourgeois power since its inception. As I have suggested here, this mystification concerning war and peace is far from being a product of the global war on terror; rather, it is a long-standing ideological feature of the global war of capital.

Recognizing this is but one move towards more creative thinking about war; thinking has to be done outside and against the mystifications found in liberalism, IR and strategic studies. It is also thinking that has to be done outside of the discourse of peace and security. As noted by Retort in what is by far the best analysis of the war in Iraq, the reality of a permanent war on terror 'renders inadequate the notion of "peace" as an oppositional frame or strategy'.[49] As much as

this is true of the 'war on terror' so it has been true of the permanent social war of capital. Creative thinking about war therefore also requires jettisoning naive ideas about peace.

Notes

1. Walter Benjamin, 'Peace Commodity' (1926), in *Walter Benjamin's Archive*, trans. Esther Leslie, Verso, London, 2007, pp. 56–7.
2. Alain Badiou, 'Fragments of a Public Journal on the American War against Iraq', 26 February 2003, in *Polemics*, trans. Steve Corcoran, Verso, London, 2006, pp. 39–41; Antonio Negri and Éric Alliez, 'Peace and War' (2002), in Antonio Negri, *Empire and Beyond*, trans. Ed Emery, Polity Press, Cambridge, 2008, pp. 54–6; Slavoj Žižek, *Welcome to the Desert of the Real: Five Essays on September 11 and Related Dates*, Verso, London, 2002, pp. 93–4.
3. Daniel Ross, *Violent Democracy*, Cambridge University Press, Cambridge, 2004, p. 12; Rey Chow, *The Age of the World Target: Self-Referentiality in War, Theory and Comparative Work*, Duke University Press, Durham NC, 2006, p. 34; Gopal Balakrishnan, *Antagonistics: Capitalism and Power in an Age of War*, Verso, London, 2009, p. 104; François Debrix, *Tabloid Terror: War, Culture, and Geopolitics*, Routledge, London: Routledge, 2008, p. 97.
4. Fritz Grob, *The Relativity of War and Peace: A Study in Law, History, and Politics*, Yale University Press, New Haven CT, 1949. For the lawyers: Quincy Wright, 'When Does War Exist?, *American Journal of International Law* 26, 1932, pp. 362–8; Georg Schwarzenberger, 'Jus Pacis Ac Belli? Prolegomena to a Sociology of International Law', *American Journal of International Law*, vol. 37, no. 3, 1943, pp. 460–79; Philip C. Jessup, 'Should International Law Recognize an Intermediate Status between Peace and War?', *American Journal of International Law*, vol. 48, no. 1, 1954, pp. 98–103.
5. See Tarak Barkawi, *Globalization and War*, Rowman & Littlefield, Lanham MD, 2006.
6. Recent attempts to shift the debate include Randy Martin, *An Empire of Indifference: American War and the Financial Logic of Risk Management*, Duke University Press, Durham NC, 2007; Michael McKinley, *Economic Globalization as Religious War: Tragic Convergence*, Routledge, Abingdon, 2007; Peter Alexander Meyer, *Civic War and the Corruption of the Citizen*, University of Chicago Press, Chicago, 2008; Nelson Maldonado-Torres, *Against War: Views from the Underside of Modernity*, Duke University Press, Durham NC, 2008; Tarik Kochi, *The Other's War: Recognition and the Violence of Ethics*, Birkbeck Law Press, London, 2009. Also important is Étienne Balibar's unpublished lecture 'Politics as War, War as Politics: Post-Clausewitzian Variations', Alice Berline Kaplan Center for the Humanities, 8 May 2006. I am grateful to John Kraniauskas and Philip Derbyshire for bringing Balibar's lecture to my attention.
7. Hans Kelsen, *Law and Peace in International Relations*, Harvard University Press, Cambridge MA, 1942, pp. 1, 11–12.
8. Wilhelm G. Grewe, *The Epochs of International Law* (1984), trans. Michael Byers, Walter de Gruyter, Berlin, 2000.
9. Julius Stone, *Human Law and Human Justice*, Maitland

Publications, Sydney, 1965, p. 62; James Leslie Brierly, *The Law of Nations*, Clarendon Press, Oxford, 1955, p. 26.

10. Francisco de Vitoria, 'On Civil Power' (*c.*1528), in Vitoria, *Political Writings*, ed. Anthony Pagden and Jeremy Lawrance, Cambridge University Press, Cambridge, 1991, p. 40.

11. James Brown Scott, *The Spanish Origin of International Law: Francisco de Vitoria and his Law of Nations*, Clarendon Press, Oxford, 1934, pp. xvi, 280.

12. Francisco de Vitoria, 'Letter to Miguel de Arcos', 8 November, 1534, *Political Writings*, pp. 331, 332.

13. Francisco de Vitoria, *De Indis*, in *Political Writings*, pp. 246, 250–51.

14. Francisco de Vitoria Vitoria, 'Letter to Miguel de Arcos', p. 333; *De Indis*, p. 251.

15. Anthony Anghie, *Imperialism, Sovereignty and the Making of International Law*, Cambridge University Press, Cambridge, 2005, pp. 15–22, 36–7.

16. Vitoria, *De Indis*, pp. 278–80.

17. Robert A. Williams, *The American Indian in Western Legal Thought*, Oxford University Press, New York, 1990, p. 102.

18. Vitoria, *De Indis*, pp. 282–3.

19. Vitoria, *De Indis Relectio Posterior*, in *Political Writings*, p. 318.

20. Ibid., p. 321.

21. Arthur Nussbaum, *A Concise History of the Law of Nations*, Methuen, New York, 1961, pp. 74, 83, 296–306.

22. J.G.A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition*, Princeton University Press, Princeton NJ, 1975.

23. Mikael Hornqvist, *Machiavelli and Empire*, Cambridge University Press, Cambridge, 2004, pp. 61, 72, 74.

24. Niccolò Machiavelli, *The Prince* (1532), in *The Chief Works and Others*, Vol. 1, trans. Allan Gilbert, Duke University Press, Durham NC, 1989, p. 55.

25. Vitoria, *De Indis*, p. 283; *De Indis Relectio Posterior*, p. 319.

26. Vitoria, *De Indis Relectio Posterior*, p. 298.

27. Charles Tilly, 'Reflections on the History of European State-Making', in Charles Tilly, ed., *The Formation of National States in Europe*, Princeton University Press, Princeton NJ, 1975, p. 42.

28. Frances A. Yates, *Astraea: The Imperial Theme in the Sixteenth Century*, Routledge & Kegan Paul, London, 1975, pp. 133–4, 210; Ralph Bauer, *The Cultural Geography of Colonial American Literature: Empire, Travel, Modernity*, Cambridge University Press, Cambridge, 2003, p. 44.

29. James Hutton, *Themes of Peace in Renaissance Poetry*, Cornell University Press, Ithaca NY, 1984, p. 19.

30. Ben Lowe, *Imagining Peace: A History of Early English Pacifist Ideas*, Pennsylvania State University Press, Pennsylvania, 1997.

31. Sir Henry Sumner Maine, *International Law: A Series of Lectures Delivered before the University of Cambridge, 1887*, John Murray, London, 1888, p. 8.

32. José A. Fernández, 'Erasmus on the Just War', *Journal of the History of Ideas*, vol. 34, no. 2, 1973, pp. 209–26.

33. Erasmus, 'Letter to Martin Bucer', 11 November 1527, in J. Huizinga, *Erasmus and the Age of Reformation* (1924), Phoenix Press, London, 2002, pp. 288–92; Niccolò Machiavelli, *Discourses on the First Decade of Titus Livius* (1513–17), in *Chief Works*, pp. 224, 399. Note too his comment on Ancus, a man 'so gifted … that

34. he could both enjoy peace and carry on war' (p. 245).

35. Ali Parchami, *Hegemonic Peace and Empire: The Pax Romana, Britannica, and Americana*, Routledge, London, 2009, pp. 15–17, 42, 62, 92–3.

35. Michel Foucault, '*Society Must Be Defended': Lectures at the Collège de France, 1975–76*, trans. David Macey, Allen Lane, London, 2003, pp. 15–16, 46–8, 50–51.

36. Cited in Tzvetan Todorov, *The Conquest of America*, HarperPerennial, New York, 1984, p. 173.

37. Ibid., p. 174.

38. During the war in Vietnam one 'unofficial' Pentagon spokesman, Hanson W. Baldwin, let slip the mystification: writing in the *New York Times* of the 'ink blot' or 'oil stain' theory of pacification, in which like ink blots or oil stains the operations from one base overlap those from another, he commented that 'gradually the area pacified or conquered covered the country'. Cited in Joseph Hansen, 'The Case Against "Pacification"', *International Socialist Review*, vol. 27, no. 4, 1966, pp. 131–6, www.marxists.org/archive/hansen/1966/xx/pacification.htm.

39. 'I want to have a war to build as well as to destroy', said Johnson to his advisers about 'the other war', as he called pacification; cited in Frank L. Jones, 'Blowtorch: Robert Komer and the Making of Vietnam Pacification Policy', *Parameters: US Army War College Quarterly*, vol. 35, no. 3, 2005, 103–18, p. 104. 'Pacification had to be productive', notes William Gibson, who in outlining the 'Eleven Criteria and Ninety-Eight Works for Pacification' in Vietnam comments that 'the list sounds like a program for the construction of a liberal welfare state'; *The Perfect War: Technowar in Vietnam*, Grove Books, New York, 1986, pp. 281, 291.

40. Foucault, '*Society*', p. 50.

41. 'If God grants me life … the last thing that I would like to study would be the problem of war … There again I would have to cross into the problem of law'. Interview with André Bertin, 1983, published as 'What Our Present Is', in *Foucault Live*, ed. Sylvère Lotringer, Semiotext(e), New York, 1996, p. 415.

42. Walter Benjamin, 'Critique of Violence' (1920–21), trans. Edmund Jephcott, in *Selected Writings*, Vol. 1: *1913–1926*, ed. Marcus Bullock and Michael W. Jennings, Belknap/Harvard University Press, Cambridge MA, 1996, pp. 248–9.

43. Foucault, '*Society*', pp. 17, 97.

44. Michel Foucault, *Discipline and Punish: The Birth of the Prison* (1975), trans. Alan Sheridan, Penguin, London, 1977, p. 26.

45. Thomas Hobbes, *De Cive* (1642), in Hobbes, *Man and Citizen*, ed. Bernard Gert, Hackett, Indianapolis, 1991, pp. 103–4, 177–8; *Leviathan* (1651), ed. Richard Tuck, Cambridge University Press, Cambridge, 1991, p. 219.

46. John Locke, *Two Treatises*, ed. Peter Laslett, Cambridge University Press, Cambridge, 1988, I, sect. 130, 131; II, sects. 10, 19, 24

47. General William C. Westmoreland reporting his experience in Vietnam, in *A Soldier Reports*, Doubleday, New York, 1976, p. 68. Robert McNamara likewise described Vietnam as a 'pacification security job'; cited in Gibson, *Perfect War*, p. 275.

48. Roland Barthes, 'African Grammar', in *The Eiffel Tower and Other Mythologies* (1979), trans. Richard Howard, University of California Press, Berkeley, 1997, p. 105.

49. Retort, *Afflicted Powers: Capital and Spectacle in a New Age of War*, Verso, London, 2005, p. 94.