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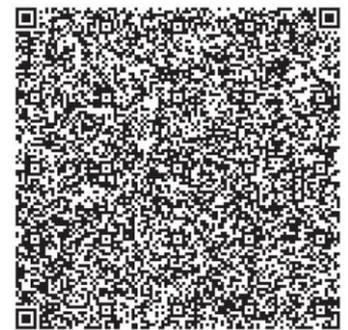
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Does Just War Theory go with Kantian Ethics: A Critical Study

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Abstract: - An integral part of human community, since appearance human being is going through warfare. At first it was between human being and non-human being. The purpose was struggle for existence. When human being acquired the quality to form a group to live peaceful and resourceful life war become to have control on the resource for the sustenance of life. At that time war was purely regional and purpose was to dominate others. Gradually the development of human society came to play its role and simultaneously the process, technique; weapons are evolved to conquer others easily. The main purpose was is to bring maximum loss of the opponent with minimum loss of the concern group. The same purpose is being followed in modern world also. The war which is continuing near about four years between Russia and Ukraine, the war fought between India and Pakistan in the name of 'Sindur' is prominent examples of evolved, highly technical war. The purpose of these wars is to bring great loss to the opponent. The main causes of war are complex and depend on socio-political and geopolitical situations. But the main aim remains unaltered. To show the power of a state and dominate the opponent the way is killing military personnel as well as common people. This point is very much important in connection with Kantian Ethics. We all know that Immanuel Kant is a rule-deontologist and he framed his ethical principle placing human beings on the top. Warfare is a man made act so healing the destructive effects of it through performing our ethical duties is only attributable to human beings only. So, every human being has the duty to follow ethical norms. In this paper we will try to establish the relation between Kantian notion of ethics and good will with the act of warfare. Immanuel Kant thinks that 'will' is never being determined by law of nature or by law of reason. So, according to Kant will is free. This paper will examine how free will of a conscious human being can make a step towards peace and establishing morality in search of power and position through the act of justified warfare in every aspect of it.



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Introduction:

Warfare is the product of human being's innate immorality. Human race is mostly driven by some innate wicked qualities like greed, hatred, envy, vengeful, bloodthirstiness and moreover cruelty. Sequel of all these evil human essence is constant universal distrust and fear of losing power and retaining the same. Distrust and fear in turn force human beings to engage in warfare for more and more power. Not only evil human emotion but also political, economical, social, cultural and religious factors are also act like fuel behind a pre-planned mass murder through the name of warfare. This contemporary era has witnessed new types of warfare with a change in the type and tactics of a new different enemy which includes unmanned

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warfare, standoff weapons, surgical strikes, cyber operation and clandestine operations by highly trained forces whose battlefield is not local but global and as effect of it a nation and its inhabitants destroys completely. Here arise the question of ethical duty and morality and role of values in reconstruction of war affected nation because warfare is nothing but killing of innocent civilians and soldiers also. This paper is an attempt to establish Kantian notion of morality in regard to the act of warfare.

Before entering into the discussion of ethical acceptability of warfare fought following the norms of just war theory we have to first know what warfare is. Warfare is a collective act which involves two groups where each groups are determined to win the battle by using almost every means to bend the cardinal instrument is physical violence i.e. killing people and destroying economical balance and inner peace of a country. The most important characteristics of warfare are that it hampers concern nation's growth but it is socially and legally approved most of the time by a considerable part of population. Though there are many actions in warfare which are prohibited by law but killing human beings in the name of warfare suddenly become legal even desirable for gaining victory at any cost. So, we can define warfare as following:

Q. Wright describes war as "a legal condition which equally permits two or more hostile groups to carry on a conflict by armed force". The Marques de Olivert is quoted as declaring that "war is a litigation or suit (litigo) between nations that defend their rights, in which force is the judge and victory is the judicial award". This analogical and figurative characterization of war is perhaps more literary than factual".¹

The causes behind warfare is surely political accompanied with other causes like religion, economy etc. Every person in this world contains an inner desire of holding power and position. When such desire mix with politics then greed and cruelty increases to its upmost level, and ultimately force a government to employ the ultimate means of warfare. Sometimes a nation can follow the path of pseudo means of terrorism to attack another country's soldiers and civilians that ultimately force the terrorism affected nation to fight a real war. The recent incident of barbaric Pakistani terrorist attack and death of 27 innocent tourists and civilians in Pahalgam, Kashmir is such an incident in revenge of which India attacked on Pakistani shelter of those terrorists which is named as 'Operation Sindur' and announced real declared warfare against them if Pakistan sponsor such terrorists.

Sponsoring and nurturing terrorism and to apply them to create an instability of peace and uncertainty of lives among civilians is an indirect way of warfare which is unjust. Because only satisfying aggression and hatred is the cause behind employing such act. Peace is a controlled state of political stability while warfare is a state of conflict and instability. But the main goals of these two factors are same. We can say that peace and warfare are two sides of a single coin. They only differ from the means to achieve them. Peace is a state which can be only achieved by warfare. There are no such dividing line between peace and warfare. Behind both of these two states the quest for power and position is in central. Peace is a present result of past enforcement of power. Thus we can define peace as:

"These formulations are reminiscent of Ambrose Bierce's sardonic definition of "peace" as: "a period of cheating between two periods of fighting". (Devil's Dictionary), or, Orwell's famous dictum from 1984: "Peace is War".²

So, we can divide warfare into two types depending on its motive and the means to achieve them i.e. just war and unjust war. Second type of warfare which we have discussed above is surely unethical because there is no such valid ground and justified techniques behind it. But just war is something different from unjust means of killing which is only initiated meaninglessly for satisfying bloodthirstiness and only for the purpose of random killing of human beings. Warfare is a wilful killing like homicide or other killings it is intentional and pre-targeted also. Warfare is a type of killing where human beings are killed irrespective of caste, creed, gender and religion. According to IRC Commentary:

"The notion of wilful killing covers deaths occurring as a result of any wilful act or omission that is accompanied by intent to cause death, including reprisals. More specifically, with regard to the persons protected by Geneva Conventions I".³



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So, we can easily assume that warfare is nothing but a process of gaining power and position through mass destruction. But the means to achieve that is the dividing line between unjust and just war. Here we have to discuss about just war theory. This theory outlines whether a war is just by including certain criteria which must be followed for depending on the necessity and justifiability of warfare. To be justifiable warfare has to fulfil three types of criteria. Firstly, just war is associated with the morality of those people who are conducting warfare. Second criteria of just war is all about the moral conduct which are to be followed in the battlefield and last criteria is justification of warfare must be dependent on re-construction and re-settlement of both nations involved in warfare and witnessed the devastating effects of warfare. Thus just war theory states that warfare is not at all wrong if it abides all criteria and postulates of warfare like just cause, legitimate authority, right intention, last resort, proportionality of means and respect for the law of war.

Just war Theory is mainly consisted of three parts:

- Jus ad Bellum: About justice of restoring to war in the first place.
- Jus in Bello: It is about justice of conduct within war.
- Jus Post Bellum: This is about the justice of peace agreements and the termination of the war. 4

Thus just war theory states that warfare is not at all wrong if it abides all criteria and postulates of warfare because sense of responsibility towards both nations involves in warfare and desired outcome of it can only justify warfare. But just war theory did not able to stop massacre or assassination in warfare for the benefit of civilians; it merely advocated harming civilians in a limited way by modifying terms and conditions of warfare. So, we can say that just war is considered as a weapon which is the last option for restoring peace. Just war theory advocates that there is difference between killing soldiers and killing the innocent civilians. It also advocates that lives of civilians must be saved anyway only if death is not a result of sudden military attack in self defence should be granted as justifiable. Thus we can quote:

“Crucial in Walzer’s theorising, and a dominant assumption within the just war tradition for centuries, is viewing enemy combatants, regardless of whether they fight either as part of an aggressive army in an unjust war, or as part of an army acting justly in self-defence, as moral equals. This moral equality rests, in Walzer’s just war theory, on the ability to distinguish between categories of people-combatants and non-combatants. For Walzer, non-combatants are part of a broader category he refers to as ‘innocent people’ who, because they pose no direct threat to their enemies cannot lose their rights (for example, their right to life). Non combatants are ‘innocent’ no matter how good or evil the decisions of their political leaders with regard to war. Further, combatants, at least regular combatants who serve in recognized, state-sanctioned, uniformed militaries, lose that presumption of innocence because of the threat that they pose to enemy lives during times of war. In addition, for Walzer, combatants gain more rights-such as right to kill under particular conditions- during times of war while simultaneously accepting a reduced right to life”.⁵

Warfare is like a weapon which can be used for good or bad purposes. But ultimately we could not ignore the importance of warfare in reconstructing a nation. It is a means of ending the state of anarchy or to make a revolution because the present prosperity of a nation depends on its earlier history of participating in warfare. Reconstruction is needed where in a particular situation when a nation is completely or partially destroyed by the opponent nation. Reconstruction can be of two type: material reconstruction and spiritual reconstruction. Justified war is related to two of these. And the second one is related to ethics. Here a question is very crucial that though warfare is a means of achieving peace destroyed by the voluntary action of another nation but is it ethically justifiable? Free will and rational choice of some agents of a nation (i.e. either soldiers or terrorists) are responsible for this situation of terror then is it devalues human beings following Immanuel Kant’s theory of morality?

We all know that Immanuel Kant’s ethical postulates (categorical imperative) depend on three key principles for understanding and applying moral duties: the universal law, the humanity and the kingdom of ends. The first principle of universal law advocates that an action is morally permissible if it can be will as a universal law for all rational being to follow. It means that if one action leads to harmful outcome then it is not morally permissible. Second formula of humanity is very much important in ethics. This principle advocates



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that all rational being should always be treated as ends in themselves and never solely as means to an end. It means every human being has intrinsic value and dignity and no one can use them as mere tools for serving their own purpose. And the last principle of the kingdom of ends advocates that every rational being has their autonomy where they are both a law-giver and law-abider. Every human being governs themselves morally, rather being guided by external influences.

If we attribute all three maxims of Immanuel Kant's Categorical imperative on the act of warfare we can see that it is a means of dehumanizing its target where targeted soldiers and civilians are merely granted as a means to reach to goal of victory. Thus killing in warfare is a process of depersonalize human being and here the targeted person loses dignity of life as a human being and he merely demanded to the status of enemy and lifeless object. Children of defeated nation are used as bondage labour. Women of the defeated nation are used as sexual objects. Satisfying physical need of soldiers through rape and sexual humiliation can never be a universal maxim to be followed by everyone else. And clearly they are used as a tool here to conquer warfare. These are the darker side of warfare which are surely opposed to ethics. To tackle the extraordinary pressure of warfare both parties involved in it was given power to control the lives of civilians by putting less emphasis on the rights of the civilians. From the book "Sexual violence as a weapon of War: Perceptions, Prescriptions, Problems in the Congo and beyond" we can quote a paragraph in support of this:

"Sexual violence in conflict is a serious, present day emergency affecting millions of people, primarily women and girls. It is frequently a conscious strategy employed on a large scale armed groups to humiliate opponents and destroy individuals, as well as whole societies. Sexual violence during conflict remains vastly under addressed due to weak national protection mechanisms, inadequate judicial redress and piecemeal services for survivors. Many still view sexual violence as an inevitable, if regrettable, consequence of conflict and displacement- an attitude which encourages impunity for perpetrator and silences survivors. Yet rape during conflict is a war crime, crime against humanity, act of genocide and form of torture. (UN Action 2010)⁶

Immanuel Kant establishes the fact that reason determines the action by which impulse is to be satisfied. If it can be able to satisfy the impulse it is called practical reason and the action which is chosen for satisfaction is called an act of will. Warfare is such an act where an impulse to win warfare is satisfied and to gain victory in warfare every tactic which are used is done according to free will of concern nation. So every tactic of warfare must to be judged under ethical parameter because rational human will and non-animal desire are different because non-humans are not entitled under ethical norms. Non-human is not forced to behave reflexively. According to Kant human beings are autonomous so we have to keep in our mind that we are bound by the law in form of categorical imperative. That is why Immanuel Kant clearly announced that autonomy of will is the supreme principle of morality. A non-human being moves mechanically to act towards an object by its strongest inclination. Their choice is completely determines by sensuous experiences. On the other hand human beings can choice any alternative freely without any inclinations. According to Zennifer K. Uleman:

"To say it desire is to say that it wants and wishes that it has inclinations and interests. To say it makes choices is to say that it decides between possible ends or aim of actions, picking which desire we act upon. To say it issues action guiding rules is to say that it is a faculty that formulates maxims, as well as rules for deciding among possible maxims, it is to say that will authors, and represents to itself, and determines itself according to principles".⁷

To choose warfare among various options to protect a nation to restoring peace is also comes under free choice of a nation and for its destructiveness also they are responsible. When it comes the matter to judge the act of warfare in the parameter of Kantian morality we have to admit that only good will behind an act is not enough to make it fit in morality because revenge and greed for power is the motivating factors behind warfare. Disrupting peace and harmony of a nation through the way of genocide of innocent civilians is the main aim. Kantian notion about intrinsic value of human life is completely ignored here. They are merely



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treated as a means or tool to reach goal of political thrown which is completely under criticism according to Immanuel Kant.

It should be kept in mind that moral law is the source of all values in the world. Similarly values are the most important thing in national reconstruction. Adopting spiritual and moral values in every work of us only can build a hatred free nation because building block of a nation is human being. So every human being has their responsibility to contribute for the development of nation. In the conclusion we can say that though the price of ending life of human being is not ethically considerable. Each and every human being contains the right to be treated as integral self-valuable part of a nation who has the right to live with dignity and liberty. Warfare only values human beings from their usefulness in warfare or as a means to gain victory. So, clearly warfare is unethical to Immanuel Kant and also it is opposed to humanity and morality. Thus no war is justified as it is a way of assassination.

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