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Kantian Just War Theory

Senior Thesis

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1. Introduction

War has been one of the most central forces in shaping human history. Considering war's vast impact, it is surprising how overlooked the field is within philosophy, especially within the branch of ethics. Within ethics, philosophers are sometimes dismissive of serious questions regarding the morality of war and make straightforward claims towards pacifism and move on to different topics. However, this is unrealistic and shortsighted as there must be some way of adjudicating ongoing conflicts, as well as those that arise in the future. Immediately defaulting to pacifism circumvents these questions. As Leon Trotsky once said, "You may not be interested in war, but war is interested in you." (Walzer, 29). Thus, political theorists often dominate theories of war, who primarily stick to two schools of thought. Realists argue that states are self-interested actors who always act in their own interests, while institutionalists argue that membership in, and decisions by, international organizations are the key to preventing warfare. Little space is left within this great chasm for notions of morality, ethics, and justice.

Just War Theory attempts to fill this void, proposing a rational and morally justifiable framework within which wars can be judged. Just War Theory consists primarily of *Jus Ad Bellum* and *Jus in Bello*, the first of which focuses on the rights to go to war while the second focuses on right conduct within war. I will focus on *Jus Ad Bellum*, as *Jus in Bello* is clearly defined within international law, far easier to define morally, and far more often followed by the powers that be.

While the discussion around *casus belli* and *jus ad bellum* has evolved, the views vary significantly, and there are often vast disagreements. This is a significant issue in a practical

moral philosophy that relies on consent across nations to be useful. A Just War Theory that is indeed applicable worldwide would offer a political and moral philosophy, outside of geopolitics, "that ought to help us at those difficult times when we choose sides and make commitments" (Walzer, xi). Furthermore, the ramifications of such a theory could shed light on disputes outside of the moral issue of war. As Walzer wrote: "For War is the hardest place: if comprehensive and consistent moral judgments are possible there, they are possible everywhere" (Walzer, xvii). The way in which Just War Theory can genuinely become a moral philosophy, a practical dogma that can be applied universally, is by grounding it within Kantian Ethics. I am going to argue that understanding Just War Theory through a Kantian framework can help to resolve certain inconsistencies both within Just War Theory and within morality itself. This is not to say that Immanuel Kant is a Just War Theorist, nor that his ethics translate directly to Just War Theory. Indeed, writings by Kant, such as *Zum Ewigen Frieden*, which I will discuss later on within my thesis, argue quite the contrary. However, Kantian ethics can be applied to ground my Just War Theory metaphysically, especially with regards to the three central tenets of Kantian ethics: Autonomy, the Moral Will, and Universality. To that end, I propose my theory of Just War, grounded within Kantian Ethics. I will argue that war is justified in two cases;

- I. In cases of self-defense,
- II. In cases where the complete destruction of a people, their culture, society, or religion is at stake.

Once adequately explained, justified, and defended, my theory will establish a conception of Just War Theory, grounded within Kantian ethics, that is both practical and universally applicable. In the following chapters, I will fully explain both Just War Theory and Kantianism, and I will explain how my theory differs from the classical thinking on the two. I will then

discuss the intersection of Kantianism and Just War Theory and fully explain my theory.

Following that, I will examine specific historical wars and conflicts and assess whether or not they are just according to the criteria I have articulated. The second to last chapter will revolve around objections to my theory, including objections from classical Kantianism but also from other moral and ethical frameworks, such as Utilitarianism. My goal will be to defend my theory from these objections successfully. Lastly, within the conclusion, I will review my argument in short and show how an adoption of my Just War theory would be beneficial to the current world.

2. Just War Theory

Just War Theory as a term or philosophical theory may have begun with Hugo Grotius in the 17th century. However, humans have thought about the morality of war as far back as recorded history goes, and likely before that. Throughout the centuries, *Jus in Bello*, governing conduct during war, has advanced immensely. During the 17th century, theorists like Carl von Clausewitz stated, "War is an act of force which theoretically can have no limits" (Walzer, 23). From the 17th century to the modern-day, limits were indeed imposed; numerous treaties and agreements on military conduct have been signed into law, most famously the various Geneva conventions. These treaties have shaped the evolution of military conduct. Today, a vast patchwork is firmly established, and war crimes, while regrettably still common, are clearly defined, entrenched in international law, and tried at the International Criminal Court (ICC). While on paper war-crimes thus should be easily prosecutable, in reality the system is not perfect and often it seems to depend on whom commits the war crime to guarantee an actual trial. Nevertheless, a system is in place, laws are clearly defined, and while the execution is not perfect, it is more of a systematic issue than a moral one. The precise morality of all the specific actions allowed and not allowed within war would take up a whole separate thesis if not a book, and thus for the purposes of this thesis, I will accept the present laws and turn my focus towards *jus ad bellum* or the "right to war." *jus ad bellum* is associated with the notion of *casus belli*, an act or event used to justify war. Thus, an investigation of *jus ad bellum* is genuinely an investigation of which *casus belli* are morally justifiable and may result in a Just War. Within this chapter I will rely heavily on Michael Walzer's theory of Just War, although in later chapters I will show how my

argument and thus my understanding of Just War differs from his. This chapter will serve as a background on Just War Theory and numerous issues associated with it, including The Crime of Aggression, Neutrality, Humanitarian Intervention, and the rights of Political Communities. Thus, it will be a foundation for my own Just War Theory, which will be presented in Chapter Three.

2.1 The Crime of Aggression

The most fundamental *casus belli*, enshrined in part (A) of my Theory of Just War, is the right to defend oneself against foreign aggression, aggression by another nation-state. Crimes of aggression can take many forms, but in each case, they constitute a crime because of the consequences of such actions. "We know the crime because of our knowledge of the peace it interrupts - not the mere absence of fighting, but peace with rights, a condition of liberty and security that can exist only in the absence of aggression itself. The wrong the aggressor commits is to force men and women to risk their lives for the sake of their rights. It is to confront them with the choice: your rights or (some of) your lives!" (Walzer, 51). As Walzer correctly assesses, the crime of aggression is one we can intrinsically understand. The aggressor strips away the right to live one's life, infringes upon the rights of the political communities, and places the citizens of said nation under intense duress. Citizens may lose their livelihoods, their civil liberties, or even their lives. Any state's most fundamental duty is the protection and security of its citizens, and this is put under threat by any crime of aggression. A complete invasion by a

foreign military, with the stated goal being the conquest of another nation, is not the only crime of aggression. It can also include the seizure of sovereign territory or a satellite regime's imposition (Walzer, 52). Historically, events such as the destabilization of the Moghul Empire by the British East India Companies can also be considered crimes of aggression.

Furthermore, in the modern-day, such crimes can extend to attacks on infrastructure, cyberattacks, and meddling in the political process. The only path available to a nation under attack is often military defense. As Clausewitz said, "A conqueror is always a lover of peace, (such as Napoleon Bonaparte) he would like to make his entry into our state unopposed, in order to prevent this, we must choose war..." (Walzer, 53). As Clausewitz correctly asserts, the invading force will always act as if it were a proponent of peace, its greatest wish being to conquer territory or a nation without opposition. Thus, not fighting, a pacifist response, grants the invader precisely what they wished for and grants them the moniker of conqueror rather than invader. It must be evident that it is morally right to defend oneself in these instances. The crime of aggression also ties into the topic of the infringement of rights within Political Communities.

2.2 Rights of Political Communities

The most fundamental rights of any political community enshrined within law are territorial integrity and political sovereignty. While these rights belong to states, they are not derived from states, but the individuals who make up said state (Walzer, 53). Thus, an attack on a state's rights is also always an attack on the individual rights of the members of the political community. It is a moral truth of modern society that individuals have a right to choose their government and thus impact the policies that shape their lives. Solely this form of government

allows citizens' concerns to be expressed and addressed. While this is not an empirical fact in the world, it is a moral judgment that it is the way the world should be. Thus, an act of aggression is a crime in that it violates and endangers the right of life of the individual and liberty. Indeed, the two-way street between nations and citizens enshrining rights upon each other have been enshrined within philosophical thought for centuries, primarily through the tradition of social contract theory. (See Rousseau, Locke, Hobbes, Rawls) As Walzer correctly asserts, the consent of the individual is circumstantial, "The moral standing of any particular state depends upon the reality of the common life it protects and the extent to which the sacrifices required by that protection are willingly accepted and thought worthwhile. If no common life exists, or if the state does not defend the common life that does exist, its own defense may have no moral justification" (Walzer, 54). This is another theme that has held firm in social contract theory, that when a government fails to secure their citizen's rights, their consent may be removed, even in the views of certain philosophers, by violent means. This paradox explains why in some instances throughout history, invaders have been welcomed by the general public, for when the individuals that constitute the state are not protected, they often see no reason to risk their life and limited liberty for their oppressor and welcome the opportunity to form a new, improved social contract with the new powers that be. However, as previously stated, in cases of functioning states, where the state does indeed protect the citizens to the best of their ability, the attack is not just one on the state but also on the state's individual constituents. Furthermore, resistance also acts as a deterrent; it both maintains rights and sends a strong message to future aggressors. This does not mean that only victims of aggression may respond to it, indeed, since aggression is a crime against society as a whole, not just against one particular state. "Other states can rightfully join the victim's resistance; their war has the same character as his own,

which is to say, they are entitled not only to repel the attack but also to punish it" (Walzer, 59). Walzer is correct in this assertion; since the crime of aggression is a moral crime, and thus a universal crime, every nation has a moral right and perhaps a duty to fight against the crime, regardless of the impact on their own nation-state. This ties back to Kantian notions of universality and the moral will. Walzer goes on to state that there is always a just and an unjust side to each war, (Walzer, 60); in his view, there is never a war between two sides who are both morally just and both morally unjust.

2.3 Humanitarian Intervention

A case separate from the crime of aggression is a war of humanitarian intervention. Humanitarian intervention is a war where the aggressor claims to invade solely for the benefit of a people who are being oppressed in some form. While many may see such wars with a certain degree of cynicism, as indeed Walzer himself does (Walzer, 101), this is indeed a morally just war. The issue is that oftentimes wars, where the invading force or nation have motives other than purely humanitarian intervention, are falsely termed to be humanitarian in nature. However, merely because it is often misused does not mean it does not actually exist. The purchase of a fake Rolex does not invalidate the existence of an actual one. In numerous ways, a war fought in defense of others is the most morally just of all of them. Facing massive state-run violations of their human rights, citizens or specific groups of citizens are often unable to fight against the whole might of their state on their own; the question put to the international community is thus,

fight for them, or let them perish. This is a stark moral choice that truly only has one answer. Walzer correctly asserts that "Humanitarian intervention belongs in the realm not of law but of moral choice, which nations, like individuals must sometimes make" (Walzer, 106). There is no law, no mechanism through which one can compel a nation to fight for others, it is a moral choice the leaders of the state must make, but it is evident which choice would be the moral one to make. This is not to disregard the domestic implications that may face the regime. Sadly morality is not the only deciding factor in the decision making, and it may turn out to be that sending one's own citizens to fight and die for the safety of others becomes a politically unpopular decision that leads to loss of power for a particular regime. Leaders must ask themselves if the lives of others are worth more than the power they possess as elected officials, a moral choice that should be easily answerable. Morally there can be no question that any state that has the power to stop a slaughter must have the right to attempt to do so.

2.4 Neutrality

For third party states, i.e., states not directly involved in the conflict, there further exists a third option; neutrality. As Walzer puts it, "States possess, first, a right to be neutral, which is simply an aspect of their sovereignty. In any perspective or ongoing conflict between two other states, they are free to opt for what might be called the condition of "thirdness" (Walzer, 233). I agree entirely with Walzer; states are justified within international law to remain neutral. However, is neutrality morally justifiable? In some cases, neutrality and thus ambivalence and inaction seem to be immoral. As President Woodrow Wilson said in a speech to congress on the eve of the United States joining World War 1, "Neutrality is no longer feasible or desirable when

the peace of the world is involved, and the freedom of its peoples" (Walzer, 238) President Wilson makes an apt point that is applicable to World War or some conquest by a great power. This is both a humanitarian and a realist point. Firstly one should morally wish to guarantee freedom of all people in the world, regardless of national boundaries. From a realist point of view, if some great power begins a war of conquest, it almost never will end after conquering merely one state. Indeed it would make sense for other nations to join the initial battle, for if the first victim falls, many more will follow. This is seen in the failed policy of appeasement conducted within Europe in the buildup to World War Two. If other nations had joined the initial fight in Czechoslovakia, how much pain could have been averted? Thus it seems evident that in the context of a World War or a War of conquest that is doubtful to end after merely the conquering of one state, it is both morally and geopolitically advisable to offer resistance. There are other cases where inaction seems morally wrong, take, for example, the destruction of a neighboring state. Is it morally justifiable to sit and watch as your neighbor gets destroyed when your action could prevent it? It seems to me that it is not, and by thinking through the issue with a domestic analogy, it should seem evident to everyone that it cannot be. Imagine your neighbor is being attacked, his or her house robbed, and perhaps even being bodily harmed. If you were in full knowledge of this as it is happening, would you sit and watch? Alternatively, would you call the police and, if bodily able, perhaps even go over while waiting for the police and try to help the best you can. The answer seems self-evident to me. However, I do refrain from complete criticisms of neutrality, such as this statement by English lawyer John Westlake, "Neutrality is not morally justifiable unless intervention in the war is unlikely to promote justice or could do so only at a ruinous cost to the neutral," (Walzer, 236) In some instances, neutrality can serve as a positive force, such as neutral states serving as an intermediary between states at war, for

example, the role of Switzerland in Iran after the overthrow of the U.S Embassy in Iran.

Furthermore, neutrality is also a moral right of a political community and benefits citizens and soldiers of the nation.

2.5 Preventive war and pre-emptive strikes

Another issue within Just War Theory is the notion of preventive war and pre-emptive strikes. By this, I mean strikes such as the Israeli strike on Egyptian forces, which began the Six-Day War. The classical thinking on preventive war will be familiar to anyone who has studied European history. Perhaps best exemplified by Francis Bacon, "Keep due sentinel, that none of their neighbors do overgrow so (by increase of territory, by embracing of trade, by approaches, or the like) as they become more able to annoy them, than they were," (Walzer, 77) (find original source). What Bacon is alluding to here, in more colloquial terms, is the notion of "the Balance of Power," the idea that to preserve peace and the freedom of Europe, nation-states must be kept on a similar footing and should not be allowed by the rest of the community to gain too large a share of power. Indeed, such wars of "balance" were often considered morally just. David Hume wrote in his essay "Of the Balance of Power" that three British wars on behalf of balance begun with justice and perhaps even necessity (Walzer, 76). While the Balance of Power argument consists of varied premises, the foundational premise is that the Balance of Power preserves liberties, freedom, and other liberties within Europe or the World. This utilitarian premise is no longer applicable (if it ever was), and preventive wars of this kind have no moral foundation in the modern world. Thus, preventive wars have no place in modern Just War Theory. Preventive

strikes, however, are common-place. One must distinguish between preventive strikes within war or in the lead up to war, and preventive strikes that do not wish to lead to war but merely to deter nations from specific policies. If there is intelligence that a nation is about to launch an attack on one's nation, gaining a military advantage by striking first is not a moral choice. It is an extension of the crime of aggression, and thus a preventive strike is just. However, the second instance is more nuanced. Indeed, the Balance of Power argument still seems to hold sway, especially when considering strikes such as Israel's strikes on Iranian nuclear facilities. Under international law, such strikes could be considered lawful, since under the Treaty on the Non-proliferation of Nuclear Weapons, only five states should hold nuclear weapons, and Iran is not one of the five. However, this is highly hypocritical since it is widely accepted that Israel, also not one of the five states, has nuclear capabilities. Furthermore, both Pakistan and India acquired nuclear capabilities outside of the NPT and were met with little resistance. Thus, the moral justification could not be a balance of power type of argument, as that argument would have required bombing of numerous other nations and their facilities too. Instead it is an assessment by one nation that another nation's possession of nuclear weapons would be a danger to them and perhaps the world. While at face value, this would constitute a moral strike, the danger with this justification is that it is highly subjective.

2.6 War on Terror/Non-State Warfare

I wish to talk about wars between non-state actors and states or wars between two non-state actors and show how such wars are no different than wars between two nation states. And thus, do not need a separate theory of Just War. In my view, in most instances, non-state actors,

while not meeting the classical definition of a nation-state legally, function as states or wish to function as states. While such actors often lack sovereignty over the whole state, they often hold it in a region of the state and project their wish to rule the whole state. Morally they often fill out the same role as states, providing citizens with security, safety, and liberty. This is a well-documented phenomenon, ranging from the Mafia in the south of Italy to the IRA in Northern Ireland, to the Kurdish People's army in Iraq. Thus, since non-states practically act as states and aspire to be states, I see no reason why the morality of their warfare should change. There is, of course, an exception, which is that any such non-state organization that uses some form of terrorism violates the rules of *Jus in Bello* and thus conducts itself immorally within war. There are countless examples of this, the Tamil Tigers in Sri Lanka, the IRA itself during the troubles, even the Jurastic separation movement within Switzerland, which proves it is a widespread phenomenon not just linked to the Global South. Of course, immoral, illegal acts by government forces in these cases are also frequent, and thus, it is not just non-state actors disregarding *Jus in Bello*. Thus, wars between non-state actors and states are plagued by issues concerning conduct within war. However, the issue of *Jus Ad Bello* is not much different, as they also attempt to function as states they are constrained by the same moral reasoning.

3. Kantianism

Immanuel Kant was a Prussian philosopher, born in the 18th century. He wrote extensively on a variety of issues, including morality. Within this thesis I will be dealing not with Kant's ethics but with Kantian ethics as defended by Koorsgaard, Velleman and others, which diverges from Kant's thought in important ways. Kantianism as such is not Kant's thoughts, but philosophers and others who have gone beyond the initial expression of his moral code, adjusting and interpreting it. It is of course still Kantian in nature, but it is removed from Kant's ethics. And yet, it is important to ground Just War Theory within Kantianism, for Kantianism brings many benefits. These include Universalizability, the notion of the Good Will, the notion of the end-in-itself and more, by utilizing tools and notions from Kantian ethics, one can situate Just War Theory morally in a manner that is simply not possible without it.

3.1 Good Will

One of the most fundamental distinctions and revolutions of Kant's Ethics was that it is not consequentialist or utilitarian, the dominant ethical frameworks at the time. This is something I will further distinguish in Chapter 6, but in short, consequentialist ethics is an ethics where the morality of an action is dependent upon the consequence of said action. The motive or will behind the action is irrelevant, as long as the consequence of said action is morally good, the action as a whole is judged to be good as well. Utilitarianism is an extension of this principle, where the good is judged by an action that creates the best for the broadest grouping of people.

Kant responded to these moral frameworks by stating that, “It is impossible to conceive anything at all in the world, or even out of it, which can be taken as good without qualification, except a good will,” (Kant, 61). Thus, for Kant, the good will, untainted by things such as qualities of temperament, or good fortune, or any other factor than the will itself. Kant further argues his point when he states that, “A good will is not good because of what it effects or accomplishes – because of its fitness for attaining some proposed end: it is good through its willing alone – that is, good in itself,” (Kant, 62). This is where Kant solidifies his break from consequentialist ethics, his argument is based on the notion that success or failure within an action cannot determine its morality. Oftentimes actions are dependent upon many factors, and thus it should not be the outcome but the will behind one’s acting which determines the morality. Take for example the case of two people, Jeff and John, who attempt to stop two separate robberies at the bus stop late at night. Jeff is successful in intervening and the assailant flees, while John also intervenes, but is unsuccessful and the perpetrator gets away with the victim’s wallet. In a consequentialist framework, one would have to judge the morality of Jeff and John’s interventions differently, as one outcome was successful, and one was not. However, Kant here provides the answer when he argues that no, it is not the outcome but the will, independent of external factors which matters. It is not John’s fault that his perpetrator was perhaps stronger or less easy to scare and thus he failed. Both Jeff and John acted from the same moral law, and thus the moral judgement should be based on the will that acted upon the law, not the consequence of said action. The good will is then conditioned by the notion of duty.

3.2 Categorical and Hypothetical Duties

Kantian Ethics fundamentally rests on the obligation to perform duties, in the scope of my thesis I am concerned with the moral duties that come out of Kantianism or a Kantian framework that are applicable to Just War Theory. Kant believed that moral duties are inescapable, or as he refers to them categorical, before I turn to that, we must examine exactly what the difference between hypothetical and categorical duties are. For this discussion of duties, I will be using David J. Velleman's conception of categorical and hypothetical duties. Hypothetical duties are duties that are dependent upon some external force or authority. For example, if one wishes to drive a car, the law requires you to first obtain a driver's license. Thus, acquiring a driver's license is a practical hypothetical duty one must fulfill before driving a car. Because this duty is hypothetical, one can escape it. One could either give up on the desire to drive a car, and thus one is no longer required to obtain a driver's license. Or secondly, one could escape the reaches of the law, since this hypothetical requirement relies on the authority of a higher power, once one is beyond the boundaries of that authority, the hypothetical duty falls away. Thus, every single hypothetical duty can be escaped by questioning the morality of said authority or questioning the desire. Any individual can ask why one must follow the CDC, or why one should indulge one's desire for ice-cream (Velleman, 19). Moral duties are different as they fall firmly within the framework of categorical duties. Velleman writes, "If we are morally obligated to do something, then we are obligated to do it no matter what our desires, interests, or aims may be. Nor can we escape the force of an obligation by escaping from the jurisdiction of some authority," (Velleman, 17). This is the most important argument found in Kantianism, especially for my

project of Just War. It is a fundamental belief within Kantianism that moral obligations are categorical and thus inescapable. Thus, a moral obligation that will be expounded upon in the next chapter, say an intervention in case of genocide, cannot be circumvented because of the desire, interest, or any other explanation. Moral duties function on their own internal authority, by the virtue of what they require, not any external force.

Kantianism now reintroduces the notion of will combined with the notion of duties. “We will therefore take the concept of duty, which includes that of a good will, exposed, however, to certain subjective limitations and obstacles. These, so far from hiding a good will or disguising it, rather bring it out by contrast and make it shine forth more brightly,” (Kant, 65). Kant uses the notion of duty to condition the good will, to strengthen the foundations of the good will and limit its scope and function. As already stated, for the purpose of this thesis I am only concerned with categorical duties, as they are the kind of duties morality falls within. Thus, when one combines the good will and the duty one comes to the conclusion that moral judgements can only be made based on the principle of volition in which the categorical duty was conducted, (Kant, 68).

3.3 Universalizability

The crux of Kantian Ethics, the major benefit it brings to the intersection of morality and just war theory is the notion of universalizability. Kant writes:

Since I have robbed the will of every inducement that might arise for it as a consequence of obeying any particular law, nothing is left but the conformity of actions to universal law as such, and this alone must serve the will as its principle.

That is to say, I ought never to act except in such a way *that I can also that my maxim should become a universal law*, (Kant, 70)

Kant here argues that, through the framework of duties and the will, he has taken away all externalities, such as temperament or fortune, desires and rewards, that could affect an action taken by an individual. All the individual is left with is the true volition, the true will that effects an action, the principle upon which an individual act. And then he introduces this crucial notion of universalizability, in addition to everything he said previously, he also believes that any action that an individual morally can commit to must also be an action which would be acceptable as a universal law. Thus, an action that everyone could commit morally at all times in all circumstances.

I now move to Christine Koorsgaard, who in her analysis of Kantian Ethics, *Creating the Kingdom of Ends*, states that this step fundamentally removes any contradictory action. “To determine whether you can will your maxim at the same time as its universalization without contradiction, you envision trying to will your maxim in a world in which the maxim is universalized – in which it is a law of nature, (Koorsgaard, 14). This can easily be seen through an example from Kant, imagine someone asking for a loan of one hundred dollars, that he or she knows they will be unable to repay (Kant, 89). While initially this may seem like a great deal, once you apply the principle of universalizability the contradiction becomes clear. For to live in a world where borrowing money without being able to pay it back is a universal law is a highly unattractive proposition. Secondly, such a universal law would ruin society, as Kant writes, “The very purpose of promising would become impossible, since no one would believe he was being promised anything, but would laugh at utterances of this kind as empty shams,” (Kant, 90). Thus,

the contradiction in the maxim becomes apparent, and the individual should not go through with their planned action.

3.4 End in itself

Another important notion within Kantian Ethics is the notion of the end-in-itself. Kant introduces the distinction of man as an end-in-itself, “Now I say that man, and in general every rational being, exists as an end in himself, not merely as a means for arbitrary use by this or that will; he must in all his actions, whether they are directed to himself or to other rational beings, always be viewed at the same time as an end,” (Kant, 95). Every action is always conducted with an end in sight, and those ends can either reward us positively, as something to be achieved, or negatively, as things we must not do (Koorsgaard, 16).

However, this raises the conundrum, what is the end to be achieved when acting through the categorical imperative, when one acts in sync with the good will, in sync with duty, the principle of universalizability, what end does one then aim for? It cannot be found in objects, for they get their value from our desire for objects, nor can the ends be found in our desires itself, thus Kant reasons that the end must be the end in itself. Further extrapolating this argument, what is meant is that humans and all rational creatures should not be treated as means to an end, solely as an end themselves. The value of any human individual is thus not dependent upon anything other than their rational existence on the earth. Koorsgaard summarizes it succinctly when she writes:

The source of value must be something that rests in us. It is not our needs and desires, for those are not always good. It must, therefore, be our humanity, our rational nature

and capacity for rational choice. This is not different from saying it is a good will, for rational nature, in its perfect state, is a good will, (Koorsgaard, 17).

Since the source of value is inherent in all of us, it is not merely inherent in me, but in every other person as well, a shared humanity. After all this argument, Kant introduces the maxim that follows from it, namely, “Act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end,” (Kant, 96). When applying this maxim back to the previous example of the bad faith money borrower, the borrower treats the money as a higher good than the others humanity, thus his action violates the maxim and is not moral.

3.5 Towards Perpetual Peace: A Philosophical Sketch

Some may regard Kant’s work, *Towards Perpetual Peace: A Philosophical Sketch* as being opposed to the idea of Just War Theory. While this is true in the grand scheme, Kant is trying to move towards a world beyond war, some of the steps and actions he proposes within that journey do indeed fill in nicely with Just War Theory. This is not to say that Kant is a Just War theorist, he is not. But it could be argued, and I will argue that some of his ideas do translate onto Just War theory, even if it is not what he intended. Intrinsically my Just War Theory, in proposing a highly limited set of conditions where war is morally justified, is also a theory that attempts to work towards the end of wars.

Within the first section, which Kant terms the preliminary articles for perpetual peace, he proposes various ideas that could easily find a home within Just War Theory, and also some that do not. Within his second article he argues that “No state shall forcibly interfere in the constitution and government of another state,” (Kant, 70). This is an important point, that no state can invade another state merely for regime change, merely because a capitalist regime hates socialism, or because the leader of one state dislikes the leader of another. Wars that were prevalent in human history and continue to a lesser degree in the modern day, are not morally permissible. Regime-change is not a *casus belli* for war. Kant writes that there can be no justification for it, as the only crime in such an instance could be the offense, they cause a subject of another state, functioning as a bad example. Furthermore, Kant argues, “In general, a bad example which one free person sets for another (as *scandalum acceptum*) does not constitute an injury of the latter,” (Kant, 70). What he is arguing for is a perfect contradiction to arguments of regime change or statements one often hears that X government is a “danger to the free-world.” Kant shows how that argument is senseless and cannot be used as a justification for war.

Also, in article 5, Kant provides a framework in which perhaps humanitarian intervention can indeed find a place within Kantian ethics.

It would be an altogether different matter if a state, through internal conflict, were divided into two parts, each of which regarded itself a separate state that laid claim to the whole. In this case, an external state could not be charged with interference in the constitution of the other by lending assistance to one of these parts, for in this case there is anarchy. But as long as this internal conflict is still undecided, the intervention of external powers would constitute a violation of the rights of the people, a people which is dependent on no other and is merely

struggling with its own internal infirmity, and such an intervention would itself therefore be an offense and render the autonomy of all states insecure (Kant, 70)

Can any indication of the necessity of humanitarian intervention be found in this quote? Any discussion of Kant and humanitarian intervention must take into account that humanitarian intervention simply was not something considered in the context of his time. The first mentions of humanitarian intervention did not come till the early 19th century, during wars such as the Greek War of Independence, and it did not become a popular topic of discussion till the late 19th century, thus after Kant's life and death. Thus, the notion was not in common parlance at all, and may have escaped Kant's conception at time of writing. However, his discussion of a state divided within two could perhaps be interpreted as an early precursor to the idea of humanitarian intervention. Although I must say that is a reach, especially when considering the second part of the quote, where he states that as long as the conflict is undecided, an intervention would violate the rights of the people, and thus be an attack on the notion of autonomy for all states. If one were to apply the notion of humanitarian intervention, one could perhaps illuminate to Kant that he overlooked the notion of citizens' rights being violated by the state, rather than just intervention by a foreign state being a violation of the rights of the people. For what of the case where the rights of the people have already been violated, like in the cases of severe violations against human rights that will be elucidated upon in chapter 4. In such cases, I would argue that the rights of the individuals are being violated by the state that is supposed to protect those same rights, and thus intervention by an external force cannot be a violation of rights, when the intervention is specifically done within the will to protect and re-establish said rights. Furthermore, a state's right to autonomy is irrelevant when it violates the very basic tenets of

statecraft, the duty to protect its own. Thus, even if Kant has no conception of humanitarian intervention within his writings, I believe I have shown why there should be.

4. Kantian Just War Theory

Within this chapter, I will bridge certain aspects of Kantianism, mainly the categorical imperative to Just War Theory, and thus fully explain my hypothesis, that Just War Theory can be enshrined within a certain ethical framework to reach a universalizable theory of Just War. To this end, I propose a new, novel theory of Just War. That war is justified in two cases:

- I. In cases of self-defense,
- II. In cases where the complete destruction of a people, their culture, society, or religion is at stake.

4.1 Self-defense

Self-defense is perhaps the most basic violent just action that can be rationally conceived of. Self-defense is enshrined in practically all codes of law worldwide, on the individual level, thus it should not be any different when operating on the national or global level. Nations and their citizens are always morally right in defending themselves against foreign aggression. This does not mean that every individual has a moral duty to defend one's nation, as discussed in Chapter 2.1, individual citizens have the right to refrain from fighting or even help the invading side, if their rights have been violated by their current government and they feel they would be better off under a new nation. The moral law that follows from this, simply put, is that self-defense is morally permissible but not obligatory. Thus, if for any reason one does not wish to defend themselves, one is not morally required to fight back. Returning to Walzer and his theory of Just War, he puts it well when he writes that, "Any use of force or imminent threat of force by one state against the political sovereignty or territorial integrity of another constitutes aggression

and is a criminal act” (Walzer, 62). While we can disregard his legalist paradigm, he is right in asserting that aggression is a crime, or a morally unjust action, and thus it is morally just to respond in kind. As discussed in chapter 2.1, aggression is an act against the international order, and thus can be fought against not just by the victim fighting back, but also by members of the international community coming to the aid of the victim. Walzer uses the example of the Korean War, (Walzer, 63), where the UN authorized involvement to punish an aggressor state, but this kind of action does not necessarily need sanctioning by any outside power. As opposed to humanitarian intervention, which needs sanctioning to verify the morality of the claims and the moral will underlying the request to help, self-defense is always morally justified and thus an outside power confirming the morality of the action is redundant. I diverge from Walzer, when in his Imperial Theory of War, he argues that “Nothing but aggression can justify war,” (Walzer, 62), as I will show in the later pages of this chapter, I firmly believe that immoral actions taken against the public or certain social, ethnic, or religious groups within the nation justify war as well. However, I do agree when he writes that, “Any difference of region or politics does not warrant the use of force in international society,” (Walzer, 62). Walzer here is arguing that a war based on anything, but aggression is not morally valid. Thus, wars of conquest, wars of domination, wars for material resources, wars of colonialism, wars of religion, any kind of conceivable war not based on aggression are morally invalid, or morally unjust. Most wars in history are indeed such wars, I will name a few examples; the Anglo-Indian Wars, practically every European War of the medieval age, the Paraguayan War (also known as the War of the Triple Alliance), the U.S invasion of Grenada, the Second Congo War (also known as the Great African War), the list could go on forever, but what I have tried to show is that morally unjust wars are numerous and take place in practically every continent. All of these wars would be

completely morally unjust under Walzer's conception. And as previously stated, I fully agree. Wars based on anything but defending oneself against aggression or humanitarian intervention cannot be morally just. There is no morality to be found in subjugating people, or in forcing religious conversion, there is no morality in deposing a socialist government because one's own government is capitalistic, or vice versa.

4.2 Kant and Self-defense

As mentioned in Chapter Three, *Towards A Perpetual Peace*, has often been seen as a full-hearted endorsement of pacifism by Kant. While this is certainly true as the end goal, Kant at first establishes various steps that must be taken until the world can reach pacifism. Brian Orend in his piece, "Kant's Ethics of War and Peace", argues for a Just War Theory, especially in regard to self-defense, that firmly places itself within Kantian, if not Kant's, ethics. Firstly, it is important to note that Kant rallies against the notions of hiring mercenaries to defend or attack other nations. This may seem outdated on the surface level, but when one thinks of the fact that more private military contractors, employed by firms such as Blackwater, died in Afghanistan than American and NATO soldiers combined, it becomes apparent that mercenaries have not disappeared in the modern day. However, he also endorses the notion of morally just self-defense. "It is quite a different matter, if the citizens undertake voluntary military training in order to secure themselves and their fatherland against attacks from the outside" (Orend, 166). As he goes on to argue, Kant firmly believes that war is justified, "In the defense of one's state from external aggression," (Orend, 166). Indeed, you would be hard-pressed to find any thinker,

leader or writer who can argue that responding to a violent invasion with violence is morally unjust.

However, one important caveat when forming the Kantian maxim of self-defense is to ensure that there is no requirement for self-defense. A maxim such as, "One must always defend oneself in cases of foreign aggression," is not one I endorse within my theory. For in the instance of self-defense morality requires there to be a choice. It would be immoral to require an individual or a people to defend themselves. Returning to Kant, as discussed in Chapter Three, using the categorical imperative we must craft a maxim based on the good will that fulfills the requirements, most importantly: (1) it must be universalizable; and (2) in doing so, it must not become a contradiction of the will. Thus, it can become a law that all rational actors can follow, including the actors within every nation-state on the planet. Brian Orend lays out his version of the Kantian maxim of self-defense, "When faced with rights-violating aggression, I reserve the right to employ those measures, including armed force, necessary for self-defense," (Orend, 168). There is a lot to unpack here. Firstly, Orend correctly asserts that the aggression must be rights-violating. This excludes events such as mere showing of force on a nation's border or war games conducted by an alliance of nations near a nation that they are on bad terms with. For such actions are mere provocations, perhaps even shows of aggression, but such aggression is not rights-violating and cannot be the moral justification for a just war. Secondly, when Orend writes that, "I reserve the right to," I believe he is alluding to the fact that there is always a choice, that self-defense is not morally required, rather that it is a moral choice a rational actor may make. However, this could be spelled out a bit clearer and I will slightly alter it within my maxim. The rest of Orend's maxim rests on the notion of force, including armed force that may be employed in defense from external aggression. He is correct in asserting that armed force is indeed morally

justified in response to armed force, however he also importantly qualifies it by stating that only such force that is necessary for self-defense. Wanton killing and destruction must be kept out of any maxim that is used to justify self-defense, and Orend is correct in asserting it so.

Thus, I need only to make minimal changes from Orend to assert my own maxim of Kantian self-defense within Just War Theory:

When faced with rights-violating aggression, I am always morally justified, but not required, to defend myself and my nation, including by using armed force, necessary for self-defense.

I believe that this maxim encapsulates all requirements, it offers a moral choice, not a requirement, it conditions self-defense away from wanton destruction, and it ensures that aggression is truly rights violating, not a mere nuisance. Every rational actor can accept this both on the personal and national level, it does not violate any other maxims, it is easily universalizable and importantly, it acts in full accordance with morality.

Having established the maxim within Kantianism that can be followed morally for the nation under attack, I must now turn to two other notions, that of helping a nation that is facing attack and the notion of punishment. I already discussed this shortly in Chapter 2.2, but I will formulate a quick recapitulation here. In case of a foreign invasion that is not a humanitarian intervention, such an invasion is always morally unjust. Thus, the crime of aggression is not merely a crime against one state, it is a crime against the whole order of international law and society, and against the theory of Just War one hopes all other states to follow. This gives other states the moral justification to a) support the nation that is under attack and b) to punish the aggressor nation. As Walzer puts it, "Other states can rightfully join the victim's resistance; their war has the same character as his own, which is to say, they are entitled not only to repel the attack but

also to punish it" (Walzer, 59). Walzer is correct in this assessment, indeed, this is fundamental to the theory, for if states were not morally justified to help victim states repel foreign aggressors, the theory could very well be invalidated practically if not morally, by mere brute force. If a large nation of substantial military power were to attempt to conquer a small nation merely for their natural resources, they may very well be successful in doing so. However, if other nations come to the defense of the nation, the larger nation will likely be repelled successfully. Furthermore, such an intervention on behalf of the victim would not need to be done within the framework of realism, one would not need to have strong ties to the victim state, one could intervene morally based on the simple fact that the aggressor state has violated against the laws of international society. Once repelled, the nation may also be punished for their actions. In doing so we do not just hold the actor responsible for his or her actions but also reinforce and uphold the international system that is contained in the previous maxim. For aggression against one is aggression against the whole order, and thus against every other actor. Of course, the punishment cannot take place in form of indiscriminate punishment and violence, in most cases certain individuals should be punished and perhaps some oversight of the government's actions in future. But not something akin to medieval punishments, such as the burning of farms and roads or other punishments that harm the public who in most cases had little to do with the decision to go to war. Of course, as seen in the use of Agent Orange during the Vietnam War, which was employed for the purpose of the destruction of the food production system, these medieval punishments were not left in the medieval age. While punishment at sometimes seems at odds with morality, especially in an a-priori conception of morality, states are still members of the international society and subject of its governed conduct and thus they

also must be the objects of punishment, (Walzer, 63). Thus, the maxim of help and punishment can be framed as follows:

When faced with a state attempting to defend themselves against the Crime of Aggression, any state may offer assistance, be it militarily or other, and once the aggressor has been repelled, states may act in tandem to punish the aggressor state, although the punishment should be within reason and never rise to a level where it affects the general populace unduly.

This maxim is universalizable, non-contradictory, does not violate any rules of morality and ensures that self-defense is not just a moral truth, but a practical one. No small nation will be undone by a morally unjust war waged upon them, no large nation will be able to conquer other nations merely based on their size or relative strength. War will indeed be governed by morality and morality alone, and over time, unjust wars will completely disappear.

4.3 Preventive Strikes and Kant

Kant has a similar conception of preventive-strikes to the one I explained in chapter 2.5. And thus, within my theory there is indeed an allowance for a certain type of preventive strikes. Orend explains Kant's view, "If we do not attack state S, there is a very high probability that S will violate our rights. Thus, we ought to launch a pre-emptive strike against S," (Orend, 169). If there is confirmed reliable intelligence that state S is about to launch an attack on state A, state A is morally justified to strike pre-emptively to gain an upper hand in the conflict. The crime of aggression still lies with state S, state A is merely choosing to pre-emptively strike to try and

lessen the damage state A causes. There is no difference morally, only pragmatically. The moral crime is still that of aggression, and it is still conducted by nation S. The only difference is that nation A received intelligence warning them of this attack, and thus were able to deal with the crime of aggression, and act in self-defense before nation S could commit any harm. Thus, the Kantian maxim could be expressed as:

It is morally just to pre-emptively respond to the Crime of Aggression by launching a strike, if I possess confirmed reliable intelligence that an attack by said nation is imminent.

The other type of preventive strike I mentioned in chapter 2.5, what Walzer termed the “Balance of Power Argument” (Walzer, 76), and which David Hume famously defended in the case of three British wars to preserve the Balance of Power. Kant makes no mention of these kind of wars in his writings. While a more detailed explanation can be found in Chapter 2.5, proponents of the Balance of Power argue that fundamental rights such as peace, freedom and liberty are upheld when nations are on an equal footing. In modern parlance, perhaps the easiest analogy is the issue of nuclear proliferation. Wars to preserve the Balance of Power are senseless from the framework of Just War I have described above. For it is irrelevant whatever strategic advantage nations achieve, as they cannot use them in any fashion other than in a morally unjust war, which would be punished by all other nations as such wars are crimes against the whole international society. While things such as the elimination of nuclear weapons can be argued to be a moral good, that argument usually rests on the foundation that it is good because it will prevent nuclear war. This firstly risks becoming an issue of Jus in Bello, conduct in war, which is beyond the scope of this paper. However, secondly nuclear war is less of a concern when war itself is governed by morality, nations will perhaps realize that it is a waste of resources to

acquire new weapons when only wars that are morally just are permissible. Thus, wars concerning the Balance of Power do not fall within my theory of Just War. There is far more to research and say about such wars, but it falls beyond the scope of my investigation.

4.4 Humanitarian Intervention

The benefit aspects of Kantianism bring to the *casus belli* of Humanitarian Intervention is precisely within the maxim of any action being committed as an end in itself and not a means to an end. This maxim disallows faux humanitarian interventions done with other motives than pure humanitarianism, such as Russian and American intervention in Syria or Western intervention in Libya. These interventions, which will be discussed further in Chapter 6, were based not on purely altruism, but with specific nefarious intentions. Including natural resources, geopolitics or others, and thus would be void under my Just War theory. Thus, a humanitarian intervention must indeed be committed for the right reasons, the right Kantian reasons. However, my theory must also articulate some set of criteria, some framework within which one can objectively judge if a particular event or a specific series of events rises to the level where Humanitarian Intervention is justified.

4.5 *Casus Belli* for Humanitarian Interventions

The most obvious case where Humanitarian Intervention is morally justified is in cases of genocide. To define genocide, I will use the UN Convention on genocide, which states that:

...genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group as such:

- a. Killing members of the group.
- b. Causing serious bodily or mental harm to members of the group;
- c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- d. Imposing measures intended to prevent births within the group;
- e. Forcibly transferring children of the group to another group.

(UN Office of Genocide Prevention)

This definition describes the numerous circumstances in which one can empirically state genocide is taking place, and if any of these conditions are met, a humanitarian intervention solely based on good will and legitimate humanitarian concern can be conducted. Genocide occurs most commonly within times of conflict but can also take place within peaceful situations. The most famed genocide is the Shoah, or Holocaust, conducted by Nazi Germany during the Second World War. This is also where the term genocide was first introduced and first tried at the Nuremberg Trials in 1945-1946. Sadly, numerous genocides have followed, ranging from the Cambodian Genocide under Pol Pot to the Rohingya genocide that is currently ongoing. Legally speaking, to be able to convict a person or a regime of genocide, one must be able to prove intent to destroy. Mere cultural destruction or dispersion of a people does not constitute

genocide under the legal UN definition enshrined in the Geneva convention (UN Office of Genocide Prevention).

Along with genocide, three other concepts have a place within the notion of Humanitarian Intervention: ethnic cleansing, war crimes, and crimes against humanity. Ethnic cleansing has no clear legal definition but was first used in discussions regarding the numerous wars of Yugoslavian dissolution. While there is no formal legal definition, a United Nations Commission of Experts looked into the issue regarding Yugoslavia and deemed in an interim report S/25274,

rendering an area ethnically homogeneous by using force or intimidation to remove persons of given groups from the area.

In its final report S/1994/674, the same Commission described ethnic cleansing as “... a purposeful policy designed by one ethnic or religious group to remove by violent and terror-inspiring means the civilian population of another ethnic or religious group from certain geographic areas.

(UN Office of Genocide Prevention)

Ethnic cleansing is thus the removal of an ethnic group from a specific area but differentiates itself from genocide in that it does not necessarily mean the actual murder of said population. However, methods used to encourage specific groups often rise to murder, alongside torture, arbitrary detention, and other horrid acts. However, ethnic cleansing can usually find a legal home within the next term, Crimes Against Humanity, and thus it does necessitate a different legal definition.

Crimes against humanity are the broadest grouping of criteria that can be used to justify humanitarian intervention. The term’s origin is unclear, but many experts point towards King

Leopold's atrocities within the Belgian Congo. The legal definitions of Crimes against humanity have evolved over time. The most recent iteration is enshrined within the Rome Statute of the International Criminal Court.

For the purpose of this Statute, 'crime against humanity' means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- a. Murder;
- b. Extermination;
- c. Enslavement;
- d. Deportation or forcible transfer of population;
- e. Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- f. Torture;
- g. Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- h. Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
- i. Enforced disappearance of persons;
- j. The crime of apartheid;

k. Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

1. A contextual element: “when committed as part of a widespread or systematic attack directed against any civilian population”; and

2. A mental element: “with knowledge of the attack”

(UN Office of Genocide Prevention)

Thus, crimes against humanity consist of a vast number of crimes that all can be tried and can function as a *casus belli* for humanitarian intervention. Crimes against humanity and genocide have often been used in international courts simultaneously and have successfully punished perpetrators of atrocities. The last term is War Crimes, crimes conducted within a war between two or more nations, in other words violations of Jus in Bello. The list of War Crimes is expansive, enshrined both in the 1949 Geneva Convention and in numerous later conventions, including the International Criminal Court’s Rome Statute. The complete list can be found at <https://www.un.org/en/genocideprevention/war-crimes.shtml>.

4.6 The Issue with the UN and the UNSC

Genocide and Crimes Against Humanity thus function as perhaps the most clear-cut *casus belli* to justify humanitarian intervention; they have clear criteria, legal justification, and traceable history of successful trials and prosecutions, such as the International Criminal Tribunal for Rwanda or the International Criminal Tribunal for the Former Yugoslavia. However, the issue with the notion of genocide and crimes against humanity and indeed all of

these terms is that they often do not function as preventive measures that encourage nations to intervene in order to protect lives. Instead, they are an after-the-fact prosecution of leaders responsible for a crime. Thus, it is a form of punishment rather than impacting the lives of the affected immediately. Indeed, countries that have gone to war or intervened militarily in conflicts using the *casus belli* of ethnic cleansing, genocide, or crimes against humanity have often faced significant pushback by the international community. For example, the NATO-led bombing of Yugoslavia was explicitly deemed a humanitarian intervention after the UN security council did not approve of its entry into the conflict. Taking a step back, the UN charter only allows war in two cases: self-defense against an armed attack or a UN security council's decision. While many wars still happen outside of these parameters, they are all technically illegal under international law. In the case of the NATO bombing of Yugoslavia, NATO asked the UN security council, but two nations with veto power, Russia and China, vetoed the majority decision. NATO then conducted its bombing, stating that it was a humanitarian intervention, not a war. However, it still triggered discussions and protests as people viewed the intervention as illegitimate. Thus, there are two issues with humanitarian intervention that I will investigate in the next pages: first, such incidents are often only prosecuted in the aftermath of it, and second that the UN is an inefficient organization and thus cannot be the arbiter of just wars.

Firstly, I will tackle the issue of the UN and the UNSC and in the following section I will deal with the issues that arise from the slow-moving nature of the legalist terms defined above. One of the issues is with the makeup and organization of the UN security council, there are five permanent members, alongside ten others elected by the general body for two-year terms. The five permanent members are Russia, China, The United Kingdom, France, and the United States; they all hold veto power and thus can invalidate any vote within the security council that is not in

their nation's favor. Especially within the last thirty years, the Security Council has become more adversarial, with the number of vetoes used increased substantially. There are two main issues with the Security Council, and through them, I will show how the United Nations Security Council cannot be a moral arbiter of Just War.

The first issue with the Security Council is its makeup, specifically the five permanent members. Within the Atlantic charter, the foundational document for the United Nations, the security council was specifically enshrined with the responsibility to maintain international peace. This is why the victors of the Second World War, the United States, China, Russia, and the United Kingdom, were granted permanent seats in its most powerful body, and the reason why these "Great Powers" were given specific concessions, such as veto-power. Without these concessions, it is doubtful if all these powers would have signed on to the United Nations' formation. However, as the years have passed, criticism towards the UN security council and especially the permanent members has become frequent. "There is a perception that its current composition allows the "Big Five" to dominate proceedings, as each one has a permanent seat in the body as well as veto power that may be used to block measures they dislike," (Mathur, 11). Critics have advocated for various reforms, especially within the last twenty years, both from member-states within the organization and outside perspectives.

Criticism of the United Nations security council's legitimacy has become a staple of commentary about the world organization's state. World leaders who agree on little else concur that the body's membership is anachronistic and outdated.

Annual meetings of the UN general assembly have featured regular, and sometimes angry, calls for its reforms. (Bosco, 439)

This criticism has been especially poignant within the Global South, as developing nations such as India have risen to global superpowers over the past decades. These nations have collectively clamored for change, specifically within the UNSC, the centre-piece of the UN system, (Mathur, 11). The concrete steps these nations have advocated for include increasing the UNSC to 24 members, with five new permanent members (with the same benefits as the current permanent members) and four non-permanent seats to be added. These seats were to be chosen using geographical and economic distribution, thus granting voices that are currently not heard on the UNSC a seat at the table. Furthermore, they advocate for a more equitable distribution of power between the General Assembly, which currently has 193 members, and yet is dominated by the 15 members of the UNSC, specifically the five permanent members. (Mathur, 18). These resolutions would indeed create a UNSC that is more inclusive and allow the agenda to reflect concerns by nations that are currently not represented. The international order would benefit greatly from such initiatives; however, they have all been roundly rejected. The general consensus on the issue is that at the very least, Brazil, India, Japan and maybe South Africa should receive permanent seats. And perhaps that one European seat should be given away or coalesced into a seat for the European Union as a whole, (although this may be more difficult now with Brexit), (Bosco, 449). However, even though outsiders and certain insiders all agree change is necessary, the powers that be will use their veto power to maintain their power, and to make sure they do not dilute it. Thus, the UNSC and more broadly the UN thus cannot function as an arbiter of Just War in the case of Humanitarian Intervention.

4.7 Solutions for defining Humanitarian Intervention

The second issue with using legalist definitions of any of the crimes I defined as being acceptable as *casus belli* for a humanitarian intervention is that they are slow moving, and as previously stated, are used as after-the-event punishment. This is due to the fact that as in any criminal trial, evidence must be gathered, the accused must be given an opportunity to defend themselves, and specifically with crimes of this magnitude, this process can take years. For example, the previously mentioned International Criminal Tribunal for the former Yugoslavia was established in 1993 and only dissolved in 2017. The tribunal had no effect on the actual war, it functioned as a vehicle for closure and punishment, but it was unable to affect the wars and help the civilian population when they needed it. Thus, for my Just War Theory, there needs to be some kind of body, framework or organization that can evaluate claims of any of the various crimes elucidated above, and quickly and transparently evaluate the claims and come to a conclusion within weeks not years. Thus, nations can act on those conclusions and intervene as quickly as possible to truly help the affected citizens in real time. What I hope I have proven over the past pages is that the UNSC, which indeed should be able to fulfill this role, is unable to do so.

This leaves the future of just humanitarian intervention in jeopardy and necessitates action. There are thus four options, A) Status Quo, B) reform the UNSC, C) create a new institution that will regulate the issue and be granted the powers necessary and finally, D) let nations act on their own to engage in humanitarian interventions and prevent genocides and other crimes against humanity. I have shown that option A is not a morally feasible option. I have also shown how hard reform of the UNSC would be, but that does not mean that it is impossible, thus

option B while perhaps not practical or easy is still possible. Option D is a non-option for me, relying on nations to act without some form of body sanctioning their actions is both dangerous and unrealistic. Nations will act in their own self-interest at most times, and thus one cannot just let nations independently choose out cases where they believe humanitarian intervention would be justified. Some kind of liberal institutional organization is necessary. Thus, only option B and C remain on the table. Either a reform of the UNSC and the UN generally, or the creation of a new organization that would fulfill the need for quick, effective, efficient response to any crimes against humanity in real time. The creation of a new organization could lead to an infinite regress, there would have to be another organization above that organization to ensure it operates correctly, and then another organization above it, leading to an infinite regress. However, one could object that creating an organization that follows the perfect moral guidelines and is structurally set up for the guidelines to take precedent over everything else could avoid this infinite regress by not necessitating a supervisory body. Thus it seems irrelevant whether to choose option B or C, both reform of the UN or the creation of a new organization would need to rest fundamentally on the same moral principles, and regardless of which option is executed, if either organization truly would operate on said principles, they would fulfill the role of creating an organization that can efficiently determine whether crimes rise to the level where humanitarian intervention is necessary, and then execute said intervention with help from their member states.

4.8 The Kantian Moral Principles

In conclusion, it is now necessary to pinpoint which moral principles must be followed and explicate why it is so. To do this one can borrow heavily from Kantian Ethics, and from the moral theory I outlined in Chapter three. Here are the six principles, derived from Kantian ethics, that must govern our thinking about war in cases of Humanitarian Intervention. These principles must guide a new organization or a reformed UN.

1. Ability to act in a timely manner to ease suffering
2. Unconditional Good/ Good Will
3. Categorical Imperative
4. Universality
5. Ensure that all nations are represented equally and equitably
6. Autonomy from personal interests or interests of the state of which one is a member

The first of the moral rules that are necessary is the ability to act in a timely manner to ease suffering. This is fundamentally important, perhaps more so than any other rule, for it is the largest digression from current usage of terms like genocide. Modern day humanitarian interventions are often illegal in international law because it is so slow-moving and thus actors realize that if they truly wish to help a suffering public, they must act independently of organizations such as the UNSC, for in waiting for them to finally decide intervention will no longer be necessary. However, even while requiring the ability to act quickly to legitimize a

humanitarian intervention, due diligence is still necessary, otherwise bad actors can easily take advantage and act in their own self-interest on false claims of crimes against humanity or genocide. While accepting due diligence as a necessary component, acting quickly to ease suffering is far more moral than waiting out to see what happens and then to prosecute the perpetrators of the crimes. It is always more morally just to help members of the public rather than waiting.

I discussed the good will and Categorical Imperative in Chapter Three, and there is not much new to add for this section. Universalizability is of course part of the categorical imperative and thus also the Good Will, but just like in regards to self-defense it is critically important. Universalizability is the Kantian principle that makes Kantianism so apt for use in Just War Theory. Nations may argue that it is not in their own self-interest to intervene in a certain crisis, especially from a realist perspective. Realism is after all an ideology which puts morality on the backburner and where geopolitical considerations and self-interest take center stage. This is where the principle of universality places such an important role. Overcoming realism is of fundamental importance to any global liberal institutional, indeed it is why thinkers established the framework of liberal institutionalism, precisely to act as a counterweight and counterbalance to realist thought. And the principle of universality works as a perfect refutation of realist thought. Nations and their leaders, and most importantly their people, will realize that realism is for naught when nations care about each other and come to one's aid in times of need. Because of this fact, nations and their citizens will realize that when they are in need, other nations will also help. If realism is one big argument against helping others in need, because of the belief they won't help you, some kind of realist free-rider/bystander problem, the notion of universality perfectly counteracts it. It is thus both a moral and practical solution to the issue of

realism. It shows doubters that a humanitarian intervention is not purely beneficial to one's own morality but also practical, as in instances where one requires an intervention on one's own behalf, it will also be granted.

Ensuring that all nations are represented equally and equitably is fundamentally important to ensure that such decisions are made not to the benefit of one nation, one alliance, one continent but to the betterment of the whole world. This is even more important considering the influence of forces such as colonialism still hold to this day over certain parts of the world. Such things must be addressed, specifically with giving countries in the global south an equitable say. A common claim against humanitarian interventions is that they are a form of the white savior complex, having equitable representation from all nations will ensure none of that occurs. Furthermore, there will be opportunities for the global south to perhaps show the global north that they have their own humanitarian crises which require intervention.

Autonomy in this instance is simple and just means that the people who serve on the board of the reformed or new organization must leave behind their allegiances to their own nations and act purely on morality.

From all these varied principles, we must now draw a Kantian maxim, similar to the ones we created for self-defense:

Once confirmed by either the UN or a new organization set up to deal with these issues, any instance of genocide, crimes against humanity or ethnic cleansing by a state upon its people or certain segments of its people, states may intervene, including with the use of force, to aid those under attack.

This maxim is universalizable, morally just and thus can be used to guide Humanitarian Interventions. However, this maxim is also conditioned more than the ones governing self-

defense, as it requires an organization that in-itself functions under Kantian principles. And yet, it is a start, a maxim that a new or reformed organization must act upon if it wishes to make any difference in the world.

5. Examining Wars under my Just War Theory

Now that I have fully explained my Just War Theory, both in cases of self-defense and humanitarian intervention, I shall present some wars from history and examine if they could be judged to be morally justified or not. In choosing certain wars, it is impossible to choose highly contentious wars, as there is simply too much reading to be done on the subject to truly divine the motives behind war.

5.1 Wars of the Roses

Much has been written about the Wars of the Roses, both in historical academia and historical fiction. It is the backdrop a tetralogy of Shakespearian plays, commonly referred to as the *Henriad*, and it has influenced massively popular works of art such as *A Song of Ice and Fire*, perhaps more popularly known as *The Game of Thrones*. Intrigue and treachery, scheming royal consorts and court courtiers, love and bloodshed, it is obvious why the Wars of the Roses has captured so many minds over the years. This is why I think it is a perfect war to examine under my Just War Theory, to assess the morality of the war that has captured the imagination of so many.

Of course, this is not a historical analysis, and thus I will merely give a brief overview of the war and focus on the factors that led to war. To do so I am relying on *The Wars of the Roses* by Michael Hicks, a prominent historian on late medieval England. The Wars of the Roses were a set of wars fought between 1450 and 1509, mainly by two rival factions vying for the throne of England, the House of Lancaster and the House of York. As Hicks states,

There were three regional revolts, in 1450, 1489 and 1497; a host of private feuds, murders, ambushes, skirmishes and sieges; thirteen full-scale battles, including four in 1461, 1471, 1485 and 1487 that were decisive; at least ten *coups d'état* and attempted coups; fifteen invasions, including the four in 1460, 1470, 1471 and 1485 that succeeded; five usurpations, in 1461, 1470, 1471, 1483 and 1485; five kings – Henry VI, Edward IV, Edward V, Richard III and Henry VII – the first two of whom actually reigned twice; seven reigns; and five changes of dynasty, in 1461, 1470, 1471, 1483 and 1485.

(Hicks, 3)

This shows the extent of these wars, how large the conflict was, but it makes no judgement towards morality, neither does Hicks second chapter, where he lances the causes of the war, however, I will be able to assess and judge the causes and thus extrapolate the morality from them. The Wars of Roses, traditionally and in the popular mind is a power struggle between two clans wishing to sit upon the throne. As Hicks puts it, “The cause was dynasticism – the incompatible ambitions for the Crown of the two great families,” (Hicks, 12). This of course is also the notion that was taken up by popular culture, perpetuated especially through Shakespeare, and thus taken up by much of what is written after. David Hume also wrote about the war and proportioned the blame to ruthless feudal pursuit of self-interests and power at the expense of everyone else, (Hicks, 15). However, Hicks and many other modern historians argue that the conflict actually began as a conflict about good governance, but then took on its dynastic nature in the 1460s and 70s and it continued till its end, (Hicks, 14). When Hicks talks about good governance, the issues were mainly around a lack of law and order, taxation, the prevention of York from a seat on the royal council, the influence of France on English politics and also a

genuine concern for the restoration of good government, (Hicks, 19). However, the House of York, instead of pursuing constitutional reforms, choose violence and thus led England into a set of bloody wars that led to anarchy for over sixty years.

Now that we have, an admittedly, short run through of the war and the factors and motivation that led to the wars, we can assess the wars from my framework of Just War. Were the Wars of Roses fought with either a) self-defense or b) in terms of humanitarian intervention? Evidently not, regardless of which understanding of the wars one accepts. If one accepts the classical dynastic view of the wars of roses, it is evident that is not morally justified. A dynastic war is conducted for mere self-interest and can never be morally justified. Hick quotes Hume, who puts it most powerfully when he wrote, "All we can distinguish with certainty through the deep cloud, which covers that period, is a scene of horror and bloodshed, savage manners, arbitrary executions, and treacherous, dishonorable conduct in all parties," (Hick, 18). Imagine the impact this war had on the public, the citizens whose livelihoods were destroyed by the greed of their feudal overlords. If one accepts a more revisionist account, that the war at least began in terms of good governance and only later became a war of mere dynasticism, it is still morally unjust. While one can accept that there were perhaps things that needed to change about the Crown to ensure that all citizens had better conditions, this was not a humanitarian intervention. The mission was never to merely make life better for citizens, and outside of medieval power relationships between the aristocracy and the citizens, there were no policies that come anything close to the notion of genocide. Secondly, the House of York of course was not advocating for some kind of restructuring of the laws of the relationship between them and their subjects, merely for them to be the highest power and then to improve their lives marginally. We have already established, both under Kantianism and from Walzer's theory of Just War, that wars of

merely regime-change are never morally justified. Other avenues, including constitutional reform could have been pursued, War is not the first resort when one wishes to raise taxation for the King's coffers, or feels that certain foreign policies are misguided. Thus, regardless of which historical conception of the Wars of the Roses one accepts, one can equivocally state that they were not morally justified.

The Wars of the Roses is a prime example because it is directly comparable to so many wars fought throughout human history, especially in the middle ages and the medieval period. So many wars at this time were fought for dynastic reasons, and thus they are all morally unjustified. Of course, such wars do not merely extend to the Western World, China during the Five Dynasties period is another prime example of dynastic wars. Furthermore, such wars have not been restricted to history, while dynasties may have died out, wars based on the same motives, personal gain and mere self-service, whether it be personal or on a national level, are still prevalent, and all morally unjustified.

5.2 Russo-Georgian War

In 2008, Russia invaded Georgia, more specifically the South Ossetian region of the Georgian sovereign state. South Ossetia has long been a disputed region, and both Abkhazia and South Ossetia were under the control of separatists, although those separatists are often recognized as being supported by the Russian state. On the 7th of August 2008, Georgian forces attempted to re-capture the areas not under their control, however, Russia quickly launched an invasion, on the pretext of a peace enforcement operation. Russian and separatists' forces took control of key Georgian cities, ports, and infrastructure. Most importantly, this was the first widespread use of cyber-warfare in an international war, Georgian cyber infrastructure was completely shut off. On August 12th, an armistice was signed, brokered by French president Sarkozy. While Georgia retained control over cities that had been captured, the regions of Abkhazia and South Ossetia remained under the control of separatists and Russian forces, and their control over the regions has become more entrenched, (Studinzksa, 23). To further assess the motivations behind the invasion, I am using a scholarly article by Zofia Studinzksa, a Polish political scientist, and a book chapter from William H. Hills, "*No Place for Russia; European Security Institutions since 1989*".

As Studinzksa and Hill argue, the war mainly had to do with Mikheil Saakashvili's pro-Western faction coming to power during the Rose Revolution of 2003, and enacting both democratic and economic reforms in Georgia, moving the small nation closer to both NATO and the EU, and thus further away from Russia's sphere of influence, (Studinzksa, 25, Hill 240). Russia attempted to hinder these processes at all times, including the direct support of the separatist regions of Abkhazia and South Ossetia, similar to what Russia later did within Crimea.

The spark that truly lit the cinder, was at NATO's Bucharest Summit in 2008, where Georgia, was assured that in the future it would become a member. This was a blow to Georgia, as they had been hoping to be granted a Membership action plan, but instead were granted mere assurance that they would join in future (Hill, 240). This was a strategic mistake by NATO, as Hill writes, "The compromise reached at Bucharest was perhaps even worse than starting the formal application process; it promised both Georgia and Ukraine eventual membership in NATO someday, without offering any guarantee of protection against attack before that happened," (Hill, 240). And of course, the attack did happen for Georgia, that very summer. The invasion was met by minimal resistance from the international community, "Despite all the talk of NATO membership, the war showed that both the Alliance and the United States were unwilling to intervene militarily in a conflict with Russia in Moscow's backyard," (Hill, 240). Furthermore, as Studinzksa writes, "Russian intervention in Georgia was not met with any serious consequences," (Studinzksa, 28). No sanctions were placed on Russia due to the War, even after they did not follow the guidelines of the Sarkozy mediated peace-agreement. The Russo-Georgian War thus is a prime example of a war that was not morally just. Evidently Russia could not claim self-defense, it was a war of aggression, Georgia did not attack Russia, and thus the a) clause of my Just War theory is not met. The only other justification could be a war of Humanitarian Intervention, and this is indeed what Russia claimed it was. This is simply not true, while Russia claimed it was interceding on behalf of Abkhazia and South Ossetia, these regions were not persecuted, they enjoyed the same rights as all Georgian citizens, and indeed Russia had already violated Georgian sovereignty by supporting these breakaway regions. It is a clear example of a nation misusing the pretense of a humanitarian intervention to actually act in their own self-interest. Russia wished to destabilize the sovereign state of Georgia, impede it

from moving closer towards the EU and NATO, keep it within its sphere of influence, and send a message to other nations in the region. This is exactly why Humanitarian Interventions must be sanctioned by a body that can adjudicate and decide if an intervention is justified, so that these kinds of fake humanitarian interventions will never be conducted again. However, the Russo-Georgia War also shows how a Just War theory that is universalizable and thus universally accepted by all nations could help the international balance of power, and individual nations such as Georgia. As Studinzksa writes, “The war, exposed the weakness of the standards and principles that shape the European security system. The UN and OSCE missions, which were stationed in the breakaway republics, had no real effect on what happened around the,” (Studinzksa, 28). Furthermore, diplomatic efforts had been unsuccessful, they neither halted the war, nor did Russia hold itself to the mediated peace agreement, (Studinzksa, 29). Russia had been allowed to forcibly change the borders of a state, while the world watched and sat on their thumbs, strengthening their position and further dissuading other nations in the region from moving closer to NATO and the EU, for fear of incurring Russia’s wrath. Of course, this pattern would repeat itself in 2014, when Russia invaded regions of Ukraine, the inaction thus truly did play a role and led to more conflict down the road. Let us imagine then, if just for a second, that the war had been repelled. If my theory of Just War had indeed been enshrined, two things would have happened, Firstly, the Russian claims of Humanitarian Intervention would have been categorically denied by the organization in charge, and the Russian invasion would have been seen starkly in terms of the Crime of Aggression. Secondly, nations would have rushed to defend Georgia, aiding them in their morally just mission to repel an unjust invasion, thus most likely granting Georgia a successful defense. Furthermore, this would have sent a clear and stark

warning to Russia, and the invasion of Crimea most likely would never have happened. Sadly, this is not what occurred, and the region remains in chaos to this day.

5.3 2011 Intervention in Libya

In 2011, the Libyan people rose up in opposition to then dictator, Muammar Gaddafi. His regime responded violently, as rebel forces took control of certain key cities, airstrikes by the regime on rebel held cities led to thousands of civilian deaths. To analyze the war, I will employ two sources, one written by Ivo Daalder, the American ambassador to NATO and James Stavridis, the NATO Supreme Allied Commander of Europe, and a chapter from *Libya's Post-Qaddafi Transition: The Nation-Building Challenge* by Christopher S. Chivvis, Keith Crane, Peter Mandaville and Jeffrey Martini.

The international community responded with sanctions and trade embargoes and as the situation escalated the United Nations Security Council introduced resolution 1973, forming the legal basis for military intervention on humanitarian grounds in Libya. This resolution was adopted, 10-0 with five abstentions, with three permanent members voting in affirmative and the other two abstaining, (Daalder et al, 2). Immediately, a US led coalition established a no-fly zone over Libya and began air and missile strikes on Libyan military targets. This coalition would later cede military control to NATO, and many NATO members joined, in the end, nineteen states had contributed troops and power to ensuring peace returned to Libya and Gaddafi would be taken from power, (Daalder et al, 3). Importantly, the resolution did not allow a foreign

occupation force, but merely any other necessary means to protect civilians and civilian areas, (Daalder et al, 3). The operation was a success, as Daalder and Stavridis state, the operation, “Saved tens of thousands of lives from almost certain destruction. It conducted an air campaign of unparalleled precision, which, although not perfect, greatly minimized collateral damage. It enabled the Libyan opposition to overthrow one of the world’s longest-ruling dictators,” (Daalder et al, 3).

Thus, from a Just War perspective, the Libyan intervention was a success of humanitarian intervention. In my view, the intervention was justified, the laundry list of crimes the Gadaffi regime committed against its people over the years includes crimes against humanity, genocide and war crimes. That this regime was at times funded and aided by some of the most powerful states in the world, including various members of the EU is appalling. Thus, humanitarian mission succeeded in its morally just goal of helping the citizens of Libya, overthrow their dictator and keep them from harm to the best of their abilities. However, while the initial mission was a success, in the years after Libya has drifted into being categorized as a failed state. As Chivvis et al show, the second Libyan Civil War, from 2014 to 2020, rose because warring militias that successfully defeated Gadaffi were not able to lay down their arms and respect the civilian government, the issue was also hindered by Islamist groups which took control in the power vacuum post Gadaffi’s defeat, (Chivvis et al, 2). So, a successful, morally just humanitarian intervention turned sour. This, however, does not disprove the justness of humanitarian intervention, or their efficacy, it does however show that merely removing the dictator or the oppressive regime is not enough. Humanitarian interventions must also give the citizens and the state the opportunity to regain their footing. Once a regime has been removed, the intervention must also ensure free and fair elections, the throwing down of arms by all

combatants and a restoration of civil order. Only then, once a new government is democratically elected, is the intervention truly over. The Libyan intervention of 2011 was thus both successful and unsuccessful, a morally just intervention that simply did not ensure the future of the nation, a case-study both in what went right and what went wrong.

6. Criticism/ Critique

Now that I have fully explained my theory on Just War, I shall now set out to defend it from certain objections. I have chosen to respond to Utilitarian objections, classical Kantian objections, Realist objections and Pacifist objections. Once I respond to each, I believe I will have a theory that is well-defended and thus applicable.

6.1 Pacifism

In certain aspects Pacifism and Just War Theory are very similar, both frameworks believe that moral judgements can be made in the field of war, the only difference is that adherents come to vastly different conclusions. Pacifism is the view that no war is or can be just, (Orend, 165), and all pacifists oppose all wars at all times. Their reasons may vary, as Orend writes, "From an extreme version, which eschews any kind of violence or killing as an intrinsic harm to a more plausible version, which contends that it is the kind and scale of violence or killing that war involves which is insurmountably objectionable," (Orend, 166). Thus, while both pacifists and just war theorists make moral judgements about war, just war theorists believe that those judgements sometimes conclude that war is indeed morally permissible, while a pacifist would claim that a moral judgement can never sanction war. Pacifism is intrinsically appealing to any moral person, an end to all killing, to all bloodshed in war, an end to suffering. However, after closer analysis, it becomes clear that Pacifism, while it shall remain an aspirational hope for

the world, is an overly idealistic ideal that cannot function in today's society. This is easily seen through various examples. Imagine there are merely three nations, A, B and C. Nation C is a pacifist nation, as is nation B, however, nation A is not. Nation A then decides to invade nation B, as nation B can offer no resistance, nation A subjugates its people, takes control of their wealth and national resources, and then begins a reign of terror on the citizens of nation B. Nation C is powerless to help its fellow pacifist ally nation B, as through the lens of pacifism, they believe that it is more moral to watch the demise of their ally than to help by entering into war with nation A. Now imagine the case where all three nations are not pacifists. Nation A's invasion will be met by resistance by nation B, and nation C is morally just in intervening to counteract nation A's warmongering. In this instance, nations B and C are successful in repelling the invasion, and the citizens of nation B can keep their livelihoods, their natural resources and even their lives. If we bring this to the real-world, imagine if during World War Two, all nations were pacifist other than Nazi Germany and Imperial Japan, the whole world would be subjugated, nations would be powerless to help, and the outcome would be a world dominated by the Axis powers. Through these examples, I have tried to show how pacifism, while an aspirational delight, can have no place in the real world. It will only begin to have a beneficial impact when all nations are pacifist, and all ascribe to the mantra of no wars.

6.2 Kant's Ethics

Throughout this piece I have employed interpretations and variations of Kant's ethics under the broad term of Kantianism, this of course leaves me open to much critique from classical Kantians, who operate within Kant's moral framework and nothing else. Perhaps they

would ask, why not simply adopt Kant's ethics and translate it onto Just War Theory? I would have to answer that this would be impossible, and they would respond that I then should not have written about Just War Theory from a Kantian perspective. For it is indeed true, that although through interpretations and extrapolations, by modernizing and adjusting, Kantianism can indeed be used successfully as a moral basis for Just War Theory, Kant's ethics cannot. Kant himself makes claims towards pacifism, such as the abolishment of armies, that cannot be worked into a framework of Just War. Furthermore, nowhere in Kant, nowhere in the traditional categorical imperative is there a hint towards any notion of humanitarian intervention. As Adorno famously said, after Auschwitz, a new categorical imperative is needed. The categorical imperative, and more broadly Kant's ethics, failed according to Adorno. The ethics were not set up to prevent the horrific events of the *Shoah*. Of course, there was no way Kant could foresee the events that would occur, but there is something missing in his ethics. Indeed, some Nazi War criminals, Eichmann most famously, even defended themselves by saying that they were merely following the categorical imperative. The merits or validity of this defense can and have of course been attacked and debated endlessly, perhaps most famously by Hannah Arendt in *Eichmann in Jerusalem*. Regardless, that this was even an option to endorse undermines Kant's ethics. Coming to that conclusion, there are only two options, either completely disregard Kant's ethics or reform them in such a way that they are once again useable. Completely getting rid of Kant's ethics would be a big loss for moral philosophy, because as I have shown a lot of Kant's notions are highly useful. Why get rid of useful conceptions such as the Moral Will, the notion of categorical duties, universalizability, when one can repurpose them into Kantianism, a moral philosophy that takes from Kant and improves upon certain notions. Immanuel Kant was one of the greatest minds ever to grace philosophy, and one cannot truly fault him for not being able to

foresee the future and thus craft a moral deontology that would uphold the test of time. But it seems silly to merely shove all his genius to the side when certain, usually rather minor changes can make his moral framework useable in the 21st century.

6.3 Utilitarianism

Utilitarianism is another school of ethics or morality in which actions are judged on the basis of creating the most utility, where utility is usually defined as happiness, well-being or any other related concepts. Would it be possible to ground Just War Theory within Utilitarianism? It certainly would, one could craft a theory where War is morally just in instances where the maximum utility result from it. Of course, most followers of Utilitarianism still hold that there are certain crimes which cannot be broken in pursuit of utility, it is not a mere utility over all argument in which the flaws would be immediately apparent. As each nation would resort to all kinds of warfare to ensure maximum resources and riches and happiness for their citizens. This is not a valid critique of Utilitarianism, as thinkers within this tradition have thought of this issue and come up with solutions. However, there are still many issues within Utilitarianism that make it hard to use in an international framework. For example, the issue of defining utility, is highly subjective. It would be incredibly difficult if not impossible for all nations to agree on some definition of utility that would be acceptable to all. Different cultures and different nations have vastly different conceptions of what constitutes utility, what constitutes happiness, and it would be impossible to base an international theory of Just War on a utility that is not universally

accepted by all. One nation might very well argue that going to war for access to a resource vital for their people's happiness is morally just, while other nations would claim that such a resource is not important to a person's happiness. Every nation would have different, if even slightly different conceptions of utility, and there would never be any agreement. This illuminates the benefits of grounding Just War within a theory that is truly universalizable, that transcends cultural and historical differences. This is exactly what Kantianism does.

7. Conclusion

I have argued that war is justified in two cases:

- I. In cases of self-defense,
- II. In cases where the complete destruction of a people, their culture, society, or religion is at stake.

Throughout this thesis, I have argued that war can truly only be morally justified in the two cases mentioned above. I have shown how the morality of war can be grounded in Kantianism, in the Good Will, the notion of categorical duties, the end-in-itself and most importantly universalizability. Through Kantianism, we can ground this Just War Theory in a specific moral framework, a deontology which can be followed by all nations, all leaders, all citizens. A moral theory that is universalizable, with certain clearly defined steps to follow. Maxims that are easily followable by all nations, regardless of historical legacy, traditions or culture. It is by far the most attractive option; no other moral framework can ground Just War theory and specifically my Just War theory so well as Kantianism. It is able to overcome the classical framework of International Relations, Realism, and thus work towards a world of Just War, and ultimately, less war if not no war. For my Just War theory is indeed a step towards a world with less war. This may seem counterintuitive, for at the beginning there will be many wars, especially punishing the crimes of aggression and wars of humanitarian intervention. There are countless examples of nations where crimes are being committed that would allow a morally just humanitarian intervention. Some may argue that thus, this theory of Just War would bring countless wars. I would respond that this is true, but all these wars are morally just. All these wars would bring about the end of suffering, the chance for citizens to have a happy life, a safe life, a secure life. A life where they can live out their hopes and dreams, practice whatever religion they wish, marry

whomever they wish, live wherever they wish. These wars would make the world we live in a better place, not merely for individuals, but for the collective. And over time, as nations and leaders, regimes and militaries, realize the cost of committing crimes against their citizens, they will stop. Thus, it is not merely a moral theory, but one with practical implications, many wars will over time lead to less wars, and ultimately, hopefully, no wars.

In the same vein, smaller nations will no longer be bullied by larger ones, with more powerful armies. For they will be assisted in their morally just war to defend themselves by other nations, and thus stand strong united against the crime of aggression. Never again will a nation have to adjust their policies to appease a large neighbor, never again will a people be successfully invaded because their government is socialist, never again will a nation be conquered because they worship a different God. The crime of aggression will fade into history, as nations realize that such wars will not go unpunished. These morally illegitimate wars, which have plagued humanity from the beginning of our time on this planet to the current day, which have devastated countless lives, and continue to do so, will finally come to an end. This is not to say that this novel Just War theory will fix all the issues in the world. It cannot fix the vast economic inequalities that persist, it cannot fix the lasting impacts of colonialism, it cannot fix hyper capitalism, nor can it fix systemic racism. However, it can be a start. It will prevent nations from acquiring resources, natural or other, from smaller nations. It will stop further instances of former colonial powers attempting to hold onto control through regime change. It will allow nations that do choose to move from hyper-capitalism to exist peacefully, and it will not allow the worst consequences of racist thought put into action. Kantian Just War theory will not lead to utopia, but it will lead to a better world, a more moral world, a world where everyone has the right to exist peacefully, in a manner of their choosing.

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