

Kant on War

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At West Point we use Michael Walzer's work, *Just and Unjust Wars*, to teach issues of war and morality. Walzer concludes this work by stating that in cases of supreme emergency the laws of land warfare may be overridden. In other words, exceptions may be made in very rare situations where a very great deal is at stake. My purpose here today is to apply Kantian moral theory to Walzer's argument. Those of you familiar with the moral philosophy of Immanuel Kant might say he is an impractical absolutist. That is, he creates a universally valid rule and follows that rule absolutely, regardless of the circumstances or the results. Because of this rigorous characteristic, Kant's moral theory is not typically discussed in relation to the dynamic and fluid situations found on the battlefield. In spite of this common interpretation of Kant's ethics, my argument will be that Kant would agree with Walzer's argument. And that Kant, like Walzer, would override the laws of land warfare in a supreme emergency, even those laws protecting the innocent.

My method for making this argument will be four-fold. First, I will outline the appropriate part of Walzer's argument in order to provide you with an understanding of exactly what constitutes a supreme emergency. Second, I will provide a very brief outline of the pertinent parts of Kant's moral theory which typically lead scholars to conclude that he is an absolutist. Third, I will outline how Kant, like Walzer, places great value on the state in order to protect the rights of the individual. I will also discuss Kant's exception to what appears to be a categorical rule. Lastly, I will argue that when the well-being of the state is at risk Kant, like Walker, will override categorical laws.

My goal is for this essay to do two things. First, raise some discussion regarding Kant's moral philosophy in relation to military ethics. Second, take some small step to alleviate Kant's notoriety as an impractical absolutist.

I

In the realm of warfare the Geneva and Hague conventions are the rules by which all combatants, as well as non-combatants, ought to abide. In the United States Army Field Manual 27-10, *The Law of Land Warfare*, these rules are delineated. The purpose of the laws of war is threefold: a) Protecting both combatants and noncombatants from unnecessary suffering; b) safeguarding certain fundamental human rights of persons who fall into the hands of the enemy, and c) facilitating the restoration of peace.

Michael Walzer makes a complex argument stressing the innocent civilian's right to life and liberty. He argues that soldiers, in order to protect these rights, ought to adhere to the laws of land warfare in every situation bar one: a supreme emergency. A supreme emergency is one where the state is in immediate and serious danger, and the struggle concerns the survival of ultimate values. He explains that a supreme emergency is generated not merely by "some minor territorial adjustment, a loss of face (for the leaders), the payment of heavy indemnities or political reconstruction..."¹, but rather when "the survival and freedom of political communities"² is at stake. Since this description of what constitutes a supreme emergency is somewhat vague, Walzer offers the example of the Nazis in World War II. He writes: "Nazism was an ultimate threat to everything decent in our lives, an ideology and a practice of domination so murderous, so degrading even to those who might survive, that the consequences of its final victory were literally beyond calculation, immeasurably awful."³ Walzer goes on to argue that when a country has no other choice but to surrender to this type of enemy or to override the laws of land warfare, then overriding the laws of land warfare is acceptable. Note that Walzer is saying that a country's leadership must make this decision, not any individual acting on his own accord. Furthermore, overriding the laws of land warfare is an act of last resort. If there is any other course of action which adheres to the law of land warfare and can avert surrender, then that action must be taken first.

My brief explanation of supreme emergency does little to convey Walzer's argument. However, for the purpose of my argument it is not necessary to go into detail. The key point is that supreme emergencies are rare and every war does not constitute a supreme emergency. For example, Walzer says that the Japanese in World War II and the Germans in World War I did not constitute the sort of evil threat necessary for a supreme emergency.

II

In the *Groundwork of the Metaphysic of Morals* Kant wrote that the purpose of his work was "nothing more than seeking out and establishing the supreme principle of morality."⁴ This supreme principle he calls the Categorical Imperative. Although Kant describes this imperative with three different, yet equivalent formulations, the first formulation is the one on which I will focus. This is: "Act only on that maxim through which you can at the same time will that it should become a universal law."⁵ Essentially this means that for an act to be moral, it must be one which everyone could perform without generating a contradiction. For example, if everyone lied all of the time, then the entire concept of trust would be destroyed. No-one would believe anyone, so your lie would be ineffective.

The key word in this formulation is "universal." The general understanding of a universal law is that it holds for all circumstances and is independent of any particular set of circumstances. This understanding is reinforced by several pieces of Kant's writings, particularly his 1797 essay "On a Supposed Right to Tell Lies from Benevolent Motives," also known as "Constant's Reply." Benjamin Constant, a French philosopher, criticized Kant's first formulation as it applied to lying, stating that "the moral principle that it is one's duty to speak the truth, if it were taken singly and unconditionally, would make all society impossible."⁶ In this essay Kant argued that "Truth in utterances that cannot be avoided is the formal duty of a man to everyone, however great the disadvantage that may arise from it to him or any other."⁷ And further that "To be truthful (honest) in all declarations is therefore a sacred unconditional command of reason, and not to be limited by any expediency."⁸ Also in

this essay we find the often cited scenario of the murderer at the door. Kant describes a situation in which a man is determined to murder another who has taken refuge in your home. The murderer comes to your door and asks you if his intended victim is in your house. This is where Kant is often interpreted as saying that one may not lie to the murderer, even if this lie would save someone's life. Many scholars point to this instantiation of the categorical imperative to support the argument that Kant's moral theory is absolutist in nature.

In an essay entitled "An Alleged Right to Lie: A Problem in Kantian Ethics," H.J. Paton notes that in this essay Kant "maintains in the most unyielding way that the strict moral law against telling lies can admit of no exceptions whatsoever."⁹ Furthermore, "It cannot be denied that in this essay Kant does fall into the rigorism with which he is so often charged--the error of supposing that because a particular moral law is described as absolute and universal, it must therefore have no exceptions under any circumstances."¹⁰

Some Kantian scholars dismiss "On a Supposed Right to Tell Lies from Benevolent Motives" as a fluke and argue that the rigorism contained in it is not indicative of his true position. However, in the *Metaphysics of Morals* he again clearly holds that there ought to be no exceptions to the rule against lying. In the chapter entitled "Fragment of a Moral Catechism" the pupil responds to the question of what does reason say about lying: "That I ought not lie, no matter how great the benefits to myself and my friend might be. Lying is mean and makes man unworthy of happiness. Here is an unconditional necessitation through a command (or prohibition) of reason, which I must obey; and in the face of it all my inclinations must be silent."¹¹ In his *Lectures on Ethics* Kant specifically accounts for white lies which he defines as a "lie enforced upon us by necessity" and describes as a "difficult point for moral philosophers."¹² As if to reply to the question of lying to someone bent on doing harm Kant writes; "If necessity is urged as an excuse it might be urged to justify stealing, cheating, and killing, and the whole basis of morality goes by the board." And further Kant argues, "Then, again, what is a case of necessity? Everyone will interpret it in

his own way and, as there is then no definite standard to judge by, the application of moral rules becomes uncertain."¹³

Based on the passages noted above Kant has been criticized as having fallen "into the rigorism with which he is so often charged, a view that has now become the standard opinion."¹⁴ It can be interpreted from these passages, as well as others, that Kant believed that there ought to be no exception to one's maxim. It would seem that it is from Kant's position on lying, generalized to all moral misconduct, that many interpret that there ought to be no exceptions to the first formula.

It would also seem at this point that Walzer and Kant are at odds. Kant's position might be summed up as "do justice even if the heavens fall"¹⁵ and Walzer's position as "do justice unless the heavens are (really) about to fall."¹⁶ In other words Kant would adhere to the laws of land warfare regardless of the war's outcome, and Walzer would adhere to the laws up until he was facing defeat by a Nazi-like enemy. However, by examining several other pieces of Kant's philosophy we will see that, when it comes to the well-being of the state, this is not his position.¹⁷

III

In this section I will outline the importance Kant places on the well-being of the state, and also give an example of where Kant makes an exception to a categorical rule in order to secure this well-being.

Repeatedly, Kant emphasizes the critical importance of the state to man's well-being and development. He also implies that man's ultimate goal is to live in a single world state. For example, Kant's fifth thesis in a work entitled "Idea for a Universal History with a Cosmopolitan Intent" states that the greatest problem for the human species is to achieve a "universal civil society administered in accord with the right."¹⁸ And in the sixth thesis he notes that man "requires a master who will break his self-will and force him to obey a universally valid will, whereby everyone can be free."¹⁹ The master Kant is referring to I

interpret as the state which enforces its laws. Kant argues that "Only then do human beings have the possibility of achieving that complex of goals that they have by their very nature; self-preservation, cultural development, and moral virtue."²⁰ Moreover, "Only within the juridical structure of the state can human beings enjoy those conditions necessary for the protection and exercise of their freedom."²¹ We can see that the peace and security provided by the state is essential to human freedom. With this point in mind we move on to the exception Kant makes to a categorical rule. Kant's position on capital punishment is just as rigorous as his position on lying, however, we will see that when the well-being of the state is threatened Kant overrides his own position.

Kant argued that if anyone "has committed a murder he must die. Here there is no substitution that will satisfy justice."²² And "every murderer³/₄ anyone who commits murder, orders it, or is an accomplice in it³/₄ must suffer death; this is what justice, as the ideas of judicial authority, wills in accordance with universal laws."²³ Kant feels so strongly about this point that he writes, "even if a civil society were to be dissolved by the consent of all its members, the last murderer remaining in prison would first have to be executed."²⁴

Kant later makes a non-absolutist "exception" to this imperative in the event that the status of the state is at risk. He argues that if it is the case that there are so many "murderers" that there would be too few subjects remaining in the state, then "the sovereign must also have it in his power, in the case of necessity, to assume the role of judge and pronounce a judgment that decrees for the criminals a sentence other than capital punishment, such as deportation, which still preserves the population."²⁵

Kant qualifies this "exception" from wider interpretation by claiming that this necessity may only be decided "by executive decree, that is, by an act of the right of majesty which, as clemency, can always be exercised only in individual cases"²⁶ This qualification parallels Walzer's requirement that a supreme emergency may only be declared by a state's leadership. The point of stressing this exception is to show that Kant is not necessarily the absolutist he is often considered.

Kant held that it is just and necessary to take the life of a murderer, unless the state's well-being was at risk; I suggest that it would also be just and necessary to override the laws of war in the event of a supreme emergency where the states well-being was at risk.

IV

Now let me reinforce the claim that Kant is not an absolutist who would never override the laws of war. In this section I will argue that Kant clearly implies that universal maxims do not apply when battling evil on behalf of the state.

In his essay "Perpetual Peace" Kant wrote that "war is but a sad necessity..." because there is "no tribunal empowered to make judgments supported by the power of law."²⁷ And later he writes that the laws of war, as found in the writings of Grotius, Pufendorf and Vattel, "do not and cannot have the slightest legal force (since nations do not stand under any common external constraints)."²⁸ Here he is pointing out the problem of rules which are not enforceable, and hints at the problem of following the rules while the enemy is not. He echoes this thought in *The Metaphysics of Morals*; "Before a public lawful condition is established, individual men, peoples, and states can never be secure against violence from one another, since each has his own right to do 'what seems right and good to it'."²⁹ I understand Kant's point to be that only when there is some higher authority is the state. However, among states there is no higher authority, or as Kant earlier referred to it, no universal civil society. Therefore, outside of the state there are no categorical laws.

Without a higher authority to enforce the laws of war Kant states that "Right during a war would, then, have to be the waging of war in accordance with principles that always leave open the possibility of leaving the state of nature among states (in external relation to one another) and entering a rightful condition."³⁰ In other words each state must follow certain principles which do not make it impossible to end the war and reestablish the peace. This point explicitly echoes the third purpose of the laws of land warfare which was mentioned earlier, however, it does not take into account the notion of a supreme emergency.

The key question now is, what does the state do when attacked by a Nazi-like state? First, Kant makes the distinction between a Nazi-like state and an ordinary enemy when he writes: "We can have either an honest or treacherous enemy...The avowed enemy can be tamed and brought to reason, but for the man in whom there is no seed of good, we can do nothing."³¹ Furthermore, this is the sort of "enemy whose publicly expressed will (whether by word or deed) reveals a maxim by which, if it were made a universal rule, any condition of peace among nations would be impossible."³² And it would be a problematic event if the treacherous or unjust enemy were to win, "For if justice goes, there is no longer any value in men's living on the earth."³³ He continues with "since this can be assumed to be a matter of concern to all nations whose freedom is threatened by it, they are called upon to unite against such misconduct in order to deprive the state of its power to do it."³⁴

Secondly, in reference to what actions a state may take against this sort of enemy Kant writes: "there are no limits to the rights of a state against an unjust enemy; that is to say, an injured state may not use any means whatever, but may use those means that are allowable to any degree that it is able to, in order to maintain what belongs to it."³⁵ This statement seems contradictory but my interpretation is that a state may perform acts, normally considered immoral by the law of land warfare only to the degree necessary to defeat this enemy and secure the state. In other words, the blatant overriding of the law of war which does not directly contribute to ending the war is still immoral. However, if overriding the law of war directly contributes to defeating this enemy, then this is morally permissible.

Conclusion

In this essay I have argued that even Kant, the great deontologist and defender of individual freedom realized the importance of the state. He also recognized the problems created by having his ethical theory applied to wars between states. I have also argued that Kant would agree that in a situation like Walzer's supreme emergency, absolutely following the rules is secondary to eliminating the evil threat that stands in the way of peace. Referring

to the example of Hitler, it would seem that Hitler, as a threat to global civilization and to universal notions of peace and freedom, ought to be defeated by whatever means necessary, while *attempting* to adhere to the laws of war. In the face of a Nazi-like state, whatever means necessary would appear to extend to actions that would otherwise be immoral-even the killing of the innocent. Such actions can be justified if they are the only means of saving the state, with its culture and its values, from destruction and obliteration. I must emphasize, however, that such judgments are to be made at a national level, not by captains, colonels, or generals and admirals.

While Kant held that "morally practical reason pronounces in us its irresistible veto: There is to be no war."³⁶, he recognized that there was war, and that war would plague mankind for some time to come.

¹Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, 1977), p 253.

²Ibid., p. 254.

³Ibid., p. 253.

⁴Ak. 392.

⁵Ak. 421.

⁶Immanuel Kant, "On a Supposed Right to Tell Lies From Benevolent Motives," in *Works on the Theory of Ethics*, trans. T.K. Abbott (New York: Longmans, Green, and Co. LTD, 1927), p. 361.

⁷Ibid., p. 362

⁸Ibid., p. 363.

⁹*Kant-Studien*, Vol XLV, p. 193.

¹⁰Ibid., p. 196.

¹¹Ak. 481.

¹²Immanuel Kant, *Lectures on Ethics*, trans. Louis Infield (Indianapolis: Hackett Publishing Co., 1930), p 228.

¹³Ibid.

¹⁴Roger Sullivan, *Immanuel Kant's Moral Theory* (Cambridge: Cambridge University Press, 1989), p. 174.

¹⁵Walzer, p. 230.

¹⁶Ibid., p. 231.

¹⁷I've portrayed Kant's position as it is normally understood. However, as precise and unwavering as Kant seems to be, there are other passages in his work which seems to defy his inflexibility. Consider the following: [a] "If we were to be at all times punctiliously truthful we might often become victims of the wickedness of others who were ready to abuse our truthfulness. If all men were well-intentioned it would not only be a duty not to lie, but no one would do so because there would be no point in it. But as men are malicious, it cannot be denied that to be punctiliously truthful is often dangerous" (*Lectures on Ethics*, p. 228). [b] Kant presents a scenario similar to the one we examined in Constant's reply where a man who knows I have money asks me: "Have you any money on you?" If I fail to reply, he will conclude that I have; if I reply in the affirmative he will take it from me; if I reply in the negative, I tell a lie. What am I to do? (*Lectures on Ethics*, p. 228). Kant's solution to this dilemma is much different that we find in Constant's Reply: "If force is used to extort a confession from me, if my confession is improperly used against me, and if I cannot save myself by maintaining silence, then my lie is a weapon of defense. The misuse of a declaration extorted by force justifies me in defending myself. For whether it is my money or a confession that is extorted makes no difference. The forcing of a statement from me under conditions which convince me that improper use would be made of it is the only case in which I can be justified in telling a white lie" (*Lectures on Ethics*, p. 228). [c] "If my enemy takes me by the throat and asks where I keep my money, I need not tell him the truth, because he will abuse it; and my untruth is not a lie because the thief knows full well that I will not, if I can help it, tell him the truth and he has no right to demand it of me" (*Lectures on Ethics*, p. 227).

¹⁸*Perpetual Peace and Other Essays*, trans. Ted Humphrey (Indianapolis: Hackett Publishing, 1983), p 33.

¹⁹Ibid., p. 34.

²⁰Ibid., p. 22.

²¹Immanuel Kant, *The Metaphysics of Morals*, trans. Mary Gregor (New York: Cambridge University Press, 1991), p. 306.

²²Ibid., p. 333.

²³Ibid., p. 334.

²⁴Ibid., p. 333.

²⁵Ibid., p. 334.

²⁶Ibid.

²⁷Kant, *Perpetual Peace*, p. 110.

²⁸Ibid.

²⁹Kant, *Metaphysics of Morals*, p. 308.

³⁰Ibid., p. 347.

³¹Kant, *Lectures on Ethics*, p. 215.

³²Kant, *Metaphysics of Morals*, p. 349.

³³Ibid., p. 332.

³⁴Ibid., p. 349.

³⁵Ibid.

³⁶Ibid., p. 354.