

The Justice in International Law: A Study from the Perspective of Immanuel Kant

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Abstract

This article examines the concept of justice in international law through the perspective of Immanuel Kant, highlighting the application of universal moral principles and the categorical imperative in relations between states. Kant argued that justice should be understood as a principle that applies to all human beings without exception, requiring states to act in a manner that promotes individual freedom without harming the freedom of others. In the context of international law, this includes respect for human rights, the responsibility of states to other states, and the formation of a federation of states that work together to achieve global peace and justice. The article also discusses the relevance of Kant's thinking in the modern international legal system, where international institutions such as the United Nations, the International Court of Justice, and the International Criminal Court play a role in upholding the principles of justice and peace. Thus, Kant's theory makes an important contribution to the formation of an international law that is just, inclusive, and based on a universal morality that respects human freedom and rights.

INTRODUCTION

Understanding the concept of justice is translated into Pancasila, so that it can be linked to the goals of the Indonesian nation as a nation that must feel justice. According to the Pancasila concept of justice, the law protects the nation by protecting humans passively (negatively) by preventing arbitrary actions and actively (positively) by protecting them from arbitrary actions. Protection in this case means that the sense of justice in the conscience of the Indonesian people must be fulfilled (Widayati, 2020). In this sense, the concept of justice according to the views of the Indonesian nation is interpreted as a virtue or truth. Justice is a very interesting goal of law to study and discuss throughout the ages. Despite the fact that there is an assumption that justice is like a horizon that is difficult to achieve.

There are two major schools of thought on the concept of legal justice: natural law and legal positivism. These two schools of thought differ in creating, interpreting, and giving meaning to justice. Natural law is an eternal universal law. Talking about natural law means talking about state law throughout the world, not just in Indonesia, the Netherlands, or certain countries. The development and changes in natural law since the time of Ancient Greece, thousands of years ago, still greatly influence the development of law. Legal philosophical thought has developed for thousands of years, starting from the time of Ancient Greece with figures such as Plato and Aristotle to the modern era with figures such as Immanuel Kant, John Stuart Mill, and Ronald Dworkin. These legal philosophers have made major contributions to the development of legal theory and legal thought that have shaped the modern legal system (Rato et al., 2023). The development of legal philosophical thought continues to this day, and there are still many debates and discussions taking place in this field. This is because the law is always changing and developing, and is closely related to the values and policies that underlie it. Therefore, legal philosophical thinking is becoming increasingly important in forming and developing a better and fairer legal system. Legal philosophical thinking is a branch of philosophy that deals with basic concepts of law, justice, and morality (Sianturi et al., 2023). This thinking has undergone significant development over time, and many thinkers and philosophers have made important contributions to the development of legal philosophical thinking.

One of the important figures who has had a major influence on the development of legal philosophy is Immanuel Kant. Kant was an 18th-century German philosopher who was famous for his works on epistemology, ethics, and aesthetics. Kant's theory of law and justice has had a major influence on the development of universal legal philosophy. Immanuel Kant stated that the highest justice is the greatest injustice. In other words, absolute justice is a manifestation of injustice (Hestevold, 1985). In a less dogmatic order, which among other things postulates that traffic police are the law, because we obey all of them, we also find the meaning of justice from the meaning of the law. This is not much different from the way people view the common law legal system. In this paradigm, people believe that law comes from courts, prosecutors, judges, police, and other legal instruments. In addition, the discussion of justice must be linked to real life, which is specifically in this case justice in terms of the meaning of law, with the positive law of the unitary state of the Republic of Indonesia. Where it is added that linking the issue of justice with the meaning of law, namely by referring to the 1945 Constitution of the Republic of Indonesia, means that justice must be related to two things in group life in Indonesia, namely; Justice related to state order and justice related to social welfare. Immanuel Kant's theory of justice focuses on moral and ethical principles based on obligations (deontology) and respect for human dignity. Kant developed a view of justice that was heavily influenced by two main concepts: the categorical imperative and individual autonomy.

The type of research used in this writing is the normative legal research method. (Marzuki, 2017) The normative legal method is an approach that uses library data, namely legal research conducted by researching or studying problems in terms of their legal rules, as well as researching library materials or secondary data. In other words, the writing of this scientific paper uses a normative legal approach method by researching library materials which are secondary data, which is also referred to as library legal research. Based on the background of the problem presented, the author is interested in discussing it further through a written form entitled "Justice in International Law: A Study from the Perspective of Immanuel Kant".

RESULT & DISCUSSION

The Relevance of Justice According to Immanuel Kant's Theory in International Law

German philosopher Immanuel Kant lived in the 18th century. In his most famous work, the Critique of Pure Reason, he developed concepts of epistemology and ethics that have greatly influenced contemporary thought (Emmanuel Kelechilwuagwu, 2019). That human action should be based on moral duty, not passion or desire, is one of Kant's central ideas. Kant's theory is relevant to modern and global law in many ways. First, Kant argued that every human action should be responsible and respectful of human dignity. This is also true in modern and global law, where states and individuals have a variety of human rights that must be respected (Rato et al., 2023). Second, Kant emphasized that the law should be applied fairly to all people without discrimination, and that no one should be excluded from the law. This is also true in modern and global law, where there are efforts to strengthen the legal system and justice, as well as eliminate discrimination in the law. Third, Kant's theory also highlights the importance of cooperation between states and the recognition that all people have equal dignity. This can be applied to the context of international law, where states work together to ensure global peace, security and justice.

Overall, the relevance of Kant's theory in the context of modern and global law is that the ethical and moral principles he developed can help us understand how fair and equal legal action can be applied to all people, and how cooperation between states can promote global peace, security, and justice (Rato et al., 2023). Kant's theory provides a theoretical foundation for the ethical and legal principles used in modern legal systems around the world. These principles include the protection of human rights, freedom, justice, autonomy, and the common interest (Radziewicz, 2022). However, in the context of contemporary global law, Kant's theory also has weaknesses. One weakness is that Kant's theory does not consider how religions, cultures, and values differ around the world. As a result, the legal and ethical principles based on his theory can be difficult to apply worldwide. In addition, Kant's theory is considered too abstract and idealistic, making it difficult to apply in everyday life. (Dugis, 2016).

The relevance of justice according to Immanuel Kant's theory in international law is very significant, although it was developed in the 18th century and is more widely applied in the context of state morality and politics (Ferrara, 2022). Kant's thoughts on justice contain principles that can provide a strong moral foundation for the development of fair international law and respect for human rights, peace, and international solidarity.

Justice as a Universal Principle, Kant argued that justice does not depend on specific conditions or individual preferences, but is a moral principle that applies universally to all humans. This principle is very relevant in international law, which seeks to create rules that are acceptable to all countries, regardless of their political power or geographical position. In international law, this principle is reflected in efforts to create fair rules for all countries. For example, the Universal Declaration of Human Rights (UDHR) promoted by the United Nations (UN), adopts Kant's principle of justice by declaring that basic human rights are universal rights that cannot be distinguished based on race, religion, or national status. Here is the relevance of justice according to Kant in International Law (Emmanuel Kelechilwuagwu, 2019) :

- a. a. Universal Justice and Moral Principles, Immanuel Kant's thoughts are one of those that justify the idea of human rights. The basic principles of enlightenment that are closely connected to human rights include natural rights in the form of freedom, equality, and dignity. These principles of enlightenment influenced historical political changes and events and the spirit of emancipation in Europe and the world in general until reaching its peak in the universal declaration of human rights in 1948.

The Universal Declaration of Human Rights patents the recognition of the inherent dignity of every human being (Shah & Sivakumaran, 2021). Dignity, freedom and equality become the inalienable rights of the individual. Dignity and equality become new principles for the world to bring about freedom, justice and world peace. Kant emphasizes human rights on dignity, equality and freedom. Dignity which is the basic principle comes from a person's autonomous capacity to determine goals within themselves. This dignity is in accordance with the basis of Kant's moral philosophy which starts from subjective intentions that are decided formally (Pesurnay, 2021). A person's dignity is assessed and measured based on a person's actions in treating others as goals within themselves. Individuals are assumed to live in a rational community that determines moral principles to regulate the equality and autonomy of each individual. Human rights from the perspective of Kant's political and ethical philosophy are based on the belief in autonomous rational individuals. This means that the enforcement of human rights from Kant's perspective means the protection of human dignity.

Protection of human rights also comes from the authority of human reason. The basic moral principle for the justification of human rights in Kant comes from the category of imperatives as a procedure of reason that determines the basis of moral action. The principle of the universality of human rights is the result of rational moral will (de Búrca, 2018). Based on good will, the enforcement of human rights can be achieved optimally. The struggle for human rights must begin by looking at how the state acts to resolve past cases, reduce the number of cases in the present, and fully commit to protecting human rights in the future (Etuvoata, 2020). Often, obstacles to the enforcement of human rights come from the lack of political will and concrete policy practices to resolve past cases, uphold human rights in the present, and plan for improvements in the enforcement of human rights throughout the country in the future. If there is a sense of humanity, justice, legal awareness, democracy, and moral political quality in the ruler's reasoning, the task of upholding human rights can be achieved by resolving serious cases of the past.

- b. Relevance of the Development of International Law Based on Autonomy and Freedom. Autonomy and Freedom in the Context of the State, Kant emphasized the importance of autonomy (freedom to make decisions based on rational moral principles). States that are part of the international legal system must be able to act independently, but they must also follow the principles of fair and universal law that can be accepted by all parties rationally. Relevance in International Law, in the practice of international law, this relates to how states can maintain their sovereignty, but must also be subject to international principles that prioritize peace, human rights, and justice (Krisch, 2022). The UN and other international institutions seek to regulate relations between states by prioritizing state autonomy and freedom, but also ensuring that these states act in accordance with international law that supports global justice. (Rato et al., 2023).

Kant proposed the concept of freedom as a basic principle that allows individuals and states to develop their potential within the limits of moral law that recognizes the rights of others. Freedom does not mean being free to do anything without limits, but freedom that is bound by the moral principle that one individual or state must not interfere with the freedom of others (Sweet, 2024). In international law, the freedom of

states to act is recognized, but this freedom is bound by the obligation not to violate the rights of other states. For example, each state is free to set policies in its domestic affairs, but these policies must not harm other states or individuals, such as policies that can damage the environment or ignore human rights. Therefore, international law functions to create a balance between the freedom of states and the protection of individual rights and global interests.

Kant argued that states should interact within the framework of international law that prioritizes moral principles, and not through force or threats. In this context, international organizations such as the United Nations (UN) play a key role in regulating relations between states, facilitating dispute resolution, and maintaining world peace without interfering with the autonomy of its member states (Sianturi et al., 2023). In practice, the UN seeks to respect the sovereignty of states through the principle of non-interference in the domestic affairs of other states, except in cases involving gross violations of human rights or threats to international peace and security. For example, with the Responsibility to Protect (R2P), states are permitted to take international action to protect civilians from genocide or crimes against humanity, but only after careful consideration and based on international consensus..

Kant emphasized that while states have autonomy and freedom, they also have a moral obligation to act in accordance with the principles of universal justice (Insole, 2020). States should not act arbitrarily toward other states or their own citizens, as doing so would undermine the basis of just international relations. International law seeks to maintain a balance between respecting state sovereignty and promoting global justice. States are expected to act in accordance with the Principle of Non-Aggression and the Principle of Non-Interference in the internal affairs of other states, except in cases of violation of international law, such as genocide or war crimes.

This principle reflects Kant's view that each state should act with a sense of moral responsibility toward other states and toward individuals. Although international law seeks to create a system that is fair to all states, the reality is that there is still an imbalance of political and economic power between large and small states (Lawry-White, 2024). Large states can often ignore or manipulate international law to their own advantage, which can undermine the principles of autonomy and freedom of small states. In international institutions such as the UN Security Council, the veto power held by five

states remains an obstacle to the implementation of the principles of international justice and freedom. Large powers often have greater power in determining decisions that affect world peace and security, even though this may violate Kant's principle of universal justice.

The application of Kantian justice in international law reflects an effort to create a system based on universal moral principles, justice, and human rights. Although there are several real examples where Kantian principles are applied, such as through the ICC, UDHR, and the UN, major challenges remain, especially related to the inequality of political and economic power between countries (Andhika Maulana Rachman, Riski Amalia Daryani, Melia Sheila Puspa, 2022). The success of the application of Kantian justice in international legal practice depends largely on the willingness of major countries to respect international law consistently and without bias.

Kant's Theory of Justice: A Contribution to Universal Legal Philosophy

Immanuel Kant's theory of justice has indeed made a very important contribution to the development of universal legal philosophy. Kant's concept of justice is not only limited to the domestic context, but also has broad implications in international law and the moral principles that govern relations between countries and individuals (Lee, 2018). German philosopher Immanuel Kant lived in the 18th century. In his most famous work, the "Critique of Pure Reason", he developed a concept of epistemology and ethics that greatly influences contemporary thought. That human action should be based on moral obligation rather than passion or desire is one of the main ideas in Kant's work (Pesurnay, 2021). There are many ways in which Kant's theory is relevant to modern and global law.

First, Kant argued that every human action must be responsible and respectful of human dignity. This argument is also relevant to modern and global law, where states and individuals must respect a wide range of human rights. Second, Kant emphasized the importance of just and equal laws and regulations. The law must be applied fairly to all people without discrimination, and no one is excluded from the law. This is also relevant in the context of modern and global law, where there are efforts to strengthen the legal and justice system, and eliminate discrimination in the law. Third, Kant's theory also highlights the importance of cooperation between states and the recognition that all people have equal dignity. This can be applied to the context of international law, where states work together to ensure global peace, security, and justice.

Kant argued that justice should be seen as a universally applicable moral principle. This means that moral rights and duties are not relative to a particular culture or country, but apply to all human beings throughout the world. This view is rooted in the concept of the categorical imperative, which calls on each person to act only according to principles that can be desired to become universal law. In the context of international law, this principle plays a major role in the formation of human rights declarations, where basic individual rights are recognized and protected globally (Emmanuel Kelechilwuagwu, 2019). For example, the Universal Declaration of Human Rights (UDHR) adopted by the UN seeks to regulate the protection of the rights of every individual based on universal principles that are in accordance with Kant's view of justice. Kant emphasized that individual freedom is one of the most important aspects of justice. However, this freedom is not absolute, but is bound by the principle that one's actions should not harm the freedom of others. Therefore, one's freedom should always be respected as long as it does not hinder the freedom of others to act in accordance with moral principles. In international law, this can be translated as recognition of state sovereignty and the right of a state to regulate its domestic affairs without interference from outside parties, but on the condition that the policies taken by the state do not harm the rights of other people or other states (Mubangizi, 2020). This concept requires that the freedom of a state to determine its political or social direction does not violate the principles of universal justice, such as human rights. (Rato et al., 2023)

In Kant's view, although states have autonomy and sovereignty, they still have moral obligations to other states and to individuals (Kisner, 2019). States must act in accordance with international law based on justice, which recognizes individual rights and maintains world peace. This principle reflects the basis for the development of international law that promotes global peace, human rights, and justice between states. For example, in the context of the International Criminal Court (ICC) or the International Court of Justice (ICJ), states are expected to be held accountable for violations of international law and crimes against humanity, indicating that moral obligations between states are an integral part of the international legal system. Kant also proposed the formation of a federation of states that work together to achieve lasting peace (Das, 2021). In this federation, states retain their respective sovereignty, but they are subject to international law that prioritizes global peace and justice. Although the global federation

as Kant envisioned has not yet been fully realized, this concept can be seen in international organizations such as the United Nations (UN) which was founded to promote cooperation between states in maintaining world peace and justice. In addition, this concept is also manifested in international agreements that regulate cooperation between countries, such as the Climate Change and World Trade agreements, which aim to create global prosperity. (Sweet, 2024).

Kant emphasized that states have a responsibility to protect the basic rights of their citizens (Insole, 2020). This principle underlies global efforts to develop international law that requires states not only to respect human rights but also to protect and enforce those rights at the international level. Several international treaties and conventions, such as the Convention on the Rights of the Child, the Convention on the Elimination of Racial Discrimination, and the Convention against Torture, are manifestations of Kant's principle of the moral obligation of states to respect and protect human rights, which ultimately forms the basis of a more inclusive and just international legal system. In Kant's theory, justice includes the moral responsibility of individuals and states to act in a way that does not harm others and to ensure that their actions are acceptable within a universal moral framework.

States not only have the right to operate freely, but also have moral obligations to the international community (Brown, 1976). The application of this responsibility can be seen in the principle of the Responsibility to Protect (R2P), which states that if a state fails to protect its citizens from major crimes such as genocide, war crimes, or crimes against humanity, the international community has an obligation to legitimately intervene to prevent such violations. This is a reflection of Kant's principle that states are responsible for ensuring that their actions do not undermine global justice. International law, as a product of Kant's principles of justice, seeks to create a system that regulates relations between states based on fair law, which respects freedom, sovereignty, and human rights through institutions such as the International Court of Justice, the UN Security Council, and the International Criminal Court, international law aims to address global injustice and encourage states to act ethically on the international stage (Andhika Maulana Rachman, Riski Amalia Daryani, Melia Sheila Puspa, 2022).

CONCLUSION

In this study, Immanuel Kant's perspective on justice has made a significant contribution to the understanding and development of international law, emphasizing the importance of universal and objective moral principles. Kant proposed that justice should not be seen as something relative to a particular culture or country, but should apply to all human beings equally. This is in line with the purpose of international law to protect individual rights and promote global peace. The application of Kant's categorical imperative in international law requires that states act in accordance with moral principles that are acceptable to all parties, so that every state's actions must be accountable and not harm other countries or individuals. Justice, in Kant's view, requires that individual freedom and state sovereignty must be protected, but also regulated with clear limits so as not to harm the freedom of others or create global injustice. Kant also made an important contribution through the idea of a federation of states working together to achieve common goals, such as eternal peace and universal justice. Although the complete global federation as Kant envisioned has not yet been fully realized, this concept provides a strong foundation for international institutions such as the United Nations and the International Court of Justice, which seek to uphold international law that prioritizes peace and justice. Thus, Kant's theory of justice has great relevance in contemporary international law, which requires states to respect human rights, be accountable for their actions, and work together to create a more just world. Kant's principles offer a moral framework that is still highly relevant in building a more inclusive, just, and sustainable international legal system.

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