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Abstract- Whether colonialism involves an intrinsic moral wrong or not happens to be an important question in contemporary political and legal philosophy. If colonialism is understood as a system that necessitates some form of intrinsic moral wrong then the process of epistemic decolonization can freely repeat the patterns of political relations prevailing in colonial regimes. However, understanding colonialism from a non-instrumentalist approach guides us to take a different path in the process of decolonization. This approach mandates for discontinuation of the wrongful political relation that was prevalent in colonial world. This article stands for a non-instrumentalist approach towards colonialism and regards the system of colonialism as intrinsic wrong. To that end, it challenges the predominant discourses that portray the wrong of colonialism from an instrumentalist approach. Moreover, it introduces new arguments to support Lea Ypi's non-instrumentalist approach to the wrong of colonialism.

Keywords: *colonialism, decolonization, political relation, immanuel kant.*

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The Moral Wrong of Colonialism: A Non-Instrumentalist Approach

Tashmia Sabera

Abstract- **Whether colonialism involves an intrinsic moral wrong or not happens to be an important question in contemporary political and legal philosophy. If colonialism is understood as a system that necessitates some form of intrinsic moral wrong then the process of epistemic decolonization can freely repeat the patterns of political relations prevailing in colonial regimes. However, understanding colonialism from a non-instrumentalist approach guides us to take a different path in the process of decolonization. This approach mandates for discontinuation of the wrongful political relation that was prevalent in colonial world. This article stands for a non-instrumentalist approach towards colonialism and regards the system of colonialism as intrinsic wrong. To that end, it challenges the predominant discourses that portray the wrong of colonialism from an instrumentalist approach. Moreover, it introduces new arguments to support Lea Ypi's non-instrumentalist approach to the wrong of colonialism.**

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I. Introduction

Colonialism is an undeniable event of human history that, for better or worse, shaped up the fate of most parts of the contemporary world. While the colonizers are still enjoying the fruits of their long dominion over the rest of the world, the colonized nations are carrying the burden of experiencing prolonged economic and political exploitation. The era of decolonization resulted in the formal independence of former colonies. However, colonialism, as a distinct exploitative system, has hardly been explored in academia. In recent years, critical discourse is gradually developing where colonialism is being discussed and inspected under the lens of legal and political philosophy. These discussions revolve around the question of distinct moral wrong, which may or may not be found in different variants of colonialism.

Although, now, the presence of wrong in colonialism is widely acknowledged, but the core reason behind the consideration remains debatable. The scholarly endeavors clearly show that colonialism being a past event, the moral question as to its wrongfulness is still alive.[1] Is colonialism wrong because of the inherent nature of its structure? Is it wrong because of its outcome? These questions are important for two reasons. Firstly, the question carries a moral concern for political philosophy. If colonialism is *per se* a governance system that necessarily involves some form of moral wrong, and eventually creates a system of unfair political obligations, then such a system should be regarded with its necessary exploitative connotations. If it is not, it can be equated with other systems and no difference with other systems except being abused by the colonizers. This legitimizes future prospects of similar systems.

Secondly, it adds an important dimension to legal philosophy as it helps us navigate the process of decolonization. Although the formal process of decolonization has ended with the independence of formerly colonized states, epistemic decolonization is yet to be done. To that end, the postcolonial states are following different methods to derive appropriate principles of decolonization. One such principle can be found in our understanding of colonialism within the context of moral philosophy. It is because our perspective about colonialism, in the end, determines how we address the issues relating to decolonization. For example, Moore developed her paper to find out an appropriate type of corrective justice depending on the nature of wrong colonialism involved.[2]

In this paper, I will explore the question of wrong under the system of colonialism. While exploring the question, I argue in favor of a non-instrumentalist view of colonialism. By non-instrumental view, I mean the perspective of seeing colonialism as an inherent wrong. It is different from the instrumental view of colonialism where colonialism is seen as an otherwise normal mechanism, except it has been abused by the colonizers. For making my argument, I primarily rely on Lea Ypi's work on the wrong of colonialism.[3] In this paper, Ypi focused on the presence of wrongful political relations in the colonial structures. This claim has been questioned by Laura Valentini.[4] Criticizing Ypi, Valentini offered an instrumental account for colonialism. In this paper, I am going to address the criticisms made by Valentini. This view renders colonialism as an ordinary system where no additional essence of moral wrong is involved. Rather such a system has been abused by the

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[1] Margaret Moore, ''Justice and Colonialism'' (2016) Philosophy Compass 11(8) 447–461.

[2] Ibid.

[3] Lea Ypi, ''What's Wrong with Colonialism'' (2013) Philosophy & Public Affairs 41(2) 158-191.

[4] Laura Valentini, ''On the Distinctive Procedural Wrong of Colonialism'' (2015) Philosophy & Public Affairs 43(4) 312-331.

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parties applying it. Moreover, I will develop arguments in favor of the non-instrumental view of colonialism.

Following the essence of colonialism, I intend to apply the findings to the concept of decolonization. Here, decolonization means decolonization of culture, knowledge, and jurisprudence.[5] In particular, in the decolonization process; my concern is to find an answer to the question, should decolonization be necessarily illiberal?

II. Methodology

The certainty of finding absolute truth regarding questions of moral philosophy may not be plausible, but ascertaining some reasonable standards of morality is plausible. That is why this research aims to identify the moral wrong of colonialism, if any. Therefore, the research paradigm where this moral philosophical discussion is situated can be largely regarded as Kantian. For conducting this research, I start from a cynical point of view on the presence of wrong under colonialism. I evaluate the weights of the arguments brought by both discourses on colonialism and critically engage with them. I eventually take a stance in the debate while progressing with this research.

As apparent from the above discussion, this paper is normative in nature. The research conducted is qualitative and intended to advance the rationalist line of thoughts in philosophy. I address the question of the wrongfulness of colonialism from a critical approach setting examples and counterexamples to test the soundness of the arguments. I also present necessary thought experiments in order to examine the strength of the views in moral philosophy.

III. Conceptual Analysis

As mentioned earlier, this paper focuses on two views of colonialism as a wrong. As per the non-instrumental view, colonialism is inherently unjust. In Ypi's words, colonialism is a distinct procedural wrong within a larger family of wrongs. She believes the wrong comes from the involvement of an objectionable form of political relation in colonialism. Before going into her arguments, it would be helpful to focus on how she understands colonialism. She views it as a practice that involves both subjugation of one people to another and the political and economic control of a dependent territory.[6] She considers two essential elements of colonialism. Firstly, it is a system practiced against collective political agents. Secondly, it has a territorial component. However, she clarifies that the territorial element is descriptively important, but not normatively relevant. She further explains why she does not rely on the argument of violation of territorial rights to define the wrong of colonialism. She showed the acquisition theory of territorial rights could be used to justify the primary land acquisition of colonial rulers. It is because the Lockean theory of property considers the acquisition of unowned land with effort or efficient use as justified. The lands of indigenous communities became a victim of this theory. Although it can be criticized for putting over-emphasis on effort and efficiency and ignoring the culturally specific ways of interacting with land, such a criticism does not cover all types of wrong involved in colonialism.[7]

Ypi finds colonialism objectionable because colonialism necessarily violates equality and reciprocity. It establishes a relation with the colonizers and the collective agents of colonies in so the colonized subjects are treated unequally and without reciprocity. Ypi refers Kant for basing her arguments. Kant was a supporter of cosmopolitan rights. To him, the right to visit and communicate with others is a part of the cosmopolitan right of human beings. Therefore, people can establish political relations beyond their national area. The host community also has a duty to hospitality. However, such relation and communication must be bound by two criteria i.e., equality and reciprocity. Since, colonialism violates these two procedural criteria of cosmopolitan right it is inevitably unjust.

Valentini considers Ypi's arguments as impressive but unsustainable. She tries to refute Ypi's claim in two ways. Firstly, Valentini generally questions the idea of 'colonialism as a distinct procedural wrong'. Secondly, she deconstructs Ypi's idea of ''political collective''. Valentini introduced two hypothetical situations to discard the idea of ''colonialism as a distinct wrong''. In the first situation, she asked whether a peaceful takeover of Canada by Sweden would be wrong. Even if Sweden ensures the rights of Canadian citizens, some would consider the situation immoral. It is because Sweden did not take the permission of Canadian citizens to rule them. This reason is similar to what Ypi relies on for considering colonialism as a wrong. Moreover, an incident of voluntary slavery can seem unjust to us even if the slave is treated well. It is because equality and reciprocity are absent in the master-slave relationship. Again, this is similar to what Ypi argues against colonialism. Although Valentini does not extend this argument much, it can be assumed that she is trying to indicate the generality of the philosophical basis of Ypi's theory. She perhaps tried to make a point on the fact that the same reasons that make colonialism unjust can make other form of relations unjust too. Valentini's take on the ambiguity of ''collective agent'' is the core argument of her paper. She showed the idea can be interpreted in two ways.

[5] Raymond F. Betts, "Decolonization: A Brief History of the Word." in *Beyond Empire and Nation: The Decolonization of African and Asian Societies, 1930s-1970s*, Els Bogaerts and Remco Raben (eds.), (Brill, 2012) 23–38.

[6] P 162.

[7] Such as civilizing missions or commercial colonialism.

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Under the first way of interpretation of Ypi's account colonialism is wrong because it subjects the will of individual members of colonized groups. Valentini argues such an account is implausible by presenting a hypothetical situation of a wrongful attacker. She questions whether police should arrest the attacker even though the individual attacker has not given consent to it. Moreover, Valentini criticizes Ypi's argument on absence of peoples' ''equal capacity to change the law'' in colonies by saying that unequal opportunity to contribute to the law making is found even in democracies. In addition to that, formal equal opportunity can be present even in some colonies. She brought the example on Sweden overtaking Canada to substantiate her view.

The second interpretation of the collective agent indicates a group of people having desires, beliefs, and will of its own. Ypi believes the wrong of colonialism lies in not tracking the collective will. Valentini finds it inconsistent with individual interest or normative individualism. The idea of normative individualism requires collectives' serving legitimate interest of individuals. Again, legitimate interest of individual is supposed to be consistent with reasonable demands of justice. Rawlsian reasonable demands of justice render justice for individual comes from distribution of benefits and burdens of social cooperation. Valentini argued, it can happen that a tyrannical collective agent wants the state to be protected from alien rule and the individual members of the society desire external intervention because of their own benefit. In such a case, the collective agent becomes inconsistent with individual interest even where individuals are not acting unjustly. Valentini posed the example of North Korea where the collective agent wants to protect the country from foreign rule. However, the people could have preferred foreign rule for their self-interest.

IV. In Defense of the Non-Instrumental View of Colonialism

a) Definition and wrong are separate concepts

The theory is supposed to explain why colonialism is a wrong. As per Ypi's explanation it is a wrongful political relation because it lacks equality and reciprocity. It may happen that certain other wrongs fall under the same category of wrongs. In other words, the same elements that make colonialism wrong might make certain other political relations wrong. For example, a national government may have unequal and non-reciprocal relation with the citizens of a state. That makes that form of government morally objectionable. Ypi herself considered colonialism as a wrong within a larger family of wrongs. Therefore, existence of other forms of political relation that can be considered wrong for not having equality and reciprocity is very much possible.

It is necessary to remember the purpose of definition and purpose of identification of wrongfulness is different. The definition of colonialism should help us identifying the form of political relation and distinguishing from other forms. On the other hand, the reason why colonialism is a wrong should provide necessary answer as to the reasons that make colonialism wrong. These reasons need not be unique to colonialism.

An illustration can make this argument more comprehensible. Theft and extortion are both wrong because they are harm or offences against the property of someone. It is not necessary to be able to identify their differences from the reason of their being wrong. Their essential difference can be found in their definitions.

b) Sweden's peaceful takeover of Canada does not work

i. *Absurdity*

For understanding the absurdity of the situation, let us imagine two families in a neighborhood. One family consists of Mr. A, Ms. B, and their children. The other family consists of Mr. X and Ms. Y. Suddenly, but peacefully Mr. X and Ms. Y go to the house of Mr. A and Ms. B, and take over the control of the family. The children accept Mr. X and Ms. Y as they are provided all the basic necessities. Moreover, the children's opinion on their matters are given due regards. At the same time, their freedom is being protected strictly. The situation sufficiently reflects the hypothetical situation introduced by Valentini. Now, in what world it is possible to replace AB without any sort of coercion or manipulation from the part of XY? The answer would be such a takeover is impossible. This breaks down the Sweden's takeover of Canada example introduced by Valentini.

ii. *Sweden cannot take over Canada without Curtailing at least some Rights*

Valentini claims that in the hypothetical situation the individual rights of the Canadians are protected by Sweden. However, one may argue that in such a situation Sweden cannot ensure all the rights of the people of Canada. To be specific, Sweden cannot acknowledge the right to self-rule or self-determination. These rights cannot be offered by Sweden. It is because, the moment Sweden offers such right it loses the power over Canada. There would be no reasonable ground for Sweden to take such a self-defeating step if it takes the control of Canada. Therefore, the claim that Sweden ensures all the rights of the people has to be wrong.

c) Identity is a fluid concept

The core criticism of Valentini is that Ypi wanders around the concept of individual and collective agent while defining colonialism. Although Ypi used the

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term collective agent, she repeatedly used the term ''individuals'' at different places of her writing. This can come from the idea that the difference between individual and collective agent is not that solid as it may seem. The will of individual also forms part of the will of the collective. Collective is in fact nothing but a group of individuals. Therefore, water tight separation between the two is neither possible nor desirable.

V. Colonialism as a Wrong

Apart from the abovementioned arguments colonialism can be considered as an inherent wrong. Ypi's account for colonialism and Kantian duty of association can be substantiated by the Rawlsian theory of natural duties. Ypi generally mentioned the term ''consent'' in several places and Valentini criticized the idea of consent following the classic pattern of criticisms of consent theory. Consent theory cannot offer an account for individual obligation. The tacit consent and hypothetical consent theory vaguely tried to solve the puzzle however it still has the same crisis of legitimacy.

This can be addressed with the natural duty theory of John Rawls.[8] According to Rawls people have natural duties towards just institutions. Even if the consent of the individuals or collective agent is not found (except the idea of tacit consent) the natural duty theory of John Rawls ascribes duty to the people. This duty is called natural duty. Natural duty arises naturally and binds people to perform these duties towards just institutions.

Just institutions are those political arrangements that ensure the two principles of justice as propagated by John Rawls. As per the first principle of justice, people should be treated equally. Here, equality does not mean mere formal equality before the law. Rawls considers fair equality of opportunity to constitute the first principle of justice. The second principle of justice is called the difference principle. Since the equality principle treats people equally the difference principle deals with the area of treating people differently. Such different treatment should only be available except for giving advantage to the least advantaged group of the people.

Did colonialism establish a just society? In other words, do we find colonialism to establish just societies in Rawlsian sense? The answer seems obvious. However, if we break down the elements and check with colonial regimes, it would be clearer that equality and the difference principles were absent. Notably, Ypi already argued the absence of equality and reciprocity makes colonialism unjust.

Since the colonial systems were unjust in Rawlsian sense, the people individually and collectively did not have any natural duty to obey the system. Moreover, as per another principle of Rawls people have a duty to create a just society if they do not have a readily available just society. In this way, it can be argued that the colonized subjects had a duty to establish a just society by way of decolonization.

A similar basis can be found in Kantian idea of duty of mutual aid. Kant believed this duty is based on the idea that we all need help of others in certain situations. Therefore, we owe a duty to other people. Ypi already mentioned and based her thesis on a similar idea of Kant i.e. duty to associate. As per the duty to associate people generally have a duty to associate with other people and establish different types of bonding. However, absence of equality and reciprocity can make the cosmopolitan approach counterproductive.

VI. Should Decolonization be necessarily Illiberal?

The above discussion brings us to the last issue. If we can rely on Ypi and others to ground the wrong of colonialism this has something to do with decolonization too. Decolonization primarily involves recognition of national independence or self-determination of the colonized people. Since, colonialism intrudes on the culture of the native's, decolonization essentially requires decolonization of knowledge, institutions, and jurisprudence.

Two major groups of theories are found regarding the method of decolonization. One group believes in recognition of the hybrid identity of the postcolonial people, and encourages taking a cosmopolitan approach to the process of decolonization. This view permits elimination of those colonial jurisprudences that contradict with the philosophy of decolonization.[9]

Another group relies on a complete rejection of the culture of the colonizers, and recommends going back to the origin.[10] As a result, they discard the western liberal values, and adopt the jurisprudence found in their native culture. I argue that the former approach is more appropriate. This leads to the question as to whether there is any essential philosophical contradiction between liberalism and the process of decolonization.

If colonization is wrong because it violates equality and reciprocity, or more extensively because it violates Kantian cosmopolitan rights and Rawlsian natural duties, it follows that decolonization need not be illiberal. In other words, colonialism being a wrong for violating liberal values like equality and reciprocity, a

[8] John Rawls, *Theory of Justice* (HUP: 1971) 333-342.

[9] Dipesh Chakravarty, *Provincializing Europe* (Princeton University Press: 2000). Salman Rushdie, Homi K. Bhaba and others fall into this group.

[10] Robert Delavignette, on the French Colonial Empire; Selected writings. William Edward Said and others B. Cohen (ed.). (Chicago: University of Chicago Press: 1977). Edward Said and others also subscribe to this view.

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meaningful way of decolonization of the knowledge and jurisprudence would be the incorporation of the liberal values.

An explanation as to the possible application of the idea can be freedom of expression jurisprudence. Freedom of expression is known as a fundamental liberal value. However, some scholars argue in favor of a narrow or conservative approach to freedom of expression by showing arguments on basis of decolonization. The abovementioned points show that the liberal approach to freedom of expression has nothing contradictory to the process of decolonization. It is because, the most plausible justifications for claiming colonialism as a wrong comes from liberal theories of Kant and Rawls.

The journey of decolonization is complex and multifaceted. Recognizing its content should involve analysis from different perspectives. However, the wrong of colonialism can guide at least from one side of the process of decolonization.

VII. Conclusion

The non-instrumental view of perceiving colonialism as wrong does not exclude the instrumental views. Rather, the non-instrumental view addresses the moral concern regarding the inappropriateness of colonialism as a political system which the instrumental views often fail to pinpoint. Kantian cosmopolitanism, along with Rawlsian theory of natural duty, can provide the philosophical foundation of the non-instrumentalist account. These theories can be useful in the process of decolonization of knowledge and jurisprudence too.

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