

Analysing Mahabharata through the Lens of Theory of Just War

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Abstract

Of the world filled with the recorded history of western wars, Mahabharata is one of the prominent just war fought in the Indian history. It satisfies the principles of the theory of just war, namely, *jus ad bellum* and *jus in bello*. *Jus ad bellum* applies to the episodes of Mahabharata prior to the 18 days' war- Kurukshetra. Notably, Kurukshetra known as the "dharma yuddha-the battle for just," satisfies the principles of *jus in bellus*. However, the modern relevance of the theory is analysed with the case of Kosovo war. The intentions behind NATO's intervention resembles the principles of *jus ad bellum*. While the element of *jus in bello* is witnessed amidst the Operation Allied Force. Apparently, this paper examines the above cases through the factor of just and not based on the stands of parties involved. It attempts to compare and assess the convergences Kurukshetra of Mahabharata and Kosovo war through the lens of principles of theory of just war.

Key words: *Jus ad bellum*, *Jus in bello*, Kurukshetra, Dharma, Pandavas, Kauravas, Kosovo war and NATO

Introduction

"The starting point of understanding of war is the understanding of human nature." This is the famous quote of an American Historian S.L.A Marshall, that brings out the basic nature of inevitability that lies in every war. Since the evolution of human the world has witnessed variety of war and each of these wars are viewed from different perception. One such view focuses on motive and purpose behind the war and analysing it as just. This motive delivers the concept of those once fought just wars. Amidst the global sphere filled with recorded western wars, Mahabharata is a prominent Just War held in the Indian History. It elucidates the two concepts *Jus ad bellum* and *Jus in bello* through the battle of Kurukshetra, that was held between moral conventionalists-Pandavas and moral parasites- Kauravas. Among the 18 books, book 6 to 10 speaks about Kurukshetra. The holy book Bhagavad-Gita portrays it, as the battle about sovereignty; emphasizing it's not for kingship or one's own pleasure but for

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peace – a just cause. Application of a theory is validated, when it gets satisfied at every period. Likely, though Just War was an ancient concept, it is still evidenced in modern times. Apart from Mahabharata, the contemporary world has witnessed various Just wars. One such war is Kosovo War held in Europe between 1998-1999. The war was fought between the native Kosovars and the Colonists of Yugoslavia.

This paper makes an attempt to analyse the St. Augustine's concept of Just War, viewing through the lens of Just and not through the stands of parties involved in war. It explores the just nature of war, by comparing the principles of just war with regard to Kurukshetra and Kosovo war. Finally, it brings out the similarities between the two wars that recognises both under the category of just war.

The Concept of Just War

As every war has its own cause, a war held to endeavour the just cause is termed to be Just War. The "Just War Theory" deals with the justification of why and how wars should be fought (Tundag R. , 2016). St. Augustine Hippo is known as the father of Western theory of Just war. He, being a traditionalist, is inclined towards the application of moral thoughts in justifying a war. His traditional concept comprises of two elements namely, *jus ad bellum* – the just cause and the *Jus in bello*- the just means. His fundamental approach towards war is to preserve the moral order, based on the right desires and dispositions of the state, regardless of its action to be violent or non-violent (Langan, 1984).

Jus ad bellum (justice of war)

According to Jus ad bellum, a war is justified in terms of the just conditions it is fought. Here war is a mechanism between two sovereign entities, to ensure that their violent international encounters are minimal and always justified (Tundag R. , 2016). Jus ad bellum or the justice war considers war as a last resort, declared by proper authority, having a proper cause and fought with right intention. The principles of jus ad bellum includes;

Just cause: Possessing just cause is the primary condition of jus ad bellum (Tundag R. , 2016). The main purpose behind waging a war is to defend one's country from attacks. To wage war is not only to impose sufferings but to have just cause. Self defence against any form of aggression is the only just cause, under which a state can resort to war. Here an aggressive war becomes licit, based on the rationale to pre-empt the anticipated attack or to retaliate against the previous attack.

Legitimate Authority: A war cannot be waged if it does not have a just cause and more importantly a legitimate authority to impose the act of aggression. It's the divine authority that makes the action fair. The proper authority remains in the sovereign power of the state. An accountable just government has the responsibility to decide whether the recourse to war is just and necessary. Only the duly constituted officials have the right to declare or wage war. No individuals or entities are permitted to enable the deadly forces even for a just cause. Thus the second element is based on the "the act, the agent and the authority" (Tundag R. , 2016), that commands a state towards just cause.

Right intention: The prime objective of right intention here is to redress an injustice already suffered. If a country's national interest overrules the motive of fight, it should not be considered as a just. A right intended will not seek violence, arbitrarily to conquer or expand the territory for its gain, unless or otherwise the adequate justification is to restore the order (Langan, 1984).

Jus in bello (justice in war)

Jus in bello remarks how a war should be fought justly. Precisely, it is about justice in war, where the latter is considered as a mechanism between the combatants who maintains a sense of justice during the fight. In addition to this, it also speaks about protection of victims of war and treatment of enemies, as well. The principles of Jus in bello includes;

Right intention: Unlike the jus ad bellus, the right intention here aims peace, avoiding the act of vengeance and indiscriminate violence. "Every man seeks peace by waging war, but no man seeks war by making peace"- this analogical concept of Augustine, justifies use of force as a means to maintain order and on the other hand, as an instrument that brings new forms of order (Langan, 1984). And hence, peace is the ultimate goal of war.

Proportionality: One should seek this second principle of proportionality, when the right intention demands the use of aggressive force. Proportionality deals with what kind of morally permissible force ought to be used that minimizes the overall sufferings of the battle (Tundag R. , 2016). It distinguishes employing of required force from the excessive force, which may cause collated damage to the lives of innocent civilians. It demands the use of violence against the wrong, constrained within the limits of military necessity. With this, it is apparent that the nuclear war is inherently unjust.

Non-combatant immunity: This principle discriminates between the legitimate and non-legitimate target (Tundag R. , 2016). The former includes the members of military establishment, while the latter includes the members who are civilians. Combatants killing each other is an inherent part of warfare, however, if the same combatant turns his weapon over the unhostile, then it is considered to be an act of murder, which is not legitimate. Thus, war must avoid, even indirect harm to the civilians.

Substantially, the elements *jus ad bellus* and *jus in bello*, emphasizes, the two ambitious conceptions of war. The first element considers the war as a punishment for violation of the morale, including the punitive conception of war and search for authorization in order to use the violence. While, the second element considers war as a pacifist effort, which incorporates assessment of evils of war and the passive attitude of authority for the sake of social change (Langan, 1984).

Kurukshetra- A Battle for Just

During ancient times, there prevailed two schools of thoughts on war amongst the Hindu thinkers, as similar to that of western schools of thought. Those who were similar to idealist perspective regarded war as Dharma Yuddha quoting the ethical traits of war. On the other hand, the realist Kuta Yuddha, who views war with the unethical traits (Kosuta, 2020). However, the great epics of Indian history namely Mahabharata and Ramayana are the plots on war. And one can witness Mahabharata is inclusive of both schools of thought.

Nonetheless, as viewed from the lens of Just, Kurukshetra- the great battle in Mahabharata, is profoundly regarded as the Dharma Yuddha. This battle was fought between two families of the Kuru Clan namely, Pandavas and Kauravas, for a period of 18 days. It was an unequal fight between 11 Akshauhini of Kauravas versus 7 akshauhini of Pandavas. Pandavas, accepting their defeat in dice game, go in exile for the period of 13 years. But once they return, Duryodhana, breaks his assurance of handing over the lost provinces of Pandavas. Apparently, this war was the result of failure of the former peace efforts established between the two parties. Relying upon the factor of just, Pandavas are portrayed to be protagonist and antagonists are those of Kauravas. Albeit, few deviations, the criteria of *jus ad bellum* and *jus in bellus*, validates this battle as a Just War.

Mahabharata and Jus ad bellum

The Jus ad bellum considers, war to be last resort. It ensures the declaration of war, if at all the possible peace missions fails. In case of Mahabharata, Udyoga Parva, elucidates the peace efforts taken by both the parties. Out of the two, it was Pandavas, who were in frequent support to avoid conflict. Evidently, King Drupada's priest was sent to Hastinapura, putting forth his arguments of just (Besant, 1973) pointing out the right of pandavas over their paternal property. In turn, Dhritarastra in helpless position to convince his son Duryodhana, sends Sanjaya to the sons of Pandu, demanding them to avoid war, even if their lands were not returned. Pandavas, feeling devoid of all measures, takes one last move towards peace negotiation. This time it was Krishna, who visits Duryodhana as an ambassador to negotiate peace deal. Krishna uses all methods of upayasⁱ such as saman, dana, bheda and when all these failed he chose danda (Saha, 2020). Despite, of all these talks, Duryodhana was very firm ensuring not to concede even a pinprick of territory to Pandavas. And this eventually, led to the preparations for war.

Primarily, just cause serves to be the overriding element of jus ad bellum. In regard with Mahabharata, the cause of Pandavas is viewed as just. It was the failure of Kauravas satisfying the contract held with Pandavas to concede their land once they return after the period of exile (Dunbar, 2011). Pandavas, were defeated by Kauravas in the dice game. Kauravas, besides demanding ransom of territories of Pandavas, exiled them for the period of 13 years. This exile was made under a mutual contract that their lands would be returned after the completion of period of 13 years of exile. Surprisingly, Duryodhana, failed to abide by the truce and did not handover property of Pandavas, over which they had legal rights. Considering this as cause, with an intention set right to retrieve the lost territory, Pandavas opt to choose war over peace.

Subsequently, the question of legitimate authority with regard to declaration of war in Mahabharata, is left unexplained. Legitimation of war is explained by, Bhagavad-Gita that legalises the war demonstrating the importance of righteousness. In case of Just war theory, it should be a divine authority that legitimize war. However, with respect to Mahabharata, who declared war is put forth through different prisms. On one hand, conveying Krishna from Pandavas declaring war. Contrastingly on the other hand, its Duryodhana who confess for war and come forward to declare it. Thus, leaving behind the authorization to legitimize war unresolved.

Kurukshetra and Jus in bello

As most of the epic of Mahabharata focus on *jus ad bellum*, sections of the Bhisma-parva, Santi-parva, Karna-parva and the Adi- parva, deals extensively with the rules of war (Dunbar, 2011). Before dealing with the criteria of *jus in bello*, it is important to understand the rules of war. It is the rules that evaluates the criteria of just war theory. These rules laid framework for the non-combatant immunity and meanwhile justifies proportionality.

At the outset of Kurukshetra, the rules of war were commenced and accepted by both the rival parties of the battle. Apparently, with regard to proportionality rules such as equals fight equals where a chariot warrior can attack a chariot warrior and a horse warrior can attack the horse warrior. The use of unfair means to retaliate enemy was restricted. And a soldier with broken weapon and one who doesn't have armour should not be attacked (Dunbar, 2011). Pandavas ensured these rules were followed. This can be evidenced where, Arjuna being an archer attacked Karna who is an archer in turn. Similarly, it was Bhima versus Duryodhana and Yudhishtra versus Salya. During the course of conflict, Pandavas ensured not to use unfair means and kept it up throughout, making the criteria of proportionality get proven.

Precisely, with regard to non-combatant immunity, rules such as civilians, women, children should not be attacked. The soldier who surrenders should not be attacked. And attack should not be made while sleeping or eating. These rules were followed at maximal level during the course of Kurukshetra. Kauravas on the thirteenth day of battle, amidst Chakravyuha, retaliated Abhimanyu- the son of Arjuna, who was deprived of his weapons. Consecutively, the death of Karna was also held in similar way, where Karna was attacked by Arjuna, while his chariot's wheel got stuck. These are few instances, that outcasts the deviation from the criteria of just war instead viewed as the strategy to win the war.

The right intention of war is another trait in *jus in bello*. This criterion is well defined through Bhagavad-Gita, that resolves the dilemma of Arjuna. It justifies the use of violence as an act of Self- defence to sustain peace (Lea-Henry, 2016). Albeit, Arjuna fought in many battles before, during the phase of Kurukshetra hinders to fight against their own family. And that is where, Krishna elucidates the cause behind the battle of Kurukshtra. He considers, the only way to combat unjust of Kauravas is to have a moral fight, with an ultimate intent to establish peace and stability.

Consequently, Pandavas striding behind their just cause, ensured that their journey under Kurukshetra, is in just manner as well. Nonetheless, there were few deviations held that could

be again justified as a factor of defence with a motive in accomplishing their right intention at the end (Kosuta, 2020).

The case study of Kosovo War (1998-99)

During 1990s, those dominated communist regime began to collapse in the region of eastern Europe. One of those, is the violent collapse of former unified country of Yugoslavia, that broken into several nation-states, later. Kosovo is one among those that desired for separate independent nation, which was not favourable for its northern neighbour Serbia. Kosovo has the mixed population of which majority of them are Muslim Albanians. However, the autonomy of this region was removed and was brought under the Milosevic regime of Serbia after the collapse of Yugoslavia. As Albanians were ethnically different from that of Serbs, they demanded for independent Kosovo, that was denied by Milosevic Serbs. The violent conflict broke out in 1998 and 1999 between the ethnic Albanians versus the ethnic Serbs and the Government of Yugoslavia. In simple terms, the war was fought between the KLA- Kosovo Liberation Army and the Federal Republic of Yugoslavia (FRY).

During 1998, there held a violent attack between the Serbian Police forces and Albanians. followed by the massacre of innocent Albanians as a part of ethnic cleansing policies of Milosevic FRY. The globe witnessed this escalation in violence as threat to world peace and stability, formed the so called Contact Group comprising of US, UK, France, Germany, Russia and Italy. This group asked for ceasefire between KLA and FRY. Adjacently, under the UNSC resolution embargo and economic sanctions were imposed, several attempts of diplomatic measures were taken to hinder the furthering of FRY. Albeit, these were accepted, the President of Serbia disregarded the negotiation and did not implement any of these measures. Albanians, going through this disorderly scenario, by the end of 1998, asked for NATO's alliance. Albanians of Kosovo, used this alliance for their advantage, and conducted massive retaliations over the Serbs through air strikes, eventually progressed towards their establishment of independence (NATO, 1999).

Jus ad bellum and the Kosovo

In this context, comprehended upon the just war theory, one can view the violence used by the forces of Kosovo as just. Notably, they opted violence only after several attempts of failed negotiations. Here, NATO's role is considered to be in support of Albanians, a symbol of alliance and not as a symbol of intervention. Under the elements of *jus ad bellum*, the just cause behind NATO's massive air campaign called Operation Allied Force, was to safeguard the

territorial integrity and regain the lost autonomy of Kosovars, from Milosevic FRY. It is important to note that since the outset of skirmishes several efforts for peace were made, such as- UNSC resolutions (United Nations Security Council Resolution 1160, 1998), ceasefire agreements, economic sanctions, internationally brokered peace talks under the Contact Group (Moller, 2000), which were accepted by Kosovars but rigidly disregarded by the regime of FRY. In a way to balance this unequal approach to peace, violence was enforced by NATO on behalf Kosovo Albanians.

With regard to the political authority that legitimises war in modern times was United Nations Security Council (UNSC). In case of Kosovo, in spite of condemning the act of FRY towards Albanians, UNSC did not legalise the act of NATO in support of KLA either. Though UNSC being a divine authority, it did not legitimise the air strikes made by NATO in Kosovo war, leaving the criteria of legitimate authority unresolved.

Jus in bellum amidst Operation Allied Force

The primary factor in *jus in bello* is the right intention behind an attack. The intention behind the massive air strike led by NATO in support of KLA, was precisely a fact of self-defence against the genocidal acts of FRY. Moreover, it was made to retrieve the lost rights of ethnic Albanians of Kosovo over their territory and establish stability and peace eventually. Ironically, the motive of FRY to impose the Milosevic regimes on Albanians is not right, as they were ethnically distinguished from that of orthodox Serbs. Consequently, the intent of NATO against FRY is justified on the side of Kosovo Albanians (Moller, 2000).

The element of non-combatant immunity under the principle of *jus in bello* was violated. As NATO's Operation Allied Force was basically an air strike, the immunities of non-combatants were less regarded. The weapons such as Apache helicopters and A-10 aircrafts, nonetheless targeted the military bases, still retaliated the properties of civilians such as oil refineries, bridges etc. (Moller, 2000). Besides, throughout the course of war, the number of refugees fleeing from Kosovo increased rapidly after the air strike from 18,000 to around 4 lakhs. Thus, violating the element of non-combatant immunity.

The criterion of proportionality again failed with regard to NATO's air campaign. The massiveness of the operation is itself a fact that violates this criterion of *jus in bello*. Under this operation huge collated damage was made in the lands of Serbia. Though military targets were primarily aimed, several prohibited targets like hospitals and refugee camps of Serbia were bombed (Moller, 2000).

However, the actions of NATO in favour of Kosovo Albanians is justified in spite of these violations. Because, these actions in a meanwhile led to ceasefire of the Kosovo war in 1999 that eventually led to independence of Albanians of Kosovo in the year 2008. It is the combination of dual thing the just cause and right intention of Albanians and NATO, respectively, that gave the status of autonomy for long suffered Albanians.

Convergence between Kurukshetra and war in Kosovo

The traditional concept of Just war can be well interpreted by bringing out ancient and modern time examples. The battle of Kurukshetra is regarded to be relevant with the ancient image just war. While, it is important to discover the contemporary relevance of the principles of just war. And for that Kosovo war is regarded to be one of the modern day just war. One can observe that, both of these wars, satisfies the crux of the concept of the Just war theory, despite of few violations. There is a convergence of ideas noted with regard to *jus ad bellum and jus in bello*.

Jus ad bellum in Mahabharata and Kosovo war

The major elements of the principle of Jus ad bellum such as the last resort and just cause is contented in both Mahabharata and Kosovo war. Significant effort towards avoiding war were taken by Pandavas and KLA, of Kurukshetra and Kosovo, respectively. However, there remained an antagonist who disregarded the effort for negotiations that eventually made war inevitable in both the circumstances. In case of Mahabharata, the Udyoga-Parva demonstrates the role played by Pandavas in support of denying war. While, in Kosovo war, the ceasefire agreements, UNSC resolutions portrays the contemporary need of avoidance of war.

The cause behind both the wars were justiciable and was more or less similar. In both the case, the just cause relied upon on retrieval of the rights of over the lost territory. In case of Mahabharata, the cause behind Pandavas choosing violence was to regain their lost land after the period of 13 years of exile. The contract between the Kauravas and Pandavas on the return of land will not be fulfilled, thus leading to war. The just cause was simply to establish their legal right over the paternal property. In Kosovo, the cause behind KLA preferring violence was the desire to have independent nation for Albanians, similar to that of other provinces of Yugoslavia. They demanded for autonomy over their land which was controlled by the heterogeneous Serbs in the north of Kosovo.

The legitimate authority that legalises the declared war is left unexplained in both the cases. In Mahabharata, though Bhagavad-Gita explains the legal nature of war, the authority that brought

out the legitimacy of war left unresolved. In the same manner, UNSC being the authority to legalise war, did not provide any mandate for NATO's action against Serbs with regard to Kosovo war. Considering the above three criteria, the elements of the principle of *jus ad bellum* go hand in hand in regard with the ancient and modern wars, thus making both satisfy the principle of justice for war.

Jus in bello in Dharma-Yuddha and Operation Allied Force

The right intention, proportionality and non-combatant immunity are the three elements of the principle of *jus in bello*. It speaks about the justice in war. The intention of war from ancient till modern day remained upon self-defence. Mahabharata, quotes dharma as the ultimate intention behind Kurukshetra. Inclusive of just cause, the main purpose behind Kurukshetra was to make world understand the importance of peace and dharma-righteousness. In case of Kosovo, the Albanians were engaged in war to defend themselves from the genocidal actions of FRY. With a motive to defend Albanians, NATO uses its military forces to retaliate the army and police forces of Serbs. In both the cases, the use of force is evidenced as a factor of defence in order to sustain and endeavour the just cause.

Both the wars tried to ensure the non-combatant immunity at its best. As every war has its own delimitations, both Kurukshetra and Kosovo war had failed to with stand by the non-combatant immunity. In Kurukshetra, civilians, women and children were not attacked. While at few instances, the non-combatant immunity failed were many attacked the one without weapon or attacked the one whose weapon was broken. In case, of Kosovo war, KLA ensured the non-combatant immunity by displacing the civilians to safer abodes. Still, NATO's air strike inclusive of military targets, affected the common properties of civilians too. Comparatively, in both the cases, rules were laid to ensure non-combatant immunity but failed at few instances.

With regard to proportionality, in Kurukshetra, equals fought equals and ensured not to use any unfair means. In Kosovo the element of proportionality was followed by NATO targeting the military bases, but at times failed where non-military targets too got demolished. Relatively, the attacks were made keeping in mind the element of proportionality but at times violated.

Contextually, analysing the under the Augustin's principles of just war, brings out the convergences of traditional view on ancient battle Kurukshetra and that of the modern one Kosovo War. Thus proving the traditional essence of Just war with respect to contemporary relevance.

Conclusion

Apart from spiritual, religious, cultural lessons the great Indian Epics talks about the wide range of concepts of war. Considering Mahabharata as a plot of war regardless of its spiritual and cultural ideas, the Just war theory is applied making it verified as just war in the Indian history. In spite of few divergences, major criterion of both the elements- *jus ad bellum* and *jus in bello*, such as just cause, right intention, proportionality was proven thus making it a just war. In the contemporary times, the evolution of technology has reduced the number of just wars being fought. However, interpreting Kosovo war through the case of Battle of Kurukshetra, proves the former to be the just war of the contemporary times.

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ⁱ Upaya is the ancient concept of diplomacy. There are four upayas to be followed to make one's work get done. The first is Saman which includes nicely spoken words, witnessed during the visit of Drupada's priest. Dana is the compliments or gifts, where Krishna offers Duryodhana two options over his army or him as a charioteer. Bheda is creating disunity within one self, where Krishna ensured the support of elders against stubbornness of Duryodhana. And at last, danda a means of punishment.