CHAPTER ONE:

METHODOLOGY, SCOPE, AND GOALS OF THE STUDY

1.1. Introduction

At most periods of her history India, though a cultural unit, has been torn by internecine war. In statecraft her rules were cunning and unscrupulous. … Yet our overall impression is that in no other part of the ancient world were the relations of man and man and the state, so fair and humane. … No other ancient lawgiver proclaimed such noble ideals of fair play in battle as did Manu. In all her history of warfare Hindu India has few tales to tell of cities put to the sword or of the massacre of non-combatants. … There was sporadic cruelty and oppression no doubt, but, in comparison with conditions in other early cultures, it was mild. To us the most striking feature of ancient Indian civilization was its humanity.
     – *A.L. Basham, The Wonder That Was India, (1954), 8-9.*

Among its myriad teachings, the Hindu religion includes a rich body of ideas about proper military conduct, political strategy, and ethical warfare. Though its military traditions are not well known in the West, Hindu civilization harbours an extensive record of advice in matters of war. Even the famous ancient conqueror, Alexander the Great, recognized Hindu military prowess when he was forced to retreat after fighting India's formidable armies. Despite Alexander's extensive wartime victories, he could not decisively vanquish India's military *juggernaut*—a term incidentally deriving from Hindu religious origin.[1]

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[1] The word "Juggernaut" comes from the Sanskrit *Jagannāth* meaning "Lord of the Universe." This term is one of the many names for the Hindu deity Viṣṇu. India's famous *Jagannāth* temple in the city of Puri celebrates a festival involving a chariot of immense weight carrying a representation of *Jagannāth*. The British associated the powerful crushing force of this chariot with invincible military might thus giving rise to the term "Juggernaut" (Purcell, 2009, 60-64).

In theorizing about war, scholarly interest has recently turned toward examining the military ethics of non-European societies in order to gain deeper insights into the theological, political, and moral imperatives connected to religious violence and warfare. In this light, several important studies have emerged that apply Just War theory to help understand and analyze non-Western paradigms of warfare. In particular, scholars have attempted to find correlations between Islamic notions of *jihad* (Arabic for "struggle/striving") and Christian Just War theory (Johnson 1990; Kelsay, 1993; Nardin, 1996; Robinson, 2003; Zuwati 2001). Far fewer studies, however, have looked at Asian attitudes towards warfare, especially Hindu models of war, although there are a few notable exceptions.[2] India's growing power on the world stage today necessitates respectful attention to its traditional paradigms of warfare in order to shed light on its strategic thinking. Furthermore, there is a need to learn about alternative, non-Western rationales of military conduct to enhance the comparative understanding of the ethics of warfare in a globalized era. Greater scholarly attention towards Hindu views of warfare, in particular, provides needed and valuable breadth to Just War theory.

The traditional rules of warfare in India contain many parallels with classical codes of military conduct in Western civilizations, particularly the

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[2] Some important studies pertaining to Hinduism and just warfare include Dikshitar 1944; Chakravarti 1972; Majumdar 1960; Ghoshal 1966; Banerji 1976; Mahendale 1995; Clooney 2003; Young 2004 and 2009; Brekke 2006; Kaushik Roy 2009; Morkevivius, 2010; and Thapliyal, 2010. For the relationship between Buddhism and just warfare, see Bartholomeusz (2002); and Premasiri, (2003)

Just War tradition of Christianity. However, Hindu thinkers brought their own unique socio-religio-moral framework to the table of warfare, which offered alternative ways of envisioning Just War thinking outside European contexts. These respective ways of envisioning just warfare, discussed by Western and Hindu thinkers, provide an important convergence for academic inquiry. Both worlds of thought can be brought together for mutual dialogue and understanding.

Despite popular Western notions of India as a land of religious tolerance, mysticism, and inner-peace, one should not be naïve in thinking that Hindu involvement in warfare was a rare historical occurrence.[3] Rather, wars between rival Hindu kingdoms were quite common and recurrent throughout India's long history.[4] Religiously sanctioned warfare was, in fact, a deeply embedded aspect of both Vedic and Tamil societies whose military engagements were often extensive and frequent.[5] The topic of warfare also

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[3] Basham remarks that the social and political conditions for much of the history of pre-Muslim Hindu India were characterized "by inter-state anarchy resulting in perpetual warfare. In Europe, however, the well-organized and centralized Roman Church often acted as a pacifying element in the situation; Indian Hinduism, which had no all-embracing super-national organization, rather encouraged inter-state anarchy by incorporating many martial traditions into the Sacred Law" (1954, 128).

[4] Deshingkar writes, "In ancient times, India was populated by numerous tribes … and there was constant warfare among them, particularly between the immigrants and the natives. The wars were fought over territory, for lifting cattle (the chief form of wealth), for capturing women (the immigrants arrived with few women of their own), for honour and status, for self-aggrandizement in all spheres and sometimes out of anger, envy, fear or just display of heroism. While such warfare over centuries produced tribal rituals of warfare, codes of chivalry and heroism, technology of warfare and, of course, the all important hereditary group of warriors, the *kṣatriya varṇa"* (Deshingkar, 1998, 358).

Regarding the issue of the transliteration of Sanskrit terms used in this dissertation, an effort has been made to render the correct diacritical marks in a uniform way. As a result, diacritcal marks have been inserted into quotations for the sake of consistency to avoid multiple conflicting spellings. This particular convention, recommended by the doctoral committee, has been used throughout this dissertation.

[5] Hindu scriptures devote much attention to the concept of "justified violence" as evidenced in the rules of kings regarding warfare, criminal punishment, as well as ritual animal sacrifices. Hindu scriptures made "clear moral allowance for killing or physically injuring enemies in war and criminals in punishment as

provided an important theme of discussion in Hindu legal texts. War was a duty of the just ruler to preserve and uphold the Hindu social order. Indeed, war was an essential tool in the ruler's strategic arsenal of options to govern and administer justice.[6]

An ethos of glorified endemic warfare fueled the development of India's religious doctrines in significant ways that often go unrecognized. Interestingly, several Hindu religious concepts have ancient military meanings that are rooted in the politics of warfare. For instance, the Hindu notions of the *maṇḍala* ("geometric sphere"), *ćakra* ("circle of power"), *durgā* ("fortress"), *śakti* ("power"), *yantra* ("instrument"), *vajra* ("thunderbolt"), and *upāya* ("means of success") all have military connotations and crimson histories, despite their more benign popular interpretations as deeply spiritual concepts. Ronald Davidson posits that the experience of warfare had a profound influence on the development of the Hindu religion, from its iconography to ritual and mythology (2003, 26).

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well as killing certain animals in sacrifices" (Tahtinen 1982, 55). Violence was also justified as a type of noble protection for the entire community. As Smith-Christopher explains: "Soldiers on the battlefield who kill their enemies do not engage in *hiṃsā* [harm], but are carrying out a professional duty—a duty towards one's own country, culture, and society-and this duty is considered an act of heroism. One must not allow evil forces to conquer society. Man must not be mute witness to evils and injustice" (2000, 80).

[6] In classical Hindu legal texts, the rule of kings (*rāja-dharma)* and their proper conduct (*rājanīti*) includes their divine right to govern, conquer, and wage war in protection of *dharma.* For instance, the *Laws of Manu* 7:98 state, "*Yodhā-dharma-sanātanaḥ*" (meaning, "War is the eternal law."); yet the *Mbh.* adds that "unrighteous conquest does not lead to heaven" (12.97.3) and that it is better to lay down one's life in the pursuit of righteousness than to win a victory in a sinful way. Both the *Manusmṛti* and the *Arthaśāstra* therefore affirm that war is unavoidable in life but the former insists on regulating war through principles of human conduct, which are known as the rules/conduct of war (*yuddha-nīti*).

Davidson calls attention to the deep-rooted correlation between India's

religious traditions and warfare by suggesting that war had a significant

impact on Indian civilization becoming a part of its cultural ethos:

> [C]ultures of warfare fundamentally alter the nature and relationship of their component parts. Thus the activities of Indian princes were to have extraordinary consequences for all the aspects of early medieval Indian culture, from literature and ritual to government and the economy. …. Seeking legitimacy and identity, Indian kings from all areas began to increase their patronage of literature and to strategize their support for religion, searching for religious counselors that could bolster their political and military agendas. … The corollary to this was the feudalization of divinity, wherein the gods became perceived as warlords and the rulers of the earth (Davidson 2003, 26).

However, this military framework for understanding the development of

"Hinduism"[7] is woefully understudied for it does not fit well with the modern

appreciation of "Hinduism" as a tolerant and non-violent faith.[8] Contrary to

visions of Hinduism as a religion of peace (propagated and epitomized by

figures such as Mahatma Gandhi, Rabindranath Tagore, Satya Sai Baba, as

well as their supporters), this work demonstrates that Hindu civilization

endorsed warfare frequently. Western scholars, especially those influenced by

India's philosophical traditions of Vedānta and neo-Vedānta, have tended to

focus on India's great currents of non-dualism, unity in diversity, and non-

violence, but there are under-currents of Hindu chauvinism, communalism,

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[7] Suffice it to say, "Hinduism" is highly problematic term for a variety of reasons that have been extesively discussed elsewhere in academic scholarship (e.g., Jha, 2009; and Ludden 1996; and the *Journal of the American Academy of Religion* Vol. 68. No. 4 (Dec. 2000). It is not the purpose of this work to explore these debates, which are their own type of *yuddha*.

[8] Colonial perceptions of Hinduism prior to the Hindu Renaissance were not so laudatory, however. For example, the British Raj saw Hindus as untrustworthy, exacerbated by the Seapoy Mutiny/War of Independence in 1857-58. Additionally, the British were determined to eradicate the Thuggees, whom were seen as bloodthirsty Hindu hoodlums (Singha, 1993, 83-146; Brown, 2002, 77-95).

xenophobia, and vitriolic militant nationalism that co-exist alongside India's lofty philosophic ideals (Halbfass 1988; Jaffrelot 2007). Due to the ubiquity of irenic models of Hindu universalism, ignorance still lingers today about the depth of Hindu reflection and expertise on warfare. A closer examination of India's Vedic texts and classical mythology reveal sources replete with stories of warfare, conquests, and an ethos of valour and honour, which continue to influence Indian society today as can be seen in *hindutva* slogans[9] for militarizing India (Bhatt 2000; Ludden 2004). Thus, it is far more accurate to say that Hindu civilization expresses ambivalent attitudes towards the topics of violence and warfare. At certain times, Hindu texts and figures support notions of "justified violence" and "righteous warfare," while at other times they eloquently denounce and repudiate all forms of harm.[10]

India is a land of many contrasts, and one of these incongruities is its attitudes towards war: the saffron garments worn by its holy ascetics (*sādhus*), were, at times, stained blood-red from the weapons of enemy warriors.[11] In fact, in some cases it was actually the *sādhus* themselves who

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[9] One could cite, for example, the *Viśva Hindu Pariṣad's* (VHP) slogan "*dharmo rakṣhati rakṣhitah*" ('religion protects its protectors'). See Chetan Bhatt, "*Dharmo rakshati rakshitah*: Hindutva movements in the UK," *Ethnic and Racial Studies,* Volume 23, Issue 3 May 2000: pp. 559-593.

[10] Mahātmā Gandhi popularized allegorial interpretations of Hindu texts, which saw violent stories of war representing metaphoric inner-struggles to eradicate "evil traits" (e.g., negative or selfish behaviour) rather than actual justifications for outward acts of violence. Yet despite Gandhi's allegorical interpretation of Hindu texts as not justifying physical killing, other Hindus understood the same texts as justifying violence and militancy. Gandhi's ideological opponents such as Natharum Godse and V.D. Sarvarkar both read the *Bhagavad Gītā* as a manifesto for real violence.

[11] For excellent studies of the correlations between Hindu militancy and asceticism, see: Farquhar, 1925; Lubin 2004; and Pinch 2006. These works demonstrate the fact that Hindu ascetics were not immune from violence and warfare. For example, recorded violence affected the *Kumbha Melās* (large gatherings of *sādhus),* where bands of ascetic-warriors have engaged in armed battles (see Pinch 2006).

were the culprits responsible for the mayhem and violence![12] The traditional Hindu rules of warfare, however, stipulated that both monks and priests were not to be harmed in times of war (*Mahābhārata,* 47. 4) although this did not stop them from taking part in it. Even India's own Machiavelli, Kauṭilya, the author of the *Arthaśāstra,* counseled that Hindu priests (*Brahmins*) should not be killed during battle; rather they should be manipulated to stir up the religious support and patriotic sentiments of the masses, or used to launch *mantra* weapons (curses) against alleged enemies (Dunbar 2008, 378-381; Patton 2005, 124-131).

Given these paradoxical currents in Hindu thought, it is not surprising that Hindu approaches towards warfare are profoundly polysemic. In other

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[12] Lubin (2004) notes that the arrival of Islamic invasion also gave rise to new Hindu orders of military ascetics, which engaged in battle under different patron deities. His description is worth quoting in full:

> Building on a tradition of devotion to fierce divinities, some medieval northern Indian ascetic (practicing strict self-denial as a measure of spiritual discipline) groups began to emphasize wrestling and other martial exercise as part of their training, which reinforced their popular reputation for superhuman powers derived from yoga. By the late medieval period Śaiva (belonging to the tradition of devotion to the god Śiva) lineages such as the *Nāgā Sannyāsīs* (naked renouncers) were organized into named *akhādās* (corps, arenas), each with its patron deity. But the second half of the seventeenth century, the Vaiṣṇava Ramanandis, or *Bairāgīs* (dispassionate ones), had become militant as well. The traditional explanation for this militancy has been the ostensible need to defend these Hindu groups from Muslims. … However, most of the conflicts in which they were involved pitted Śaiva against Vaiṣṇava, or one *akhādā* against another. Besides small clashes, which appear to have been common, major battles occurred over the question of which group should have precedence and prime location in ceremonial bathing during the periodic Kumbha Melā festival. In 1760, such a battle at Hardwar established that the Śaiva Sannyāsīs could bathe before the Bairagis. On the other hand, not all fighting by ascetic was sectarian in motive; these groups also served the Rajputs and other rulers as mercenaries in political conflicts. The competition between Śaivism, Jainism, and Brahmanical orthodoxy in southern India also sometimes turned bloody. One new movement in this period, the *Vīraśaivā* (heroic Śaivas) of Karnataka, presented the ascetic, the *jangama*, in rather militant terms. Many [V]iraśaiva stories collected in the *Basava-Purāṇa* approvingly depicts Virāśaiva ascetics killing "evil" Jains and other non-Śaivas, as well as Brahmans, and destroying their temples and images. This violence reflects the fierce competition between Śaivism and Jainism at the time as well as the initial hostility of the Viraśaivas to orthodox Brahmans. The hostility and militancy were gradually tempered as the Viraśaiva tradition became Brahmanized (Lubin 2004, 167-168).

words, Hindus did not speak with one voice about war. Moreover, when speaking about war, Hindu texts operated (and still operate) at many levels of meaning with complex hermeneutical nuances. Much like the Hindu traditions themselves, the gamut of Hindu views on warfare is characterized by multivocality and tension, being interwoven within a much larger tapestry of culture and religion. Such polysemic multivocality is evident in the famous Hindu discourses on war given by various teachers in the *Mahābhārata* (hereafter *Mbh.*) such as Kṛṣṇa, Bhīṣma, and Droṇa, among others. Their teachings contain many layers of meaning with no *prima facie* consistency. Whereas some Hindu sages laude *ahiṃsā* (non-injury) as the paramount Hindu ethic, others explicitly condone and justify the warrior's duty to fight and kill enemies. The paradox of Hindu scriptures involving war is that both messages of violence and non-violence are simultaneously promoted, such as the *Mbh.'s* paradoxical assertion that it is the universal duty of all people to practice non-violence (*Mbh.* 18.1125.25) while demanding that it is the warrior's duty to fight (*Mbh.* 6.2:31). Nevertheless, the *Mbh.* also affirms that non-violence is the highest dharma (*ahiṃsā paramo dharmah*) (*Mbh.* 18.1125.25) while adding "*dharmya hiṃsā tathaiva ca* – that dharmic violence is equally so" (Young, 2004, 281). Thus, both violence and non-violence are supported in Hindu scriptures.[13] Hence, the Hindu situation is far more complex than typical Western stereotypes suggest. Like most religions,

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[13] Post-Upaniṣadic Hinduism tends to emphasize the paramouncy of non-violence as the highest way of living but there are numerous examples of violence found in Hindu mythology and society.

Hinduism contains mixed messages towards war and conflict. In fact, ancient Hindu texts make it quite explicit that the dharma-king (*dharma-rāja*) was in a constant state of war to protect, preserve, and expand *dharma*.[14] In this light, when a Hindu warrior killed to protect *dharma* with the right attitude, he fulfilled the necessary duty of their military *varṇa*.[15] If killing was committed for the sake of *dharma,* then it was seen as a noble act. Furthermore, brave Hindu warriors who died in battle were promised the reward of heaven (*Vīrasvargam*) (*Ṛg Veda* 10.154,2-5; Elgood, 2004, 181; Aho 1981, 60-79). This early linking of Hindu warfare to heavenly reward appears in Hindu thought a thousand years earlier than corresponding exhortations in Muslim cultures (Winn, 1995).

1.2. The Hindu Military Code (*Kṣatriya Dharma*) and Just War

Hindu writers developed a detailed body of rules to govern warfare.[16] Indeed, the subject of war is a frequent topic for discussion in classical Hindu texts

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[14] Thus, the *Laws of Manu* state, "*Yodhā-dharma-sanātanaḥ*" (meaning, "War is the eternal law.") (*Manu* 7: 98). The *Manusmṛti* requires a king *"*to do battle (*Manusmṛti,* vii, 87-89) and to extend and fortify his prosperity (*Manusmṛti* vii, 99).

[15] The most famous example of this is found in the *Bhagavad Gītā* where Lord Kṛṣṇa counsels Arjuna to engage in martial combat rather than be a pacifist, since Arjuna's birth-duty as a *kṣatriya* (Hindu warrior) necessitates him fighting to protect the cosmic and social order:

> "For certainly there is nothing higher for a Kṣatriya than a righteous war. Happy indeed are the Kṣatriyas, Arjuna, called to fight in such a battle that comes of itself – like an open gate to heaven. But if you don't fight when it's your duty to do so, you lose your honour and incur sin" (*BG* II: 31; trans. Satchidanand, 1990, p. 18.).

[16] Paralleling the evolution of Just War theory in the West, the development of the Just War tradition of Hinduism crystallized in varied Hindu texts notably the Hindu Epics, *Dharmasūtras*, and *Dharmaśāstras,* which contain lists of rules for warriors and the duties of righteous kings. Within these texts, the specific relevant sections dealing with Just War doctrine derive from subsections of the *Mahābhārata* (i.e., *Śānti*

that delineate rules of military conquest as part of the duties of kings (*Rājadharma*), legitimate punishment (*daṇḍa),* warrior ethics *(kṣatriya dharma),* and military science (*Dhanurveda).* One of the four traditional *varṇas* (religious classes) of Hindu society was identified as warriors, and it is not surprising that a substantial body of Hindu rules of warfare developed to delineate the responsibilities of this *varṇa.* These rules of war are little known outside of India, especially in the West, and therefore not well understood.[17]

The Western world does not generally realize that the ancient Hindu religion has much to say about the topic of military combat in both its religio-political[18] textual corpus and mythological narratives and permits "justified warfare" in limited circumstances. This doctrine, known as *dharma yuddha* ("Righteous War"), plays a central role in classical Hinduism. The stipulations of *dharma yuddha* are enumerated in texts about the science of Hindu statecraft (*Arthaśāstra, Dhanurveda),* classical mythological stories *(Mahābhārata, Rāmāyaṇa),* as well as in religious law books (*Dharmasūtras,*

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parvan), devoted to the duties of the king, the *Dharmasūtras*, the *Manusmṛti,* and the *Rāmāyaṇa*'s "Book of Battle" (*Yuddha-kāṇḍa*).

[17] Presently, there is far more information and books on non-violence in Hinduism than books on violence, which suggests one of several things: (1) the West is enamored by Hinduism (especially its metaphysics and modern exemplars); (2) Hinduism has moved away from war and violence and thus studies of Hindu attitudes towards warfare should be limited to the domain of historians; and/or (3) much ignorance still lingers about the ancient connections between Hinduism and warfare so that the topic does not frequently register on the radar of academics beyond standard treatments of war in Hindu mythology and iconography. My own sense is that all three of these points ring true. As a corrective to this situation, the author intends to provide a better balance to the unbalanced stereotypes about Hinduism by illuminating its militant sides in light of its humane laws of combat.

[18] The distinction between religion and politics in Hinduism is inappropriate and tenuous since the protean concept of *dharma* (order, duty, law, proper conduct), which is central to Hindu thought, encompasses religion, politics and law within its multifaceted scope.

Dharmaśāstras). The stipulations are also given new interpretations by modern Indian scholars (Banerji 1976, Chakravarti 1972, Dikshitar 1987, Ghoshal 1966, and Majumdar 1960).

In both India and Europe, discourse regarding rules of fighting was formulated over time to restrain the barbarism and horror of war by subjecting it to criteria of right conduct and fair play. According to Western classical Just War criteria, there are two traditional domains of Just War theory: 1) *Jus in bello* (meaning, Just Conduct in War or "Fair Play"), and *Jus ad bellum* (meaning, the "Justifiability of a War").[19] Hindu texts have much to say about the former category but far less to say about the latter (Brekke, 2006). Indeed, the latter dimension of Just War theory is often taken for granted because war was seen as the divine right of kings (*Manu* 7: 98-99). Both the *Arthaśāstra* tradition and the *dharma yuddha* tradition affirm that *yodha-dharma-sanātanaḥ* ("War is the eternal Law"), and that kings have an inborn right to fight them (*Manu* 7:58).

What is striking about the rules of Hindu military combat is how closely they resemble the medieval codes of chivalry that governed duels in medieval Europe. Indeed, both sets of rules were intended to encourage fair play in battle based on the notion of chivalrous honour. Such rules emphasized proportionality in equal combat (i.e., a foot-soldier was supposed

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[19] When it comes to "*jus in bello*" (just conduct in war), several Hindu texts provide specific lists of rules to be followed for a war to be just, notable the *Dharmasūtras,* the Laws of Manu, the subsection of the *Mahābhārata* devoted to the duties of kings (*Rājadharma*), and the *Rāmāyaṇa*'s Book of Battle (*Yuddha-kāṇḍa*). See Chapter Four (section 4.5) for an extensive list and analysis of these rules.

to engage in battle with another foot-soldier and not with a war elephant). Moreover, no deceit or trickery was permitted such as concealed weapons. Additionally, one must have exhausted all alternatives before resorting to violence. Violence was only to be undertaken after all other options of dialogue had been used up, which in Western Just War tradition is called the criterion of "Last Resort." From the point of view of the Hindu *Arthaśātra* tradition, however, such codes of honour were unrealistic to follow, unless they could be used to trick the enemy that one was going to fight "fairly". Thus, both idealism and cynicism (realism) are present in Hindu warfare.

To summarize, both the principles of *ahiṃsā* and *hiṃsā* are embraced and celebrated within Hinduism. Ironically, the duties of *kṣatriya-dharma* (the "warrior code"), and the supreme duty of *ahiṃsā* (non-violence) are not necessarily mutually exclusive, for these notions do not exist in complete binary opposition in Hindu thought. Instead, they coexist in unique fashion to be probed in this study. In order to understand and reconcile these somewhat dichotomous features of Hinduism, an investigation of their origins, historical developments, and interpretations is warranted.

1.3.   Comparative Studies of Warfare: the Work of Michael Walzer

In the 1970s, the cross-cultural study of Just War doctrine became a growing area of academic interest among scholars in different disciplines such as Political Science, Religious Studies, and International Law. Among these

scholars, Michael Walzer (1935—), Professor Emeritus of the Institute of Advanced Study at Princeton University, became the foremost champion of Just War theory in the 20th century. Walzer's 1977 book, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* is recognized today as a classic in the area of Just War thinking. Virtually all contemporary writings on Just War make reference to Walzer's theory, and Walzer himself recently expanded his ideas in a new publication entitled *Arguing About War* (2004c), thereby remaining a key scholar in the modern landscape of Just War theory.

Walzer's lauded study, however, has one significant lacuna: non-western views of warfare are rarely given their fair share of attention in his arguments surrounding the continued relevance of Just War theory. Unfortunately, Walzer's neglect of Asian attitudes towards Just War is problematic because he is attempting to construct a universal theory of Just War that applies to all situations throughout history and across cultures. While Walzer admits that there are non-western cultural "worlds" of moral discourse with which he is unfamiliar, he does not probe these alternate 'worlds' to see if they support or weaken his overall theory (Walzer 2000, 20). Rather he assumes that all cultures and religions are based on a shared underlying universal morality, and it is on the assumption that his Just War arguments are founded. In particular, Walzer contends that humans across

the world agree in principle that certain wars are "unjust" because we share

a universal cross-cultural morality based on human rights:

> [Our] common morality is the critical assumption of this book; …
> The morality I shall expound is in its philosophical form a doctrine
> of human rights; … Perhaps there are other worlds to whose
> inhabitants the arguments I am making would seem
> incomprehensible and bizarre. But no such people are likely to
> read this book. And if my own readers find my arguments
> incomprehensible and bizarre, that will not be because of the
> impossibility of moral discourse or the inconstant signification of
> the words I use, but because of my own failure to grasp and
> expound our common morality (Walzer 2000, 20)

Walzer's assumption of a universal morality deserves critical attention and

investigation because his arguments about Just Warfare are significantly

undermined if Hindu morality significantly deviates from his model. Walzer

is famous for asserting that wars can be called "Just" or "Unjust" because

every culture subscribes to an underlying universal conception of a "rights

based" morality. It seems that Walzer has been deeply influenced by his

understanding of morality and consequently his approach to Just War

thinking reflects a Western bias. Consequently, his theory of Just War

ignores alternative concepts of morality found within other cultures that do

not conform to his thesis. If Hindu ethics differs radically from Walzer's

notion of universal morality then it may reveal that Walzer's moral

arguments are not universally applicable. Therefore, from the perspective of

contemporary theorizing about war, a study of Hindu moral rules of righteous

warfare (*dharma yuddha*) is warranted to cast greater light on both Walzer's

theory and comparative ethical inquiry into warfare.

1.4. Methodology and Interdisciplinary Approach

The primary research question being tested in this work is the following: Are classical[20] Hindu views of *dharma yuddha* compatible with Walzer's human rights paradigm of Just War Theory? In other words, do Walzer's assumptions of universal morality and individual human rights hold up when applied to Hindu views of righteous warfare (*dharma yuddha*)?

To answer these questions, this study approaches the topic of Just War in Hinduism from an interdisciplinary perspective by adopting the political and moral theory of Michael Walzer to assess the relevance and compatibility of Hindu stipulations on dharmic warfare. In so doing, the study draws upon the scholarly research from a variety of disciplines such as political science, philosophical ethics, religious studies, and the history of war. It brings them together in this cross-cultural study of warfare, which probes the growing body of publications that have emerged in different acadmic domains to elucidate different aspects of Just War doctrine in an interdisciplinary perspective.[21] In particular, the role of ethical theory will be examined in this

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[20] The phrase "[C]lassical Hindu views" refers to dominant paradigms of Hindu thought articulated from the Mauryan period (c. 321 to 185 B.C.E.) through the Gupta empires (c. 320-550 C.E.) ending with the Muslim invasions of India circa the 10th century C.E. Indologists regularly call the period from the Mauryan to Gupta empires (c. 321 B.C.E.—550 C.E.) as "the classical age of Indian civilization" (Ludin, 1994, 12; cf. David Ludden, "History Outside Civilisation and the Mobility of South Asia," *South Asia: Journal of South Asian Studies,* Volume 17, Issue 1 (June 1994): 1-23).

[21] Obviously, a study of this nature cannot address all the academic disciplines nor is it advisable to do so. It is not the intention of this work, for example, to probe the domains of sociology or cultural anthropology, which provide their own excellent insights into religious, ethnic, and class conflict in India. Readers looking for compelling works in these areas are encouraged to read Frederick George Bailey's *Strategems and Spoils* (1969) and Bardwell L. Smith's *Religion and Social Conflict in South Asia* (1976). This current work's interdisciplinary range is limited to political science, history, hermeneutics, and ethics. The scope of the work is also primarily restricted to a northern Indian focus reflecting the expertise of the doctoral

thesis since Walzer calls himself a "moral theorist" (Walzer 2000, 45), and much of the analysis of Walzer's theory revolves around competing notions of *deontological* and *consequentialist ethics* in moral discourse on warfare.[22] These ethical considerations will, additionally, be situated within a larger ideological framework of political Realism versus political Idealism to explore the deep-rooted ideological divisions found in moral discourse on war. The interdisciplinary approach, moreover, allows a broader understanding of the interconnected facets of Hindu warfare, which encompasses the dimensions of statecraft, morality, and religion.

Over three dozen publications have appeared on the topic of war in Hindu warfare, but most of these studies have followed definitional categories of Just War derived primarily from Christian and/or secular European reflection (i.e., the aforementioned distinction between *jus in bello* and *jus ad bellum*). Consequently, scholars such as Allen (2006), Brekke (2006), Brockington (1985), and Subedi (2003) have appropriated western categories of Just War in their own studies of Hindu views of *dharma yuddha*. Although such western derived categories are valuable, important,

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committee, and limts itself to the time-period of India's classical age ending with the advent of Islam. Consequently, a systematic treatment of pre-modern and modern Hindu views of warfare is not examined.
[22] "Deontological Ethics" (duty-oriented ethics) is different from "Consequentialist Ethics" (consequences-oriented ethics) because each type of ethics is predicated on different assessments of innate worthiness. Whereas "Deontological Ethics" claim that duties must be done for duty's sake (regardless of the consequences), the proponents of "Consequentialism" argue that consequences really do matter in evaluating ethical behaviour. In fact, they insist that consequences need to become the lens through which actions are judged. Another way to understand this important ethical distinction is to see "consequentialism" as "outcome oriented ethics" whereas "deontology" refers to "duty/ law based ethics" (Nardin, 1996, 9).

and worthwhile, none of these modern studies on *dharma yuddha* has been forthright in its assessment of the pros and cons of applying Eurocentric definitional categories in cross-cultural studies of Just War theory.

In these ways, the dissertation provides an opportunity to showcase interdisciplinary research with a potential value to a wide range of scholars in the areas of religious studies, politics, ethics, law, philosophy, and international relations. Engaging relevant materials from the domains of cross-cultural hermeneutics, conflict theory, ethics, and the philosophy of international law, the research project is a thoroughly interdisciplinary exercise in which the study of Hindu doctrines is treated in the larger comparative framework of political theory and cross-cultural ethics.

 Such a comparative study of warfare allows us to ascertain whether there are significant cross-cultural agreements on the questions of human rights in combat, or whether such inquiry reveals fundamental disparities in thought and doctrine. Furthermore, it allows us to inquire into whether practitioners of righteous warfare in India see human rights as having any place in war, or whether Hindu texts see human rights as being abrogated and trumped by the greater demands of a justified struggle. In this manner, we can ascertain to what extent Indic paradigms of war are compatible with the idea of a universal standard of human rights. It will be worthy of note to discover whether Hinduism's emphasis on the concept of *dharma* provides fertile ground for the notion of Hindu human rights in modern International

Law or whether it offers a different way of conceptualizing human relationships, for example, in the context of a larger integrated socio-cosmic order (Mukerji 1990; Rai 1995; Coward 2005).

In sum, the purpose of this work is threefold: 1) to bring greater critical awareness to the comparative methodology of *dharma yuddha* in the nexus of Just War theory; 2) to test whether Walzer's theory of Just War, based on a supposed universal morality, fits with Hindu teachings on *dharma yuddha*, and, finally; 3) to see if the rules of *dharma yuddha* are compatible with Western rules of war based on human rights. In this manner, the research offers a critical comparison of codes of warfare found across cultures, as well as provides an assessment of whether Indic paradigms of war fit with current discussions of human rights. In these ways, it is hoped the dissertation makes an original scholarly contribution to fostering a more nuanced analysis of religious attitudes to warfare in the Hindu tradition as well as to current academic theorizing on the subject of Just War itself.

1.5.   Statement of Primary Argument

This dissertation argues that Hindu rationales of "Just War" are incommensurate with Walzer's articulation of universal moral norms because Hinduism does not present a paradigmatic view of moral standards of conduct applying to all people at all times. Rather, Hindu morality emphasizes collective needs over individual rights, which are tied to

situational notions of time, place, status and, particularly, duty.[23] Hindu conceptions of morality in war, therefore, present a challenge to Walzer's Just War thinking, opening an area of academic inquiry that needs to be analyzed.

The foundational research question of this work is to probe whether Eurocentric Just War paradigm is appropriate for addressing Hindu notions of *dharma yuddha* or whether it obscures and homogenizes key underlying conceptual differences. As has been indicated, Walzer advocates a rights-based model of ethics as a universal constant across cultures and religions. This assumption colours his comparative pronouncements on Just War theory, which become a type of methodological triumphalism. Mutually intelligible cross-cultural discourse about war, he argues, presupposes a shared conviction of a universal morality; however, he does not explore this point in any considerable depth and rather takes it for granted. This dissertation tests the applicability of this assumption to the rules of *dharma yuddha* to see if they can be supported. It will be argued that the prevailing Walzerian paradigm if applied to Hindu views of Just War is at best insufficient and at worst seriously flawed. Walzer's paradigm, based on Judeo-Christian and European Enlightenment assumptions of human rights, itself requires greater analysis and scrutiny.

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[23] Classical Hindu ethics encompassed religion and politics under the larger heading of *dharma* (cosmic and socio-political order), in which collective well-being (*lokasaṃgraha*) was prized over individual rights. Traditionally, Hindu ethics differentiated two broad types of *dharma* (with numerous subtypes): *sāmānya / sādhāraṇa-dharma* (general virtues) and *viśeṣa dharma* (particular duties). In contrast to Michael Walzer's model of Just War theory, which champions individual human rights as the foundation for moral conduct in warfare, Hindu ethics emphasized the maintenace of particular duties (*viśeṣa dharma)* of the warrior class, which trumped any general Hindu notions of morality (*sādhāraṇa-dharma*). See Katherine Young (2004), 281-282.

1.6.   **CHAPTER OUTLINE**

Ch. 1.   *Methodology, Scope, and Goals of the Study*

The first chapter outlines the rationale, goals, theoretical framework, and interdisciplinary approach to the dissertation. The purpose of this chapter is to demarcate the body of material, the principal theorists, and the primary argument to be systematically investigated in the work.

Ch. 2.   *The Symbiotic Development of Just War Theory*

The second chapter provides an orientation to Just War theory in historical perspective by demonstrating how the categories of Just War thinking emerged symbiotically in different cultures, and by seeing what categories were employed. This chapter examines key issues, ideological perspectives, and moral assumptions in the philosophy of warfare to delineate significant elements in the ethical, theological, and secular debates surrounding Just War theory. Additionally, the chapter elucidates the traditonal criteria used by Just War theorists to set the stage for our further analysis of Walzerian and Hindu approaches.

Ch. 3. *Walzer's Approach to Just War and its Underlying Assumptions*

The third chapter describes Michael Walzer's theory of Just War as a major paradigm of Just War theory in Western discourse today. It

contextualizes Walzer's views on Just War in the nexus of competing political theories about the philosophy of war, and discusses rival theories of ethics (particularly consequential vs. deontological theories) to reveal Walzer's own ethical stance. The chapter spends a considerable amount of time elucidating Walzer's views of "universal notions of right and wrong" (Walzer 2000, 42) to highlight his underlying moral assumptions about warfare. The chapter also identifies the political and ideological leanings of Walzer's intellectual works that impinge on his theory of warfare. Finally, the chapter identifies the ways in which Walzer has made unique contributions to Just War theory, and why his viewpoints remain important, despite the views of his critics.

Ch. 4. *Hindu Approaches to Warfare and Underlying Assumptions*

This fourth chapter gets to the heart of the primary materials by examining Hindu approaches to warfare in both historical and textual perspectives. The rival theories of Hindu warfare will be outlined through a rigorous analysis of the Hindu code of warrior ethics *(kṣatriya dharma)*, the duties of Kings (*Rāja dharma*), and its corpus of political and military science (*Arthaśāstra*; *Dhanurveda)*. When possible, historical examples and case studies will be used to contextualize the rules of warfare and to extrapolate deeper implications about them in actual historical practice. Hindu texts containing these codes will be analyzed to infer models/ paradigms of warfare in Hindu thought. In particular, the chapter examines the rules of *dharma yuddha* in key Hindu texts such as the *Dharmasūtras, Dharmaśāstras,*

Rāmāyaṇa, and *Mahābhārata.* It also raises hermeneutical considerations regarding multiple interpretations of violent imagery in the Hindu texts.

The chapter also considers alternative metaphorical and symbolic interpretations of Hindu views of warfare as a counterbalance to realist political views. Moreover, ethical ambiguities in the conduct of Hindu warfare are probed to make sense of the Hindu approach to the topics of supreme emergencies as transgressive ethics. For example, how do Hindu ethics account for contradictions in the practice of warfare such as violations of the warrior code? Why are its religious teachers' moral instructions unpredictable when ethics is concerned? Why do the Hindu texts contain apparent contradictions on the subject of what is ethical and prohibited in war? How does one explain the fact that the rules of the warrior code are actually violated by the Hindu gods themselves! In these interrelated ways, the chapter identifies different Hindu approaches to, and models of, warfare to show how *dharma yuddha* fits into the overall Hindu conceptual framework of Hindu discourse on ethics, law, and politics.

Ch. 5. *Comparative Analysis of Walzer and Dharma Yuddha*

The fifth chapter explores the methodological problems that arise from a comparative study of Just Warfare. The chapter contrasts the underlying presuppositions of Walzer's Just War theory with the ethical presuppositions of *dharma yuddha.* In doing so, it juxtaposes Western notions of individual

human rights with Hinduism's emphasis on collective duties and suggests that the different standards of Hindu ethics are problematic in light of Walzer's approach. Additionally, it shows that Walzer's concept of a "War Convention" (by which he means patterns of habits and values shared by a community on the conduct of warfare) allows us to reasonably speak of a War Convention in India that is evidently based on different foundations from Western conventions. Several key problems that arise from a comparative study of Walzer and *dharma yuddha* are addressed in this chapter*:* for instance, Walzer's contention of 'moral innocence' in warfare is questioned in light of the Hindu doctrine of karma, which suggests that any *a priori* innocence of civilians during warfare is an illusion. Walzer makes frequent reference to innocence in his views of non-combatant immunity but this assumption deserves greater scrutiny in light of Hindu ethics. The Hindu belief in karma potentially undermines the notion of wartime "innocence," which is central to the concept of non-combatant immunity and the chapter suggests ways in which karma allows for a more nuanced analysis of Just War thinking in comparative context.

Another issue in this chapter warranting special scrutiny is Walzer's reinterpretation of the *Doctrine of Double Effect*[24] (as "double-intention") in light of Hinduism's view of war found in the *Bhagavad Gītā* as each view focuses on the intention of the actor.

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[24] The "Doctrine of Double Effect" permits soldiers to take actions that may accidentally kill innocent people as unintended consequences for a greater good.

Finally, Walzer's views on the subject of a "Supreme Emergency" are compared to Hindu notions of ethical urgency since each system adopts similar notions of "supreme emergency" in wartime that allow normative rules of warfare to abrogated. Specifically, the Hindu rules of *Āpad-dharma* ("Emergency Duties") provide for some surprising congruencies with Walzer's viewpoint, thus offering a fruitful basis for dialogue between their respective notions of Just Warfare.

Ch. 6.   *Findings and Conclusions*

The final chapter concludes by enumerating the findings of the work and suggesting some areas for further study beyond the scope of the current research. In particular, the ambiguities surrounding the notion of human rights in warfare deserve more attention in the larger framework of cross-cultural approaches to the ethics of war. Since Indian models of *dharma yuddha* are independent of either human rights or universal morality, more study into these areas would be fruitful to examine whether notions of human rights ought to be abrogated and trumped in a military struggle. Hindu examples of transgressive ethics and situational ethics raise concerns regarding the inadequacies of imposing Eurocentric models of ethics on Hindu views of warfare. Additionally, the chapter reiterates surprising congruencies between Walzer's and Hindu views on Just War theory especially in regards to their concurrence over the issue of "Supreme

Emergencies." Finally, the role of hermeneutical considerations in the interpretation of Hindu textual material is highlighted to point out methodological problems in the conduct of comparative religious reflection on war. As is shown throughout the work, there are fundamental tensions pertaining to the clash of secular and religious worldviews, political ideologies, and moral theories in thinking about warfare.

CHAPTER TWO:

THE ORIGINS AND ETHOS OF JUST WAR THEORY

"You may not be interested in war but war is interested in you."
— *Leon Trotsky*[25]

2.1. Introduction and Objectives

The purpose of this chapter is to survey the origins of Just War thinking in antiquity to illustrate its ethical roots and to differentiate its religious and secular variations. The chapter also considers competing notions of warfare in antiquity to distinguish "just wars" *vis-à-vis* other forms of warfare. The primary objectives in this chapter are fourfold: to trace the roots of Just War theory; to introduce the operative theoretical categories of just wars to be used in this work; to set the stage for a juxtaposition of Hindu models of Just War with Walzer's own theoretical model; and, finally, to consider methodological challenges and problems of applying Just War theory across cultures.

2.2. The Roots of Just War Theory in Antiquity

Sober reflection on the nature of war is likely as old as human civilization itself. Since the dawn of time, scribes, philosophers, religious elders, and political leaders have reflected on the nature of warfare in terms of its

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[25] Cited by Ian Roxborough, "Thinking About War," *Sociological Forum.* Vol. 19, No. 3, (September, 2004): pp. 505-530.

necessity, legitimate aims, appropriate scope, and relevant methods. Consequently, treatises on warfare are found in diverse cultural spheres from antiquity onwards, ranging from the city-states of ancient Greece to the Vedic societies of India, to the Egyptian dynasties, and to the warring states of China. When the ancient sages and kings of these varied cultures contemplated the topic of warfare, they approached it from various angles that often reflected their own primary concerns such as the survival of the state, the king's divine right to rule, the sanctification of the order of things, or the fulfillment of militant mythologies. The situation is made clear by the work of Archer who writes:

> Egypt, Assyria, Persia, India, and China each viewed war according to the particular internal circumstances, economics, geography, and external threats they experienced at different times. Egypt, for example, faced the challenge of external threats such as the Hittites, the Hyksos, and the Sea Peoples; Assyria had the need to control trade routes to obtain minerals; Persia developed large armies and, under Xerxes, invaded Greece; India experienced a largely indigenous warfare; and China fought the wars of unification. Each civilization was profoundly influenced by warfare [and of] particular importance was the willingness of empires to learn from their neighbors and to adapt (Archer *et al.*, 2002, 9).

Given that warfare in the ancient world often pitted rival civilizations and cultures against each other, one can see the beginnings of comparative reflection on warfare in the context of mitigating or perpetrating aggression toward outside groups and neighbours. As a case in point, we can look at the prolonged military engagements between the ancient Greek city-states and

the Persian Empire who considered each other to be cultural and religious rivals, despite occupying relatively close geographic proximity.

The world of the ancient civilizations was filled with mythological stories describing the exploits of gods and goddesses, heroes and villains, empires and monsters, all of whom regularly clashed in the ongoing struggle for survival, love, and glory. Within this fertile literary climate, the Greeks were likely among the first in the so-called "Western world" to articulate a notion of rules of Just War to govern the conduct of battles. These rules came in the form of solemn oaths used as a type of military covenant, sealed in the alleged presence of Greek deities such as the gods of war (i.e., Mars, Poseidon, Zeus, Athena). These solemn oaths to govern war were taken very seriously by the ancient Greeks because they believed that breaking the oaths would cause calamities of divine punishments (Bederman, 1999, 11-14; Rhodes, 2007, 11-25). In this manner, the ancient Greeks pioneered the way for western Just War doctrine to be founded on the legal custom of sacred oaths, thereby giving the rules of war an aura of sanctity. Eventually, the Greek custom of sacred oaths evolved into a full-fledged corpus of legal discourse that was expanded and further codified under Roman influence as seen in the writings of Cicero (106-43 B.C.E.). Furthermore, Cicero added a secular dimension to just war conduct in Roman statecraft, which was married with the solemn oath tradition of the Greeks to provide a strong ethos for rules of war in western antiquity.

In the world beyond ancient Greece and Rome, other rival tribes, clans, sects, city-states, and empires clashed over territory, beliefs, power, resources, honour, and a myriad of other issues. Yet despite the varied catalysts and causes of war, it was still surprisingly widespread for warring parties to follow a mutually agreed-upon set of rules before engaging in combat. Moreover, when the norms of war were broken by the enemy, as they surely were, the transgressors were seen as "barbarians" whose violations were further evidence of their inferior status—a "demonic horde" who truly needed to be defeated due to their moral transgressions.

The common presupposition here was that laws of war ought to be followed, which was especially evident in the codes of conduct incumbent upon diplomats/ ambassadors. It is for this reason that the king of the Persian Empire was outraged when his ambassador was killed by the Spartans in violation of the ancient rules of war. As Davis notes, in those days ambassadors, "because they were traditionally priests, were immune" (2006, 3). The Persian ambassador's execution demanded vengeance —a type of archaic justice to redress wrongs committed—and it was a ground for war.

The principle of the inviolability of envoys and ambassadors was also followed in the statecraft of India.[26] Among the ancient Hindu kingdoms, the

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[26] The Hindu rules of statecraft and war stated that a king "must never sentence or subject an ambassador to capital punishment. If he does so, he sinks into oblivion and he is subject to the tortures of the hell together with his retinue of responsible officers. It is further said that any officer who kills an ambassador that delivers his message according to the very letter and spirit of his instructions, brings down untold sin not only on himself but even on his deceased ancestors. Such was the moral force at the back of this very important institution" (Dikshitar, 1987, 342). As a case in point, the famous Hindu text, the *Rāmāyaṇa,* emphasizes the inviolability of the *dūta* when the envoy Hanuman is captured in Lanka and brought before

king's messengers were known as *dūta* and they were normally treated with great respect. In Hindu statecraft, the ambassador (*dūta*) was immune from violation. Historically, the sanctity of ambassadors in ancient India can be traced back to the oldest Hindu scriptures, the Vedas. For example, the *Ṛg Veda* mentions the role of two diplomatic agents known as the "*dūta* and *cara*" (*Ṛg Veda,* I. 12.1; cited in Dikshitar, 1987, 339), and the god Agni was called the "*Devadūta*" ("messenger to the gods"). At the worldly level, ambassadors in India generally "occupied a very high and enviable position as befitting their status and function" (Dikshitar, 1987, 339).

Such ancient customs dictated that emissaries between rival kingdoms or republics were to be treated with civility, even if their envoys' messages were unpleasant or unfavourable. These diplomatic codes and customs provided the groundwork for the incipient development of cross-cultural conventions concerning human conduct in warfare, albeit these codes were fragmentary and idiosyncratic rather than homogenous and cohesive.

Given the above, one could make a case for arguing that almost all

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the evil king Rāvaṇa. In his wrath, Rāvaṇa ordered the execution of Hanuman but this order violated the Hindu rules of warfare and was rejected for a lesser punishment instead – i.e., setting fire to Hanuman's tail (*Rāmāyaṇa,* 5.50.1-7; trans. Brockington, 1985, 132). Correspondingly, the Tamil Sangam works show "that ambassadors played a significant part also in the Tamil land. The earliest work extant, the *Tolkāppiyam* [*Porul,* 25.Ch. 69.], refers to the *dūtas,* and, what is more interesting, the sutra implies that Brahmanas were generally sent on this errand. The *Kural* has a chapter on the qualifications and functions of an ambassadors" (Dikshitar, 1987, 351-2).

In contrast to this noble treatment of Indian ambassadors, however, Kauṭilya claimed that an ambassador is "but an open spy" (Dikshitar, 1987, 341). Kauṭilya wrote, "delivering the message entrusted to him, respecting treaties, issuing ultimatums, getting allies, resorting to intrigue when necessary, sowing dissension among the enemy's friends and associates, carrying away by stealth or otherwise the secret forces relatives and wealth of the enemy, and doing the work of a spy occasionally – these in brief, were the functions of a well-versed and devoutly loyal ambassador" (Dikshitar, 1987, 345).

wars—unless they took place within the same political framework, as civil wars are—have usually been fought between parties with comparatively dfferent outlooks. Ancient Greek and Roman philosophers and statespersons debated the issue of justice within war with penetrating perspicacity. Despite their political loyalties and religious allegiances to different gods/goddesses, they each had an understanding that warfare was a hallowed event echoing the battles of the gods and demigods themselves. These early notions of warfare led to the emergence of nascent Just War consciousness in antiquity. As a result, Greeks, Romans, Chinese, and Indians spent considerable time philosophizing about the nature of warfare and peace in the context of both their relations of statecraft as well as their mythological worldviews. It was also these ancient sages who first provided nascent ideological distinctions in philosophical reflection on warfare, which would eventually become fundamental tenets of warfare in a comparative framework.

2.3. Political Notions of Just War Theory

It was the ancient Greeks, specifically Thucydides, who introduced the political distinction between "Realist" versus "Idealist" perspectives on warfare found in western classical discourse (Doyle, 1990; Clark, 1993). The terms "Political Realism" and "Political Idealism" denote radically different attitudinal approaches towards warfare that underpin much of Western discourse on Just War theory. Within the realm of international relations

theory, these terms have given scholars a heuristic ideological framework to compare views of war found across cultures. The following section juxtaposes political "Realist" and "Idealist" perspectives on warfare, which have proponents and advocates in virtually all cultures of the world including India.

Political notions of the ethics of warfare have frequently employed Realist and Idealist assumptions, which are incommensurate. Models of political Realism begin with the "underlying premise that human nature is brutish and self-centered, that states always look out for their own interests, that war is a legitimate instrument of state policy, and that war is limitless (i.e., anything goes in war because individual and communal self-interest prevail over following any sense of morality)" (Walzer, 2000, 3-4). Realists are united in their "pessimistic"[27] assumptions about human nature, which they consider to be brutish, and they also posit that international relations is a Hobbesian "state of war" based on survival of the fittest (Mapel, 1996, 58; 55). Given their views of human nature and international relations, it is not surprising that Realists often contend that the moral commitments of ordinary soldiers must be suspended in times of war because "war is hell" and it destroys morality. In this view, atrocities committed in the course of the battle are part of the "collateral damage" of warfare because extreme actions are necessary to save oneself, or an ideal such as one's nation or one's religion

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[27] "On the reasons for this pessimism, realists divide, some basing their doubts on theology or on a theory of human nature, others simply on experience and on skepticism regarding the claims of the utopian politics." (Nardin, 1996, 248-249).

in wartime. In these situations, Realists do not expect citizens to abide by standard rules of morality because in times of war the law is silent.[28]

The implications of Realism are stark: Realism undermines the notions of "war crimes" and "human rights" because it contends that the normal laws of human conduct are suspended during wars and therefore 'crimes' (as violations of the law) cannot be committed. Moreover, as the Prussian General Helmuth von Moltke (1848-1916) once said, in war *"there is no substitute for victory"* so sometimes the rules of war *should deliberately be ignored* (!) because they "merely drag out the fighting", while "the greatest kindness in war is to bring it to a speedy conclusion" (Walzer, 2000, 122; 131). Therefore, political realism places the security and protection of the state at the apex of its value system and its advocates are willing to sacrifice human freedoms at the altar of state hegemony. As Mapel (1996, 58-59) states: "Realists are much more concerned with war as a means of preserving the state, and are likely to feel some affinity for the view that the only justifiable wars are those fought in defense of the state or the political community." In this light, he suggests one could see why advocates of political realism argue "that it is impossible for the state to conform to clear rules of *ius ad bellum* without sometimes compromising its own security" (1996, 60).

As previously noted, the Realist paradigm (or ethic of military expediency) was articulated in the ancient world, by the Greek historian Thucydides (c. 460-404 BCE) in his famous work *History of the Peloponnesian*

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[28] In Latin, this phrase is rendered "*Inter arma silent leges*" (Walzer 2000, 3-4).

War. However, Political Realism was not limited only to western writers[29] since both India[30] and China[31] generated their own Realist philosophers and military tacticians.

In contrast to the aforementioned Realist paradigm, the ideology of Political Idealism is rooted in a more positive view of human nature, which

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[29] Famous writers of Political Realism in western civilization include Machiavelli, Hobbes, Niebuhr, Kennan, and Morgenthau, among others. In modern times, Karl von Clausewitz (1780-1831 C.E.) is perhaps the most famous military Realist who quipped, "To introduce in the philosophy of war a principle of moderation would be an absurdity. War is an act of violence pushed to its utmost bounds"; "War is an act of force...which must lead, in theory, to extremes" (Mapel, 1996, 54-56). In other words, Clausewitz believed that the "intrinsic logic of war is that war tends to become more ferocious the longer it carries on and eventually causes the breakdown of moral restraints in societies because "each of the adversaries forces the hand of the other. What results is a 'reciprocal action,' a continuous escalation, [which] tends toward the utmost exertion of forces' and that means toward increasing ruthlessness … so his opponent, driven by what Thucydides and Hobbes call 'a necessity of nature," does the same, matching the ruthlessness of the other side whenever he can" (Walzer, 2000, 23). For distinctions among various types of Political Realism see: David R. Mapel, "Realism and the Ethics of War and Peace" in Terry Nardin (ed.) (1996), pp. 54-77.

[30] In India, the most famous Hindu Realist was Kauṭilya (c. 300 BCE) author of the seminal *Arthaśāstra* ("Science of Politics and Administration") and the advisor to Emperor Chandra Gupta who reigned over northern India during the fourth century B.C.E. Kauṭilya, like the Western Realists, also accepted the principle of the end justifying the means and he repudiated the intrusion of ethics into any discussion of war unless, of course, it could be used to serve the state's interests (Chakravarti, 1972, vii). Thus, Political Realists of all background—from both East and West—have always been deeply suspicious of moral discourse in war, which they see as liable to be exploited to benefit one's own goals. They have little patience for rules of war, which often drag out the violence rather than facilitating rapid victory.

Other famous Indian Realists include Kāmandaka/Kāmandakīya, author of the *Nītisāra,* and the Jain Somadeva author of the *Nītivākyāmṛta*. Less well known Indian Realist texts include the *Yukti-kalpataru* and the *Mānasollāsa.* Chakravarti (1972) notes that the former is "attributed to King Bhoja of Dhara in Malwa, the great patron of Sanskrit learning in the eleventh century. It purports to give "an account of all requirements in a royal court"" whereas the latter "is said to have been composed by the Calukyan emperor, Somesvara III ("*Bhu-loka-malla*"), who reigned between 1127 and 1138 A.D. It is a metrical treatise on the *Arthaśāstra,* written in an easy and florid style" (Chakravarti, 1972, viii).

[31] In China, the greatest Realist was the renowned Sunzi (5th century B.C.E.) who wrote the famous *Art of War* (Pinyin: *Sunzi Bingfa),* which resembles the Indian *Arthaśāstra* in many ways. Giri Deshingkar (1998) brilliantly identifies the primary similarities between the *Arthaśāstra* (AS) and the *Bingfa* (BF) as follows: For Sunzi, the "primary target of the attack is the mind of the enemy commander. Is he rash? Is he quick-tempered? Does he have too delicate a sense of honour? If so, one must plan one's strategy accordingly… [W]hereas Sunzi focuses somewhat narrowly on war, Kauṭilya has a much broader set of concerns taking in all aspects of statecraft, of which war is just one. … Sunzi's thinking may be summed up in one sentence: The victory is one where the enemy is subdued without fighting. Such a sweeping doctrine would have been inconceivable for Kauṭilya because that would have devalued the entire hereditary warrior *varṇa*. For this class, it was a disgrace to die anywhere except on the battlefield. So, a world without war was even theoretically inconceivable so long as one was within the established order" (Deshingkar, 1998, 363). Intriguingly, Deshingkar (1998, 364) notes, "Oddly enough, despite such single mindedness in achieving victory/hegemony, both Kauṭilya and Sunzi are concerned about minimizing the economic costs of war as well as minimizing civilian casualties."

sees human beings either as inherently trustworthy and/ or part of a larger international society governed by innate rules or principles based on customs, conventions, or natural law. Typically, Idealists contend that war should be a rule-governed activity based on the argument of either universal values held by all cultures, or else on the concept of natural law imprinted in the human mind/heart.[32] In the Catholic natural law tradition, for example, "war is to be carried out in accordance with the designs of nature, which bear the imprint of a divine, rational Creator" (Miller, 1996, 266). Just War theory supported natural law arguments, and gave systematic articulation to the moral point of view. As Nardin attests:

> Central to it is the idea of a rationally knowable system of moral precepts – natural law – imposing duties on all persons as rational beings. It is these precepts, and not the consequences of one's acts, that provide the standard of right and wrong in conduct. Moreover, the precepts of natural law must be distinguished from positive law or custom. And because they govern all conduct, they apply to public as well as private life (Nardin, 1996, 245).

In theological discourse, natural law arguments played a prominent role in Christian justifications of Just War debates. However, it was still possible to articulate other grounds for Just War without recourse to natural law. Accordingly, ethicists and moral theorists generated their own terminology and categories to express Just War arguments using different frameworks of understanding. In the realm of ethical discourse, the comparative study of Just War has been frequently conceptualized through the categories of

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[32] Various Natural Law arguments were made by thinkers such as Grotius, Hobbes, Pufendorf, and Vattel. All of them shared the common denominator that laws of human conduct could be derived either from the observation of natural principles, from the rational mind, or from innate dispositions.

consequentialism (outcome oriented ethics) and *deontology* (duty/ law based ethics) (Nardin, 1996, 9). Moreover, these categories have been used to elucidate both Western and Asian views of Just War. For instance, Torkel Brekke adopts these categories in his study of Hindu views of war, stating:

> The deontological tradition is famously espoused in the *Bhagavadgītā*. It asserts that right acts are goals in themselves quite apart from their results, as long as they are carried out with the right intention. The consequentialist tradition is clearly formulated by Kauṭilya. It asserts that acts are good or bad only in respect of their results (2006, 131).

Thus, "Realism and natural law can be understood as two sides of a single debate: whether principles or consequences have priority in guiding the conduct of *states"* (Nardin, 1996, 262).

Because of the interconnected dimensions of Just War discourse, we can see that comparative reflection on the topic of Just War lends itself nicely to interdisciplinary analysis (e.g., religious studies, ethics, political statecraft, and legal jurisprudence). Just War thinking encompasses fundamental questions about human nature and inter-state relations in moral decision making. Virtually all civilizations have wrestled with these questions and issues, unless they have completely embraced non-violence and pacifism, which is exceedingly rare. This section has outlined the operative theoretical frameworks that have guided much of political, religious, and moral discourse on Just War theory in western conceptualization. As was noted by Nardin:

> We began with the classic confrontation between natural law and political realism because the terms of debate have been set, in

Western political discourse at least, by these perspectives. As suggested earlier, they reflect the poles of ethical thought, natural law tending toward the universal and deontological, political realism toward the particular and consequentialist. Against pacifism, both insist that there must be an ethic of war because wars may be forced upon us even though we wish to avoid them, and because ethical choices are unavoidable if we choose to fight (1996, 9).

Armed with this background, it is now useful to survey the parallel rules of war found in non-western civilizations to consider the extent of Just War thinking in a global context. The following section will provide a synopsis of key precepts of Just War principles across the world's religions.

2.4.   Religious Notions of Just War Theory

Within the ancient world, a variety of religious groups espoused radically different viewpoints on warfare providing a continuum of perspectives on the validity of Just War thinking. These perspectives ranged from pure pacifism to Holy War and everything in between. In the case of ancient Christianity, historians, point out that the earliest Christian position on war was pacifism:

> Christianity started with a pacifist message. This message was expressed in several passages in the New Testament, particularly in the Sermon on the Mount, and it was as pacifists that the early Christians were depicted in their own time. Later on, however, when Christianity had become the religion of the Roman Empire, it developed the doctrine of the 'just war.' Augustine, the chief spokesman for this doctrine, buttressed his arguments by citing sayings of the [Hebrew] prophets in their literal, original senses (Ravitzky, 1996, 123).

However, after the Catholic Church[33] became allied with the powerful Roman Empire, the bishops of the Christian world legitimized the role of war for the preservation of the peace and order in the Empire. The architect of this Christian re-interpretation of war, noted above, was Augustine who associated religious notions of Catholic natural law with war as "just punishment". Such religious sanction allowed Augustine to assert, in his *Contra Faustum* of 398, that war is a "tragic necessity" and "inevitable given human sinfulness"; he also later adds in his *City of God* that Christian soldiers in the Roman Army can "serve in good conscience, abjuring hate and blood lust, to subdue disturbers of the peace and preserve the fragile order" (cited in Davis, 2006, 4).[34] Thus, Augustine was the spiritual engineer of Christianity's transformation from pacifism to Just War thinking and he paved the way for the development of a system of religious Just War doctrine that built upon his grounds for proper Christian participation in warfare.

The Middle Ages saw the emergence of Christian Holy War models with the advent of the Crusades, which represented a "third stage in the Christian theory of war" (Ravitzky, 1996, 124). The Crusades began in the year 1095, when Pope Urban II "exhorted those who had broken the peace to become soldiers of Christ [and] pledged to retake the Holy Land from the Turks" (Davis, 2006, 5). Holy War models diverged from Just War thinking

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[33] In the English-speaking world, the term "Catholic Church" usually refers to the "Roman Catholic Church." However, technically speaking, the phrase "Roman Catholic Church" refers to only the Diocese of Rome and not the entire church. The official title of the church is "Catholic Church."

[34] See Augustine of Hippo, *Political Writings,* ed. trans. By E. M. Atkins and R. J. Dodaro, Cambridge: Cambridge University Press, 2001: p. 216.

in their leniency for killing in God's "name". However, the excessive violence of Holy Wars led to an effort to re-establish the paramountcy of Just War criteria for the conduct of warfare. As part of this effort, Thomas Aquinas (1225-74) proposed "three basic requirements for a war to be just. First the person who initiates the war must have the right authority to do so, second one needs a just cause, and third the right intention is required of the soldiers" (Aquinas in Brekke, 2006, 136).

In sum, according to both Aristotle and Thomas Aquinas, wars are "just" if they meet three minimum conditions: they are undertaken by the right people (i.e., authorized by a public authority), for the right reasons (i.e., fought for a just cause rather than selfish aims), and in the right way (i.e., it must be fought with the right intention of promoting the common good and avoiding evil) (Davis, 2006, 8). These three criteria have been at the core western Just War principles ever since.

2.5. The Secularization of a Just War Theory

Nascent frameworks of Just War theory also existed outside religious contexts. Practical notions of diplomatic statecraft provided impetus for the development of international restraints on the conduct of war, which were often supported by economic interests. An ancient secular pedigree for Just War thinking is traceable back to the writings of Cicero (106-43 B.C.E.) who hailed from ancient Rome. The laws of nations of the Roman Empire provided examples of customary laws regulating international behaviour and fostering

Just War conventions. These secular laws co-existed alongside frameworks of religious traditions sometimes influencing each other in a symbiotic way.

As a case in point, European Just War theory became increasingly secularized in the Middle Ages in response to the fanaticism of Holy Wars in Europe and the Near East, which often led to unrestrained violence.

Moreover, the decline of religiously sanctioned feudalism[35] exacerbated the obsolescence of chivalry codes once popular in medieval societies. The feudal structure of Europe, Japan, and India in the Middle Ages supported a class of aristocratic warriors (i.e., Christian knights, Japanese samurai, and Hindu *kṣatriya*) who honoured chivalry in battle and duels.[36] However, such cognate chivalrous codes found in different cultures eventually proved to be impractical with the rise of industrial societies and the advent of modern warfare's impersonalization of death from long-distance armaments.[37]

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[35] Authors disagree on the definition of feudalism. "Some would confine the term to the complex structure of contractual relations covering the whole of society from king to villein, which prevailed in medieval Europe. Others use the term so loosely that they apply it to any system where political power is chiefly in the hands of those who own land" (Basham, 1954, 93-94). According to Basham, the "principal difference between Indian and other types of feudalism was the relation between the lord and the vassal, established in this case by conquest rather than by economic contract" (Basham, 1954, 94). Lannoy further elaborates on this difference as follows: "vassals usually became so by conquest rather than by contract … [because] (*dharmavijaya*) did not involve the absorption of the conquered kingdom, but merely its reduction to vassal status" (1974, 223).

[36] In India, this spirit of chivalry became the central ethos of classical Hindu warfare. Brekke notes that "many of the rules for warfare [in classical India] seem to concern duels rather than general battles. There is the same sense of tension between the ideals of the chivalrous duel and large-scale war as that we see through the centuries in Christianity" (2006, 117). The Christian Crusades, for instance, placed emphasis on honour in battle and this medieval tradition of honour continued in the custom of duels.

[37] Modern Just War principles, such as Walzer's own theory, have little to do with codes of aristocratic chivalry, except indirectly. In the modern period, chivalry became an obsolete foundation for fighting fairly for two reasons: first, it predicated the concept of "fairness in flighting" on one's aristocratic status, which itself was heirarchical; and second, face-to-face duels could not contiune following the progression of military strategy to impersonal warfare such as bombing with canons. Within the chivalorous code, honour was expected towards those above or equal to one's status (and often women) whereas those below one's status were sometimes scorned. Conversely, secular Just War theory encompasses all members of society

The swing to secular Just War theories was further quickened by the sixteenth-century debates surrounding the colonization of the so-called "New World". The conquest of the Americas led to vigourous debates surrounding proper justifications for the military appropriation of native lands by colonial Empires. Some European Christians saw the invasion of the Americas as a justified effort to convert the "heathens" to Christ but the 16th century Spanish lawyers Vitoria and Suarez stood up for the native peoples and offered repudiations of any arguments seeking to appropriate native lands based on religious motives. They succeeded in removing "Holy War" as grounds for invasion and the debates swung to secular rationales for war. These scholars rejected the argument that the alleged barbarian nature of the native population was a "Just Cause" for the invasion of their land, nor was the argument of spreading the Gospel by the sword accepted:

> Writing during the Spanish conquest of the Americas, Vitoria and Suarez self-consciously secularized the criterion of just cause, arguing that religion was irrelevant either to self-defense or to the rectification of wrongdoing. And they did so, it should be noted, not by arguing that the traditional view was logically inconsistent, but by revising its substantive understanding of justice. The core of their argument was that matters of faith were irrelevant to claims of title to dominion. This effort to secularize the traditional view of just cause turned on the claim that wrong belief did not deny indigenous populations rightful dominion over their land. Accordingly, those Spaniards who sought war against Native Americans would have to find a sanction other than paganism for seizing their cities and property (Miller, 1996, 275).

regardless of their social status as deserving specific protections in wartime. Additional analysis of the role of chivalry in differentiating Walzerian and Hindu views of Just War is found in Chapter Five of this work (See Section 5.2.5). Recommended scholarly publications on the history of chivalry and warfare include Maurice Keen, *Chivalry (Yale Nota Bene)*. (Yale University Press, 1984); and Richard W. Kaeuper, *Holy Warriors: The Religious Ideology of Chivalry*. (Philadelphia: University of Pennsylvania Press, 2009).

The writings of Vitoria, Suarez, Grotius, and others set the stage for the re-emergence[38] of secular Just War theory in the modern period, of which Walzer is both inheritor and exemplar. The disentanglement and separation of religious grounds for Just War precepts from secular arguments in the West, however, was not matched by the East. Thus, Hindu associations of war with notions of honour and chivalry continued into modern times to characterize Hindu attitudes towards warfare as evidenced by the Gurkhas of Nepal – a Hindu warrior clan – who still follow the classical Hindu ethos of chivalry, valour, and honour in combat alongside modern military conventions conveyed by the British.[39]

2.6. From Medieval to Contemporary Just War Study

One outcome of increased globalization and intercultural dialogue has been the emergence of several important comparative studies on warfare that place the history and philosphy of Just War reflection in larger cross-cultural reflection. As has been intimated, scholars have realized that "a more thorough exploration of the moral traditions of the world's civilizations" could potentially provide a greater understanding of the "conception of war and its limits to be found in each one" (Johnson, 1999, 227).

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[38] The word "re-emergence" is deliberately used here to remind readers that secular views of Just War date back to the time of Cicero (106-43 B.C.E.) and therefore are not a modern invention.
[39] See Byron Farwell, *The Gurkhas*. New York: W.W. Norton & Company, 1984.

One of the major works in the area of comparative Just War theory is Terry Nardin's edited volume, *The Ethics of War and Peace: Religious and Secular Perspectives* (1996), which embraced a comparative framework. This study elucidated the similarities and differences between Christian, Jewish, and Muslim views on Just Warfare, as well as lauded the merits of comparative study in general. According the book's authors, the underlying rationale of comparative ethical analysis is stated as follows:

> This book … is premised on the idea that conversation across traditions and cultures is itself a good, that mutual understanding is beneficial in a world ravaged by conflict, human suffering, and ongoing suspicion. … Thus we are invited to locate areas for conversation across cultures and traditions, or at least to consider where ethical traditions share common ground (Miller, 1996, 265).[40]

However, this renowned comparative work ignored the religions of India, thereby implicitly dismissing their tremendous impact on world history. Nardin's study, nevertheless, led to further calls for inquiry into other views of Just War in other religions. His volume thus paved the way for additional comparative works on warfare in different cultures, including India, and eventually several publications emerged that attempted to address Indian views of war in a comparative light.

Among the most important of these publications are two that stand out: Torkel Brekke's *The Ethics of War in Asian Civilizations: A Comparative*

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[40] Similarly, Johnson contends that "moral reflection on war can support the development of a strengthened international consensus by exploring avenues for conversation among moral traditions worldwide and be developing those commonly held features that tend toward restraint in the resort to war and the limitation of the conduct of war" (Cited in Brekke, 2006, xi).

Perspective (2006) addressed Asian views of Just Warfare in a comparative framework, which was very useful, but this work utilized western categories of warfare to do its comparative analysis on the ethics of war. The editor justified his stratagem for employing western ethical categories by stating:

> This book explores how issues of ethics in war and warfare have been treated by major ethical traditions of Asia. Much of the conceptual apparatus is drawn from scholarship on the just war tradition in Christianity. These concepts provide the necessary focus and makes comparison across cultural boundaries possible … [Later he adds,] [t]he fundamental questions this book seeks to answer are: To what extent do these traditions correspond to the Christian thinking on just war (*jus ad bellum*) and warfare (*jus in bello*)? [And] To what extent can these traditions be used to illuminate the Western tradition of just war? (Brekke, 2006, ix-x).

Brekke's comments suggest that Asian models of warfare were studied not for their own merits but to cast greater light *on the western traditions*. In other words, western tools of analysis are used to examine foreign materials in order to better understand the western tools. Although such an approach has its strengths, it also has its weaknesses. These weaknesses, in particular, involve, first, biasing the material of study by forcing it to fit foreign categories, and, second, imposing an essentialist and reductionist model on another set of data, which may not have any applicability to the content under investigation.[41]

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[41] Of course, this is not a problem limited to Brekke's study: all scholarship is implicitly or explicitly shaped by its theoretical approach, selected materials, and the choice of method to be adopted for its study. Even the topic to be investigated is indicative of a choice in its value. One's theoretical frame of reference and research tools can thus distort one's findings; but a frame of reference is still needed to begin the journey of understanding. An important first step is to be aware of the distortion process that will inevitably occur in one's study and then to try to measure it. This work attempts to learn from Brekke's approach by highlighting the underlying biases found in Walzer's model of Just Warfare to see where the distortion would apply towards *dharma yuddha*. Although a Western model is used as a starting point, this work

The other seminal work on Asian views of Just Warfare is Howard Hensel's edited volume entitled, *The Prism of Just War: Asian and Western Perspectives on the Legitimate Use of Military Force* (2010). This work pays careful attention to the religious traditions of India and China and their respective attitudes towards warfare. Much like Brekke's volume, Hensel's work reminds readers that Asia's religious traditions are not irrelevant or passé since they continue to inform and enrich Asian military thinking and heritage today.

The above studies are certainly correct in averring that Just War theory can no longer be considered as the exclusive product of Western civilization since thinkers from the East have also made significant contributions to military theorizing in their own spheres of inquiry. It would obviously be highly parochial to ignore their contributions to the historical evolution of Just War thought. One should not be surprised that each culture has wrestled with the perennial problem of war and offered its own distinct answers to the enduring questions: when is war justified and what constitutes proper conduct in war? Despite different answers to these questions, Just War thinking is nevertheless a cross-cultural concern.

Notwithstanding the above-noted studies, an awareness of non-western views of warfare is still wanting. Ironically, the age of European colonialism led to more understanding about non-European approaches to

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advances beyond the Western model by introducing three Hindu-inspired categories of righteous war (See Chapter Four) to provide greater analysis: (1) the 'Compassion/ Non-Cruelty Principle'; (2) the 'Deference Principle'; and (3) the 'Religious Non-interference Principle.' See Chapter Four.

warfare since the Europeans were looking for ways to defeat foreign armies. For example, the growth of the British Empire brought them into conflict with the Indian kingdoms (e.g., Sikhs, Rajputs, etc.) demanding greater understanding of Indian military thinking and tactics resulting in publications on Indian warfare. Correspondingly, in the 20th century, Allied exposure to the Japanese military strategy brought European powers face to face with the Bushido code of warrior conduct (from the Samurai era) that still informed a distinctive Japanese military ethos. Such contacts led to a conscious effort to do military comparisons, which continued after the end of WWII (Victoria, 1997; Heisig and Maraldo, 1995).

From these interactions, greater knowledge of Sunzi's *Art of War,*[42] the Bushido code, Asian martial arts, and Zen's impact on Japanese conduct

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[42] The crowning work of Chinese warfare is Sunzi's *Art of War* (Pinyin: *Sunzi Bingfa)*. Primarily a Realist exposition on military strategy, this text nevertheless shows concern for classic Just War principles such as "discrimination" and "non-combatant" immunity. Open warfare, moreover, was considered the last resort for a leader since Sunzi famously stated that war represented the failure of strategy by covert means: "True victory comes without fighting" (Sun-Tzu, *Art of War,* 1967, 77). Other Chinese military texts containing discourses on just war, include: *Sima fa; Xunzi; Lü shi chun qui; Han shu*; *Huainanzi; Sunzi;* and the *Wuzi.*

The Chinese version of Just War doctrine is called "*yi bing"* (meaning "righteous war"). Scholars Mark E. Lewis (1996, 185-204) and David A. Graff (2010, 195-216), remark that Chinese theories of just warfare are comparable to western models with the significant difference that "the entire area of *jus in bello*, the determination of what sorts of actions were legitimate and illegitimate in the conduct of war is largely absent in Chinese thought" (Graff, 2010, 196). Rather, Chinese discussion of Just War hinged on the roles and responsibilities of the supreme leader in the state. Chinese "ideas of just war were linked to the theory that proper warfare was possible only under the command of a semi-divine ruler who brought killing in the world of men into harmony with the violence of nature" (Lewis, 2006, 185). According to Lewis, "the key point" about the Chinese theory of just war is that "it was primarily a justification of the role of the ruler within a centralized state, and thus defense of the power of the emperor" (2006, 197). Consequently, the criterion of "Right Authority" was the cardinal principle in Chinese just war theory, which emphasized *jus ad bellum* rather than *jus in bello*. "Having justified the use of violence as a method of securing order, little attention was paid to restraints on the forms of degrees of violence" (Lewis, 2006, 197). In the *Analects* (*Lunyu*), Confucius "urged his own master, the Duke of Lu, to launch an immediate attack on [the state of] Qi after its cunning unscrupulous minister had murdered its ruler and usurped the throne" in order to "wage a punitive war to rectify" (Graff, 2010, 200). Such distinctive Just War principles continued to fuel Chinese (especially Confucian) attitudes towards warfare for generations to come. Confucian philosophical arguments regarding the "ruler's virtues were the basis of all military action and that the preservation of

during World War II, interest in Asian attitudes towards warfare started to trickle west.[43] These cross-cultural interactions provided greater awareness of the codes of military conduct among different cultures, and showed that "all cultures have some ideas of what behavior is immoral, unheroic or criminal on the battlefield" (Brekke, 2006, x).

2.7. Methodological Problems in the Comparative Study of Just War

One major problem in the comparative study of Just War thinking is the lack of universal agreement on what the so-called "rules of war" should be, who should make them, who should enforce them, and even whether warfare ought to be a rule-governed activity at all! Modern international agreements

order was the sole justification for war appeared in the chapter 'Debate on Warfare' in the *Xunzi,* a 'Confucian' philosophical work complied in the third century B.C.[E.]", which remained authoritative for most later Chinese rulers (Lewis, 2006, 188). In sum, Chinese texts, support the use of war in limited circumstances as a prerogative of the ruler or to promote punishment and rectification. For more information on Chinese views of warfare see James A. Stroble, "Justification of War in Ancient China," *Asian Philosophy* 8/3 (1998): pp.165-190; and Don J. Wyatt, "In Pursuit of the Great Peace: Wang Dan and the Early Song Evasion of the "Just War" Doctrine," in Don J. Wyatt (ed.), *Battlefronts Real and Imagined: War, Border, and Identity in the Chinese Middle Period.* Palgrave Macmillan (2008): pp 75-110.

[43] The recent turn towards Asia in the comparative ethics of warfare has generated some excellent studies on Just War thinking in the Buddhist tradition. Of particular note are the works of Tessa J. Bartholomeusz (2002), P. D. Premasiri (2003), and Michael K. Jerryson and Mark Juergensmeyer (2010). Both of the aforementioned scholars argue that Buddhist scriptural attitudes towards non-violence do not align with historical practice. These scholars conclude "armed conflict is not compatible with any serious commitment to the Buddhist goal of liberation, but may on occasion be unavoidable in the case of people dealing with mundane affairs" (Premasiri, 2008, 5). In reality, even the relatively non-violent religion of Buddhism contains elements of Just War doctrine, which represents a second layer development built upon its original foundation of non-violent religious teachings. For example, Sri Lankan Buddhism did "not seem to see any contradiction in advocating war for the purpose of safeguarding Buddhism" (Premasiri, 2008, 2-4). According to Bartholomeusz, Sri Lankan Buddhism developed an ambivalent attitude towards war by simultaneously honouring the Pali Canon while developing a Buddhist Just War doctrine to defend the *dharma* against a perceived Tamil threat. In order to develop this distinctive Buddhist Just War doctrine, the theme of righteous warfare between gods (*devas*) and demi-gods (*asuras*) was co-opted from Hindu myths into Buddhist polemics against the Tamil minority in Sri Lanka. Correspondingly, at an ethical level, "Buddhists are confronted with two kinds of enemies to battle against. The first kind is … the unskilled mental states, personified as the armies of death (*mārasenā*). The second kind are those external forces that constantly conspire to destroy Buddhism by weakening the Sinhala race, recognized as the very custodians of the religion who preserved Buddhism in its pristine purity" (Premasiri, 2008, 2).

on the rules of warfare, such as the Hague and Geneva Conventions, were the outcome of a legacy of contentious debates and peculiar historical circumstances. Therefore, these conventions should not be seen as the result of an easy international consensus or a universal ethical *fait accompli*. On the contrary, the modern rules of war were the birth-child of much heartache, bloodshed, and arm-wrangling. Prior to the modern period, there were indeed scattered treaties regulating wartime conduct, medieval codes of chivalry, and long-standing customs of diplomatic immunity but these were disjointed rather than coherent and cohesive.

Analogous to many other fields of study, the comparative study of Just War theory has its own supporters and detractors. Much of the distrust for comparative study in general arises from the fear that comparison leads to obfuscating the two entities being compared.[44] It has often been argued that comparativism is another type of methodological imperialism or Orientalism imposed on "other" groups in which the dominant colonial categories are used to distort and marginalize what is being compared, rather than being used to elucidate. For instance, Jeremy Black (2004) delineates problems of comparison in the specific context of Just War theory. He argues, "the academic study of the ethics of war has harbored an element of Eurocentrism comparable to that found in the field of military history" which distorts the subject matter (cited in Brekke, 2006, ix). Other scholars make similar

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[44] See for example: Jonathan Z. Smith, "*Adde Parvum Parvo Magnus Acervus Erit*," *History of Religions* 1971 The University of Chicago Press, 67-78. See also: R. Feleppa, Convention, Translation and Understanding; Philosophical Problems in the Comparative Study of Culture (Albany, 1988).

arguments by pointing out the alleged incommensurate nature of entities being compared or their contradictory underlying assumptions. Henrik Syse (2009, 201) states that Just War theory has mistakenly been seen as an exclusively European concern:

> Hence, in confronting terrorism, or in debating civil war in non-Christian countries, the existence of a culture clash has often been taken for granted. It is a task of primary importance for philosophers, theologians, and historians of ideas and religion to show us whether, and how, such a clash can be avoided.

For a similar reason, some scholars consciously reject using so-called western categories to examine and investigate materials from other cultures and religious traditions. As a case in point, Lannoy deliberately avoids using stock political science categories in his treatment of India's political culture and landscape:

> The usual terminology of modern political science will be avoided [in this study of India], as it tends to project nuances of meaning on the Indian situation which are alien to it. Such terms as 'contractual theory of kingship', 'sovereignty', 'nation state', 'village democracy', and 'tribal republicanism' are of no more than limited use, and Western-type institutional terminology should not be applied to the political system of pre-British India (1971, 215).

Building on this point, a good list of the common objections made to the comparative study of ethics is identified by Nardin, including: [1] the charge that ethical viewpoints "are not comparable entities"; [2] Whereas some ethical viewpoints are "explicitly based on religious premises, […] others are not"; [3] "Although some display impressive coherence, others are marked by wrenching disagreement"; and [4] "Some are historical traditions, others

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philosophical constructs" (1996, 5). For these reasons, Nardin admits that the "comparative study of international ethics raises some difficult methodological issues." Indeed, critical questions arise in any comparative overview of Just War theory such as the following:

- Are the rules the same in appearance or in substance?
- Are they based on similar or divergent assumptions making them incommensurate?
- Can different rules still share similar underlying values?
- How do these rules fit into greater conceptions of time, cosmologies, and eschatologies?
- Are the categories used to study Just War primarily 'Western categories'?
- Are they primarily political categories or religious categories or ethical categories?
- Do the categories have interdisciplinary value?
- Is war a valid means or tool for resolving inter-state, group, or religious differences? (Of course, not all wars are between states so we need to distinguish both the level of analysis and the combatants in the conflict.)
- Are political categories such as "Realism" and "Idealism" useful for analyzing religious views of warfare?

This list of questions poses challenging issues for Just War theorists in the framework of comparative study. These challenges provide both opportunities for greater understanding as well as fodder for further debate.

In contrast to the detractors of comparative study, proponents such as Brekke (2006), Sorabji/ Rodin (2006), and Nardin (1996), provide compelling arguments in favour of comparative Just War thinking. For instance, Nardin's view on this issue is worth quoting in full:

Despite the hazards of the enterprise, there is much to be learned from the comparison of different viewpoints, even when they rest on different assumptions and are expressed in different idioms. Noncomparability may be a problem in statistical studies, where one is trying to isolate relations between certain variables while holding others constant, but it is irrelevant to the comparison of ideas or practices: the fact that two viewpoints may be different in significant ways is a conclusion, not an obstacle to understanding. Thus, it cannot be an objection to the comparative study of ethical viewpoints that some are religious and others secular. … Nor is comparison barred by the fact that some viewpoints display substantial agreement on war and peace issues whereas others do not. The extent to which there is or is not agreement within a given viewpoint is something we want to discover and to understand (Nardin, 1996, 5-6).

Building on this premise, Brekke also argues for the pursuit of comparative study in the ethics of warfare:

I believe that a thorough investigation of the ethics of war in different cultures might yield answers to questions of whether the core principles of the ethics of war are universal. For instance, if we find that all traditions condemn the killing of innocent bystanders as immoral or criminal, is it not fair to use such a fact to counter claims of relativism in global discourse about ethics across cultures? (2006, xii)

Each of the authors noted above is convinced that the comparative approach is not only a fruitful academically but also an ethically compelling pursuit.

In an attempt to answer these questions, scholars often differentiate various types of war to see where "Just Wars" fit into the continuum of human violence. The section below delineates four often-discussed types of warfare to gain greater clarity about the defining features of "Just Wars" *vis-à-vis* other models of war.

2.8. Toward a Typology of Warfare: Four Paradigms of War

The preceding section has demonstrated that not all wars are alike nor are the motivations (or goals) of war always the same. Despite the underlying premise that all wars involve conflict of some nature and degree, it is also true that wars are understood in different ways, with radically divergent implications. Conflicting conceptualizations of warfare are reflected in the commensurately combative debates surrounding the methods in which wars have been defined and understood. Both the scholarly and tactical literature on warfare delineate several types of war that help readers to distinguish the "Just War' position.

Generally speaking, one can identify four broad types[45] or paradigms of warfare, which embody very different ways of understanding war:

1.   **Anti-war Positions;**
2.   **Holy War Positions;**
3.   **Just War Positions;**
4.   **Expedient War Positions**

Each of these four types of warfare has its own legions of defenders and longstanding supporting arguments. Their key features and underlying presuppositions will be outlined below with the aim of seeing where Just War theory fits into this spectrum.

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[45] Other typologies of warfare differentiate wars based on their level of overt violence and hostility (e.g., the terms Hot Wars and Cold Wars) or by their primary type of weaponry used (e.g., Nuclear War), or by their arena of combat (e.g., Naval warfare, Guerilla Warfare, Civil Wars, and Cyber Warfare"). Many of these typologies provide a useful level of secondary analysis, allowing scholars to do both first order and second order theorizing. According to Alexander Wendt, "first-order theorizing is domain specific" whereas second-order theorizing allows for broader insight across domains (1999, p. 6).

2.8.1. *Anti-War Positions*

Throughout human history, a variety of groups and individuals around the world have rejected the use of force as a valid way to settle disputes. Such groups denounce violence as an inappropriate method of conflict resolution. Among the most famous exemplars of anti-war perspectives are the Doukhobors of Russia/ Canada and the Jains of India.[46] Many other non-violent groups can be found throughout the world, including adherents of political movements supporting Civil Disobedience, Pacifism, and Abolitionism. Virtually all religions also possess proponents of peace who condemn any form of war as a "circus of slaughter" (Walzer, 2000, 35).

Some religions (e.g., Christianity and Hinduism) contain both elements (i.e., anti-war and pro-war positions). As we have seen, Christianity started as a pacifist movement but adopted Just War doctrine as it evolved; conversely, the early period of Vedic Hinduism was characterized by frequent warfare but eventually evolved towards non-violence as a higher ethic. Yet, violence lurks in the shadows of both traditions as seen in their mythologies and eschatological visions of the future. Therefore, in many cases both peace and non-violence co-exist hand-in-hand. As Walzer shrewdly comments:

> The dream of a war to end war, the myth of Armageddon (the last
> battle), the vision of the lion lying down with the lamb – all these

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[46] However, exceptions to these examples could be cited. For instance, some Jain kings of India fought wars to defend their kingdoms from attack. See Robert J. Zydenbos, "Jainism as the Religion of Non-Violence," in K.R. van Kooij and J.E.M. Houben (eds.) *Violence Denied. Violence, Non-violence and the Rationalization of Violence in South Asian Cultural History*. Leiden: Brill, 1999: pp. 185-210.

point toward an age definitively peaceful, a distant age that lies across some unknown time-break, without armed struggle and systematic killing. [Paradoxically, it] will not come, so we have been told, until the forces of evil have been decisively defeated and mankind freed forever from the lust of conquest and domination (2000, 329).

Such prophecies of eschatological peace woven into the doctrinal fabric of the world's religions are ironically brought about by violence. Perhaps it is for this reason that Anti-War activists attempt to draw the line as clearly as possible to outlaw *all* wars, religious or otherwise. Pacifists, therefore, are often cynical about the very idea of rules to govern warfare. After all, rules only serve, they suggest, to make us forget that war is "the vilest thing in life" as Leo Tolstoy once stated.[47]

Often admired for their commitment to peace, the Anti-War and Pacifist camp "sidelines *ius in bello* issues because its aim is not to develop a casuistry of fighting but to re-center the debate by drawing the line between war and peace rather than between fighting fair and fighting dirty" (Nardin, 259). However, one of the major implications of the Anti-war ethos is that its "blanket condemnation of war, bars itself from articulating an ethic of military conduct" (Nardin, 1996, 259).

2.8.2. *Just War Positions*

What distinguishes Just War theory from the Anti-War positions is its acceptance of war in certain situations as well as its attempts to restrain the

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[47] Leo Tolstoy, *War and Peace*, trans. Rosemary Edwards, 2 vols. (Harmondsworth, England: Penguin, 1957): Part Ten, XXV.

barbarity of war by imposing rules on its combatants. Just War theory attempts clearly to demarcate the legitimate targets of military destruction as well as identify the proper grounds for engaging in hostilities. In other words, Just War doctrine sets out the rules of the deadly game of destruction. Yet, these rules of the game reflect the deeper belief that moral restrictions ought to be placed on war to ensure that the flames of destruction do not consume the innocent (i.e., non-combatants). This is why Walzer insists that "Just wars are limited wars" because they are limited in scope, targets, and duration. Additionally, they are limited in cosmic significance (2000, 122).[48] Proponents of Just Wars, therefore, see Just War theory as a foil to restrain the fanatics of holy wars by putting their arguments under the microscope of moral scrutiny rather than letting them become consumed with the flames of religious fanaticism. The moral scrutiny that Just War theorist place on both the grounds and conduct of war is thought to keep the combatants in check, which Realists of course mock as unrealistic. Suffice it to say, Realists have little patience for such moral pontificating in Just War discourse, and in a cognate way, the passions of so-called "holy warriors" are difficult to dampen once aroused.

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[48] The term "cosmic significance" is important because it underlines Walzer's view that Just Wars are finite wars and not ongoing cosmic struggles of religious proportions. He writes "We need to seek the legitimate ends of war, the goals that can rightly be aimed at. These will also be the limits of a just war. Once they are won, or once they are within political reach, the fighting should stop" (2000, 110). Holy Wars often demand absolute unconditional surrender or submission to the victor (or victor's religion) with an unyielding fanaticism based on an envisioned struggle of cosmic dualism. Walzer states "A crusade is a war fought for religious or ideological purposes. It aims not at defense or law enforcement, but at the creation of new political orders and at mass conversations. It is the international equivalent of religious persecution and political repression, and it is obviously ruled out by the argument for justice" (2000, 114).

In contrast to Pacifism and Realism, Just War supporters argue that their approach to warfare is the most reasonable and balanced. They reject the Anti-war arguments on the grounds that appeasement of tyranny is a greater injustice than fighting a war (Walzer, 2000, 68). They also argue that the notion of a "war crime" presupposes the common public belief that some laws must apply to wars or else the notion of a war crime would not make sense. But what are these laws of warfare? It is now necessary to define them and to identify their specific criteria.

The rules of Just Warfare (*bellum justum*) are traditionally divided into two areas of analysis with Latin headings: (1) *Jus ad bellum* (justification of a war) and (2) *Jus in bello* (just means of fighting war). Both these aspects have their own specific criteria deriving from a long history of secular and religious thinking about the nature, legitimacy, and scope of warfare. Over time, these criteria coalesced into what have become six standard Just War criteria in the 21st century:

Jus ad bellum (justice in going to war):

1. *Just Cause* (War cannot be fought for selfish reasons);

2. *Legitimate Authority* (War must be declared by proper leaders);

3. *Reasonable Hope of Success* (War cannot be fought for a lost cause);

4. *Right Intention* (Wars must be fought to do good – not out of spite or revenge);

5. *Proportionality* (Wars must be equal in response to the injustice);

6. *Last Resort* (All efforts must be made to prevent war first).

Jus in bello **(just fighting in war):**

1. *Discrimination* (Efforts must be made to avoid killing civilians/ non-combatanats);

2. *Proportionality* (War must not use weapons or tactics that are disproportionate to the forces fought).

Even though Just Wars are supposed to be regulated by these criteria, it should also be noted that there are different motivations for Just Wars that underlie different views and approaches to just war practice. Among the primary motivations for Just Wars are: 1) Natural Law; 2) Utilitarianism; 3) Human Rights; 4) Social Contract; and 5) International Law. Briefly put, Utilitarian theories of Just War aim to prevent excessive harm to the greatest number of people for the greater good. Human Rights theories emphasize just wars to prevent human rights violations. The Catholic Natural Law tradition justified wars in terms of "self-defense or punishment of wrongdoing" (Miller, 1996, 274). Social contract theory and international law emphasized the responsibility of society, the state, and the international community to protect its members from war. Thus, different philosophical grounds are used to support Just War theories, which all seek to restrain and regulate the conduct and occasion of warfare. Walzer also employs these six criteria in his work,[49] with his own amendments to be examined in Chapter Three.

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[49] Since Walzer's book on *Just and Unjust Wars* does not address the issue of *jus post bellum* (justice after war), it will be excluded from the present study. Nevertheless, those wishing to learn more about Hindu attitudes toward post-war reconcilation after victory should see the *Laws of Manu* (Ch. 7. 201-204) as well

2.8.3 *Holy War Positions*

Throughout history, "Holy Wars" were certainly one of the most feared types of wars because their perpetrators were often convinced that the enemy was demonic and evil and therefore it needed to be eradicated without any leniency, often with brutal violence. These types of wars were also envisioned as serving a larger divine plan. Suffice it to say, many wars have raged in the name of religion and although some scholars, such as Mark Jeurgensmeyer have argued that these wars are really about other issues (such as territory, power, or recognition), in which religion masks other causes, this may not always be the case (2002, 6). Conversely, Charles Selengut contends that religion is not the victim or pawn of secular struggles but instead religion is responsible for planting the metaphysical seeds of superiority and out-group hostility (2003, 13)—seeds that developed into metaphysical monsters.

When discussing Holy War, it is necessary to differentiate at least two types or models of Holy War: first, we can speak of Holy War as a "commanded struggle," and second we can speak of Holy War as an "allegorical struggle".[50] Although the two types are not mutually exclusive (e.g., an allegorical war can also be a commanded war), the former emphasizes the belief that the Divine (or the Divine's representatives on

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as Kauṭilya's *Arthaśāstra*. These texts show that the standard procedure in classical Indian warfare following victory was for a defeated king to be "reinstated on the throne (or his son or kin if he had died in battle) and permitted to maintain his own customs and laws as long as he accepted the victor's suzerainty. Because of this, victors [were to] offer help to defeated kings, hold their hands with affection, and show tears of sympathetic identification with their plight in order to facilitate the transition and solicit their loyalty" (Young, 2004, 284-285).

[50] These labels were coined by the author.

earth) have demanded and authorized military violence for certain reasons (which may be known only to the Divine), and these commands must be followed. Alternatively, the second type of "allegorical wars" refers to colourful stories of mythological violence that seek to edify rather than to destroy. Whereas the former takes place on the physical plane, the latter is an abstract notion. Therefore, Holy War "has a dual reference in [religious] traditions: it is both the actual clash of armies and a metaphor for disorder" (Nardin, 1996, 247).

The commanded type of Holy War is exemplified in the Hebrew Bible in which God commands his chosen people to go to war to eliminate idolatry from the land of the Canaanites and to stop their "abominations" (Walzer 1996, 105). Other examples would include the Christian Crusades of the Middle Ages authorized by popes, as well as calls for *jihad* against infidels authorized by proper Muslim authorities.

"Allegorical Holy Wars" are fought at a metaphorical level of interpretation. For example, the spiritual warfare of the early Christian monastics was seen as a real type of warfare but one operating on a spiritual plane. These were also Holy Wars but they did not necessarily involve physical violence. They may have involved spiritual violence (which is not necessarily less savage) but it took place at a different level between Satan and God, and/or angels and demons. The notion of allegorical warfare also applies to the Hindu context. As Lubin explains:

> [Much of the] mythology that lies at the heart of medieval and modern Hinduism consists of stories of battles between the gods and the demons. This tradition of celestial warfare can in fact be traced all the way back to the Vedas, where the gods, or *devas*, are led by Indra battle against the demons, or *asuras*. In this Vedic context, the gods and demons symbolize good versus evil and order versus chaos, but they also transparently represent the human tribes of Vedic Aryas and non-Aryas (2004, 166).

As can be seen, Just War thinking contrasts with Holy War models because the latter typically sees the universe as already locked in a deadly struggle for cosmic victory in which one must take sides or go to hell—a fate worse than death. The former seeks to restrict war so both sides are not ravaged by destruction.[51] From a Just War perspective, the devastation and destruction caused by wars are worse than the desecration caused by the continued existence of an alleged "demonic" enemy. Yet, there is a fine line between these two models of war and sometimes their boundaries become blurred.[52] Even in the Hindu context, both Holy War and *dharma yuddha* are not easily separable.[53] Walzer warns that Just Wars can turn into crusades when their aim is for "total victory" and "unconditional surrender," which are akin to absolute religious goals (2000, 110). He asserts that it is thus vital to "draw the line between just wars and crusades as clearly as we can" (2000, 114).

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[51] Brekke (2006) notes that the *locus classicus* for this distinction is Roland H. Bainton, *Christian Attitudes toward War and Peace: A Historical Survey and Critical Re-evaluation,* (NY: Abingdon Press, 1960), 25.

[52] Davis argues it is highly problematic to differentiate just wars from holy wars because the two are often integrated together. He writes that the "distinction between just war and holy war, of which the crusade is supposedly the prime example, is more trouble than it was ever worth. Wars of self-defense, or to recover property, were clearly just" and "the advocates of crusade, whether it was crusade to the East or against European heretics, perceived the endeavor as just. What we call the just war tradition is an attempt to clarify the conditions which must be met for a war to be fought in good conscience" (2006, 5-6).

[53] According to Katherine Young, wars fought over religious superiority were rare in India prior to the advent of Islam. See "Just War Theory in South Asia: Indic Success, Sri Lankan Failure?" (2009, 37-68).

2.8.4. *Expedient War Positions*

Realists condemn Just War thinking even more forcibly than Pacifists. Realists embrace notions of "Expedient Warfare" to advance a speedy victory and they advance four principal objections to Just War theory: (1) States' interests always trump considerations like religion and morality; (2) The rules of war are found to stand in the way of victory and the "greatest kindness in war," wrote Prussian General Helmuth von Moltke, "is to bring it to a speedy conclusion" (Walzer, 2000, 47). Consequently, expedient means should be promoted to attain victory by any way possible; (3) Morality is an unreliable and fickle source for human relations in war, which "plays upon the common experience of moral disagreement—painful, sustained, exasperating, and endless" (Walzer, 2000, 11); and, finally, (4) "War is justified (as in Hobbes' philosophy) by fear alone and not by anything other states actually do or any signs they give of their malign intentions. Prudent rules assume malign intentions" (Walzer, 2000, 77). The views of several specific Realists (such as Thucydides, Hobbes, Clausewitz and Kauṭilya) all claimed that the ends of war justify the means.

2.9. Chapter Conclusions

In summary, it has been shown that long before the regulation of warfare in the modern age through international laws and conventions, the ancient world had generated its own customs to govern the practice of war. These

customs were actually widespread. Arising from sacred oaths, religious traditions, secular statecraft, and legal conventions, parallel rules of war developed in different places across different cultures. Although these rules were not always followed, they nevertheless reflected humanity's common concern with restricting the brutality of war and minimizing civilian casualties. Civilized rules of warfare were thus practiced long before the development of Christianity, and Christian Just War doctrine is only one form of Just War thinking in the world. Western Just War principles arose out of Greco-Roman antecedents that were expanded upon by the writings of Augustine and Aquinas, among others. Similarly, Islamic rules of warfare were indebted to earlier inherited traditions from pre-Islamic Arabian culture. Hindu rules of warfare, as will be shown in Chapter IV, were also shaped by interaction with the Persian Empire, the Macedonian armies of Alexander the Great, and intra-religious discussions with other Indian groups. Thus, simultaneous concepts of Just War developed in many cultures through comparative reflection and cross-cultural military symbiosis.

At the same time, however, respective religious and cultural ideas about the conduct of war were not necessarily based on common assumptions about human political, social or metaphysical relations. Whereas Realists saw humans as untrustworthy, Idealists focused on the alleged fraternal tendencies in humanity. Both of these poles of thought are important to keep in mind. It has been shown that Just War thinking was a product of cross-

cultural interaction and an innately comparative exercise. Its proponents juggled philosophy, theology, legal jurisprudence, political ideology, and moral reflection in their intellectual casuistry. War was—and remains—an issue that transcends cultural, religious, and academic boundaries. As such, it was an interdisciplinary subject of reflection from the very beginning.

CHAPTER THREE:

WALZER'S THEORY OF JUST WAR AND ITS UNDERLYING ASSUMPTIONS

3.1. Introduction

Assessing Michael Walzer's theory of Just War requires, firstly, an understanding of the central arguments that underpin his approach to war as well as a need to probe the moral and ideological presuppositions that Walzer brings to his work. The purpose of this chapter, accordingly, is to sketch out Walzer's conception of Just War in order to delineate his premises and assumptions. The primary goals are twofold: (1) to identify Walzer's underlying ideological convictions and *a priori* assumptions about human nature and ethics; and (2) to faithfully present Walzer's arguments about Just War as a necessary prerequisite to comparing his model with Hindu notions of *dharma yuddha*. In this manner, Chapter III will sketch out Walzer's intellectual and moral stance on warfare that has shaped his model of Just War theory, which will also be elucidated.

3.2. Situating Walzer's Identity

Michael Walzer is an American political theorist who has written extensively on a wide variety of topics ranging from Puritan revolutionaries to Just War theory, to political obligation, spheres of justice, social criticism, nationalism,

toleration, and ethnicity.[54]   Coming from a secular Jewish background that valued both group-community identity as well as an awareness of history, Walzer's numerous scholarly works reflect both a communitarian character and an inductive method of argumentation that draw upon the use of copious historical case studies to formulate and bolster his arguments.   Since the 1980s, Walzer has taught at the Institute for Advanced Study in Princeton University, New Jersey.   Prior to that time, he worked at Harvard University where he penned his famous work *Just and Unjust Wars: An Argument for our Time* (1977) in response to the moral dilemmas posed by the Vietnam War.   He was a vocal critic of the Vietnam War but realized that effective intellectual protest needed to be grounded in sophisticated argument based on moral principles. However, contrary to the anti-war protests of the counter-culture movement during the 1960s and 1970s, Walzer was not (and is not) a pacifist.   Many of the protestors of the Vietnam War were not pacifists; they objected to a specific war, not to war in general.   Accordingly, Walzer argued that certain occasions and circumstances necessitate going to war although he believed that the Vietnam War did not fall into this category.   His landmark book *Just and Unjust War* was thus an attempt to articulate and rationalize the criteria of just and unjust wars, drawing upon a longstanding tradition of Just War thinking already found in the West.

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[54] See, for example, his following works: *Obligations* (Cambridge, Mass: Harvard University Press, 1970); *Radical Principles* (New York, Basic Books, 1980); *Spheres of Justice* (New York: Basic Books, 1983); *The Company of Critics* (New York: basic Books, 1988); *Interpretation and Social Criticism* (Cambridge, Mass.: Harvard University Press, 1987).

Walzer's criticism of the Vietnam War on moral grounds helped him to become a recognized leading social critic whose ideological views leaned towards the left of the political spectrum. Even today, Walzer's leftist tendencies are evidenced in his contributions to the journal *Dissent,* the leading publication of American democratic socialism. Nevertheless, the voluminous writings that emerged from Walzer's five-decade long academic career posit a number of interconnected ideological and moral viewpoints that transcend easy categorization as merely "socialist". Given the staunch moral and political convictions found in his numerous works, Walzer has been classified by his friends and critics alike with a number of diverse labels: for instance, he has been called a "communitarian" by political theorists (Benewick and Green 1998, 250), a "permissive liberal" by Realists (Hendrickson 2006), a "leftist" by conservatives (Unger 1967), as an "Anti-war protester/sympathizer" by American Government officials (Taylor 1981), and as a "radical" theorist (Dworkin 1983) by those who fancy themselves as somehow in the political center. Indeed, it would seem that Walzer fits all of these labels at different times of his career depending on his writings in question, the specific ideological agendas of his critics, and Walzer's own ideological positioning.[55]

Despite the popularity of his landmark work *Just and Unjust Wars*, Walzer's *magnum opus* is widely deemed to be his *Spheres of Justice: A*

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[55] For example, the titles of Walzer's following writings reveal some of his ideological commitments: *Radical Principles: Reflections of an Unreconstructed Democrat* (New York: Basic Books, 1980); "The Communitarian Critique of Liberalism," *Political Theory,* Vol. 18, No. 1. (Feb., 1990), pp. 6-23.

Defense of Pluralism and Equality (1983), wherein he makes an argument for what he calls "complex equality" as opposed to "simple equality". In this book, Walzer contends that the American people are fundamentally shaped by pluralistic liberalism (meaning an open and competing marketplace of ideas and goods), which necessitates a notion of distributive justice based on different rules of distribution for different things—such as money and love. Thus he propounds a vision of "complex equality" that is tied to communitarian notions of justice that operate within their own spheres, in order to transcend the simplistic vision of equality as a one–size–fits–all concept of justice. Walzer's view is further explained by Benewick and Green:

> Walzer asserts that the various principles of justice in each sphere are local rather than universal: they can be based only on the communal understandings of a particular population with an historical identity. Walzer extends this argument in … *Just and Unjust Wars* (1977), which makes the boundaries of the nation-state central to such issues as the permissible limits to external intervention in civil wars. Because of his attachment to local rather than general principles of justice, and his arguments about the moral legitimacy of the nation-state and the need for critical intellectuals to be socially rooted, Walzer is often taken to be a major (perhaps *the* major) voice of the "communitarian" turn in late-twentieth century (Benewick and Green, 1998, 250).

Given his prominence in propagating this theoretical framework, Walzer is often considered to be one of the leading members of the "communitarian" position in political theory, as seen in Walzer's article "The Communitarian Critique of Liberalism" (Walzer in Etzioni, 1995). In essence, Walzer contends that political theory must be grounded in the traditions and cultures of particular societies rather than derived from abstract principles of political

philosophy. Hence, communitarians like him reject the "overly abstract individualism of liberalism, [and instead] argue, methodologically, for the inevitable embeddedness of individuals in a concrete social order" (Benewick and Green, 1998, 250). Thus, multiple publications spanning Walzer's long career, such as *The Company of Critics* (1988), *Interpretation and Social Criticism* (1987), and, of course, his *Spheres of Justice* itself (1983), promote a communitarian ethos that grounds moral discourse and social criticism in concrete localized societal principles. Yet, as a so-called 'communitarian social critic', Walzer's position has been challenged and attacked as inconsistent since he seems to take stances that undermine his fundamental communalist perspective. For instance, it has been pointed out that "*Spheres of Justice* strikingly concludes with a plea for what looks suspiciously like a (liberal) version of democratic socialism: a political stance that does not appear to be strongly embedded in the notoriously unsocialist American polity" (Benewick and Green, 1998, 251). His critics have even questioned whether Walzer is actually a "communitarian" himself (Benewick and Green, 1998, 251), a question which could be echoed upon a closer examination of his arguments about Just War theory since Walzer's comments about universal morality, as shall be shown, undermine his communitarian stance.

Perhaps the most important characteristic of Walzer's identity pertaining to the current examination of his writings on Just War is his self-referential identity as a "moral critic" of war (Walzer 2000, xviii, xx, xxi, 3; cf.

Kupfer 2003). First and foremost, Walzer calls himself a moral theorist, for he says in no uncertain terms that morality is central to his argument about Just War theory: thus, he remarks, "I am going to assume throughout [my book on *Just and Unjust War*] that we really do act within a moral world" (Walzer, 2000, 20) and that "for as long as men and women have talked about war, they have talked about it in terms of right and wrong" (Walzer, 2000, 3). Indeed, pronouncements about morality colour Walzer's entire analysis of Just War theory. While his writing comes across as eminently reasoned, carefully argued, expertly nuanced, and well-thought out, it is abundantly evident that his moral convictions and passionate ethical beliefs fuel his careful arguments. It is notable that Walzer's book was written in the era of the Vietnam War, while he was openly protesting, and he channeled his disgust for this specific war into his academic writing. It is a testament to Walzer that he was able to convey his firm stance against this specific war rather impassionedly in his book. His own Just War theory was brilliantly crafted by induction in which he took numerous examples of specific historical wars and derived an overarching pattern from his research data, thereby providing a more social-scientific veneer to his moral argument. Thus, the context in which the book was written was Walzer's own political, moral, and ideological struggle to make sense of the phenomenon of war in America's battle against Communism in 1960s, which played out in the jungles of Vietnam.   That is the context for his writings.

3.3. Understanding Walzer's Views of Morality

Walzer's theory of Just War is based on the theoretical assumption that war is (and ought to be) always subject to moral scrutiny to evaluate wartime violations of moral conduct. A key assumption of his book is that all cultures have a sense of what constitutes wartime atrocities and each draws the line between just and unjust actions. He adds that in all cultures, "[w]arfare cannot be isolated from moral life" (Walzer, 2000, 64) and cognate "rules of war … are made obligatory by *the general consent of mankind*" (italics mine; Walzer, 2000, 47). Furthermore, Walzer argues that Just Wars are "closely connected to *universal notions of right and wrong*" (italics mine; 2000, 42) Rather than downplay this premise (or relegate it to a minor footnote), Walzer champions this tenet as a fundamental pillar of his work. He writes:

> I am going to *assume* throughout that we really do act within a moral world; … that language reflects the moral world and gives us access to it; and finally that our understanding of the moral vocabulary is sufficiently common and stable so that shared judgments are possible (Walzer, 2000, 20).

For Walzer then, a common underlying morality is the very language that makes discourse on war meaningful across cultures.

Given the seminal position of morality in his writings on Just War, it is necessary to ask to what extent Walzer recognizes and discusses difficulties of moral discourse in his thinking on Just War. Does his writing present any awareness of the potential problems and pitfalls in suggesting a universal moral theory of Just War for all cultures and religions? Does he offer any

pre-emptive justifications and rationalizations for making such bold and potentially arrogant claims? Surprisingly, the answers to these questions are all affirmative. Not only does Walzer acknowledge the potential problems inherent in moral discourse about war but he also goes to great lengths to provide a comprehensive and cogent theory that attempts to mitigate any criticisms of his approach by torpedoing his enemies' arguments before they can unravel his finely woven argument. Nevertheless, it still appears to this author that Walzer's premise of an underlying universal morality is the 'Achilles' Heel' of his book, *Just and Unjust Wars*. Afterall, if it can be proven that Walzer's arguments do not apply to billions of people in non-western cultures then his theory will indeed be undermined.

One of the central questions to be taken up later in this work is to what degree Walzer's theory of Just War is compatible with Hindu notions of *dharma yuddha*? In this light, Walzer's key assumption of a universal morality needs to be assessed for its relevancy to traditional Hindu models of war to see whether it is an artificially imposed idea that finds no Indic equivalent. Did such questions of cross-cultural relevance concern Walzer in his theorizing about war? Was he ever troubled by the question of his morality's applicability to other cultures, races, and religions? Once again, the answers seem to be affirmative. Evidence of Walzer's deliberation about morality's cross-cultural relevance can be found in the following passage from his book *Just and Unjust Wars*. He recognizes that his theoretical approach

to Just War stands or falls on the notion of a shared universal morality based on human rights:

> [Our] common morality is the critical assumption of this book; … The morality I shall expound in its philosophical form is a doctrine of human rights; … Perhaps there are other worlds to whose inhabitants the arguments I am making would seem incomprehensible and bizarre. But no such people are likely to read this book. And if my own readers find my arguments incomprehensible and bizarre, that will not be because of the impossibility of moral discourse or the inconstant signification of the words I use, but because of my own failure to grasp and expound our common morality (Walzer, 2000, 20).

By way of analogy, one could say that Walzer lays down his cards here (by revealing his convictions towards human rights) but at the same time he acknowledges other ways of playing cards (non-rights-centric moralities) in other cultures. He further suggests that since multiple cultures still play card games then they share a common moral vocabulary (rules governing card games) even if their cultural values are not entirely aligned. As a case in point, he intimates that the ancient Athenians shared a moral vocabulary with people from other places such as the peoples of Mytilene and Melos. He extrapolates from this point that "allowing for cultural differences, they share it with us too. They had no difficulty, and we have none, in understanding the claim of the Melian magistrates that the invasion of their island was unjust" (Walzer, 2000, 11). However, Walzer's illustration here is somewhat self-serving since it consists of two city-state peoples from a similar cultural sphere in the ancient Mediterranean world. Conversely, how would Walzer's hypothesis of universal morality apply to radically dissimilar cultures across

time and place in different parts of the world, or to cultures who reject 'card games' altogether?   Walzer is aware of this question and he attempts to pre-empt this potential criticism of his theory by suggesting that even dissimilar cultures do share a similar underlying common morality when it comes to the conduct of war even if they practice war differently:

> Between radically separate and dissimilar cultures, one can expect to find radical dichotomies in perceptions and understanding. No doubt the moral reality of war is not the same for us as it was for Genghis Khan; nor is the strategic reality. But even fundamental social and political transformations within a particular culture may well leave the moral world intact or at least sufficiently whole so that we can still be said to share it with our ancestors. … Even when world views and high ideals have been abandoned—as the glorification of aristocratic chivalry was abandoned in early modern times—notions about right conduct are remarkably persistent: the military code survives the death of warrior idealism (2000, 16).

Consequently, Walzer is convinced that our shared humanity makes the issue of common moral judgments in warfare mutually intelligible across cultures. Even though our moral judgments may vary in different cultures, he argues that all human cultures still judge war based on a set of moral criteria and the framework in which they operate, and he stresses that this "moral reality of war is not fixed by the actual activities of soldiers but by the opinions of [hu]mankind" (Walzer, 2000, 15).

Walzer's forthright acknowledgement of his moral presuppositions is to be commended. He does not operate in the theoretical shadows of camouflaged assumptions but marches forward in the open field to engage in the battle of ideas. Perhaps his views may simply reflect his deep-rooted

socio-psychological upbringing within the orbit of secular Judaism.[56] Walzer would also have been exposed to rabbinical notions of universal moral principles that apply to everyone at all times.[57]

Regardless of whether one agrees with Walzer or not, his assumption of universal morality requires careful consideration because Walzer is not an expert in the moral discourses of other cultures, which he admits when he writes that "Perhaps there are other [moral] worlds to whose inhabitants the arguments I am going to make would seem incomprehensible and bizarre. But no such people are likely to read this book" (Walzer, 2000, 20). Whether intended or not, Walzer's words here convey a condescending paternalism towards non-universalistic notions of morality. His remarks do not come

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[56] Indeed, Walzer has written on Jewish views of Just War, and has concluded that classical Judiasm lacked a developed theory of unjust wars. He argues that before modern times there was no such thing as a Jewish Just War theory (1996, 104). Rather rabbinic reflection on warfare had only two categories: (1) wars that were commanded by God (Hebrew: *mitzvah*) such as the biblical conquest of the land of Cannan; and (2) wars permitted Israel's King David (Hebrew: *reshut)*. The Book of Deuteronomy allows territorial expansion in military campaigns to conquer "cities which are very far off from thee" (20:15). However, Nardin notes that such wars were difficult to wage because of restrictions placed by the rabbis such as the rule that "the war must be approved by the (long-defunct) Sanhedrin. In this way, the rabbis limited wars of aggression in the face of biblical passages endorsing them" (1996, 252). Walzer contends that "[s]ince commanded/permitted does not translate into just/unjust, there is nothing in the Jewish tradition that requires, or even that provides a vocabulary for, a moral investigation of particular Jewish [Just] wars" (1996, 104). In order for Judaism to adopt Just War thinking it needs, he suggests, to add a "missing third category–the banned or forbidden war" (1996, 97).

Not all scholars, however, agree with Walzer's assessment that there is no such thing as Jewish Just War theory. Ravitzky, for instance, argues that rabbinical discourse does include a prototypical Just War doctrine. As a case in point, he notes documented rabbinical debates on standard Just War criteria such as "just cause," "right authority," "last resort," "proportionality," "proper authority," and "discrimination" (1996, 116). Although there was no systematic attempt to construct a comprehensive Jewish Just War doctrine, Ravitzky shows that there were still discussions of elements of Just War thinking within rabbinical exegesis. For instance, it is significant that the rabbis determined that going to war on the sacred *Shabbat* (Sabbath) was an acceptable Jewish action in violation of previous Sabbath rules*, which shows how seriously war was taken as a grave responsibility to protect the Jewish community from harm).

[57] According to rabbinical Judaism, there are seven universal laws that apply to all people regardless of class, race, or religion. These seven laws are called the "Noahide Laws" and it is said that non-Jewish adherance to these universal laws allows one to attain salvation. See David Novak, *The Image of the Non-Jew in Judaism: an Historical and Constructive Study of the Noahide Laws.* (New York: Edwin Mellen Press, 1983).

across so well in this case: indeed, they are suggestive of a colonial mentality that wreaked havoc upon indigenous cultures in bygone ages. Given the long history of western imperialism, colonial oppression, and cultural Orientalism, it is somewhat surprising that Walzer asserts such strong moral triumphalism. Yet, Walzer's assumption of a common morality of humankind fundamentally shapes all of his subsequent theorizing on Just Warfare, as elucidated in the following section.

3.4. Outlining Walzer's Just War Theory

Now that the seminal importance of universal morality in Walzer's theory of Just War has been established, one can move past these preliminary concerns to flesh out the main body of Walzer's Just War theory. The following section provides a careful overview of Walzer's model using his own arguments. The ensuing sections of this chapter will reconstruct step by step the central pillars of Walzer's thesis to elucidate his salient points.

The opening chapter of Walzer's book is titled "Against Realism", which immediately denotes his non-Realist orientation and the combative nature of his book. Walzer spares no time in getting down to business in challenging the ideological assumptions of Realist views of warfare. His opening chapter spends much effort repudiating the so-called "Realist Argument" of International Politics that human nature is brutish and self-centered, a paradigm in which states always look out for their own interests,

where war is a legitimate tool of state policy, and where war is limitless (i.e., anything goes in war because state self-interest prevails). According to the Realist paradigm, wartime atrocities committed by soldiers in the course of the battle are no more than "collateral damage" because "War is Hell"[58] and "that's what war does to people" (Walzer, 2000, 4). Sometimes, moral commitments of ordinary soldiers and citizens must be put aside, Realists argue, or even sacrificed in the extraordinary circumstances of war (Hubbard, 2006; Duquette, 2006). This view is summed up in the Latin phrase, *Inter arma silent leges* ("In time of war the laws are silent"), which implies that soldiers are deaf to the laws of war and turn a blind eye to atrocities, because morality and law have no place during the so-called "hell" of war (Walzer, 2000, 3).

As noted in the previous chapter, the Realist paradigm is associated with the historian Thucydides and the philosopher Thomas Hobbes, who despite being separated by 2000 years, had very similar arguments about war.[59] Each asserted that humankind's state of nature (which is deemed to

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[58] General William Tecumseh Sherman, the commander of Union Army during the American Civil War (1861–65), famously remarked that 'war is hell' during the burning of the city of Atlanta. Whereas Realists read Sherman's remark as a rationalization of wartime atrocities, Walzer argues instead that "*War is hell* is doctrine, not description: it is a moral argument, an attempt at self-justification" (Walzer, 2000, 32). He adds, "We don't call war hell because it is fought without restraint. It is more nearly right to say that, when certain restraints are passed, the hellishness of war drives us to break with every remaining restraint in order to win. Here is the ultimate tyranny: those who resist aggression are forced to imitate, and perhaps even to exceed, the brutality of the aggressor … It is the Clausewitz idea of limitlessness that is at work here" (Walzer, 2000, 32-33).

[59] Whereas Thucydides' wrote his treatise on Realism in the 5th century BCE, Hobbes's *Leviathan* was first published in the year 1651 CE. For good contemporary English translations of these texts see Thucydides' *History of the Peloponnesian War* (Penguin Classics, 1954), and Thomas Hobbes' *Leviathan* (Penguin Classics, 1985).

be nasty, brutish, and short) required constant vigilance to protect one's interests and to ensure survival. Each was also suspicious of moral discourse on war, which they saw as subjective and liable to being abused (Martinich 2005, 33). Indeed, Realists have little time, patience, or empathy for moral views of war since such views, they argue, can be easily exploited and manipulated to become tools of strategy. For instance, in his book *Leviathan,* Hobbes writes that moral discourse in wartime is of "uncertain signification" because what "one calleth wisdom, what another calleth fear; and one cruelty what another justice; what one prodigality, another magnanimity...etc." (Hobbes cited in Martinich 2005, 33). Thus, from a Realist perspective, "moral discourse is always suspect, and war is only an extreme case of the anarchy of moral meanings" (Walzer, 2000, 10-11). Walzer concedes that this is a "powerful argument because it plays upon the common experience of moral disagreement—painful, sustained, exasperating, and endless" (Walzer, 2000, 11). Yet, he also insists that beyond this hermeneutical confusion of moral definitions lies a deeper ethical substratum in which moral decision making makes sense across cultural differences because we all live in a moral universe even if our moral frameworks differ (Walzer, 2000, 11).

The most famous Realist of modern times was Karl von Clausewitz (1780-1831) who launched the idea of "Absolute War" in which war has no limits at all. Clausewitz argued that the innate logic of war is that it forces its opponent to retaliate, leading to continuous escalation. Clausewitz writes,

"War tends toward the utmost exertion of forces," since "the ruthless user of force who shrinks from no amount of bloodshed must gain an advantage if his opponent does not do the same" (1962, 64). And the opponent, driven by what Thucydides and Hobbes call "a necessity of nature," does the same, matching the ruthlessness of the other side whenever he can (Walzer, 2000, 23).

Walzer vehemently rejects these Realist arguments. In contrast, he contends that war has always been a rule-governed activity that derives from intelligible universal values held by all cultures across time. He suggests that universal morality is the "glue" that holds together cross-cultural discourse on war, which allows people everywhere to understand the notion of a "war crime" (Walzer, 2000, xiv; 305-325). As most people understand the notion of war crimes, he argues, then war is not outside the scope of cross-cultural morality. Indeed, war is an activity that desperately needs to be governed by morality to prevent its abuses and exploitation. All people benefit from such a view. Therefore, the purpose of Walzer's now classic book, *Just and Unjust Wars* (1977), was to challenge ideological political Realism by arguing that war is intrinsically a moral activity that ought to be governed by rules—not left to operate in a moral vacuum of self-serving power-dynamics.

Walzer spends much time attempting to elucidate the so-called moral nature of war. He identifies two moral dimensions of warfare that correspond to the classic Just War tradition considered in the previous chapter (i.e., *jus in bello* (Just Conduct in War) and *jus ad bello* (Just Arguments for War).

Walzer reinterprets this classic twofold distinction and applies it to his own theorizing on warfare. He declares:

> The moral reality of war is divided into two parts. War is always judged twice, first with reference to the reason states have for fighting, secondly with reference to the means they adopt. The first kind of judgment is adjectival in character: we say that a particular war is just or unjust. The second is adverbial: we say that the war is being fought justly or unjustly. Medieval writers made the difference a matter of prepositions, distinguishing *jus ad bellum* requires us to make judgments about aggression and self-defense; *jus in bello* about the observance or violation of the customary and positive rules of engagement. The two sorts of judgment are logically independent. It is perfectly possible for a just war to be fought unjustly and for an unjust war to be fought in strict accordance to the rules (Walzer, 2000, 21).

In other words, war, according to Walzer, is judged twice for both its purpose and its methods (or for its ends and its means). Based on moral judgments in these two spheres, we can say that either (a) a specific war was started illegally, and/or (b) a specific war was conducted illegally (e.g., involved war crimes rendering the perpetrators (usually soldiers) as criminals). Since Walzer asserts that certain actions in wartime constitute universal war crimes because they outrage the moral conscience of humankind (which is peculiarly 'non-communitarian' language), he spends a considerable amount of time and effort to nuance his views of what constitutes criminal behaviour in wartime within a paradigm of legal discourse. As a result, we need to consider Walzer's approach to the topic of law to understand its relationship to morality in Walzer's thought.

3.4.1. Walzer's Legalist Paradigm and the War Convention

The term "Legalism" has various meanings in different scholarly contexts and disciplines (Shklar, 1986, 1-29). In Religious Studies, for example, "Legalism" typically denotes both a moral standpoint and hermeneutical approach to reading sacred texts, noted for emphasis on strict adherence to following the religious laws of a particular community (Jackson, 1990, 243). As such, Legalism is often used as both a descriptive term and a pejorative label depending on one's relative evaluation of its utility in following laws. Some religious communities place a great deal of emphasis on *orthopraxis* (correct religious practice), often necessitating faithful observance of religious laws, rites, and rituals. Conversely, other religions are suspicious of rule-based behaviour and attempt to free their adherents from intellectual and/or ethical cages of ideas that are seen as oppressive and stifling. Religious sects that condone rule-breaking behaviour are often called "transgressive" or "antinomian" and they are more common that one would expect, given the customary association of religion with strict rules and clear-cut morality.[60]

In the academic landscape of Political Science wherein Walzer does most of his discursive theorizing, the term "Legalism" has an entirely different cluster of meanings. In International Relations theory, for example,

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[60] For discussion of specific examples of such antinomian behaviour and transgressive ethics in the world's religions, see Chapter Five of this work, Section 5.3.3 ("Transgressive Ethics in Hindu Just War Practice"), which addresses the issue of antinomianism and moral exceptionism in the context of Hindu violations of the rules of war (*yuddha-nīti*). Therein, specific examples are given of justified moral violations in other religions as well.

'Legalism' denotes principally an approach to state relations that emphasizes the paramountcy of following laws and rules, which are deemed to be binding on both state and non-state actors (Posner 2009; Pekkanen, 2008). Walzer's approach to Just War Theory is predicated on this latter meaning of Legalism, which informs his analysis and discourse on Just War. This form of Legalism is immensely important for understanding his pronouncements on just and unjust types and practices of warfare.

In the previous section, Walzer argued that a "war crime" is a universal notion because virtually all cultures condemn transgressions of legal or social norms, which we call "crimes". A crime is defined in relation to law, which itself can be predicated on varied notions. Nevertheless, it is law that allows us to define crimes. Therefore, as diverse people speak of 'war crimes' then this presupposes, according to Walzer, that universal legal principles still operate in times of war. We see then that the notion of war crimes speaks to the importance of Legalism in Walzer's theory. Indeed, he has much to say about Legalism in the formulation of his Just War doctrine, which has serious implications for his theory. To begin with, he rejects the Realists denial of rules or laws governing international relations save for the self-preservation and aggrandizement of the state. For Realists, international relations is akin to a Darwinian struggle of survival in which the big fish eat the little fish; conversely, Walzer aims to restrain all fish in the net of international law in the hopes of making states accountable for their actions.

The following remarks by Walzer demonstrate the Legalist paradigm found in his writings. His second chapter is titled "The Crime of War" where he makes the following point concerning the commencement of hostilities:

> Wars are not self-starting. They may "break out," like an accidental fire, under conditions difficult to analyze and where the attribution of responsibility seems impossible. But usually they are more like arson than accident: war has human agents as well as human victims. Those agents when we can identify them, are properly called criminals. … In contemporary international law, their crime is called *aggression*. …When soldiers believe themselves to be fighting against aggression, war is no longer a condition to be endured. It is a crime they can resist (Walzer, 2000, 31).

Moreover, it is Walzer's position that those who start unjust wars ought to be labeled as criminals because they perpetrate crimes by breaking the laws of nations.[61] He provides an example of his argument by invoking an analogy to make his point: Just as someone who breaks into one's house is called a 'criminal' and by popular tradition should be punished accordingly, an aggressor who attacks another state by starting a war is also a criminal who should be treated accordingly.[62] Walzer states, "[a]ggression is the name we give to the crime of war" (2000, 51).

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[61] It should be noted here that Walzer is *not* saying that crimes are committed when an aggressor breaks the laws of religion, or the laws of conscience. His theory of Just War is non-religious in so far as religion is irrelevant to his argument nor ostensibly present within it. Yet, at the same time, as we noted in the previous chapter, Walzer inherited a moral tradition of Just War thinking from his intellectual predecessors whom had both religious and secular convictions. As a result, in many ways his theory is indebted to the Christian religious roots of discourse about Just War, which formulated the Just War criteria that Walzer adopted and expands.

[62] This "domestic analogy" makes several interesting points that deserve more attention. First, it is not always the case that someone breaking into a house is a criminal because "criminality" in common civil law depends on judgment and intent. One needs to take the circumstances into account before making blanket *a priori* judgments. If a home owner forgot his keys to his house and had to break into the house to get them, then this does not constitute criminality. Second, Walzer's domestic analogy does not work well with so-called "terrorists" or "guerrilla fighters" who may already live in the house but find compelling reasons to burn it down or injure its other inhabitants.

Walzer's argument assumes that there is some over-arching body of laws that can be used to evaluate and prosecute crimes of war and aggression. Indeed, he spends considerable time attempting to elucidate these "laws", which he calls the "War Convention" (Walzer, 2000, 44). It is this idea of a "War Convention" that offers the best manifestation of Walzer's Legalism, as explained below.

Walzer's third chapter of *Just and Unjust Wars* is titled "The Rules of War" and it is here that he carefully begins to outline his case for *de facto* laws (which he calls "The War Convention") that universally govern warfare even in the absence of formalized positive litigation in the area. He writes, "[t]he purpose of the war convention is to establish the duties of belligerent states, of army commanders, and of individual soldiers with reference to the conduct of hostilities" (2000, 127).

Walzer suggests that varied rules of warfare found in different societies are the "product of mutual respect and recognition" (Walzer, 2000, 34), and although these rules vary, they are the result of long-standing traditions of debate and experience, which often reflect underlying values such as honour and chivalry. In different cultures ranging from those of Medieval Europe to the practices of the Japanese Samurai, "chivalry marked off knights from mere ruffians and bandits and also from peasant soldiers who bore arms as a necessity" (Walzer, 2000, 34). Thus, there are many stories of Crusader knights and Samurai soldiers that placed honour first

among their duties to their respective lords. Such emphasis on honour and chivalry was once legendary and wide-spread in understandings of warfare as a rule-governed behaviour. According to Raaflaub (2007, 211), in ancient Greece and during the Middle Ages, duels between opposing armies' strongest and most talented soldiers were frequently used as ways to solve disputes with the minimum loss of life.[63] Walzer explains this point further:

> In the Middle Ages, single combat was advocated for precisely this reason: "Better for one to fall than the whole army." More often, however, protection has been offered only to those people who are not trained and prepared for war, who do not fight or cannot; women and children, priests, old men, the members of neutral tribes, cities, or states, wounded or captured soldiers (Walzer, 2000, 43).

Such forms of chivalrous warfare continued to be popular up until modern times as can be seen in Walzer's remark about the wars between France and England. He notes:

> French chroniclers and historians write of … that many of the English knights refused to kill their prisoners—not, chiefly, out of humanity, rather for the sake of the ransom they expected; but also "thinking of the dishonour that the horrible executions would reflect on themselves (2000, 18).

However, in modern times, "notions of honor and chivalry seem to play only a small part in contemporary combat"; chivalry became "the victim of democratic revolution and of revolutionary war [where] popular passion overcame aristocratic honor" (Walzer, 2000, 35). Yet, according to Walzer,

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[63] In ancient Greek combat, the duel (*monomachia)*, was used to resolve military disputes between armies as can be seen in the combat between Paris and Menelaus during the Trojan War. These duel combatants were not the generals of the armies but the best fighters among each side representing the Achaeans and the Trojans respectively. The supreme leaders from each army, Agamemnon and Priam, granted their consent to this duel (*monomachia)* and agreed to accept the outcome (Raaflaub, 2007, 211).

even the "death of chivalry" was "not the end of moral judgment" because morality still remains of vital importance in the cross-cultural fabric of discourse about war (2000, 35). Accordingly, we find in diverse cultures such as the Hindus, Zulus, or Maori, similar moral conundrums exist in their debates about war, which have not diminished in the vicissitudes of time, place, and culture.

Walzer postulates that all cultures regardless of their ideological convictions or religious creeds, have a body of unwritten rules about war that derive from their own unique histories and struggles with strife. Such distinctive cultural attitudes are revealed and reflected in a given culture's moral judgments about war as seen in their folklore, stories, art, fears, etc. However, rather than leading to division, such cultural diversity about warfare actually underscores for Walzer the connectedness of our common humanity. He calls these clusters of attitudes and implicit rules about warfare by the term *war convention,* which he describes as follows:

> I propose to call the set of articulated norms, customs, professional codes, legal precepts, religious and philosophical principles, and reciprocal arrangements that shape our judgments of military conduct *the war convention.* It is important to stress that it is our judgments that are at issue here, not conduct itself (Walzer, 2000, 44).

He also claims that these conventions reveal a unifying thread to cultural patterns:

> Stability among states, as among aristocratic factions and families, rests upon certain patterns of accommodation and restraint, which statesmen and soldiers would do well not to

disrupt. But these patterns are not simply diplomatic artifacts; they have a moral dimension. They depend upon mutual understandings; they are comprehensible only within a world of shared values. (Walzer, 2000, 116)

Walzer's theory of Just War operates on these conventions of moral judgments situated in different cultural and historical spaces, which not only inform his theory but also allegedly corroborates it. For example, he highlights the role of conventions in explaining his approach to his research:

> [I] look to historical cases and actual debates for those particular judgments that both reflect the war convention and constitute its vital force. I don't mean to suggest that our judgments, even over time, have an unambiguous collective form. Nor, however are they idiosyncratic and private in character. They are socially patterned, and the patterning is religious, cultural, and political, as well as legal. The task of the moral theorist is to study the pattern as a whole, reaching for its deepest reason (Walzer, 2000, 45).

There are several things going on in this passage. First, Walzer emphasizes the inductive method, which goes from particular examples to general conclusions. His particular examples are moral judgments on warfare found in different cultures and periods. Second, he acknowledges the distinctiveness of cultures but suggests that they have intelligible social patterns that can be compared; and finally, he suggests that such social patterns can be studied to find deeper resonances. These three points succinctly summarize Walzer's method of analysis, and the conclusions he draws from them are rooted in the idea of a 'War Convention" that extrapolates from the varied social patterns of sundry cultures.

The drawback with this approach, of course, is that Walzer's conclusions are presupposed by his methods. Moreover, his research only cites examples that are amenable to his conclusions and contains an omission in not looking at moral judgments from Indian culture in any depth (notwithstanding his discussion of the Indian army's intervention in East Pakistan [Bangladesh] in 1971 (Walzer, 2000, 102-106). Given the fact that Walzer gives very little attention to Indian culture, his concept of a "War Convention" needs to be carefully assessed in light of whether Hindus have an an analogous "War Convention" (as defined by Walzer) at odds with his human-rights centric model.

Walzer's idea of a War Convention demands greater scrutiny before moving forward. What does he consider to be the common features of the so-called War Convention? Walzer suggests that two sorts of rules of engagement, and prohibitions attached to killing, arise from humankind's War Convention. He says: "The first cluster [of judgments/ guidelines] specifies when and how they [soldiers] can kill, the second whom they can kill" (Walzer, 2000, 41). In the positive language of international law, these two sort of rules correspond to the distinction of *jus ad bellum* and *jus in bello*. In the modern world, Walzer remarks that moral "judgments are most explicitly set forth in positive international law", whose origins can be traced to ancient times when treaties and covenants between nations set precedents for the emergence and development of international law that flourishes today

(Walzer, 2000, 44). It is this lineage of law-oriented thinking that Walzer champions and boldly asserts, that even in situations where such positive laws are not present, implicit laws still operate in such a vacuum. He reiterates his belief that these general rules of war are "closely connected to universal notions of right and wrong", which are "made obligatory by the general consent of mankind" (Walzer, 2000, 42; 47)

In sum, Walzer argues forcefully for seeing war as "a rule-governed activity, a world of permissions and prohibitions—a moral world" in which one can say, "They can try to kill me, and I can try to kill them. But it is wrong to cut the throats of their wounded or to shoot them down when they are trying to surrender" (Walzer, 2000, 36). These judgments are moral judgments, and they imply some sort of deeper morality at work, a set of moral conventions and written or unwritten laws, that govern our judgments about conduct in war. These types of arguments are what Walzer uses to advance reasoning for soldiers who sometimes go against the orders of their superior officers when they think that their orders are unjust. As a case in point, Walzer cites the German Field-Marshal Erwin Rommel who followed the international rules of governing war. It was Rommel "who burned the Commando Order issued by Hitler on 28 October 1942, which laid down that all enemy soldiers encountered behind the German line were to be killed at once" (Walzer, 2000, 38). Rommel refused Hitler's order to shoot prisoners.

From the preceding points, can see that Walzer's theory of Just War is embedded in the constellation of Legalism, because the legal conventions, and treaties between states do matter to him. Rather than viewing such rules and international treaties in a Machiavellian manner, Walzer takes them seriously and insists that others should do likewise in order to mitigate the brutality of war. Walzer's Legalist views also affect his later pronouncements about terrorism regarding the question of whether terrorists should be classified as "enemy combatants" or "criminals" (Walzer, 2000, 197-206) – a topical debate for our current time.

3.4.2. Walzer, Human Rights, and War

Another pillar supporting Walzer's edifice of Just War theory is his assertion that the ethical rules of war ought to be based on individual human rights. Given his socialization in an American political context, it appears that Walzer was influenced by the American Declaration of Independence that holds certain "self-evident truths", such as an individual's right to life, liberty, and the pursuit of happiness. Accordingly, he argues that inalienable human rights also extend to wartime and ought to be respected. For Walzer, the locus of these rights is centered in the individual rather than the political state because states derive their legitimacy in Walzer's thinking from individuals and not *vice versa*:

> The rights of states rest on the consent of their members … The rights in question are summed up in the lawbooks as territorial integrity and political sovereignty. The two belong to states, but they derive ultimately from the rights of individuals, and from them they take their force. The duties and rights of states are nothing more than the duties and rights of the men [sic] who compose them (Walzer, 2000, 53).

Walzer's model of Legalism, considered earlier, is thus tied to his vision of a rights-based approach to law as opposed to a duty-based approach.

Walzer is not alone in championing a rights-based approach to International Law. An army of legislators, philosophers, and other scholars have flattened forests-worth of paper in hammering out notions of law predicated on universal human rights (e.g., Sieghart, 1984; Donnelly, 2003; Weissbrodt, 2007, and Normand and Zaidi, 2008, *et al.*). In this sense, Walzer falls into a strong and prominent lineage of internationalists whom have endeavored to enshrine universal notions of human rights in a charter of the United Nations. Among such thinkers, Walzer's influence on human rights in warfare is highly laudable. Yet the fact remains that Walzer's American values may have obscured other cultural models of morality found elsewhere. When Walzer claims that "individual rights to (life and liberty) underlie the most important judgments that we make about war" (Walzer, 2000, 54), we ought be somewhat concerned by his ethnocentrism. Contrary to Walzer's belief in human rights as "self-evident truths," some scholars have argued that such rights arise from a particular cultural and sociological inculcation (Mutua, 2002; Ihara, 1998; Ibhawoh, 2007). Therefore, Walzer's assumption

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of universal human rights underpinning his Just War theory is contentiously not self-evident.

As discussed earlier, Walzer is often labeled a Communitarian because he champions political theory that is grounded in the traditions and cultures of particular societies rather than derived from abstract principles. Related to this communitarian approach is the notion of social contract theory, a political idea that can be elucidated as follows:

> "Contract" is a metaphor for a process of association and mutuality, the ongoing character of which the state claims to protect against external encroachment. The protection extends not only to the lives and liberties of individuals but also to their shared life and liberty, the independent community they have made, for which individuals are sometimes sacrificed. … And given a genuine 'contract,' it makes sense to say that territorial integrity and political sovereignty can be defended in exactly the same way as individual life and liberty. The question of when territory and sovereignty can rightly be defended is closely connected to the question of when individual citizens have an obligation to join the defense. Both hang on issues in social contact theory (Walzer, 2002, 54-55).

Walzer discusses the issue of when a citizen has a social contractual duty to join a war in his related book *Obligations*: *Essays on Disobedience, War and Citizenship* (1970), namely in the sections "The Obligation to Die for the State" and "Political Alienations and Military Service." Here he argues that if "states actually do posses rights more or less as individuals do, then it is possible to imagine a society among them more or less like the society of individuals" (Walzer, 2002, 58). However, this view of international society is situated in stark contrast with the aforementioned Realist paradigm that

sees international relations as a chaotic state of nature devoid of any communitarian goodwill (save cynical self-interest). Walzer's assertion that the "deepest purpose of the state is not ingestion (i.e. aggression or swallowing up others) but defense" (Walzer, 2002, 60), once again clearly illustrates his ideological disagreement with Political Realism. Such comments would likely be scorned by Realists who frequently parrot the mantra that *"the best defense is a good offense".*[64]

Walzer's communitarian presuppositions and his emphasis on human rights allow us to begin to draw a clearer picture of the underlying architecture of his Just War theory. As established above, the pillars of his theory are delineated as the interrelated principles of universal morality and human rights, the territorial integrity of nation-states, and the universal condemnation of certain actions in warfare as "war crimes". After carefully chiseling out the contours of these pillars and testing their applicability with numerous 'social patterns', Walzer's theory makes the following bold statement, which provides the capstone of his entire conceptual edifice. At the core of his theory, Walzer unconditionally asserts:

> The defense of rights is a reason for fighting. I want now to stress again, and finally, that it is the only reason. The legalist paradigm rules out every other sort of war (2002, 72).

In this short passage lies the very heart of Walzer's theory. For it becomes

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[64] This saying has a murky origin. It is often attributed to the 19th century military strategist Karl von Clausewitz but the saying is likely much older than him. For instance, George Washington wrote in 1799: "Attack is the best form of defense." See George Latimer Apperson and M. Manser, *Dictionary of Proverbs.* London: Wordsworth Editions, 2006: 29.

abundantly evident that Walzer's entire edifice of Just War Theory stands on the protection of human rights. And these human rights, according to Walzer, are based on universal morality. Looking deeper, we find that Walzer sees military aggression as a crime because it threatens and jeopardizes human rights (Walzer, 2002, 62). Resistance to aggression is necessary to deter future aggressors, while pacifism is denigrated as an abdication of moral responsibility because appeasement gives in to aggressors and emboldens them (Walzer, 2002, 67). However, Walzer tempers his views with a caveat namely that "a legitimate act of war is one that does not violate the rights of the people against whom it is directed" (Walzer, 135). Of course, Walzer prompts the question of whether such a rights-based approach to warfare makes any sense in cultures that traditionally did not believe in rights.

Yet Walzer defends his thesis-position by way of the domestic analogy, which he claims possesses "great explanatory power" to elucidate the legalist paradigm (Walzer, 2000, 72). Namely, he equates the violation of human rights in wartime with warranting just cause for battle in the same way as an intruder in one's home necessitates a decisive response from the homeowners:

> Every reference to aggression is the international equivalent of armed robbery or murder, and every comparison of home and country or of personal liberty and political independence, relies upon what is called the *domestic analogy*. Our primary perceptions and judgments of aggression are the products of analogical reasoning (Walzer, 2000, 58).

Consequently, Walzer is quick to argue that rape in both wartime and peacetime is always wrong because rape is never tolerated in domestic

societies. To sit idly by as someone is being raped is morally unconscionable, according to Walzer. In the same way, to sit idly by as one's country or nation is being militarily raped is also unacceptable. Such physical rape of a society is a legitimate cause for war because human rights are being violated by aggression.

Even though many liberals echo Walzer's sentiments about human rights (Dubik 1982; Martin 2006), it is obvious that ideological liberalism is characterized by intrinsic diversity of opinions and ideas. As a result, Walzer attempts to pre-empt criticisms of his rights-based approach to Just War by citing the powerful words of Simone Weil, the French Philosopher and social activist, who in her persuasive essay entitled "Human Personality", challenges rights-based discourse on warfare:

> Rights talk, [Weil] claims, turns "what should have been a cry of protest from the depth of the heart... into a shrill nagging of claims and counter-claims..." And she applies her argument to a case very much like ours: "if a young girl is being forced into a brothel she will not talk about her rights. In such a situation, the word would sound ludicrously inadequate."[65] Weil would have us refer ourselves instead to some notion of the sacred of the image of God in man (Walzer, 2000, 134).

Although acknowledging her point, Walzer suggests that Weil is "wrong in her claim about the sound of "rights talk" and he argues, conversely, that "arguments about human rights have played a significant part in the struggle against oppression, including the sexual oppression of women" (Walzer, 2000, 134). Steadfast in his reasoning and values, Walzer's theory of Just War is

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[65] Simone Weil, "Human Personality," in Richard Rees (ed.) *Selected Essays: 1934-1943* (London: Oxford University Press, 1962), p. 21.

deeply rooted in his American political liberalism, the Legalist paradigm, his commitment to human rights, and his vision of a world in which international relations operates like a domestic civil society – all assumptions which provide a cogent theory but are simultaneously fraught with peril.

3.5. Implications of Walzer's Theory

Walzer's emphasis on the aforementioned *domestic analogy* to infer moral judgments about wartime behaviour is problematic for it not only glosses over the major differences between a civil society and international relations (such as the nature of authority and the relative bindingness of law), but also downplays the case of civil wars in which the domestic family is fighting among themselves. Does Walzer address the conundrums arising from situations of civil war, when the members of society have turned upon themselves? As Walzer is a systematic moral theorist, he indeed takes time to consider such moral conundrums in his book. His later chapters in *Just and Unjust Wars* attempt to close the gaps of his theory. Consequently, he does actually address the topic of civil war, along with several other issues (e.g., interventions, preventive war, terrorism, guerilla warfare) in his explication of the so-called "War Convention" that underlies his Just War theory.[66] In this sense, Walzer operates in much the same fashion as a classic systematic theologian by attempting to carefully draw out a cogent

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[66] Walzer's views of 'Civil War' are expressed in his discussion of 'Interventions' found in his 'Theory of Aggression' (See Walzer, 2000, 96-100).

argument through looking at all of its angles and leaving no stone unturned in efforts to be comprehensive.

Walzer's theory of Just and Unjust War has two significant implications for understanding his approach to aggression and human rights. These implications involve the issues of (a) Making Humanitarian Intervention a 'Just Cause' for War; and (b) Rejecting Passivity/Non-Violence as an Adequate Response to War. As we have seen, Walzer argues that only aggression against individual human rights (from which states derive their legitimacy) can justify going to war and he spends considerable time expanding upon the notion of aggression. In doing so, he suggests that aggression can often occur "without shots being fired or borders crossed" (Walzer, 74) As in the case where indirect aggression seriously threatens the survival of a state (for example, the development of nuclear weapons by an openly hostile state).

Given the possibility of such life-threatening types of indirect aggression, Walzer supports what he calls "Interventions" or "Preventive War" (i.e., pre-emptive war) to allow states to protect themselves from perceived imminent violence. He asserts that violence is sometimes necessary to defend human rights and to protect minorities. As a result, he firmly rejects the stance of non-violence espoused by thinkers such as Mahatma Gandhi, since Walzer sees non-violence as a capitulation of moral responsibility to oppression (Walzer, 2000, 332). Let us examine these two

aspects of Walzer's theory to understand the heuristic insight they provide into his thinking.

Adopting a liberal vision in international relations that sees the world community as a cooperative (albeit sometimes squabbling) family of sovereign states, Walzer correspondingly defends the notion of respecting a state's territorial integrity (its borders) as a critical value in the international system. He emphasizes this point by labeling infringement of a state's borders as a crime of aggression and condemns this act; at the same time, however, Walzer justifies the military invasion of states if they are engaged in violations of human rights, or if they pose a threat to the very survival of another state. Hence, Walzer's views contain some inconsistencies, which have been attacked as disingenuous and inconsistent by his critics (Hendrickson 2009; Calhoun 2001; Nathanson 2006).

As has been noted, one of the most important aspects of Walzer's theory of Just War is his argument that pre-emptive war is legitimate when "states are engaged in massive violations of human rights" (Walzer, 2000, 101). This argument flows from his assumption that human rights must be protected, and any systematic violation of them by state authorities demands multilateral (or even unilateral) "humanitarian intervention" as a correct moral response:

> Against the enslavement or massacre of political opponents,
> national minorities, and religious sects, there may well be no
> help unless help comes from outside. … Governments and
> armies engaged in massacres are readily identified as criminal

governments and armies (they are guilty, under the Nuremberg code of "crimes against humanity"). Hence humanitarian intervention comes much closer than any other kind of intervention to what we commonly regard, in domestic society, as law enforcement and police work. At the same time, however, it requires the crossing of an international frontier, and such crossings are ruled out by the legalist paradigm—unless they are authorized, I suppose, by the society of nations (Walzer, 2000, 101-106).

However, such an argument is prone to abuse when countries use "humanitarian intervention" as a pretext for neo-colonialism. Walzer recognizes this danger when he remarks:

> [S]tates don't send their soldiers into other states, it seems, only in order to save lives. The lives of foreigners don't weigh that heavily in the scales of domestic decision-making. So we shall have to consider the moral significance of mixed motives. It is not necessarily an argument against humanitarian intervention that it is, at best, partially humanitarian, but it is a reason to be skeptical and to look closely at the other parts" (2000, 102).

Thus, Walzer is aware that the doctrine of humanitarian intervention can be abused, but he still supports it and cites as a case in point an example from India to illustrate his argument. He suggests that India's military invasion of East Pakistan in 1971 as a *locus classicus* of humanitarian intervention, which also provides a rare glimpse into Walzer's reading of warfare in an Indian context.[67] His example is relevant here not only because of its insights for the nature of the discussion of Intervention in question, but also because

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[67] Walzer's now-classic book *Just and Unjust Wars* contains very few examples from the Indian context to bolster his arguments. His book addresses Indian content in three ways: (1) his rebuttal of Gandhian non-violence as ineffectual against tyranny; (2) his reference to the rules of *dharma yuddha* in a passing footnote (see Walzer, 2000, 43); and finally, (3) his use of modern India's invasion of Pakistan in 1971 as an example of justified military invasion for the purpose of humanitarian intervention.

it is one of the few times that Walzer cites warfare and strategic thinking by Indian forces and thinkers in his book on Just War.

According to Walzer, India's "invasion of East Pakistan (subsequently renamed 'Bangladesh') in 1971 [was an] example of humanitarian intervention—not because of the singularity or purity of the government's motives, but because its various motives converged on a single course of action that was also the course of action called for by the Bengalis" (Walzer, 2000, 105). India responded to the Bengalis' cries for protection against the violations of their human rights by Pakistan's army, which was killing dissidents and raping its women. For this reason, Walzer claims that India's military invasion of East Pakistan "qualifies as humanitarian because it was a *rescue* [mission], strictly and narrowly defined" to prevent the "oppression" of the Bengali people (Walzer, 2000, 105). He explains the moral and political context of the invasion as follows:

> Faced with a movement for autonomy in what was then its eastern province, the government of Pakistan, in March, 1971, literally turned an army loose on its own people—or rather, a Punjabi army loose on the Bengali people. The resulting massacre only completed the break and made it irreparable. The army was not entirely without directions; its officers carried "death lists" on which appeared the names of the political, cultural, and intellectual leaders of Bengal. There was also a systematic effort to slaughter the followers of these people: university students, political activists, and so on. Beyond these groups, the soldiers ranged freely, burning, raping, killing. Millions of Bengalis fled into India, and their arrival, destitute, hungry, and with incredible stories to tell, established the moral foundation of the later Indian attack. "It is idle to argue in such cases that the duty of the neighbouring people is to look on quietly" (Walzer, 2000, 105).

In such circumstances, Walzer contends, a state must act decisively to intervene in the affairs of another state to prevent internal massacres of the neighbouring population (or subsets of its population, such as ethnic or religious minorities as in the case of the former Yugoslavia). If such military intervention necessitates transgressing the state's right to territorial sovereignty then so be it. For Walzer, protecting human rights is a greater good and higher value in his ethical hierarchy than protecting state sovereignty.

Contrary to the Political Realist paradigm that defends state sovereignty as the highest good to be protected at all costs, Walzer's ideological framework (i.e., communitarian, internationalist, legalist, and leftist-liberal) causes him to see each state as a *community of people*, and thus a state derives its legitimacy from its people. In this theoretical framework, when the people are threatened then the state is threatened, and thus violations of human rights constitute a threat to the whole. Walzer's logic therefore helps to explain an apparent inconsistency in his writing when he calls war a crime of aggression since it violates state boundaries yet at the same time defends military action to combat denials of human rights. In the case of the Indian Army's invasion of East Pakistan in 1971, the invasion was justified on the moral grounds of the Pakistani oppression of human rights in Bengal (Walzer, 2000, 105). It was a war fought for a "just cause". Here, Walzer portrays the Indian approach to warfare in a positive light as a

legitimate illustration of humanitarian intervention. Given the paucity of materials on India in his book, his example provides one of the few insights into what Walzer thinks about Indian attitudes towards warfare.

In only one other area of his book does Walzer address Indian materials with any real level of rigour or significance, despite the fact that he ultimately dismisses said Indian viewpoints as inadequate. In an *Afterword* to his book on Just War, Walzer takes time to address Mahatma Gandhi's strategy of non-violence, which Gandhi developed in South Africa and India to combat perceived oppression and injustices. Walzer addresses this issue directly in a chapter titled *Nonviolence and the Theory of War.* Here, he states in no uncertain terms that he is no fan of non-violence, and he rejects non-violence as a moral strategy to combat war. He notes that "nonviolent defense differs from conventional strategies in that it concedes the overrunning of the country that is being defended" (Walzer, 2000, 329), which violates the conventional principle of state sovereignty.

Thus, Walzer does not place much value on either pacifism or non-violence in times of great distress caused by war, aggression, and oppression. Indeed, he sees non-violence as an abdication of the moral responsibility to protect communitarian values in wartime predicated on human rights and non-combatant immunity (Walzer, 2000, 68). He acknowledges, however, that non-violence can function within the traditional rules of Just Warfare by enlisting the entire population as a type of civilian resistance, and

magnifying any violations of non-combatant immunity.[68] He contends:

> [It] is no service to the cause [of non-violence] to ridicule the
> rules of war or to insist (as Tolstoy did) that violence is always
> and necessarily unrestrained. When one wages a "war without
> weapons," one appeals for restraint from men with weapons. It
> is not likely that these men, soldiers subject to military
> discipline, are going to be converted to the creed of nonviolence.
> Nor is it critical to the success of the "war" that they be
> converted, but only that they be held to their own putative
> standards; The strategy is to force the invading army to bear the
> onus of civilian deaths. But here the onus is to be made
> especially clear (especially unbearable) by the dramatic absence
> of any armed struggle in which civilians might be collusive
> (Walzer, 2000, 334; 332).

Walzer, however, is not convinced that the strategy of non-violence is an

effective approach against tyrants or fascists. He suggests that the success of

non-violence is only possible "against opponents whose code of morality was

fundamentally similar" to that of the civilian defenders, adding:

> It is very doubtful whether non-violent resistance would have
> availed against a Tartar conqueror in the past, or against a Stalin
> in more recent times. The only impression it seems to have made
> on Hitler was to excite his impulse to trample on what, to his
> mind, was contemptible weakness—although there is evidence
> that it did embarrass many of his generals, brought up in a better
> code (Walzer, 2000, 333).

Some German soldiers may have refused to follow orders to shoot non-violent

protestors; yet as the conduct of Nazi soldiers in the death camps of WWII

indicates, most of these soldiers did follow orders and did not protest mass

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[68] Walzer writes, "'Soldiers are made to be killed,' as Napoleon once said; that is why war is hell. But even if we take our standpoint in hell, we can still say that *no one else is made to be killed*. This distinction is the basis of the rules of war" (Walzer, 2000, 136).

killings on the principle of non-combatant immunity. For the above reasons, Walzer blasts non-violence as an impotent strategy against aggression and even declares that Mahatma Gandhi's approach to oppression was flawed:

> It is difficult to see how Gandhi's methods could be applied in a country where opponents of the regime disappear in the middle of the night and are never heard from again. Nor would civilian resistance work well against invaders who sent out squads of soldiers to kill civilian leaders, who arrested and tortured suspects, established concentration camps, and exiled large numbers of people from areas where the resistance was strong to distant and desolate parts of the country. Nonviolent defense is no defense at all against tyrants or conquerors ready to adopt such measures. Gandhi demonstrated this truth, I think by the perverse advice he gave to the Jews of Germany: that they should commit suicide rather than fight back against Nazi tyranny;[69] … Here nonviolence, under extreme conditions, collapses into violence directed at oneself rather than at one's murderers, though why it should take that direction I cannot understand (Walzer, 2000, 353; 332).

Walzer's disdain for Gandhi's mislabeled "pacifism" in the face of grave injustices by fascist states makes sense from an autobiographical perspective since Walzer's own Jewish family background would be sensitive to the recent history of the Holocaust. However, Gandhi himself differentiated non-violence from types of pacifism practiced by groups such as Anabaptists or the Christian martyrs (Gandhi, 2001, 3; 15-16). For Gandhi, non-violence was not really pacifism at all but an active form of engagement and sacrificial suffering on behalf of a noble cause. He wrote, "Passive resistance is a misnomer for nonviolent resistance" and he added "Passive resistance, unlike

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[69] See Louis Fischer, *Gandhi and Stalin,* quoted in George Orwell's "Reflections on Gandhi," p. 468. Orwell, who fought as a Socialist in the Spanish Civil War against Franco's Fascists, questioned whether non-violence would work against a totalitarian fascist state.

nonviolence, has no power to change men's hearts" (*Young India,* Oct.11, 1928). Yet, Gandhi—like Walzer—was still concerned with the question of Just War criteria since Gandhi also remarked that "*Satyagraha* abhors secrecy. It is the openest form of warfare I have known" (*Young India,* Sept 15, 1927), albeit he added the caveat:

> There can be no *Satyagraha* in an unjust cause. Satyagraha in a just cause is vain if the men espousing it are not determined and capable of fighting and suffering to the ends, and the slightest use of violence often defeats a just cause. Satyagraha excludes the use of violence in any shape or form, whether in through, speech, or deed. Given a just cause, capacity for end less sufferings and avoidance of violence, victory is a certainty. (*Young India,* Apr 27, 1921).

According to these words by Gandhi, Walzer misunderstands the underlying philosophy of Gandhian non-violence, which was predicated on Hindu metaphysical assumptions of spiritual monism (non-duality) thereby necessitating non-violence as a way of life. Walzer treats Gandhi's approach to non-violence as merely another tactic for dealing with oppression rather than as a comprehensive framework for understanding human nature and spiritual living. Rather than seeing non-violence as some sort of "defensive" or "reactionary ethical response" to violence, Gandhi saw non-violence as a way of life and the heart of the Divine itself.

Gandhi saw non-violence as the conduct of the brave, and the highest calling of the religious aspirant and spiritual warrior. Moreover, Gandhi never saw anyone as his enemy. Rather he saw certain behaviours and

structures as dangerous and wrong-headed. Often this viewpoint is known as "Structural Violence" in which certain institutions and attitudes are built up over time and become habituated to a group identity but serve to oppress certain classes of people (e.g., the untouchables of India, or women) (Galtung 1969; Vorobej 2008).   Thus, Gandhi never viewed the British *people* or *soldiers* as enemies of the Indian nation but he viewed the institution of British colonialism (which subjugated peoples and exploited them) as an oppressive structure that needed to be challenged and dismantled.

In sum, Walzer then seems to misunderstand Gandhi on two accounts: (1) he misreads Gandhi's views of non-violence as a tactic of pacifism; and (2) he sees non-violence as meekly defensive reaction.

As noted above, Walzer does not believe that Gandhi's strategy of non-violence would have worked in the case of Hitler and his Nazi death squads since they were, according to him, *operating on a different framework of morality*. This point is significant because Walzer asserts, after all, that non-violence could only be "possible against opponents whose code of morality was fundamentally similar [to that of the civilian defenders], and whose ruthlessness was thereby restrained. It is very doubtful whether non-violent resistance would have availed against a Tartar conqueror in the past, or against a Stalin in more recent times" (Walzer, 2000, 333).

Here I suggest that Walzer's argument starts to break down. Indeed, holes in Walzer's overall argument start to appear because if Just War is

truly predicated on universal morality then why does Walzer admit that non-universal types of "moralities" exist, which are incompatible with his favoured frameworks? Labeling Nazi morality as a type of anomalous moral thinking is itself an admission of moral particularity that undermines Walzer's case of moral universalism.

3.6. Walzer's Unique Contributions to Just War Theory

Walzer's contribution to modern Just War theory has been recognized as pivotal by his colleagues for it is said that he managed to not only rescue Just War thinking from the relentless attacks of its Realist foes, but also provided a renewed moral articulation and defense of Just War theory for modern times (Orend 2007; Holliday 2003). Walzer's book on Just and Unjust wars meticulously builds a compelling argument for understanding warfare as a rule-governed moral activity for which participants must be held accountable. In doing so, he defended his theory of war from the doves on the ideological Left who promoted pacifism, and from the hawks on the Right who advocated Realism. His now classic *opus* also addressed an impressive range of interrelated issues in modern warfare, encompassing varied fields such as nuclear war, humanitarian intervention, ethnic cleansing, and terrorism, leaving no thorny topic untouched. For each of these areas, he provided well-reasoned arguments to support his contention that warfare ought to be subjected to moral restraint to govern its behaviour. This in and of itself is

quite a feat. Even to this day, Walzer's critics contend with his arguments to address whether they agree with his views.

It should also be said that one of the seminal contributions of Walzer's writings to the body of Just War thinking in the 20th century was his grounding of moral discourse in a secular framework based on human rights and deontology rather than Natural Law, or Utilitarianism. This is a significant accomplishment because prior to Walzer, prominent theorists of Just War such as Vitoria, Suarez, Gentili, and Grotius advocated Natural Law foundations for Just War thinking (Hudson 2009, 20; Hensel 2008, 15) or alternatively Utilitarian arguments (Brandt, 1992, 336). Conversely, Walzer placed moral discourse about war, for better or for worse, within an ethical framework founded on human rights. For this contribution alone, his work is very significant; yet, at the same time, this foundation forms both a strength and perhaps even the Achilles heel of his entire moral edifice on warfare.

Nevertheless, Walzer deserves credit for resurrecting moral discourse about warfare in contemporary times, and for seeking to update and revise Just War theory with several specific recommendations that deserve recognition and mention here. Indeed, the following concepts denote Walzer's specific contributions to updating a new 'model' of Just Warfare. As intimated above, Walzer's book offered important amendments to classical formulations of Just War theory. In particular, it has been noted that he expanded the traditional Just War criterion of 'Just Cause' to include

Humanitarian Intervention against human rights abuses such as genocide. This justification for warfare was not widely accepted before Walzer's time since the Universal Declaration of Human Rights (partly in response to the horrors of WWII) was still only 30 years old when Walzer wrote his book. Other areas where Walzer made critical amendments to classical Just War theory included the notions of: (a) "Revising the Doctrine of 'Double Effect' to 'Double Intention'," (b) "Justifying Pre-emptive Just Wars," and, finally, (c) "Allowing the Supersession of *Jus in Bello* Rules during times of 'Supreme Emergency.'"   Each of these Walzerian points will be considered in turn.

3.6.1. Revising the Doctrine of 'Double Effect' to 'Double Intention'

Given that Walzer's thinking about international relations and warfare is predicated on principle of protecting human rights, it is not surprising that his model of Just War Theory focuses on protecting the safety of civilians otherwise known as "non-combatants", by strengthening the rules of engagement. From ancient times, the protection of civilians during times of war was considered to be an important governing principle in most cultures.[70] Notwithstanding the notable exception of siege tactics, however, when entire cities were surrounded and whose whole populations suffered, ancient

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[70] Of course, many examples could be cited to the contrary such as the times when armies adopted tactics of terrorizing civilians to damage the confidence of the enemy population or to scare them into submission. However, this tactic often backfired by steeling the resolve of the defenders to fight back. During the 13th and 14th centuries, the Mongol armies swept down from Asia and pillaged Russian and Islamic lands, raping and slaughtering their populations. The Mongol troops were encouraged to 'enjoy' the spoils of war. However, Mongol success may have had more to do with their tactics and rapid units than with the alleged ruthlessness and non-law abiding nature of their military attacks (See Turbull, 2003).

warfare was typically *not* characterized by massive civilian casualties of enemy populations. Conversely, as in the case of Alexander the Great, conquered populations were often assimilated into the new empire so that they would provide materials goods and even new recruits/mercenaries for the army. Nevertheless, despite the best efforts made to protect non-combatants, it was still obviously the case that civilians would be unintentionally killed during military clashes. This accidental outcome of military engagements was called the "Double Effect" of war (Cavanaugh 2006). Once the Roman Emperors converted to Christianity and embraced Just War thinking through the writings of Augustine (354-430 CE), Christian theologians started to take the idea of Double Effect very seriously and were forced to ponder the necessary evil of killing innocent civilians during times of war. It was the impressive scholar Thomas Aquinas (c. 1225-74) who best formulated an explicit doctrine of "Double Effect" in Christian moral discourse when he formally recognized that warfare often involves killing both enemy soldiers as well as civilians who happened to be nearby during the conflict. He reasoned that while killing civilians should never be the intention of the army (since it infringes on God's commandment not to murder), such accidental murders may sometimes occur. Aquinas tried to reconcile these two points of the prohibition of killing non-combatants with the legitimate need to fight to defend God's law by the doctrine of Double Effect.

As was typical of his systematic scholarly approach, Aquinas outlined

his model of the *Doctrine of Double Effect* in carefully worded logic that is

quoted by Walzer:

> [An army is] permitted to perform an act likely to have evil consequences [(e.g., the murder of noncombatants)] providing the following four conditions hold:
>
> 1. The act is good in itself or at least indifferent, which means, for our purposes, that it is a legitimate act of war.
> 2. The direct effect is morally acceptable – the destruction of military supplies, for example, or the killing of enemy soldiers.
> 3. The intention of the actor is good, that is, he aims only at the acceptable effect; the evil effect is not one of his ends, nor is it a means to his ends.
> 4. The good effect is sufficiently good to compensate for allowing the evil effect (Walzer, 2000, 153).

Despite this careful wording, Walzer still finds Aquinas' principle of 'Double

Effect' to be too permissive. Walzer proposes a need to expand Aquinas'

criteria to make them more restrictive. He contends:

> The principle of double effect, then, stands in need of correction. Double effect is defensible, I want to argue, only when the two outcomes are the product of a *double intention:* first, that the "good" be achieved; second that the foreseeable evil be reduced as far as possible. So the third of the conditions listed above can be restated: 3) The intention of the actor is good, that is, he aims narrowly at the acceptable effect; the evil effect is not one of his ends, nor is it a means to his ends, and, aware of the evil involved, he seeks to minimize it, accepting costs to himself. What we look for in such cases is some sign of a positive commitment to save civilian lives, not merely to apply the proportionality rule and kill no more civilians than is militarily necessary (Walzer, 2000, 155-156).

While Walzer's recommended revision of the doctrine of Double Effect is somewhat pedantic in its wording, its contribution to Just War theory should not be underestimated: essentially Walzer is promoting that military operations are not simply to ensure that civilian casualties are proportional to the military objectives sought but, more importantly, are to ensure that *the civilians themselves become a critical part of the moral calculations in the strategic decision making.* In Walzer's view then, full consideration must be given to the expected or potential civilian deaths of any military action, and all due care should be taken to avoid these deaths (Walzer, 2000, 156). One wonders, however, how Walzer would evaluate the Allied pilots during WWII who were involved in so-called "Dam Busting" operations in which strategic dams in Nazi occupied Europe were destroyed to drain their resources and sap their water supplies. Undoubtedly, civilian populations living nearby these dams were decimated when the dams collapsed and their waters overflowed, destroying local towns. It would seem that Walzer's modified doctrine of 'Double Intention" would invalidate these operations and many others since he insists that "[e]ven after the highest possible standards of care have been accepted, the probable civilian losses may still be disproportionate to the value of the target; then the attack must be called off" (Walzer, 2000, 156). Suffice it to say, Political Realists would repudiate Walzer's perspective as inadequate and naive. Nevertheless, his concern with protecting the status of non-combatant immunity, and bolstering it in modern

Just War theory, provides a valuable reminder of the vulnerability of civilians in modern warfare. The nature of this vulnerability remains a legitimate debate in military ethics and practice.[71] In sum, recognizing Walzer's perspective on this issue to amend the doctrine of Double Effect to Double Intention provides a timely contribution to the topic of warfare today. It is for this reason that his remarks on the Doctrine of Double Effect are noted here.

3.6.2. Justifying Pre-emptive Just Wars

As noted earlier, Walzer is no pacifist. Indeed, he rejects non-violence as a matter of principle and believes strongly that there are certain instances in which war is not only just and legitimate but also morally necessary. In particular, he demands that states act when there are massive violations of human rights that shock the conscious of humankind. Consequently, he writes, "[h]umanitarian intervention is justified when it is a response (with reasonable expectations of success) to acts "that shock the moral conscience of [hu]mankind" (Walzer, 2000, 107). In such cases, Walzer contends that military invasion (primarily motivated by humanitarian intervention) is morally required, and states should not fail to act on this moral obligation.

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[71] As a case in point, public controversy erupted during the second Gulf War when Saddam Hussein allegedly used civilians as so-called 'human shields' to prevent sensitive military and/or industrial targets from being attacked (Cordesman 2003, 84). In response, the Pentagon fired cruise missiles (and used drones) to provide surgical strikes (or to give the impression of doing so) to minimize the death of non-combatants. Any such deaths of civilians were justified as "collateral damage" (266). Yet the ethical debate that ensued in the public media was symptomatic of the traditional strategic debates found in military discourse that illustrate the continued relevance of the issue of Double Effect in modern military thinking.

Moreover, Walzer's stance allows him to formulate a justification for pre-emptive Just Wars, which is epitomized in his following remarks: "Both individuals and states can rightfully defend themselves against violence that is imminent but not actual; they can fire the first shots if they know themselves about to be attacked … For aggression often begins without shots being fired or borders crossed" (Walzer, 2000, 74). Such a viewpoint, of course, is a very dangerous argument because it can lead to a slippery slope of moral and political casuistry as seen in the justification for the Second Gulf War as a search for weapons of mass destruction.

One would not expect Walzer to be a staunch defender of military interventions in other states under any circumstances given his deep respect for the rule of law, his championing of the War Convention, and the domestic analogy; yet, somewhat surprisingly, Walzer argues that though the "practice of intervening often threatens the territorial integrity and political independence of invaded states, it can sometimes be justified" (Walzer, 2000, 86), and one goal of Walzer's writings is to update Just War Theory for modern times by providing a robust case for the argument of pre-emptive Just Wars against violation of human rights.

He elucidates his moral argument by identifying three acts that count as threats "sufficiently serious to justify war" and thereby allow the violation of state sovereignty by outside powers:

1. When a particular set of boundaries clearly contains two or more political communities, one of which is already engaged in a large-scale

military struggle for independence; *that is, when what is at issue is secession or "national liberation;"*

2. When the boundaries have already been crossed by the armies of a foreign power, even if the crossing has been called for by one of the parties in a civil war, *that is, when what is at issue is counter-intervention;* and

3. When the violation of human rights within a set of boundaries is so terrible that it makes talk of community or self-determination or "arduous struggle" seem cynical and irrelevant, *that is, in cases of enslavement or massacre. (italics mine;* Walzer, 2000, 90)

In the above quotation, Walzer seizes upon three situations to justify pre-emptive wars in circumstances involving massive and systematic violations of communal and individual rights. Specifically, Walzer designates (1) genocide, (2) national liberation, and (3) counter-intervention as valid reasons for pre-emptive wars (Walzer, 2000, 255). It is important to note that Walzer's approach is inconsistent with the traditional rules of Just Warfare, which affirm state sovereignty and require due notice by the declaration of a legitimate authority for war to commence. Yet, Walzer resolutely defends these three circumstances as requiring decisive military action since greater moral issues are at stake such as the protection of group and individual identities and even the very survival of non-state actors. Thus, he concludes that *the legalist paradigm requires revision,* which he suggests ought to take the following form: "[S]tates can be invaded and wars justly begun to assist secessionist movement (once they have demonstrated their representative character), to balance the prior interventions of other powers, and to rescue

peoples threatened with massacre" (Walzer, 2000, 108).

According to the common *modus operandi* of his writing, Walzer provides a tangible historical case study to back up his argument. He cites the Six-Day War between Israel and Egypt in 1967 as a legitimate pre-emptive war against the threat of destruction by hostile forces. Walzer explains the war as follows: "The Egyptians believed that the founding of Israel in 1948 had been unjust, that the state had no rightful existence, and hence that it could be attacked at any time" (Walzer, 2000, 82). Given the openly hostile and belligerent stance of the Egyptians [one could by extension here substitute the modern Islamic Republic of Iran for Egypt], Walzer contends that the "Israel first strike [was] a clear case of legitimate anticipation" (Walzer, 2000, 85). Thus, his view of Just War is not merely reactive. It is pro-active, even hawkish in legitimizing pre-emptive war. Once again, he cites the domestic analogy to drive home his point: "a state under threat is like an individual hunted by an enemy who has announced his intention of killing or injuring him. Surely such a person may surprise his hunter, if he is able to do so" (Walzer, 2000, 85).[72] He concludes his argument as follows: "The general formula must go something like this: states may use military force in the face of threats of war, whenever the failure to do so would seriously risk their territorial integrity or political independence"

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[72] One wonders if Walzer's statement here could be used by Palestinians, for example, who feel that they have been deprived of a state, to legitimize their so-called acts of "terrorism", which Walzer explicitly condemns. (See his chapter on "Terrorism" in *Just and Unjust Wars*.) It seems that Walzer's theory is somewhat two-faced in this sensitive area.

(Walzer, 2000, 85). Overall, Walzer's "arguments that are made on behalf of intervention …open the way for just wars that are not fought in self-defense or against aggression in the strict sense" (Walzer, 2000, 90), which is another significant contribution to (or departure from) classical Just War Theory.

3.6.3. Supreme Emergency Overrides *Jus in Bello* Factors

Michael Walzer's final important contribution to updating Just War theory pertains to his views concerning the supersession of *Jus in Bello* rules during times of "Supreme Emergency". Walzer raises this contentious point in his theory during his treatment of the "Dilemmas of War" (See Walzer, 2000, 251-268). The following paragraphs briefly outline Walzer's position on 'Supreme Emergencies" to see how it affects his outlook on the principles of Just Warfare.

Somewhat surprisingly, Walzer is willing to sacrifice certain cherished principles of traditional just war theory (such as "Proportionality" and "Discrimination") in times of great distress/ emergency in order to preserve the collective survival of a people or society. Moreover, he is also willing to temporary suspend human rights when the greater peace and security of a society is threatened by acts of terrorism (Walzer, 1973, 160-180).[73] Such transgressions of Just War principles reveal an innate tension between moral individualism and his political communitarianism, which creates tensions in

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[73] Walzer treatment of the issue of terrorism in his book on *Just and Unjust Wars* is very limited for he only gives the problem of "Terrorism" less than ten pages of attention (see Walzer, 2000, 197-206).

his simultaneous emphasis on individual human rights, state sovereignty, and the collective aspirations of nations for self-determination. These tensions are manifested in the fact that normally Walzer champions human rights as the cornerstone of his Just War edifice; however, his theory contains notable provisions allowing for the normativity of human rights to be overruled in situations of "supreme emergency" where society's very existence is threatened. In such cases, the preservation of the collective good trumps individual rights.

Why does Walzer support the abrogation of the normal rules of war? What examples/ arguments does he use to substantiate his thesis? According to Walzer, an extreme emergency in wartime consists of a situation in which the very existence of a group of people and its culture is on the brink of extermination (Walzer, 251-268; cf. Cook 2007, 138-161). The underlying premise here is that ordinary morality is not absolute because it can be abrogated in situations of dire need, such as genocide. In these situations of extremity and duress, a community may rightly choose to set aside its rules of warfare (and/or protection of human rights) for its very survival.[74] In this manner, Just War criteria are relegated to secondary non-binding rules,

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[74] It is interesting that several religious traditions of the world recognize the importance of overriding standard rules of morality in extreme emergency situations. For instance, "Bassam Tibi calls attention to the Islamic precept, 'Necessity overrides the forbidden' (see Miller in Nardin, 268). Correspondingly, a "version of this argument has long been acknowledged in Judaism, on the ground that the law was given so that Jews might live by it, not die by it. Thus, it is accepted that certain laws (like those that ban fighting on the Sabbath) may if necessary be set aside" (Nardin, 260-261). Parallel notions of *Taqiyya* (in Muslim ethics) and *Upāya* (in Kālachakra Buddhism) allow for violations of everyday morality. The aforementioned examples provide fertile ground for futher inquiry into the topic of emergency wartime ethics in cross-cultural perspective.

albeit Walzer insists that it is only in very rare circumstances when the rules of war can legitimately be broken (Walzer, 2000, 254-255). He proceeds to list a few cases as examples: (1) The Jewish Holocaust; (2) The Battle of Britain (pre-1943); and (3) "Dirty Hands" to prevent Terrorism. The Nazi Holocaust of European Jews was so morally egregious that Walzer argues transgressions of the ordinary rules of war were justified in this case to prevent the genocide. Many historians (e.g., Neufeld and Berenbaum, 2000) agree with Walzer's general assessment that the Allies had a moral responsibility to intervene during WWII to prevent the genocide of the Jewish European population (even if Allied intervention required a reallocation of their scarce war resources) but the Allies failed to do so, which according to Walzer was a failure of universal humanitarian ideals. Walzer's stance then is clear: when one has the power to do so, one must stop genocide and the failure to do so is an act of moral culpability and legal complicity (Walzer, 2004, 21-36). One must stop genocide even if it requires overriding traditional Just War stipulations to intervene in other states' backyards.

Walzer's additional examples of "Supreme Emergency" however, are not as compelling as the Nazi Holocaust: his suggestion that the WWII Battle of Britain (prior to 1943), was another "extreme emergency" for the British people is less convincing. He claims that the very survival of the British people was at stake during the Nazi bombing of the British cities but such bombing, though indiscriminately destructive, did not threaten Britain's

entire population with compete extermination since much of the civilian bombing missed its mark (Jones, 2006, 7). Nevertheless, Walzer justifies British retaliation against Nazi Germany with their own "terror bombing" against civilian targets (not industrial targets) as a legitimate response to this emergency situation, thereby violating the Just War principles of "Discrimination" and "Non-combatant immunity". Walzer's example here is problematic, however, since war is a catastrophic series of emergency situations and crises, which are at the very epicenter of warfare.

The last case study used by Walzer to justify his abrogations of Just War principles is the "Dirty Hands" argument to prevent terrorism (Walzer, 1973, 160-180). Briefly stated, the "Dirty Hands" argument claims that it is morally acceptable to transgress moral norms to protect civil liberties so long as one accepts political responsibility for one's actions.[75] As Walzer says, "It is easy to get one's hands dirty in politics and it is often right to do so" (Walzer 1973, 174). For example, the "Ticking Bomb" hypothesis allows the torture of an individual (or of a small group of individuals) to gain information that will prevent a larger terrorist attack thereby minimizing potential massive causalities to civilians. However, in the process of

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[75] Coady, C.A.J. (Tony), "The Problem of Dirty Hands", *The Stanford Encyclopedia of Philosophy* (Fall 2009 Edition), Edward N. Zalta (ed.), URL = <http://plato.stanford.edu/archives/fall2009/entries/dirty-hands/>. Retrieved January 11, 2011. cf. C.A.J. Coady, "Politics and the Problem of Dirty Hands", in Peter Singer (ed.), *A Companion to Ethics,* (Oxford: Basil Blackwell, 1991): pp. 373–383; and Michael Yeo, "Dirty Hands in Politics: On the One Hand, and On the Other", in Paul Rynard and David P. Shugarman (eds.), *Cruelty and Deception: The Controversy over Dirty Hands in Politics,* (Peterborough, Ontario: Broadview Press; Australia: Pluto Press, 2000): pp. 157–173.

extracting this (dubious)[76] information by illicit means, one becomes guilty of violating human rights and therefore acquires so-called "dirty hands" in the process. Walzer hesitantly endorses this utilitarian argument but he warns that such circumstances should be exceedingly rare because they set a dangerous precedent that can lead to a slippery slope of human rights violations: "…dirty hands aren't permissible (or necessary) when anything less than the ongoingness of the community is at stake, or when the danger that we face is anything less than communal death" (Walzer 2004a, 46).

Indeed, Walzer's critics have lambasted him on the permissiveness of his 'Supreme Emergency' provision in his Just War theory. They have argued that his exceptions provide dangerous loopholes that can be exploited to undermine his entire theory. For instance, Stephen Nathanson's "Terrorism, Supreme Emergency, and Noncombatant Immunity" (2006) argues that Walzer's position on terrorism[77] is inconsistent and contradictory. Whereas Walzer rejects terrorism as "murder," his "supreme emergency" loophole allows political states to perform analogous state-terrorist acts in dire straights. Thus, Nathanson concludes that non-combatant immunity is

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[76] Studies have shown that information gained from torture is unreliable because the tortured persons are often willing to say anything (or what they think their captors want to hear) to end the torture. Thus, torture victims often confess to crimes that they did not commit (See "Does Torture Work?" in *Torture and Democracy* by Darius Rejali (Princeton, NJ: Princeton University Press, 2007), pp. 446-480).

[77] Thus, Walzer has been condemned by critics for treating terrorists as criminals/ murderers (not soldiers) because their acts of violence are allegedly random and target civilians, whereas he permits state terrorism of a similar sort (Valls, 2000, 65-79). Moreover, Walzer's definition of terrorism as "random murder of innocent people" that seeks "to destroy the morale of a nation or its class" (Walzer, 1977, 197) is problematic since some terrorists are indeed very deliberate in their targets and the murder is not random at all.

not a moral absolute for Walzer, and his supreme emergency prerogative is too open and permissive for state abuse. Likewise, Tony Coady's article "Terrorism, Just War, and Supreme Emergency" (2002) criticizes Walzer's allowance of warfare ethical violations in "Supreme Emergencies" since the definition of non-combatants is blurry because children are often involved in combat roles around the world, as substantiated by other studies (Eichstaedt, 2009; Honwana, 2006).

3.7.   Walzer and his Critics

Obviously, Walzer's theory of Just War did not emerge in an ideological or political vacuum. His views were informed by, and responded to, specific ideological stances and critiques made about his arguments. An examination in more detail of the specific views of Walzer's critics pertaining to his Just War theory shows how he responded to such intellectual flack in the battle of ideas, as well as to observe how his moral thinking about warfare evolved over a long and distinguished career. As is the case with all thinkers of public renown, Walzer's views have received a barrage of positive and negative commentary; and his critics forced him to nuance his arguments.

His efforts to amend and improve his Just War theory are illustrated in the various revised editions of his Just War classic, especially his supplementary publication *Arguing About War* (2004c), as well as articles in his leftist journal *Dissent,* which addressed issues of warfare that were not

adequately covered in his original monograph. In these additional writings, Walzer never repudiates his original thesis that warfare is an inherently moral and rule-governed activity that requires classification of just and unjust wars.

The range of critics who have tackled Walzer's work is quite broad, spanning the ideological spectrum from Realists to Pacifists. Suffice it to say, Realists place little value on Just War theory as a model of warfare since it limits the state's use of power to moral or legal conditions, which Realists find unacceptable (McMahan, 1996, 79; Cohen, 1984, 300). Realist criticisms of Walzer generally dismiss Just War theory as foolishly naïve. Since Walzer's book rejects the philosophy of Realism, he cannot really engage in dialogue with Realist assumptions about human nature and the theory of states. Rather he rejects Realist assumptions so no dialogue is possible.

Consequently, the primary dialectic occurring between Walzer and his critics occurs within the orbit of his liberal peers, many of whom support Just War principles but try to point out flaws in Walzer's reasoning or propose correctives to his ideas (Orend, 2002, 43-56; Bell, 2006, 295-305). Walzer engages in dialogue with these liberal critics with whom he shares common ground in his understanding of international relations and human nature, but even within the liberal fold there is a great diversity of opinions about warfare, political theory, and morality.

Among his liberal critics, Walzer has been castigated for his inconsistent positions on a number of topics pertaining to Just War theory. As we have already seen, Walzer posits the importance of non-combatant immunity, yet proceeds to make exceptions to the rules about it. This does not sit well with his critics. For instance, pacifists see Just War rhetoric as morally offensive. Laurie Calhoun in her article "Violence and Hypocrisy (2001) argues that Just War Theory is propaganda that has too easily been abused to promote violence. She asserts that civilians (non-combatants) should not be punished for the decisions of so-called "legitimate authorities" whom they did not necessarily support or elect. In this manner, she questions and challenges the "legitimate authority" criterion of Just War theory.

Yet again, Walzer's work comes across as contradictory when he suggests that aggression against states constitutes a cause for war, but the internal aggression of nations or ethnic minorities within a state expresses a legitimate right to self-determination. He approves of the self-determination of Kosovo within Yugoslavia while simultaneously denying this possibility for the Palestinian people due to their involvement with terrorist activities to overthrow a legitimate state authority: "Palestinian terrorism, that is, the deliberate targeting of civilians,[78] should always and everywhere be condemned" (Walzer and Miller, 2007, 300).

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[78] Here, Walzer contradicts himself by defining terrorism as "the deliberate targeting of civilians" in contrast to his earlier defintion of terrorism as "random murder" noted earlier.

In Andrew Valls' article "Can Terrorism be Justified" (2000, 65-79), it is argued that if Walzer allows terrorist-like actions by political states (e.g., random carpet bombing during the Vietnam war) then sub-national terrorism ought also to be justified. Valls argues that Just War theory is too state-centric and should be extended to non-state actors. He argues that Walzer has a double standard towards the issue of terrorism because he allows states to use violence to kill civilians. Valls suggests that some groups like the Kurds or Palestinians are legitimate authorities even though they are non-state groups.

Walzer responded to his chorus of critics by writing a book entitled *Thick and Thin: Moral Argument at Home and Abroad* (1994), which attempted to formulate a moral framework to reconcile and accommodate the apparent contradictions and insistences found in his moral arguments. Briefly summarized, this book argued that morality can be understood as having two primary operative modes: first, he speaks of a "thick" morality that is derived from tangible social laws of the land that are evident to those living in a particular society; second, he also speaks of a quieter morality that infuses all human thinking across national, religious, and ethnic boundaries, which he calls a "thin" morality working beneath the surface of "thick" morality. It is the tension between these two forms of morality that led people like Mahatma Gandhi and Dr. King Jr. to challenge the "thick" laws of the state according to higher principles of a "thin" morality. Walzer writes:

This dualism is, I think, an internal feature of every morality. Philosophers most often describe it in terms of a (thin) set of universal principles adapted (thickly) to these or those historical circumstances. I have in the past suggested the image of a core morality differently elaborated in different cultures (1994, 4).

In this manner, Walzer counterattacks the common critique of cultural relativists that each society has its own set of values and ethics, which undermine notions of universal morality. Conversely, Walzer claims that different social systems and cultures have distinctive "thick" moral laws, which co-exist with an undercurrent of "thin" morality that permeates humanity. Through this dual notion of "thick" and "thin" morality, Walzer finds a way to reconcile of different cultural ethics with the idea of universal human rights. Indeed, his recent writings continue to advance the thesis that warfare is an inherently moral and rule-governed activity, which allows us to differentiate between so-called "just" and "unjust" wars.

3.8. Chapter Summary

This chapter delineated Walzer's theory of just and unjust war, identified the fundamental assumptions of his theoretical framework, drew out the implications of his theory, and pinpointed some of the apparent weaknesses found in his arguments. Additionally, it considered the development of Walzer's theory over time in an often dialectical relationship with his critics.

A main goal of this chapter was to sketch-out the salient assumptions of Walzer's well-respected theory of Just War. The objective was to carefully identify the central pillars in the edifice of Walzer's theory. These pillars can now be enumerated as follows:

- First, Walzer's theory of Just War is predicated on morality as its foundation. In other words, 'morality' is the lens through which he approaches warfare—not religious theology or societal class tensions. He is determined to show that morality still applies to discourse on modern warfare.

- Second, the specific type of morality propagated by Walzer is a liberal rights-based model of ethics. Moreover, he argues that notions of human rights are universal in all cultures, religions, and nations. Walzer posits that all cultures speak about crimes in warfare allowing us to share a common discourse about rights violations in wartime (Walzer, 2000, xx-xxi). For Walzer, war is an act of aggression, which incurs indemnity if it violates these rights (Walzer, 2000, 53-62; esp. 72).

- Third, Walzer emphasizes the territorial integrity of states in a Liberal international system but he predicates such territorial integrity on a system of justice that derives its state sovereignty from the rights of its citizens. Citizens are always positioned in particular community context with its own ethos and distinctive communal identity. This premise of Walzer's Just War Theory is known as his "Communitarian" ideological ethos whereby political theory is grounded in the traditions of particular societies rather than derived from abstract principles of political philosophy[79] (Walzer in Etzioni, 1995).

- Fourth, Walzer supplements and amends traditional western Just War theory by emphasizing the validity of humanitarian interventions (a.k.a. 'military interventions') to prevent crimes against humanity such as ethnic cleansing and genocide. He remarks, "It is easy to agree that ethnic cleansing and mass murder ought to be stopped, but not easy at all to figure out how this might be done. Who should intervene, with what authority, using what kind and degree of force- these are hard questions, and

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[79] It is questionable how well Walzer's affirmation of universal rights, advocated in *Just and Unjust Wars* (1977), fits with his later insistence on particularistic communitarian commitments as ensconced in his book, *The Communitarian Critique of Liberalism* (1995). As noted earlier, his communitarian arguments somewhat undermine his recalcitrance about universal principles.

they are now the central questions of war and morality" [today] (Walzer, 2000, xii). Thus, he asserts that the issue of ethnic cleansing is so compelling today that it necessitates a re-examination of the acceptability of "humanitarian intervention" as a justification for warfare in the 21st century, asking "How much human suffering are we prepared to watch before we intervene? (p. xii)" The conflict of Rwanda, Somalia, Bosnia, and Afghanistan echo his point.

- However, to prevent the abuse of state interventions, Walzer introduces his criteria of 'double intention,' which is more restrictive than the classic "Doctrine of Double Effect."

- Fifth, Walzer simultaneously erodes the absoluteness of Just War Theory by integrating a "Supreme Emergency" loophole into his theory, which allows states to resort to violations and transgressions of normal rules of war to preserve their survival.

- Sixth, Walzer attempts to resolve the inconsistencies in his own writing on war by advancing a "Thick" versus "Thin" morality to show how types of morality can simultaneously exist. He introduces this bifurcated morality in his book, *Thick and Thin*, which posits his later view that a "Thin" universal morality held in common by all cultures and religions, coexists with a "Thick" type of morality that compriseing the laws of states (1994, 4).

The above points summarize the main pillars of Walzer's Just War theory; this chapter has argued that while having much to commend to it, Walzer's theory, however, is predicated on the tenuous assumption of universal human rights. It is by no means certain that rights-based morality is universally accepted as Walzer suggests, and much scholarship in this area disagrees with his approach (see Frohnen and Grasso 2009; Luban 1980: Dubik 1982). What is most problematic about Walzer's theory is that he attempts to impose his model on other cultures, which amounts to a new form of ethnocentric liberal reductionism. Walzer's theory needs to be tempered by the views of non-Western cultures to see whether their systems of morality

accord with his rights-based approach. As such, the following chapter turns its attention to Hindu attitudes towards war in classical India to probe their moral assumptions, and to assess their relevance to Walzer's theory.

In summation, the above analysis has attempted to situate Walzer's thinking about war within the context of both his ideological convictions and prolific writing career as a moral and social critic. Walzer's theory was examined from both a macro level birds-eye perspective as well as from the micro level (the trenches of his paragraphs). It was argued that Walzer's positions on Just War are not only internally problematic due to their tenuous assumptions about the nature of universal morality—not shared by other non-western cultures—but also contentious for their permissive acceptance of ethical violations in war during "Supreme Emergencies."

CHAPTER FOUR:

DHARMA YUDDHA AND ITS UNDERLYING ASSUMPTIONS

4.1. Introduction and Objectives

The goals of this chapter are four-fold: first, to clarify the terms *dharma* and *dharma yuddha;* second, to situate *dharma yuddha* in the proper background of Hindu political statecraft; third, to describe the historical development of the doctrine of *dharma yuddha* in Hindu thought; and, finally, to identify the specific stipulations/ rules of *dharma yuddha* in the nexus of classical Just War categories (i.e., *jus in bello* and *jus ad bellum*). Fulfilling these objectives will allow us to assess in the next chapter whether Hindu rules of *dharma yuddha* are compatible with Walzer's paradigm of Just War.

Since this research work seeks to make a substantive contribution to the academic understanding of *dharma yuddha*, the length of this chapter is extensive and four major dimensions of *dharma yuddha* are covered in different sections of the chapter: a) its philosophical rationale; b) its historical development, c) its political framework, and d) its legal context. Before commencing these sections, however, some preliminary clarification of terminology is necessary to delineate the scope of the concept of *dharma yuddha.*

4.2. Clarification of Terms

Several terms need to be defined at the outset of this chapter to provide greater semantic sharpness, since it will become evident that there is considerable latitude in how the terms "warfare," "justice," and "violence" are understood within the Hindu tradition. In particular, the concepts of *dharma* ("righteousness/ justice") and *yuddha* ("war") need to be carefully elucidated. Each of these terms contains its own universe of meanings that must be placed in a larger context to provide conceptual clarity. While the phrase "*dharma yuddha"* can be translated as "Just War" (Clooney 2003, 109; Allen 2006, Brockington 1985) it is not the only possible English rendition because the term "*dharma*" (as we shall see below) is multivalent.[80] Therefore, outlining the parameters of the aforementioned terms is necessary to demarcate the scope of this study.

4.2.1. Defining 'War', 'Force' and 'Violence' in Hindu Thought

Although warfare is a global human phenomenon, its assessment and evaluation are always embedded and understood within a larger cultural framework. Each religion has its own metaphysical and ethical assumptions about human nature and the value of human life. As a result, the concepts of

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[80] The Sanskrit language works on a root word pattern where an original base term has extra words and/or case endings added to it to give it a new meaning. For example, the words "just king" are kept separate in the English language while in Sanskrit it is known as *dharma-rāja*. Dharma, therefore, becomes an important root word in the Sanskrit language when describing many religious ideas. In the same manner, the word *"Dharma-yuddha"* refers to "Just War.'

'violence,' 'war,' and 'force' within Hindu religious and political texts have their own distinct meanings. Consequently, the question: "How do the Hindu traditions view war and violence?" does not lead to a straightforward answer because the question itself invokes divergent Hindu assumptions about ethics, politics, and textual hermeneutics embedded within Indian culture and religions.

A.L. Herman notes three major problems in tackling the issue of defining violence and war in a Hindu context as follows:

> 1. "The meaning of violence is ambiguous: Is it restricted to violence enacted with malicious intention? Is it restricted to physical violence? Is it restricted to human violence or does it include the animal world?
> 2. The [argument] that non-violence tends to provoke violence."[81]
> 3. The relationship between 'violence' and 'force' in a tradition needs to be unpacked. Can violence be heuristically understood as a type of positive, corrective punishment? (1999, 111)

Another problem in defining violence is the value that one places on motives in the operation of violence. Does the notion of a "pre-meditated crime" or "calculated violence" suggest that some forms of violence are worse than others? Indeed, it is the opinion of Koshelya Walli that there must be deliberately malicious motives causing harm to constitute violence or else one cannot say that violence is being perpetrated (1974, xxxiii). Thus, a doctor, for example, performing a surgery may be inflicting pain on a patient but she is not committing violence because the motive of the surgery is to help the

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[81] Gandhi responds to this problem by noticing a logical flaw: "Isn't this like condemning the robbed man because his possession of money precipitated the evil of robbery?" (cited in Herman 1999, 111).

patient.[82] The surgeon's motive is altruistic and therefore she is not morally culpable.

In a similar way, the Hindu tradition legitimizes violence for the professional solider caste known as the *kṣatriya.*[83] The Hindu caste system provides the *kṣatriya* with religious legitimacy to use controlled force in order to uphold social laws and religious orthodoxy. In this classical framework, the duty of the king was to use violence to maintain order. Francis X. Clooney remarks, "causing pain is conceded a due place in the exercise of royal power; indeed, exerting force and causing pain [is believed to] lessen the overall amount of pain in the long run" (2003, 115).   This seminal Hindu concept of "controlled force" is known by the Sanskrit word *daṇḍa* ("the rod/stick"). The "rod" or "stick" was used to inflict punishment on those who violated Hindu social rules. It was also used to threaten and/or attack other kingdoms during warfare. Therefore, Basham notes that *daṇḍa* may be translated as "military force", "coercion", "punishment", "a fine", or simply "justice"" (1954, 114). Furthermore, Brekke (2006, 125) explains that "*Daṇḍa* is military power and *daṇḍa* is punishment. The execution of power is the "wielding of *daṇḍa*" (*daṇḍanīti*)."[84] Many of the most authoritative Hindu scriptures celebrate

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[82] On the other hand, one could argue that the doctor is indeed perpetrating violence if she did not obtain the patient's permission for the act (assuming tha patient was in a position to render such permission).

[83] "Edward W. Hopkins, in his important study of the *Mahābhārata,* claims that Kshatriya literally means "he who saves from destruction" (from *kshanioh* = from hurt + *trayate* = saves life). See his *The social and Military Position of the Ruling Caste in India* (Durga Kund, Varanasi: Bharat-Bharati, 1972 [1889]), p.58. (Cited in Aho, 1981, 75).

[84] Other uses of the term include "*Daṇḍadharā* (or rod-wielding 'king') and *daṇḍamārga,* (or 'military march') (Dikshitar, 1944, 4; 241).

and praise the virtues of controlled force and sanctified violence in the maintenance of social and cosmic order. For instance, the law books of Manu praise *daṇḍa* as a divine gift (*Manu* 7: 14-25). Indeed, Manu even personifies and glorifies the power of "the rod" in the following glowing words:

> The rod is the King and the man, he is the inflictor and he is the chastiser, traditionally regarded as the guarantor for the duty of the four stages of life. The Rod alone chastises all subjects, the Rod protects them, the Rod stays awake while they sleep; wise men know the justice is the Rod. Properly wielded, with due consideration, it makes all the subjects happy; but inflicted without due consideration, it destroys everything. … Where the Rod moves about, black and with red eyes, destroying evil, there the subjects do not get confused, as long as the inflictor sees well (*Code of Manu* 7: 14–18).[85]

Echoing this sentiment, the *Mahābhārata* (*Mbh.*) stipulates that *daṇḍa* is essential to the smooth functioning of society: if *daṇḍa* is not administered by the king and enforced by the *kṣatriya* caste then "'the strong ones would eat up the weaker ones like fish in the water' [*Mbh.* 12, 67, 12].[86] Without *daṇḍa* the girls would not live in virginity, the boys would not learn the Vedas, nobody would milk the cows and acknowledge the property rights of others, there would be uncontrolled fighting and killing, and even the animals could not be brought under the yoke in order to carry the cart" (*Mbh.* 12, 14 as cited in von Brück).

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[85] *The Laws of Manu,* trans. Wendy Doniger and Brian K. Smith (Penguin Books, Harmondsworth: 1991).

[86] Unless otherwise stated, all references to the *Mahābhārata* in this work derive from the well-respected University of Chicago translations by J.A.B. van Buitenen (in three volumes) published from 1973-78, as well as his successors in this series. Following van Buitenen's death in 1979, the remaining books of the *Mbh.* were translated by James L . Fitzgerald and David Gitomer. Many of the *Mahābhārata's* rules of war cited here derive from Chapter 12 of the *Mbh.* (*Śāntiparvan: "*The Book of Peace"), which was translated by James L. Fitzgerald in 2004. I will follow his translation. See James L. Fitzgerald, trans. *The Mahābhārata: The Book of Peace, Part One.* Chicago: University of Chicago Press, 2004.

Within this system, the king played the pre-eminent role as the enforcer and administrator of *daṇḍa* (punishment). This system of justice was known as *daṇḍanīti* (the science of punishment):

> The king's responsibility for maintaining Dharma by means of *daṇḍa* was not taken lightly. Imperial administration of justice brought him the same spiritual reward as Vedic sacrifices. Kings failing their duty suffered in Hell. Even delay in justice was visited with dire penalties, for a legendary king called Nṛga was reborn as a lizard, because he kept two litigants waiting in a dispute over a cow (Basham, 1954, 114).

In the administration of justice in Hindu India, "the primary function of the king was coercive" (Lannoy, 1974, 320). The king "was believed to incur the demerit of criminals not brought to book, and to suffer in the next life accordingly" (Basham, 1954, 114-115). Sometimes "the king might be the sole source of justice and indeed his own executioner, striking down condemned thieves with his mace; but in general the administration of justice was delegated, the king's court being reserved for appeals and serious crimes against the state" (Basham, 1954, 116). Aho explains:

> The world falls upon the king's shoulders, on the back of the *dharma-rāja,* the very person of *dharma* itself. Without the rāja's use of "punishment," relates the lesson, without his embarkation on the campaigns of righteous conquest first to establish and then to maintain sacred law, without his fighting justly against the enemies of order, then men would become corrupt (1981, 73).

It was not merely the *dharmaśāstra* and Hindu epic traditions that endorsed and supported the application of coercive force in society and statecraft. One should not be surprised to find that the Hindu Realist

tradition also had much to say about the value of *daṇḍa*. Kauṭilya delineates

the purpose and functions of *daṇḍa* in his *Arthaśāstra* (Ch. 4:1) as follows:

> Its wielding is the science of politics (*daṇḍanīti*) the purpose of
> which is the acquisition of what is not acquired, the preservation
> of what is acquired, the augmentation of what is preserved and
> the giving away of what is augmented to a worthy recipient. The
> orderly maintenance of worldly life depends on it. Therefore the
> king seeking the orderly maintenance of worldly life should
> always hold the stick lifted to strike (cited in Brekke, 2006, 125).

Consequently, both Hindu Idealist and Realist traditions are very concerned

with supporting and authorizing legitimate violence.[87] However, Hindu

traditions differentiate non-legitimate violence (*hiṃsā*) from controlled force

(*daṇḍa*) and the latter is considered to be a valid form of statecraft and a

political tool (*upāya*) for worldly success (See *Rāmāyaṇa*, 5.39.2). According to

Hindu scriptures, controlled force includes sanctified violence and just wars

(*Mbh*. 12.67,12). Thus, the military actions committed by warriors are

deemed to be legitimate because they are supposed to save the entire

community from anarchy, just as force used by the police in contemporary

times is supposed to maintain (or restore) social well-being.

Returning now to the question of the definition of violence and force in

Hinduism, the claim could be made that Hinduism legitimizes war to protect

the status quo, which benefits the higher castes, especially the high-caste

males, and to an extent this is correct; however, such an argument overlooks

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[87] Von Bruck (2004, 22) notes "there is a distinction of different forms of *daṇḍa*, and this again depends on the specific stratifications of caste: [For instance,] The *daṇḍa* of the Brahmin (priest) is executed through the power of the word, the *daṇḍa* of the Kṣatriya (warrior, ruler) through the physical strength of his arm, the *daṇḍa* of the Vaiśya (artisans, merchants, farmers) through the giving of material goods. The Śūdra (serving class) does not have any *daṇḍa* (*Mbh*. 12: 25, 9.)".

the important point that it is not violence (*hiṃsā*) that is encouraged but protection and corrective coercion for the benefit of all. The Hindu texts affirm that sometimes force is needed to protect order and sometimes peace cannot be achieved without war (Shastri, 2000, 81). Shastri is able to confidently state, "Soldiers on the battlefield who kill their enemies do not engage in *hiṃsā*, but are carrying out a professional duty—a duty towards one's own country, culture, and society—and this duty is considered an act of heroism. One must not allow evil forces to conquer society. Man must not be mute witness to evils and injustice" (Shastri, 2000, 80). As the Hindu guru Śiva Yogaswāmi laconically states, "It is a sin to kill the tiger in the jungle. But if he comes into the village, it may become your duty" (cited by Subramuniyaswami, 1989, 6). The Hindu *kṣatriya* who kills for the general interest of the whole community—to save the nation from invasion for the safety and security of all members—is not to be blamed for violence because the action has been done for the protection of the society.[88] Therefore, Hindu scriptures teach a form of utilitarianism whereby killing enemies in wartime is considered virtuous if it promotes the greater benefit of the entire population (*lokasaṃgraha*). Conversely, if the killing is perpetrated for the spoils of war (or other greedy or hateful, or malicious purposes) then these

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[88] As stated in Brockington (1985, 130), "In this respect the incident where Rāma summarily executes a *śūdra* whose unauthorized performance of penance has subverted the natural order presents special difficulties to the modern Westerner. What seems to us arbitrary despotism is seen by the text as a further example of Rāma's justice and his anxiety for the welfare of his people as a whole in response to a justified grievance ([*Rāmāyaṇa*] 7.64-7)."

actions would be deemed as morally culpable and blameworthy. Warfare driven by anger, violence, hate, and greed, is condemned as demonic; but warfare for justice to prevail is glorious and heroic (Mukherjee, 1974). Thus, according to Hindu tradition, one's intent determines if he is guilty of *himsā* (violence). Hindu *kṣatriyas* may honourably wage war as long as it is not being used for any personal gain.

This analysis shows that the category of controlled force-legitimate violence (*daṇḍa*) was an accepted and expected duty of *kṣatriya dharma*. Hindu warfare was even honoured and celebrated for its protective merit as a manifestation of the rod (Sullivan 118).

4.2.2. Defining "Justice" in Hindu Discourse

Now that we have clarified the Hindu use of the term violence (*himsā*) by comparing it to controlled force (*daṇḍa*), it is also necessary to provide greater precision to the Hindu concept of "justice", since it is a key component in the term "Just War." There are several notions that can be used to denote justice in Hindu traditions but the most comprehensive concept with applicable religious dimesnions is *dharma*.[89] This single word, however,

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[89] Hindu notions of "justice" include the ideas of *nyāya, nīti,* and *dharma*. In his book *The Idea of Justice* (2009), Amartya Sen elucidates the distinct meanings of *nīti* (rules of law) and *nyāya* (justice/logic) as Indian concepts of justice:

> In understanding the contrast between an arrangement-focused and a realization-focused view of justice, it is useful to invoke an old distinction from the Sanskrit literature on ethics and jurisprudence. Consider two different words – *niti* and *nyaya* – both of which stand for justice in classical Sanskrit. Among the principle uses of the term *niti* are organizational propriety and behavioural correctness. In contrast with *niti,* the term *nyaya* stands for a comprehensive concept of realized justice. In that line of vision, the roles of institutions, rules and organization, important as

contains an amazing latitude of meanings depending on the context in which it is employed. Indeed, the omnibus concept of *dharma* is much like a multi-coloured bird of paradise—a semantic Indian Peacock—whose polysemic meanings change colours depending on the different seasons of Hindu thought. The Monier-Williams Sanskrit-English dictionary lists seventeen meanings of the word dharma including "religion; the customary observances of a caste, sect; law usage; practice; religious or moral merit; virtue; righteousness; duty; justice; piety; morality; sacrifice; and more" (Runzo, 2001, 178). Correspondingly, McKenzie's *Hindu Ethics* tells of the difficulty in translating the term *dharma* because there is no one English word that encompasses it (1971, 38-39). K.V. Rangaswami Aiyangar remarks, "*Dharma* is used in so many senses that it eludes definition. It stands for nature, intrinsic quality, civil and moral law, justice, virtue, merit, duty and morality'" (1952, 63). As a result, *dharma* has come to have heterogeneous

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they are, have to be assessed in the broader and more inclusive perspective of *nyaya,* which is inescapably linked with the world that actually emerges, not just the institutions or rules we happen to have. … Let me consider an example to make the distinction between *niti* and *nyaya* clearer. Ferdinand I, the Holy Roman emperor, famously claimed in the sixteenth century: 'Fiat justitia, et pereat mundus', which can be translated as 'Let justice be done, though the world perish'. This severe maxim could figure as a *niti* – a very austere *niti* – that is advocated but some … but it would be hard to accommodate a total catastrophe as an example of a just world, when we understand justice in the broader form a *nyaya.* If indeed the world does perish, there would be nothing much to celebrate in that accomplishment, even though the stern and severe *niti* leading to this extreme result could conceivably be defended with very sophisticated arguments or different kinds (2009, 20-21).

The broadest Hindu religious notion of justice is the multifaceted concept of dharma, which not only means justice but also holy righteousness. The Sanskrit root for dharma is *dhṛ* meaning "to sustain, support, and preserve". According to Aho (1981, 73), the etymology of this term derives from the root (*dhṛ* = throne or support + *ma* = cosmos). All of creation from microcosm to macrocosm is said to be held together by the practice of *dharma,* which implies authorative binding religious force.

meanings throughout India's long history; to imply that dharma has only one single meaning is therefore misleading.[90]

For the purposes of this work, *dharma* is "a universal justice far more inclusive, wider and profounder than any western equivalent, such as 'duty'" (Lannoy, 1974, 218). Within this grander notion of justice, all groups were seen as being interconnected, and *dharma* functioned as the moral glue that provided social cohesion to disparate groups in the Hindu caste system. Justice resulted from each individual following his or her personal caste duties for it was only when the different castes fulfilled their *varṇāśramadharma* (caste and life-stage duties) that peace and order in the universe were guaranteed (von Brück, 2004, 21). Given this analysis, it is important to keep in mind four caveats about the Hindu notion of "justice".

First, Hindu notions of "justice" are based on duties rather than individual rights or egalitarian notions of social equality.[91] Hindu *justice* does not embody the impulse to uphold an *equal* society but strengthens a society based on caste hierarchy and order. A Hindu "legal system envisaged by the Smṛtis would impose graduated punishment according to class... Similar gradations of penalty according to the class of the offender are laid down for

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[90] *Dharma* has sometimes been explained in a simplified way as duty to one's self, duty to the community, and duty of the universe. Although many authors have defined the term *dharma* in varying ways, nearly all of them indicate that *dharma* has three main meanings; cosmic order, social duties and justice, and proper behaviour (righteous conduct).

[91] For additional discussion of the nature of justice in Hindu sources see: Subhash Gupta, *Capital Punishment in India* (New Delhi: Deep and Deep Publications, 1986); Sukla Das, *Crime and Punishment in Ancient India* (New Delhi: Abhinav Publications, 1977); S.K. Purohit, *Ancient Indian Legal Philosophy: Its Relevance to Contemporary Jurisprudential Thought.* (New Delhi: Deep and Deep Publications, 1994); and Unto Tähtinen, *Non-violent Theories of Punishment; Indian and Western* (Helsinki: Suomalainen Tiedeakatemia, 1982).

many crimes, and the equality of all before the law was never admitted in ancient India, and was contrary to most Indian thought" (Basham, 1954, 120).[92]   Moreover, Hindu justice is not a system of unchanging, absolute rights or wrongs but rather a system of graded punishments depending on one's status in society. Sukla Das discusses one of these texts that addresses the concept of royal justice and the justification for the punishment in the *Mahābhārata*.   He writes, "[t]he *Mahābhārata* records that the king should set the criminal free from sin by inflicting punishment in accordance with law" (1977, 55). Das explains that the king has "to weigh the nature of the offence, circumstances, and motive before punishment" is carried out (1977, 57). Das surveyed many Hindu texts and law books and identified various kinds of punishment used in ancient Indian society such as "gentle admonition," "harsh reproof," "monetary," "corporal punishment," and 'banishment' (1977, 57-76). The death sentence was "absolutely reserved for the gravest offence" (1977, 75). According to Basham, when "the accused was open to grave suspicion not amounting to certainty he might be tortured to elicit confession. The tortures enumerated for this purpose are not all of the most extreme type, and include various forms of whipping. Brahmans, children, the aged, the sick, lunatics and pregnant women were theoretically

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[92] Basham notes that at "all times the priestly class claimed many privileges in law. According to the most orthodox sources the Brahmans were exempt from execution, torture, and corporal punishment, the worse penalty that could be imposed on them being the humiliation of losing their topknot, followed by confiscation of property and banishment. But the *Smṛti* of Kātyāyāna allows the execution of a Brahman for procuring abortion, the murder of a respectable woman, and the theft of gold, while the *Arthaśāstra* admits it for sedition, and also sanctions the branding of Brahmans" (Basham, 1954, 120).

exempt from torture, while only light torture was prescribed for women"
(1954, 117). Building on this line of thought, S.K. Purohit states, "the purpose
of severe punishments like those of death, exile, or mutilation, [torture], etc.,
seem to be not only preventative [sic] but a deterrent also" (1994, 195). He
cites many examples of such punishments found in the *Dharmaśāstras*.[93]
Additionally, references to the penalty of death are found in the Hindu law
books, and criminals who are caught cannot blame their crime and capture
on a build-up of past life bad karma, because people's actions are a result of
free will.

Secondly, moral ideals about social relationships are not absolute, but
relative to the needs and conditions of different types of society. *Dharma* is
also dependent on time, circumstances, age, and the community to which a
person belongs, so the *dharma* of each person will be unique. Moreover,
dharma has its own specific characteristics during each of the four Hindu
ages, and therefore it is tied also to historic conditions.

Finally, the measure of "justice" is viewed differently depending on
one's caste and station in life. Each one of the stages and the community to
which one belongs involves various kinds of dharma. The *Laws of Manu* aver

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[93] Mutilation and torture "were common penalties for many crimes, and numerous forms are described by
legal writers. Such punishments were often looked on rather as penances, and the idea of religious penance
was never completely absent from the thought of the pious authors of the *Smṛtis,* in considering the
punishment of crime. It was generally believed that by undergoing punishment in this life the criminal
escaped the evil consequences of his crime in the next … Even the benevolent Aśoka, given all his distaste
for the taking of life, did not abolish the death penalty … Aśoka was proud of the many gaol [jail]-
deliveries which he had ordered in the course of his reign; according to a later tradition he is said to have
maintained in his unreformed early years a prison in which the most fiendish tortures were inflicted and
from which no prisoner came out alive" (Basham, 118-119; cf. *Mbh* 12: 259).

that "all humans are metaphysically equal but not so in social terms. As a case in point, one can consider Kauṭilya's rule concerning adultery. If higher males molest a woman of lower status, they have to pay a financial compensation according to the status of the respective woman. If, however, males of a lower caste get too close to a high-caste woman, they will get most severe punishment, possibly the death penalty" (Kauṭilya, *Arthaśāstra* 2,36, 56, cited in von Brück, *2004,* 21). Furthermore, Brahmins "enjoy special privileges. Two interesting areas of their exempted status is [sic] the lower taxation and milder form of punishment in case of offences" (von Brück*, 2004,* 24). John Hawley expresses the essence of graduated Hindu dharma well when he states, "Dharma is personal. It is not a one size fits all set of ethical standards" (1993*,* 143). When applying this thinking to wafare we see that the rules of *dharma* for the warrior caste require following *dharma yuddha* (right conduct) in the midst of battle, obeying strict rules to remain 'just' in accordance with its social position. If a *kṣatriya* were to break any of the laws of *dharma yuddha* then he would have committed a sin and placed himself on the pathway to hell (Voiels, 1998, 105). Moreover, if the Hindu "Laws of War" were broken or not faithfully observed, then "the State had a right to punish the transgressor. One punishment was social ostracism. [The transgressor] became an outcaste and was debarred from enjoying the social privileges which he as a *Kṣatriya* had enjoyed so far" (*Mbh.,* 12: 96. 9-10, cited in

Dikshitar, 1987, 91). Indeed, Bhīṣma, the distinguished military teacher in the *Mahābhārata,* insists:

> A king must not wage war by unjust means [for] what kind of ruler would rejoice in an unjust victory (*adharmavijaya*), he asks [12.97.1.]. A victory won through unrighteousness weakens both the king himself and the world. The king … must never wish to conquer through illusion or magic (*māyā*) or through deceit (*dambha*)" [12.97.23.] (Brekke, 2006, 116-117).

Now that the term *dharma* has been elucidated, one can appreciate its expanded dimension once the term is joined together in the phrase "*dharma yuddha.*" The following section elucidates *dharma yuddha* in juxtaposition with other paradigms of Hindu warfare.

4.2.3. Defining "Dharma Yuddha"

The Sanskrit term *Yuddha* derives from the root *yudh* ("to fight"), which is also the basis for the Hindu words for warriors (e.g., *yudhin, yodhā, yodhin*) (Brockington, 1985, 136). As previously noted about the word *dharma,* Sanskrit root terms such as *yudh* can be attached to a variety of other words to produce additional expanded meanings. For instance, Sanskrit words denoting military actions involving *yudh* include *dvandva-yuddha* ("duel-combat") and *Yuddha-kāṇḍa* ("Book of the Battle"—a chapter of the epic *Rāmāyaṇa*), among others. Furthermore, the name of the eldest Pāṇḍu brother, *Yudhiṣṭira* (meaning "steady in war")*,* also derives from the root *yudh.*

Given the fact that Hindu scriptures employ plots of wars, it is not surprising that the word *yuddha* appears very frequently in their narratives. For instance, Brockington notes that a profusion of war terminology is found in the *Rāmāyaṇa* epic where the term *yuddha* is the most commonly used "followed closely by *raṇa* and then, with roughly half the number of occurrences, by *samra*" (Brockington, 1985, 134).[94] The *Mahābhārata* is also full of military vocabulary denoting strife, warriors, and warfare and the ethos of the *Bhagavad Gītā* clearly supported the idea of righteous struggle.[95] Thus, the concept of *yuddha* is deeply woven into the fabric of Hindu thought.

Over time, Hindu thinkers produced two schools of thought about war that roughly corresponded to the ideologies of political Idealism and Realism in the West, examined in the last chapter. These two approaches were known as *dharma yuddha* (ethical warfare) and *kūṭa yuddha*[96] (devious warfare) (Deswhingkar, 1988, 1). *Dharma yuddha* denoted a particular type of Hindu

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[94] Brekke notes that the *Rāmāyaṇa* has "nearly six thousand occurrences of the terms denoting military actions. These are most frequent in the book of the battle, the *Yuddhakāṇḍa,* describing the clash between the two armies" (2006, 118). Other Sanskrit words for war found include *samgrāmika* ('armed conflict'), and (See *Arthaśāstra,* X) *abhiṣeṇayati* ('make war'), *samgrāma* ('war'), *samra* ('war'), *āyodhana* ('war'), *āhava* ('war'), and *raṇya* ('war'), *rāṭi* ('war, battle'). Another early word for war during the Vedic period was *gaviṣṭi* (literally 'desire for more cows.'). This last term derives from the Vedic period of Indian society when cattle were a symbol of wealth and many wars were fought over stealing cattle from rival clans (See *Ṛg Veda* I.7.4.; I.8.1.; I.16.9.; I.31.6.; I.36.8.; X. 84.2; cf. Dikshitar, 1987, 15-16).

[95] The following verses from the *Gītā* clearly indicate the text's support for the idea of righteous warfare: "Considering also your duty as a warrior you should not waver. Because there is nothing more auspicious for a warrior than a righteous war" (BG 2.31, trans. Palmer-Fernandez, 2004, 172); and "If you will not fight this righteous war, then you will fail in your duty, lose your reputation, and incur sin" (BG 2:33, cited in Whitaker, 2004, 172). Nevertheless, it is somewhat surprising that the term "*Dharma-yuddha*" "does not in fact occur in the *[Bhagavad] Gītā*" even though the concept of "righteous war" is certainly present in its message (Allen, 2006, 148).

[96] The Hindu text *Brahmanda Purāṇa* indicates that *kūṭa yuddha* was also known as *Citra yuddha* (Varied-weapons warfare) where *māyā* (deception/ illusion) was put into practice (Dikshitar, 1987, 84-5).

warfare regulated by ethical rules[97] in opposition to devious military means.

These distinct schools of Hindu warfare are succinctly described by Walker:

> The *dharma-yuddha*, "righteous war", was fought according to the chivalric code of kings and warriors. … The tactics of *dharma-yuddha* were open (*prakāsha*), and it was without secrecy or stratagem, although recourse to magical means and mantras (spells) was permissible. Hence it was also called *mantra-yuddha,* "war by spells". The *kūṭa-yuddha*, "false war", was actuated by greed (*lobha*) for territory or spoils, or lust for conquest and massacre. This type of warfare employed the methods of the *asura* (godless), hence was also called *asura-yuddha,* and included subversion, secret agents, treachery, poisoning of drinking wells, killing of cattle, and sorcerers' means. Among the latter was illusion (*māyā*) (Walker 1968, 333).

Each of these schools of warfare was echoed and reflected in Hindu texts, which described a clash between godly and demonic forces that paralleled righteous and demonic methods of war in the human realm. For instance, the mythological demons of Hindu thought, known as *rākṣasas,* frequently deployed deceit as a "fairly regular tactic" in war since they were "always crooked fighters (*kūṭayodhin)"* (*Rāmāyaṇa* 6.40.53; Brockington, 1985, 151).[98] Correspondingly, the tactics employed by armies often reflected their mythological views of the cosmos as well as their alignment in the cosmic struggle between the forces of order and chaos. As Lannoy (1971, 294) notes:

> In the Hindu scriptures history is represented as a ceaseless conflict between the Dharma and Adharma – between the moral, idealistic, spiritual, forces and the unregenerate forces of darkness, lust, and evil – in which the Dharma always wins ... This conception is extremely archaic but astonishingly durable; at

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[97] Stephen Rosen's book, *Societies and Military Power: India and its Armies* (1996) uses "*nyāya yuddha*" as a synonym for "*dharma yuddha*" (p.73.)

[98] For instance, in the *Rāmāyaṇa,* "the Rākṣasa indulged in *kūṭayuddha"* and their actions were called "not commendable to honorable men" (See *Yuddha-kāṇḍa,* 50. 15; Dikshitar, 1987, 88).

heart the Hindu still sees history, even in modern times, in terms
of the archetypal tension between *Dharma* and *Adharma.*

Understanding the innate tension between *dharma* and *adharma* in Indian
ethics provides penetrating insight into Hindu attitudes towards warfare.
After all, an important corollary of *dharma yuddha* appears to be its binary
opposite: *adharma yuddha* (unrighteous, unrestrained chaotic warfare). If a
Hindu soldier wishes to live in proper alignment with the laws of *dharma*
then he or she must abstain from *adharma* (unrighteousness)*, nirdharma*
(antinomianism), *anṛta* (untruth), and *doṣa* (sin) (Walker, 1968, 275).
Obviously, the *adharmic* forces did not practice *dharma yuddha* since
dharma was incompatible with their intrinsic nature (unless one sees demons
as having their own type of dharma in which unrighteousness is actually
their duty!).[99] Instead, they practiced, as noted above, *kūṭa yuddha* (devious
warfare/ treacherous warfare), also known as *asuric yuddha* (demonic
warfare) (Brekke, 2006, 135). Deshingkar explains that the term *"kooṭa" or*
"kūṭa" was originally used in the context of hunting as a "trap" or "snare":

> [I]n the context of warfare, it came to mean ensnaring or trapping
> the enemy. This included the use of magic spells and such other
> occult methods. … And when it came to weaponry prevalent in
> those days, it included the use of poisoned arrows, fire arrows and
> such other unauthorized weapons which could bring about
> destruction of men and property on a large scale. Other methods
> included poisoning of the enemy's water sources, attack by
> stealth, enticing the enemy into an unfavourable position, bribery,
> assassinations and attacks at night (Deshingkar, 1998, 358).

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[99] In fact, this is precisely the argument made by Wendy Doniger O'Flaherty in her article, "The Clash
between Relative and Absolute Duty: The Dharma of Demons," in *The Concept of Duty in South Asia.*
Wendy Doniger O'Flaherty and J. Duncan M. Derrett (eds.) London: School of Oriental and African
Studies, 1978: pp. 96-106.

Historically, the earliest usage of the concept of *kūṭa yuddha* derives from the Vedic period where we see the term *kūṭa* mentioned in the *Atharva Veda* (Bk. VIII. 8.16.). The specific hymn reads as follows:

> Here are spread the fetters of death, which stepping into thou are not released, let this *kūṭa* slay of yonder army by thousand (trans. Dikshitar, 1987, 84).

The *Atharva Veda* gives the impression that such treacherous methods of *kūṭa yuddha* were an accepted practice of war during the Vedic period because they helped to destroy the enemy with massive casualties.[100] Methods of war that led to wanton destruction were permitted in Vedic times such as the use of fire (which was often uncontrollable once released). Consequently, it is not surprising that several hymns are addressed to Agni (God of Fire) in the *Atharva Veda* "evidently to conquer the hostile army with fire" (See Bk. II. 19; XI. 10. 18-19; Dikshitar, 1987, 87).

Suffice it to say, the school of *dharma yuddha* repudiated the tactics of *kūṭa yuddha* and found the latter's devious tactics in warfare to be scandalous, shocking, treacherous and chaotic because they were undignified and undiscriminating. The methods of *kūṭa yuddha* disregarded the valued

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[100] It should be noted that the *Atharva Veda* is full of these crafty methods of war, which allowed "charms, and spells against the enemy, besides deadly weapons. Mention is made of amulets (*maṇi*) leading to the overthrow of the rival and to his own success" [*Bk*. III.3.] (Dikshitar, 1987, 85). The *kūṭa yuddha* also "permitted the use of deadly and poisoned weapons which would slay thousands of men [*Atharva Veda Bk.* I, 20, 21; *Bk*. VIII, 8. 4-5.]. From a hymn [*Bk*. IV, 6.] of the *Atharva Veda* we may conclude that poisoned arrows were largely used, and the conqueror was usually afraid of them" (Dikshitar, 1987, 86). Another aspect of *kūṭa yuddha* was "*tūṣṇīm yuddha*, or silent warfare" (*Bk*. VII, 6.), which involved attacking the enemy secretly, using surprise attacks, nighttime attacks, or "battle-charms," "rites of sorcery" (*Bk*. X, 5.), and "incantations" (*Bk*. III, 6.; Dikshitar, 1987, 86).

distinction between combatants and non–combatants. Its weapons such as poison and fire "were regarded neither just nor fair in war. For they would result in a vast amount of destruction of men, property, cattle, and of other non-combatants thus laying waste the villages and corn-fields of the enemy, poisoning of tanks and wells" (Dikshitar, 1987, 87).

As can be seen, the two Hindu approaches to warfare did not see eye to eye about the legitimate means of force nor the acceptable targets for attack. Although the majority of classical Hindu texts supported the *dharma yuddha* school, several key Hindu texts (such as the *Arthaśāstra* and *Somadeva*) endorse the Realist *kūṭa yuddha* school (See *Somadeva* 30. 106-8). Thus, some of the Nīti treatises seem to "permit this unrighteous warfare, yet the didactic epics and law codes do not support it at all. As a method of war it is condemned as unjust and unfair" (Dikshitar, 1987, 88).

Interestingly, Deshingkar makes an important caveat about the difference between *dharma yuddha* and *kūṭa yuddha* by claiming:

> The two schools were, however, not mutually exclusive. The practitioners of each school was informed by the principles and methods of the other and practised them. The best example of this is the great *Mahābhārata* war in which one can see both schools of thought in operation: in this war the victory went to the practitioners of the *kūṭayuddha* school although the war itself has always been described as *dharmayuddha*.[101] In the other epic war, the *Rāmāyaṇa,* although both streams of thought were at work, the victory went to the *dharmayuddha* (righteous/ethical) school. … At the level of rhetoric, the concept of *dharmayuddha* always reigned

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[101] Paradoxically, Deshingkar claims that the school of *kūṭa yuddha* reigned supreme in the *Mbh.* although the rhetoric of *dharma yuddha* prevailed in its teachings. One reason for this contradiction is that the Pandavas eventually succumbed to deceit in their conduct of war, making them complicit in *kūṭa yuddha* (This point will be looked at in more depth below during the section on "Violations of the Rules of War").

supreme. But in practice *kūṭayuddha* was often the norm' (Deshingkar, 1998, 357).

Thus, while the two schools of war were clearly divided in theory, their distinctions blurred in the actual practice of war. Hence, Dikshitar explains that "it was enjoined on the military leaders and warriors to conform to the laws of war, [but] still they were taught the different modes of fighting, including those of the *kūṭa yuddha*, and were expected to be well versed in all of them. The idea was to pay one in his own coin. If the enemy resorted to unrighteous [and devious] methods of war, the attacked could also resort to similar methods and strike the enemy down" (Dikshitar, 1987, 61).[102]

Another perspective is brought to this topic by the famous philosopher of Indian religions, Heinrich Zimmer (1951), who attempts to reconcile the multivocality of *dharma* and *kūṭa yuddha* in the Hindu epics. Zimmer contends that the epics promote the paradigm of *dharma yuddha* and should not be seen as vacillating in their ethical standpoint on the rules of war. Any ethical deviation is attributed to the forces of *adharma.* Thus, he remarks:

> Throughout most of the *Mahābhārata* the teaching is of the "straight" wisdom. Only when hard pressed by the unrelenting questions of the noble Yudhisṭhira was the great guru of warriors, Bhīṣma, brought to reveal the dark secrets of the "crooked" way. Yudhisṭhira said: "What course of conduct should be adopted by a king shorn of friends, having many enemies, possessed of an exhausted treasury, and destitute of troops, when he is surrounded by wicked ministers, when his counsels are all

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[102] Correspondingly, it is insightful to note that the *Agni Purāṇa* "allows weaker powers to resort to wily and underhand methods [Ch. 240. 16.], when they found that they had no other alternative than to engage in war (Dikshitar, 1987, 88). Here we find a potential rationale and justification for asymmetrical warfare and terrorism within the corpus of Hindu scriptural writings.

divulged, and when he does not see his way clearly before him...?"
Bhīṣma said: "Conversant as thou art with duties, thou hast, O
bull of Bhārata's race, asked me a question that touches on
mystery. Without being questioned, O Yudhiṣṭhira, I could not
venture to discourse upon this duty. Morality is very subtle...
Listen therefore, O Bhārata, to the means that kings may employ
during seasons of distress. From the standpoint of true morality,
however, I would not call these means righteous. … Both kinds of
wisdom, straight and crooked, should be within call of the king"
(*Mahābhārata* 12. 100. 5, trans. Zimmer, 123-124).

It seems to be the case that although *dharma yuddha* was the ideal, even

generally righteous Hindu warriors and kings succumbed to "unrighteous

war in which principles were sacrificed at the altar of expediency" and "*māyā*

and *indrajāla*" were deployed on the battlefield (Dikshitar, 1987, 84-88).

Inevitably, in actual warfare, the principles of righteous warfare
were often set aside by individual warriors or their commanders.
In fact, such was the sweetness of victory that some kings waged
war for reasons of self-aggrandizement. The victory achieved for
such selfish reasons came to be classified into two categories
asurvijaya in which the enemy's territory was annexed, enemy
kings and commanders were booty punished after the war, enemy
cities were destroyed and the women were carried away as war
booty. The second category produced *lobhavijaya* or victory out of
covetousness or greed. This did not need waging a ruthless war of
destruction but one for gain in terms of territory, wealth, women
and so forth (*Arthaśāstra Bk*. XII, 2; Kamandaka 19.54-66; cited in
Deshingkar, 1998, 358).

The above two schools of Hindu warfare became more refined in the

treatises of Hindu political statecraft and further classifications of war were

made as will be seen in the next section.

4.3.   Hindu Political Statecraft as Framework for *Dharma Yuddha*

> *"One should never do that to another which one regards as injurious to one's own self. This, in brief, is the rule of dharma."* – Mbh. 18. 113, 8.

> *"Do unto others before they do unto you."* – Attributed to Kauṭilya[103]

Classical Hindu discourse on war fell under the headings of *Rāja-nīti* (the conduct of kings) and *daṇḍa-nīti* (the administration of force) outlining the king's duty to conquer neighbouring kingdoms as an integral aspect of political statecraft (Goshal 1959, 255; Sinha 1991, 374). It is important and necessary to situate *dharma yuddha* within this larger context of Hindu political statecraft to understand the underlying rationale, function, and objectives of *dharma yuddha* as a tool of politics.

In this light, it is valuable to recognize that Hindu rules of warfare differed depending on the ideological approach taken by the king to the question of ethical political conduct. On this point, two *modus operandi* prevailed among Hindu rulers: on the one hand, Hindu kings/queens who saw human nature as intrinsically flawed, wicked, and untrustworthy embraced the *Arthaśāstra* Realist tradition of political expediency, praised by Kauṭilya, who championed the model of the *vijigīsu*[104] (conquest seeker) who strategically employed *daṇḍa* (coercive power) for selfish ends. Proponents of

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[103] These two "Golden Rules" of Hindu statecraft epitomize two very different ethical modes of Hindu warfare: the *dharma yuddha* (righteous war) and the *kuṭa yuddha* (cunning war).

[104] In Sanskrit, the term *vijigīsu* means ("conqueror" or "one intending for conquest"). Within the *Arthaśāstra,* Kauṭilya makes a three-fold classification of the conqueror into: "*dharma vijayin* (righteous conqueror), *lobha vijayin* (greedy conqueror), and *asura vijayin* (demonic conqueror)" (*Arthaśāstra* XII, 36; cited in Deshingkar, 1998, 357).

this Hindu Realist tradition saw war as a reflection of the "rule of the fish" (*matsya-nyāya)* where big states (fish) ate little states (small fish).[105]

In contrast to this *realpolitik* of the *Arthaśāstra* tradition, the *Hindu Epics* provided a synthesis of *daṇḍa-nīti* with the principle of *dharma* (virtue) and made the former subservient to the latter (Sinha 1991, 370-371). According to the *Mahābhārata* and the *Rāmāyaṇa,* as well as the *Manusmṛti,* it is the duty of a king (*Rāja*) to use violence and war (*daṇḍa*) to maintain the social order (*varṇāśramadharma*): the *Manusmṛti* requires a king "to do battle [*Manu* 7:87-89] and to extend and fortify his prosperity [*Manu* 7:99], and it lays down the code of conduct to be observed in battle [*Manu* 7:90]. The art of destruction of the enemies and, in that connection, views on the various expedients are discussed [*Manu* 100-110]. Similarly it deals with the circle of states [*Manu* 153-180] and the expedient of war in detail" (*Manu* 181-200; in Deshingkar, 1998, 357). Righteous War (*dharma-yuddha*) was seen as a duty of the king (*Rāja-dharma*) and it was believed not only to ensure rebirth in heaven, but also to foster cosmic well-being (*loka-saṃgraha*). The contribution of the Epics and *Dharmaśāstras* to Hindu *rāja-nīti* (conduct of kings) was to elevate *dharma* (righteousness) as the preeminent criterion by which all actions should be measured. Thus, the

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[105] Basham remarks that this state of affairs characterized Indian history during the period in which the *Dharmasūtras* and *Dharmśāstras* were composed (c. 150 BCE - 100 CE), which helps to explain the disdain of these texts for *matsya-nyāya*: "In the period between the Mauryas and Guptas anarchy frequently prevailed. Mass lawlessness, riot, pillage and rape, were widespread. Raiding bands of invaders from the North-West penetrated far into the heart of India, and some Brahmans even believed that the end of the aeon was drawing near and that the world would soon be destroyed. It was then that an almost pathological dread of anarchy (*matsya-nyāya*) grew in the minds of Indian thinkers" (1954, 85).

Dharmarāja tradition of Hinduism promoted the ideal of the *Dharmarāja* (the "righteous king") who ruled by right conduct alone and nobly fought wars to protect the cosmic order by following civilized rules of warfare (*Manu* 7:90). The *Manusmṛti* legitimized and sanctioned this approach to warfare by stating that it was the duty of the righteous king to use *daṇḍa* to protect *dharma (Manu* 7:58). Both the *Mahābhārata* and *Rāmāyaṇa* concur with the *Manusmṛti* that the highest purpose of a king was to rule by *dharma,* which was said to ensure the king's rebirth in heaven, and protect the overall social and cosmic order (*loka-saṃgraha*) (*BG* 3:20; 3:25; 2:31). Therefore, war was considered to be the divine duty of kings and a regular and necessary occurrence, which is why the *Laws of Manu* state, "*Yodhā-dharma-sanātanaḥ*" (meaning, "War is the eternal law.") (*Manu* 7: 98). At the same time, the *Mbh.* adds that "unrighteous conquest does not lead to heaven" (*Mbh.,* 12. 97.3) and that it is better to lay down one's life in the pursuit of righteousness than to win a victory in a sinful way" (Deshingkar, 1998, 357).

As noted above, both the *Manusmṛti* and the *Arthaśāstra* affirm that war is unavoidable in life but the former insists on regulating war through principles of human conduct (*dharma*) and rules of war (*yuddha-nīti*) and ties *Rājanīti* (the conduct of kings) to the idea of *rāja-dharma* (the rules of kings). However, the *dharmarāja* and *Arthaśāstra* traditions of Hindu statecraft also promoted a spirit of militarism that resulted in frequent wars between India's kings who were competing for power and prestige. Hindu religious

rituals further exacerbated these violent power struggles for hegemony by requiring newly minted kings to fight rival kings for the honour of the status of world conquer/ universal emperor, in an envisioned elaborate system of *maṇḍalas* (circles of allies and enemies). Within the orthodox Hindu establishment, rituals of war were promulgated and performed by the priests such as the "Drink of Strength" (*vājapeya*), "Instigation of the King" (*rājasūya*), and "Horse Sacrifice" (*aśvamedha*), "all of which were laden with martial metaphors and allusions" (Whitaker, 2004b, 173). The purpose of the *Aśvamedha* (horse-sacrifice) was for the king to be crowned Emperor of the World.[106] Correspondingly, the enactment of the *Rājasūya* (king sacrifice) openly challenged other kings to fight him in battle, and this ritual was performed by the Pāṇḍava hero Yudhisṭhira in the *Mahābhārata*.

Kauṭilya, like Machiavelli, saw the ultimate goal of war as the conquest and acquisition of territory by any means possible; in contrast, the goal of the *dharmarāja* tradition was to protect *dharma* (by war, if necessary) to ensure social-cosmic harmony and well-being. This ideological tension underpinned the science of Hindu statecraft and resulted in varied Hindu attitudes towards war, which co-existed in the long history of India. Whereas Kauṭilya's *Arthaśāstra* was instrumental in helping Chandragupta to establish the Mauryan Empire (322–185 B.C.E.) following Alexander the Great's invasion of north-west India, the *Dharmarāja* tradition played a key

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[106] Specific histotrical examples of the *Aśvamedha* (horse-sacrifice) to expand state rule were performed during the royal reigns of Pusyamitra Sunga (185 B.C.E.) and Samudra Gupta (4th century C.E.).

role in expanding the imperial Gupta dynasty (320 C.E.–c. 500 C.E.) when the rules of *dharma yuddha* were widely employed. These rules continued to govern warfare in medieval Indian society until their breakdown during Muslim invasions in northern India (see the History section below) (Yadava, 2001). Basham remarks:

> The intense militarism of ancient India did not lead to the building of a permanent empire over the whole sub-continent. On this respect the early history of India contrasts strikingly with that of China, where, from the 3rd century B.C., a single empire was the rule, and division the exception. In India the Mauryas succeeded in creating a unified empire for a century, and in the heyday of the Guptas much of Northern India was under one hand, but with these exceptions numerous factors prevented the unification of the recognized cultural unit of *Bhāratavarṣa*, which so many ambitious monarchs desired. … Another reason for the failure of Indian empire builders was that for all the wise counsel of the *Arthaśāstra*, no king of India was able to develop a bureaucracy capable of functioning without a strong guiding hand; in China the examination system and the ethics of Confucius ensures that those in charge of affairs would usually be men of character and intellect, if rather pedantic and conservative. But the main factor which prevented the unification of India was the martial tradition itself (Basham, 1954, 123-124).

The Hindu institution of military kingship, therefore, was a major reason for India's frequent historical pattern of political disunity.

4.3.1. Key Concepts of Hindu Statecraft and Power Relations

It should be made abundantly clear that even though war was considered to be the necessary duty of Hindu kings, it was still not the case that war was perpetually fought by Hindu rulers. Rather, war was seen as one of several options available to rulers in their toolkit of strategic policies.

Indeed, Hindu statecraft developed a very sophisticated conceptual architecture regarding political science, foreign relations and international treaties, which included candid discussion of when (and where) a king ought to go to war depending on the relative strength of his adversaries and current alliances. Classical Hindu doctrines of statecraft revolved around the following salient concepts: 1) *upāya* (means of success'), 2) *ṣāḍguṇya* (sixfold policy); and the 3) theory of *maṇḍala* (circle of states), which are briefly explained below to illuminate the conceptual architecture of Hindu warfare.

4.3.1.1. The *Maṇḍala* System (Circle of Power) in Hindu Political Theory

The core concept of Hindu political statecraft is the theory of the *Maṇḍala,* or the Circle of States, which is a type of political geometry that envisions inter-state relations within a ring of concentric circles of competing states. The underlying assumption of this framework is that political alliances are always impermanent and shifting in the sands of time. Moreover, it is also assumed that war is the ongoing underlying relationship of kingdoms (whether ruled by *dharmic* kings or otherwise). As Zimmer remarks, "Taken for granted as a universal social principle is the propensity of the neighbours to be unfriendly, jealous, and aggressive, each biding his hour of surprise and treacherous assault" (1951, 115). This ideological premise is succinctly expressed in the pithy saying from the *Arthaśāstra* (1.4.9)*: matsya-nyāya* (law of the fish), which implies that when one plays in

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the ocean of politics then the big fish (states/kings) eat the little fish (states/kings). Suffice it to say, this maxim of Hindu statecraft generated its own ocean of distrust and waves of discord as seen in the *Mahābhārata,* which also mentions the *matsya-nyāya* (67.16-17, and 12. 89. 21; Zimmer, 119). According to this ethos of *realpolitik,* peace is an anomaly in the relations of states as inter-state hostility is taken for granted. In this world of royal leaders, no one can be trusted (not even one's own family members who may attempt to usurp the throne) so kings often became lonely leaders at the top of their society, whose very actions and distrust of others precluded their building trusting and lasting friendships. For when the leader was willing to stab his own friends in the back, then he became a feared despot rather than a respected wielder of the rod of *dharma.*

According to the political Hindu theory of *Maṇḍala,* one's immediate neighbours were seen as natural enemies in a larger circle of states, while the kingdoms that bordered one's neighbour/enemy (on the other side) were considered to be natural friends with whom one ought wisely to form alliances. Kauṭilya speaks of the four kinds of foreign rulers as the *Ari* (enemy), *Mitra* (friend), *Madhyama* (mediator), and *Udāsīna* (neutral party) (Dikshitar, 1987, 313). Hindu statecraft envisioned the king's rule within a larger circle of competing states, which radiated outward in an expanding sphere of concentric circles of friends and allies. Within this comprehensive *maṇḍala* system, it was considered to be prudent to forge alliances with the

other powers to encircle one's neighbor (who was seen as the natural enemy) (Zimmer, 1951, 114-115).

At the heart of the *Maṇḍala system* is the king of the circle who commands the sphere of power. The king in whose territory the *Maṇḍala* is centered was called the *vijigīsu* ('he who desires conquest') (Ghoshal, 1964, 117; Lannoy, 1974, 321). Since time immemorial it was the greatest aspiration of Hindu kings to be recognized by the title: *"ćakravartin"* (ruler of the world).[107] The term *ćakravartin* means "lord of a *ćakra*" – the "circle of kings, and that circle was what we may call a 'sphere of influence'" (Sinha, 1976, 155). Throughout the course of India's history, there was intense competition between Hindu kings for the glory of holding this esteemed title. Such competition involved elaborate religious rituals and sacrifices, such as the performance of the "Horse-sacrifice" *(aśvamedha)*, which often led to massive wars with copious bloodshed for the pursuit of royal glory. Thus, the Hindu political *Maṇḍala system* served as a catalyst to fuel these wars and

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[107] It should be noted that Buddhist thought also embraced the *ćakkavatti* ("Universal Monarch") ideal of political leadership to promote a ruler who conquered through righteousness (Premasiri, 2008, 3-4). The "only instance in which Buddhist canonical sources speak of victory or conquest through righteousness is where reference is made to the political principles of a *ćakkavatti* who conquers territory not with the force of arms but through principles of morality" (Premasiri, 2008, 3-4). However, the messy realities of political rule suggested that real wars were necessary even for Buddhist rulers. After all, Premasiri points out that the Buddhist *ćakkavatti* "who rules according to the principles of justice does not disband his armies. For, he too had secular duties to perform as the guardian of his citizens. This shows that Buddhism does not envisage a society in which the necessity for engaging in war never arises. Perhaps the implication is that even a righteous *ćakkavatti* who will not engage in wars of imperialist aggression, would need to fight in self-defense" (Premasiri, 2008, 4-5).

Sinha reports that the esteemed title of *ćakravartin* was also coveted by Hindu kings in addition to other terms connoting world-rule including *sarvajita, samrāṭ* and *sarveśvara, and pārthivatva, samrājya parmesthya* (Sinha, 1976, 131). Common Hindu titles for rulers were were *Samrāj, Sarvabhauma, and Rājan*. Brockington reports that other frequent terms were "*maharāja, pārthiva*, '(ruler) of the earth', *mahipatī,* 'lord of the earth', and *nṛpa,* 'protector of men.'" (Brockington, 1985, 124).

larger political aspirations for rulership often instigated wars. As Sinha perspicuously explains:

> Why were the monarchs interested in conquering the territory of others? How was it that they took the risks involved in what they called 'conquest of the world'? Were they not deterred by the consideration of the damage and destruction that such war could cause? The answers to these queries lay partly in the psychological motives which governed the conduct of the kings and partly in the political myth current in the society. The gains expected of the conquests and the attainment of the status of a *samrāṭ* were tribute, influence and fame. These we have seen, have been regarded as the actuating motives of the Indian royalty in ancient times. Closely connected with this motivation is the fact that the *brahmanas* had woven a political myth around the conquest and world dominion. The ideal had been linked up with the omnibus myth of *dharma* the all-embracing concept of an ethico-religious and social norm governing the conduct of all in the Aryan world. *Dharma* did not envisage to forbid the pursuit of conquests and the establishment of world dominion rather it enjoined this ideal. However, certain restrictions and reservations were laid down within which the game had to be played (1976, 155).

The science of Hindu statecraft, therefore, served to perpetuate military conflicts within Hindu culture since war was used as a tool to actualize religio-mythic aims of universal rule. Within the aforementioned *Maṇḍala* system (sphere of power), it was considered inappropriate for a Hindu king to make peace with a king of inferior status, or conversely for an inferior king to make war against a superior king. In practice, this led to an almost continual state of war since powerful kings were instructed by Hindu sacred texts not to make alliances with lesser powers but to fight them (Boesch, 2002, 87; 109). In other words, "[t]o undertake an operation against a superior [was] like a foot-soldier opposing an elephant. But the inferior must be attacked

and made to submit" (Dikshitar, 1987, 316). Correspondingly, Kauṭilya said that a king "should not make peace with a minor, an old man, an invalid, one deserted by his kith and kin, a coward, a greedy man, an unbeliever in God, and other fourteen kinds of disqualified men. But these must be fought and conquered" (Dikshitar, 1987, 316-319). Within the *Sandhi* ('peace treaty') system of Hindu diplomacy, various strategies of wartime alliances are outlined and adumbrated. Interestingly, peace was not the status quo: "Of the six expedients [*ṣāḍguṇyam*] to be pursued in foreign policy by a conqueror, the first is that peace may be concluded with equals and superiors" (Dikshitar, 1987, 315). Dikshitar also notes (1987, 62), "Generally the policies of *sāma* and *dāna* were used against inferior powers, and that of *bheda* and *daṇḍa* towards superiors and equals" (*Manu*, 7.198; *Arthaśāstra* VII. 16). These six expedients of foreign policy deserve more attention, which is offered in the following section.

4.3.1.2. The Means of Success (*upāya*) and 'Six Methods' (*ṣāḍguṇyam*) in Hindu Political Statecraft

How were the relations among Hindu states governed during the classical period in their ongoing quest to become the regional hegemonic military power? What means of statecraft were employed by Hindu rulers? Was war the only option or were other forms of political relationships encouraged in Hindu foreign policy? Indian political discourse, both *dharmic* or expedient in ideology, recognized a list of standard strategies for dealing

with foreign powers in international relations. According to the *Rāmāyaṇa,* there were four "means of success" (*upāya*)[108] to defeat a foe: conciliation (*sāman*), bribery or gifts (*dāna*), sowing dissension (*bheda*) and the use of force (*daṇḍa/parākrama*) (*Rāmāyaṇa,* 5.39.2; Brockington, 125). These four means also occur in Kauṭilya's *Arthaśāstra* at 2.10.47-56, which expands the list by adding two new tactics of *māyā* (illusion) and *indrajāla* (spells) (Brockington, 129; Brekke, 118). Dikshitar notes that the four primary expedients of statecraft of *sāma* (conciliation), *dāna* (gift), *bheda* (dissension), and *daṇḍa* (coercion), could be used either individually by kings or "simultaneously" (Dikshitar, 1987, 315; 326). Therefore, it should be clear that war-making was only one among the means to attain one's objective of hegemony. Other means included "friendship and bribery to be employed against weak kings" (Deshingkar, 1998, 360).

Expanding on the above, Kauṭilya outlines the *ṣāḍguṇyam*[109] ("the sixfold methods") to deal with rival kingdoms depending on their position and status in the *maṇḍala* (circle of states). These six methods are: 1) *Sandhi* or "treaty of peace", 2) *Vigraha* or "war", 3) *Āsana* or "neutrality", 4) *Yāna* or "preparations for attack", 5) *Saṃśraya* or "seeking supportive alliances", and 6) *Dvaidibhāva* or "double-dealing"/ or "duplicity" (Dikshitar, 1987: 314-332).

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[108] The Sanskrit word *Upāya* comes from the verb *upa-I,* "to approach."

[109] See *Arthaśāstra* II, 23 and *Arthaśāstra* VI, 98-99. For an excellent translation and analysis of the *Arthaśāstra* see Roger Boesche's *The First Great Political Realist: Kauṭilya and his Arthaśāstra.* (Lanham: Lexington Books, 2002); cf. Roger Boesche, "Kauṭilya's *Arthaśāstra* on War and Diplomacy in Ancient India." *The Journal of Military History* 67 (January 2003): 9-38.

In other words, Kauṭilya "distinguished between six major approaches to foreign policy. The first is a policy of maintaining peace with another state which is based on a treaty detailing the terms and conditions. The second is the policy of hostility, which should be followed if one is stronger than the enemy. The third approach is one of inaction: It is most suitable when states are of equal strength. The fourth is outright invasion but this policy is recommended for the very strong. For the very weak is prescribed a fifth approach, i.e., seeking shelter with another king and wait for better days. The sixth and the last approach recommends a policy of peace with one king/state while maintaining hostility towards another; such a dual policy is possible if help is available from another state to fight the enemy" (Deshingkar, 1998, 359).

From this analysis of Hindu statecraft, it can be seen that political theory in classical India was cunning, wise, and savvy in character (or perhaps profoundly cynical). It advised prudence in times of weakness and boldness in times of strength. As has been shown the general rule of thumb was that "the policies of *sāma* and *dāna* were used against inferior powers, and that of *bheda* and *daṇḍa* towards superiors and equals" (Dikshitar, 1987, 62). The military historian Dikshitar concludes that such strategic complexity represents "a frank and open procedure in diplomacy," which recognizes the obvious wisdom that to "undertake an operation against a superior is like a foot-soldier opposing an elephant" therefore it is not

advisable; likewise, "the inferior must be attacked and made to submit if the differences cannot be amicably settled. There are also cases where an inferior king may make an alliance with a superior by offering to help the latter with army, wealth, or land. This is called the *Hīnasandhi"* (Dikshitar, 1987, 316).

One last point deserves to be mentioned as a cautionary note *a propos* of Hindu statecraft. Lannoy and Brekke remind students of comparative politics and foreign policy that the traditional Hindu "king is basically a conqueror in a system of alliances. [However,] it would be a mistake to analyse this system as well-defined territorial states in a European sense" (Brekke, 2006, 124). Lannoy adds that the "classical Hindu kingdom did not have clear borders. In fact, the state described by Kauṭilya is a state with fuzzy and permeable borders. … It was certainly the cause of loose national cohesion, contributing to the failure of universal empires, and it discouraged the evolution of a unified nation-state theory" (1974, 121; 321). Thus, the underlying assumptions of Hindu statecraft, such as the perpetual strife caused by impermanent shifting alliances, were a cause of frequent warfare where the state was not a fixed entity but an expanding (or contracting) aggregate of alliances. The consequences of Hindu political statecraft on classical Indian society were profound. Dikshitar sums up these consequences with penetrating insight as follows:

> In that state of society, in which a whole caste was set apart for the purpose of war, it was inevitable that that caste should be actuated by a warlike mentality, and that peace was despised. The assumption of that caste was that war was good for all time, and

that war brought in its train not only glory to the individual knight but also glory and honour to the king … Peace to the *Kṣatriyas* was a kind of inactivity, of slow movement and of retrogression instead of progress. It was not in their nature to be inactive. To them peace begot war. They believed honestly that peace was a negation of all noble service and noble energy. It depressed their hearts and minds. It depressed their spirit and enthusiasm and initiative. On the other hand, their sincere belief was that to make war was a service that was noble and moral and promoted the welfare of their community and country. Moved by such ideas and ideals, in accordance with the spirit of the age in which they lived they took heroically to fighting (Dikshitar, 1987, 11-12).

4.3.2. Paradigms of Political Conquest in Hindu Statecraft

From the above discussion of Hindu political statecraft and foreign policy, one can differentiate three kingly attitudes towards warfare that were paradigmatic of its textual corpus as a whole. These three attitudes were: 1) *Dharma vijayin* (the Righteous Conqueror); 2) *Lobha vijayin* (the Greedy Conqueror); and 3) *Asura vijayin* (Demonic Conqueror). The first of these attitudes is in line with *dharma yuddha,* while *Lobha vijaya* and *Asura vijaya* are subsumed in the category of *kūṭa yuddha* ('devious war') (Dikshitar, 1987, 81-83). An excellent summary of these key paradigms of Hindu warfare is offered in the description below:

> For the *asura* form of war is mentioned in the *Rāmāyaṇa*. A feature of this was the employment of the diplomatic instrument *māyā* [illusion]. Guile is chiefly used to overcome the enemy. We know that *Indrajit* produced a *māyā Sītā* before Rāma's army and killed her so that the army might become dejected and lose all enthusiasm. In the *Śukranīti* again the *asura yuddha* is among the traditionally accepted kinds of war [IV. 7. 221]. We have seen according to the precepts of fair fighting that the kingdom of the enemy should not be annexed, nor his women treated unchivalrously. Again no bodily punishment should be inflicted on

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the person of the king or his commander. But the *asura* war, which is the most heinous of all the three, approves of all these illegal and forbidden methods in scoring a victory. Even in actual battle there was no straight fight in this form of war; but victory was sought through wily means… A ruthless war was *asura yuddha* … The other kind of war, *Lobhavijaya,* was not considered to be as base as the asura form. In it the ravaging of the enemy's territory, or poisoning of his army, was not contemplated. Nor was there to be a wholesale destruction of men and territory. The conqueror was imbued with greed. He was satisfied if he got gain in land or money. A weak power should satisfy such a conqueror with wealth or with the cession of part of his territory. Covetousness is the motive underlying this type of war. It came under the category of an unrighteous war, for covetousness is no virtue but a sin, out of which spring envy, jealously, or hatred… This *lobha vijaya,* just like the *asura vijaya,* is an offensive war, the motive being exploitation (Dikshitar, 1987, 89-90).

From the above information, it is possible to extrapolate several paradigmatic

Hindu approaches to warfare identified in four broad headings in Figure 1:

Figure 1.   CLASSICAL HINDU ATTITUDES TO WARFARE

1) RIGHTEOUS WAR (*dharma yuddha*) – Wars allegedly fought to protect the sacred order or as an extension of the divine duty of kings to rule. Espoused by classical legal texts such as the *Manusmṛti* and the Hindu Epics (i.e., *Rāmāyaṇa* and *Mahābhārata*).

2) GREEDY WAR (*lobha yuddha*) – Wars fought solely for selfish goals to acquire territory, wealth or power at the sake of others. These wars transgressed the rules of *dharma* since they were based on greed or ambition.

3) DEVIOUS WAR (*kūṭa yuddha*) – Wars involving means of trickery, deceit, and cunning. Espoused by Kauṭilya's *Arthaśāstra,* Kamandaka's *Nītisāra* ("Essence of Politics"), Somadeva's *Nītivakyamrta* ("Nectar of Political Aphorisms"), and Śūkra's *Nītiśāstra* ("Political Treatise")

4) DEMONIC WAR (*asura yuddha*) – Wars characterized by wanton civilian casualities where uncivilized methods were employed. India's foreign invaders who fought differently from Hindus were often characterized this way. A paradigm supported by mythological stories of struggle between demonic and godly forces found in Hindu texts.

This typology of warfare utilizes categories that are not necessarily mutually exclusive. For instance, a *kūṭa yuddha* ("devious war") can encompass both a "greedy war" and a "demonic war." The last two categories, therefore, can be subsumed under the broader heading of *kūṭa yuddha*, which may also be called an "unrighteous war" (*adhārmic yuddha*).[110] However, the *dharma yuddha* is fundamentally different than the other types of warfare because this approach to warfare allegedly opens a doorway to heaven (*vīra-svargam)*, thereby justifying the military conduct of *kṣatriya* warriors as sanctified violence (Aho 1981, 60-79). This type of warfare is fought for righteous reasons in which the *kṣatriya's* duty is to fight to defend (or expand!) the kingdom and the rulers' interests.

It is now necessary to turn to the origins of *dharma yuddha* in Hindu society by tracing its development in Indian history. The following chapter provides a detailed account of the evolution of the Hindu Just War tradition in symbiosis with other perspectives on warfare. Once again, the complex interconnectedness of Hindu statecraft, military thinking, religious symbolism, and philosophical metaphysics will be demonstrated.

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[110] Indeed, the *Mahābhārata* states that the victory (*vijaya*) achieved by *adhārma* leads to hell (*Śāntiparvan*: 96. 1-2.).

4.4. *Dharma Yuddha* in the History of Hindu Warfare

> *"Where there is truth, there is religion; where there is religion, there is prosperity; where there is beauty, there is nobility; and where there are elephants, there is victory"* — *Hastyāyur-veda*[111]

This chapter will chronicle the historical development of Hindu conceptions of warfare to show how these conceptions emerged out of ethical reflection on justice, principles of statecraft, and actual Hindu military encounters. Over history, Hindu conceptions of warfare have been shaped in syncretism and interaction with foreign invaders.[112] As a result, Hindu notions of warfare reflect different motives and assumptions about human nature, ethics, metaphysics, and cosmology. Situating *dharma yuddha* in historical context will allow these variables to come to light.

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[111] Hasna Jasimuddin Moudud describes the *Hastyāyur Veda* (Ancient Indian Science of Elephants) as the "oldest Indian treatise on the training of elephants, ascribed to Pala Kapya" and "compiled during the Sutra period (600-200 BCE)." See his *A Thousand Year Old Bengali Mystic Poetry*. (Bangladesh: University Press Ltd., 1992. The above quotation from the *Hastyāyur Veda* is cited in Chakravarti (1972, 48).

[112] Cross-cultural syncretism has characterized Indian warfare ever since ancient times and has continued into the modern period. Hindu rulers adapted to aggression posed by the external forces such as the Persians, Macedonians, Huns, Arabs, Turks, Mongols, and modern Europeans. Even in ancient South India, Hindu rulers learned from foreign soldiers. For instance, the early Tamil literature contains several references "to the Yavanas ['foreigners'/ 'Greeks'], who were employed as bodyguards by Tamil kings, or as engineers, valued for their knowledge of siege-craft and the construction of war-engines. While the term Yavana was often used very vaguely, and, from its original meaning of "a Greek", came to be applied to any Westerner, it is by no means impossible that the Yavanas of South India included fugitives from the Roman legions in their number" (Basham, 230). Mulism soldiers were employed by the armies of the Vijayanagara Empire. In fact, during the Middle Ages, "Hindu kings borrowed new military techniques from the Muslims, learnt to employ cavalry with greater effect, and to use heavier armour and new types of weapons" (Basham, 479). Evidence of continued cross-cultural syncretism can also be seen during the era of European colonialism when European advisors were commonly employed by Hindu and Sikh armies (Elgood, 50). For instance, the "French army in India was disbanded in 1760 after its defeat in the Anglo-French wars in the Carnatic. As a result French soldiers sought employment with Indian princes as military advisers and introduced western military tactics" (Elgood, 52). India's modern military period has been notable by the discipline of British military influence, and Japanese sponsored nationalist struggles during the Burmese campaign of WWII.

4.4.1. The Militant Ethos of Ancient Vedic Hinduism

India's written record of warfare began during the Vedic period (1700-600 B.C.E.), when regular clashes between peoples called *Aryans* (meaning "Noble Ones") and *Dasyus* (Dark-skinned ones) characterized ancient Indian society.[113] The Aryans were hunter-warrior tribes who rose to social-political prominence in northern India around 1700 B.C.E. They were renowned for being proficient in the art of war. Indeed, an ethos of combat was at the very heart of their social fabric. As Whitaker notes, Aryan militancy was imbued in their sacred hymns to various warrior gods, especially the "exploits of the Aryan war god Indra, who set the model for human actions" (2004, 172). Whitaker describes this Aryan martial ideology as follows:

> Central to this ideology are the continued exploits of the Aryan war god Indra, who set the model for human actions. Indra is not only the creator and sustainer of the universe, but also he annually slays the mythic serpent Vṛtra in order to release the monsoon rains. With his band of martial storm gods, the Maruts, Indra defeats both Aryan and non-Aryan enemies for his sacrificial patron and also undertakes cattle raids or rescues stolen livestock. He is glorified as the destroyer of forts and armies and grants the spoils of war to his worshipers. His primary weapon is a multi-pronged mace (*vajra*), which can be wielded in melee combat or thrown. He further represents the ideal warrior in battle, embodying all the desirable characteristics of strength, power, speed, dexterity, virility, endurance, and mental resolve. A sacred

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[113] Although Dikshitar (1987, 100) reports that excavations at Mohenjodaro and Harappa have revealed "a number of weapons of war in use in the Chalcolithic period [such as] bows and arrows, axes, spears, daggers, maces, slings, and catapults. (The sword is however conspicuous by its absence)," extant historical records of warfare in the ancient Indus Valley civilization, however, are non-existent. The earliest Indian written records of warfare are the Vedic texts, which are likely redactions of much older oral folklore traditions. As mentioned above, the Vedas provide the earliest recorded history of battles in India and the methods used to fight them. Numerous battles occurred between Aryans and Daysus but there were also battles among the Aryan tribes themselves. The most famous of these was the "Battle of the Ten Kings" (*dāśarājñá*) described in the *Ṛg Veda* 7.18, 33 and 7. 83.4-8.

juice (*soma*) pressed from a plant (probably a variety for ephedra) is said to have strengthened Indra's mettle before battle, and in turn Indra jealously monopolized the divine juice. The stimulant properties of soma may have been important for priests in order to sustain long ritual sessions as well as providing the extra physical and mental charge needed by warriors. Ritualized offerings of soma to Indra are the highest rites of the Brahmanical religion in the Vedic period (Whitaker, 2004, 172).

Moreover, Dikshitar (1987) notes that in the "*Atharva Veda Samhitā* [*Bk. VIII, 8. 1-7*], Indra is addressed as a *Śūra* [an adjective meaning: "Brave" or "Valiant"], and he is said to possess heroism a hundredfold.[114] He pulled down the strongholds of Dasyus and scattered their army by slaying a hundred, a thousand, a ten thousand, and a hundred thousand million. … [K]nights of ancient India were [also] known as *śūras* and sometimes *vīras,* both terms connoting that they were valorous" (Dikshitar, 1944, 13).

Other Vedic texts and rituals glorify and exalt victory in battle, royal rule (*raṣṭra*) and hegemony (*kṣatra*). Moreover, a Hindu warrior's death in battle "entitled the warrior to Indra's Heaven (*svarga)* filled with nymphs, while a bad death, *durmarana,* made one a *paiśāca,* or ghost" (Elgood, 2004, 181). Furthermore, the services of the religious leaders were employed in the war effort: Brahmin priests were used to recite mantras (verbal incantations) as curses in order to destroy enemy soldiers and armies. Such malicious and warlike uses of religion represent a deep-rooted militant ethos in Vedic Brahminism. As Sinha (1976, 125) writes:

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[114] The Sanskrit word *śūra* also means "liquor." Intriguingly, Hindu soldiers would often consume intoxicating beverages before going into battle, which were also given to their horses to drink as well. Just as soma was considered to be the beverage of the gods in Vedic times, alcohol was consumed by soldiers in the belief that it would instill strength and valour.

The *Ṛgveda* evidences the insecurity of the life of the times and many of the hymns are of the nature of prayers for the destruction for the enemy and for conquest in general. The theme is quite pronounced in the *Atharvaveda*. We find hymns of the nature of charms for the overthrow and destruction of rivals, as an imprecation of an enemy, and prayers for aid and victory in battle" [*Atharvaveda*, vii, 35; iii, 5, 29; vii, 90; iii, 1, 6; v, 20; vi, 5 4; xix, 13, 28-29, 32.]. There are some such extracts where the idea of conquest is quite pronounced [*Aitareya Brāhmaṇa* viii (xxxviii. 5), *Satapatha Brāhmaṇa* V, 2, 4, 11-20.].[115]

The ancient Aryans of India not only glorified warrior gods but also "holy" weapons. Elgood's excellent study *Hindu Arms and Ritual: Arms and Armour from India* (2004) describes the various types of weapons, which the Aryans worshipped as gods. He remarks that in the *Ṛg Veda,* for example, "the arrow is adored as divine and is implored to grant protection and attack the foe. The *Mahābhārata* [furthermore] recommends that 'wise warriors should always worship their swords'" (12.160.85; Elgood, 2004, 12). In the *Rāmāyaṇa,* there are more references "to the worship of weapons. At one point Sītā is said to honor Rāma's bow regularly with perfumes and garlands (*Rāmāyaṇa,* 6.23.17) and the same respect was accorded Janaka's bow" (Brockington, 1985, 150). The worship of weapons is taken a step further in the epics where "the appearance of divine weapons (*divyāstra)* are associated with various deities and are deployed in mythologized battle scenes" (Whitaker 2004, 163). Consequently, the glorification of arms and combat were an integral part of ancient Hindu society and mythology. Even Hindu

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[115] Additionally, the *Atharvaveda* contains "many prayers for repelling or destroying the foe or for victory in battle (Sinha, 1976, 132).

political statecraft, as has been noted, legitimized war through "participation in rituals, such as the 'Drink of Strength' (*vājapeya*), 'Instigation of the King' (*rājasūya*), and 'Horse Sacrifice' (*aśvamedha*), all of which were laden with martial metaphors and allusions. In a similar vein, the *Atharva-Veda* included rites for healing battle wounds and for making protective amulets and talismanic armor" (Whitaker, 2004b, 173).

Overall, ancient Aryan society was permeated by warfare and its entire religious, mythological and social structure presupposed warfare as a natural and even desirable part of life, which is superbly summarized in the following exposition by Whitaker, an expert on Hindu warfare:

> A martial mind-set has played a fundamental role in the development of Vedic religious beliefs and practices. The oldest text, the Ṛg-Veda (c. 1500-1200 BCE), attests a martial society and volatile political environment. Waves of migration were marked by warfare and shifting alliances, and tribes constantly struggled with each other and the indigenous people. Warriors (*kṣatriya, śūra, vīra)* were skilled in horse and chariot combat, which the Aryans introduced into the subcontinent. By 1000 BCE iron weapons and implements were indigenously produced. Bands of aggressive young males (*vratya*) created further tension, and individual tribes had to take responsibility for them. Conquest and martial prestige are dominant motifs in the ritual hymns of the Vedas, and seasonal skirmishes and open warfare were central to Aryan ideology and life. … Vedic society was dominated by lineages of "royal" families (Purū and Bhārata) … but cattle rearing and cattle raiding remained significant,[116] and over time the cattle-raiding warlords

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[116] This viewpoint is corroborated by Deshingkar (1998) who writes:

> In ancient times, India was populated by numerous tribes … and there was constant warfare among them, particularly between the immigrants and the natives. The wars were fought over territory, for lifting cattle (the chief form of wealth), for capturing women (the immigrants arrived with few women of their own), for honour and status, for self-aggrandizement in all spheres and sometimes out of anger, envy, fear or just display of heroism (1998, 357).

As noted above, cows have played a key role in the evolution of Hindu warfare. During the Vedic period, one of the Sanskrit terms for war was *"gaviṣṭi"* (literally "desire for more cows."). This word derives from the Vedic period of Indian society when cattle were a symbol of wealth and many wars were fought over so

transformed into the territory-controlling Kṣatriyas indicating a new focus in power. The post-Ṛg-Vedic evidence suggests that an alliance of two tribes, Kurū-Pañcala, rose to dominance after conquering its enemies in a battle of ten kings. [Thereafter,] the Kurū-Pañcala alliance constituted the first large polity or state, which was divided into sixteen kingdoms. The kingdoms expanded their dominance eastward and established a new homeland (*kurukṣetra)* in the fertile Ganges River plain… By 600-400 BCE large kingdoms existed in northern India, and warfare played a substantial role in the political economy and in the nature of religious institutions and thought. … By this period the *Aśvamedha* (Horse Sacrifice) was a dominant symbol and manifestation of royal power and also ritually stated the royal intention for warfare and conquest. …[W]ithin this cultural setting the notion of dharma as social duty and sacred law…was further codified in the notion of kṣatriya-dharma or a specific code of conduct for warriors. [Finally, by] 100-200 CE the religious teachings of Manu (*Mānava-Dharmaśāstra*) proclaim honorable warfare the eternal duty of warriors (*sanātanaḥ yodhadharma*) (Whitaker 2004, 170-173).

It should be noted that it was not only the northern Indians who celebrated militant gods, weapons, and rituals because their southern Indian counterparts (Dravidians from Tamil Nadu, Karnataka, and Kerala) also developed a spirit of militarism.[117] The spirit of South Indian militarism was

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as to steal cattle from rival clans. As Dikshitar explains, "Cattle-lifting was practised on an extensive scale in the Vedic age. … That this primitive form of cattle-lifting survived even when people became civilized is seen in the *Mahābhārata* [*Mhb. 4. 32*] where under instructions from Duryodhana, the king of the Trigarthas entered the city of Virata and drove away the kine. Uttara and Brhannada (Arjuna in disguise) recovered the cattle after a straight fight. In some cases, cattle-lifting was a prelude to military campaigns" (Dikshitar, 1987, 15-16).

[117] Katherine K. Young remarks that the "heroic literatures (such as Tamil cankam poetry from the first century B.C.E.) … celebrate chiefs and kings as bloodthirsty, powerful, even cruel rulers who strike terror into their subjects" (Young, 2004, 283). It was traditionally thought that cankam poetry was written in the Tamil language prior to the rise of the Pallava Empire and their introduction of Sanskritic culture to southern India; however, this view has been challenged by recent scholarship such as Herman Tieken's "Old Tamil Cahkam Literature and the so-called Cankam Period," in *The Indian Economic and Social History Review,* Vol. 40, No. 3 (Oct. 2003): pp. 247-278. It is certainly the case that the history of South Indian kingdoms was often tied to the control of the maritime trade. Elgood notes that a "succession of rulers sent armies from southern India to form a *Dvīpantara Bhārata* or India-Beyond-the seas. They conquered Sri Lanka, the Malay Peninsula, Sumatra, Java, Bali, Borneo, the kingdom of the Sailendras, Pagan and Kambuja. … The Period of greatest Hindu dominance in Java, for example, spanned the eighth to the twelfth centuries, though the last Hindu king's reign ended in 1526. Hinduism itself continued in

especially commemorated in the hero stones (*vīrakkal*)[118] of fallen warriors, which were intended to glorify "the fiercely proud Tamil martial spirit" (Elgood, 2004, 181). Moroever, the Hindus of southern India developed their own theories of statecraft paralleling the northern *maṇḍala* system (Selvaraj, 1991, 67-81). Elgood cites one such example of this from the philosophical tradition of *Śaiva Siddhānta*:

> In the Tamil *Śaiva Siddhānta,* the worshipper is taught to envisage a series of concentric rings with the Śiva linga in the center of a court with lesser deities occupying outer rings appropriate to their rank. In the fifth ring are the weapons of the World Guardians. "Indra's thunderbolt stands in the east, Agni's spear in the southeast, and so on." Also unchanged was the concept of the ruler obliged to make sacrifice and war for his own glory and the good of his people" (Elgood, 2004, 66).

In the Tamil tradition, several distinctive deities of war were propitiated for victory in battle. For instance, "ritual sacrifice to Korravai, the goddess of war and victory, was performed at the end of battle. Korravai, the mother-goddess of war, and her son Murukan were strongly associated with blood sacrifice. Both were of great importance in Tamil Nadu" (Elgood, 2004, 66). Indeed, a strong militant worldview supporting a warrior culture arose in the south of ancient India, which led to an extensive list of militant deities propitiated before going into battle such as Murukan/ Kārttikeya/ Skandha/

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some areas and many south Indian beliefs regarding weapons transferred into Javanese folklore. An important source of information on early Indian arms are the carvings on the great stupa at Borobudur in Java" (Elgood, 2004, 42).

[118] Lubin explains the important role of hero stones in South India as follows: "Since antiquity heroes (*vīra*) fallen in combat had sometimes been deified and venerated; this practice was evidently common in the late medieval period. Some plaques (*kiritistambha, vīrakkal*) commemorating these deified heroes still stand today" (2004, 167). This point is corroborated by Whitaker who remarks, "Appearing throughout India from the second century CE onward, hero-stones commemorated the violent death of a warrior, either in battle or in cattle raids, and his subsequent ascension into heaven and worship" (Whitaker 2004a, 164).

Kumāra/ Subrahmaṇya,[119] Sūrya, Gaṇeśa, Śiva, Indra, Viṣṇu,[120] the goddess Durga, *et al.* (Dikshitar, 1987, 147). The centrality of such military deities in South Indian Hindu society can be found not only be in their myths but also in their sacred geography, temple architecture, and maritime empires:

> From an early date the Tamil term for six special temples dedicated to the god Murukan … was *padai vidu,* which means weapons house or armoury. The god Subrahmanya is always shown with a spear and a leaf-shaped sword (like a holly leaf in temple processions. This spear is called *saktivel* or *velayudha* and is worshipped on its own (Elgood, 2004, 29).

The development of indigenous Indian systems of martial arts such as *kalarippayattu* (fighting school),[121] *vajramukti* (diamond-hand combat) and *malla-yuddha* (lethal wrestling combat) further reflected warrior ideals (Tomio, 2000, 58-199).

Overall, the result of the proud and cherished Hindu warrior spirit (witnessed in both north and south India) was a history of endemic warfare in the Indian subcontinent that characterized Hindu statecraft for thousands of years. One military historian describes this social situation as follows:

> The history of ancient India is one of almost continuous warfare, broken by occasional periods of short-lived peace. The doctrine of

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[119] Among the Tamils, Murukan (also known as Skandha, Subrahmaṇya and Kumāra) is the "warrior god of valour" and the six-headed son of Śiva and Pārvatī. "In some texts he is described as an army commander or endowed with great strength and skill at arms … [and] his consort is Devaṣeṇa, 'the heavenly army'" (Elgood, 2004, 249).

[120] As Hinduism developed into the classical period, the Hindu God Viṣṇu became "the ultimate warrior, largely by assuming the powers of Indra, to whom he had hitherto been portrayed as subordinate, a change marking the supersession of the Vedic by the Puranic gods" (Elgood, 2004, 102).

[121] Elgood describes the Malayalam term "*Kalarippayattu*" as an "ancient martial arts tradition from Kerala, training the warrior in armed and unarmed combat, said to date from the twelfth century, with an emphasis on extremely fast use of weapons and their evasion. Devised for Nayars, the warrior caste of the region, it was subsequently practiced by other castes" (Elgood, 2005, 248). For a good study of *Kalarippayattu*, see Phillip B. Zarrilli's *When the Body Becomes All Eyes: Paradigms, Discourses and Practices of Power in Kalarippayattu, a South Indian Martial Art* (Oxford University Press, 2000).

maṇḍala, which epitomises the Hindu conception of the inter-statal relations, is essentially a doctrine of strife and struggle … The factors which contributed to this frequency of warfare were various. One ancient writer has summarised them as followers: 'Usurpation of kingdom, abduction of women, seizure of provinces and portions of territory, carrying away of vehicles and treasures, arrogance, morbid sense of honour, molestation of dominions, extinction of learning, destruction of property, violation of laws, prostration of the regal powers, influence of evil destiny, necessity of helping friends and allies, disrespectful demeanour, destruction of friends, want of compassion on creatures, disaffection of the *prakṛti-maṇḍala*, and common eagerness for possession of the sources of war.'[122] A more potent factor was the Hindu ideal of *vijigisa*. Ancient texts inculcate times without number that fighting constituted the essential function of a king,[123] that pacifism and kingship, so to say, were contradiction in terms. A king's highest duty was not to shun war, but to get ready to smite his foes. "Like a snake swallowing up mice," says Usanas, a pre-Kauṭilyn author on politics, "the earth swallows the king who refuses to fight and the Brahman who is unduly attached to wives and children (Chakravarti, 1972, 181).

Thus, the roots of this militarism derive from ancient times and eventually they sprouted into a verdant jungle of military rivalries and shifting alliances in India. Dikshitar remarks "[i]mperialism as understood and realized in ancient India was one of the causes of chronic warfare" (1987, 38).

4.4.2. The Genesis of *Dharma Yuddha* and *Yuddha-nīti*

Despite the regular cycles of warfare that plagued Indian society, the conduct of warfare eventually became subject to restraints of morality as India developed its own ethical traditions that impinged on the practice of military combat. A nascent Hindu war "convention" (to adopt Walzerian

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[122] *Agni Purāṇa* 240. 15-18.

[123] As previously noted, the *Manusmṛti* (Ch. VII: 98) claims that *Yodhā-dharma-sanātanaḥ* ("War is the eternal law of kings").

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terminology) provided a distinctive Hindu ethos of combat that became associated with *kṣatriya dharma* (the ethical duties of warriors). Several scholars suggest that it would be anachronistic, however, to posit an early date for the rules of war (*yuddha nīti*) in either Aryan or Tamil discourse (Dikshitar, 1987, 59; Chakravarti, 1972, 15). Rather they suggest that *dharma yuddha* is a much later historical development that characterized the post-Ashokan period of Indian history when the osmosis of the ideas of *ahiṃsā* (non-violence) and conquering through *dharma* (righteous conduct) became normative. As Dikshitar remarks:

> Going back to the period of the *Ṛg Veda Samhitā,* there is no reason to suppose that the Samhita or post-Samhita literature of the Veda contemplated any clear distinction between *dharmayuddha* and *kūṭayuddha.* No doubt wars were fought, and there is evidence of the use, sometimes, of fraud in such battles [*Ṛg Veda,* I, 117. 16; VII, 18.11.]. [However,] there was nothing like a definite formulation of the rules of conduct. It was only in the post-Vedic epoch that a code came into being (Dikshitar, 1987, 59).

Chakravarti concurs with this assessment by adding, "[d]uring the Vedic period, *dharma yuddha* was not the normative model of Hindu warfare.[124]

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[124] However, it is interesting to note that the famous historian of India, Basham, disagrees with this assessment. He writes: "The idea of "righteous conquest" or "conquest according to the Sacred Law" may have developed among the Aryans soon after their occupation of North India, as an expression of their solidarity against the dark-skinned natives. [However, t]he kings of Magadha, from Bimbisara onwards, ignored it, and annexed territory without compunction; but the doctrine that war should be waged for glory and homage rather than sordid aims such as wealth and power grew in importance with the fall of the Mauryas, and was accepted by the medieval quasi-feudal order. "Demoniac conquest" still took place from time to time, notably under the Guptas, but "righteous conquest" was the ideal, which Hindu kings were expected to follow, and it is evident that they usually did. War became the sport of kings – a sport which was often very profitable and always very serious, in which the shame of defeat might well only be expunged by suicide, but a sport nonetheless. The Peninsula, inheriting by fierce Dravidian tradition never completely submerged by Aryan influence, had a more realistic approach; here conquest with annexation was more common, as well as ruthlessness towards captives and non-combatants, but even in the South was not unaffected by the idea of 'righteous conquest'" (Basham, 1954, 124).

His conclusion is based on the fact that prohibited forms of warfare in later Hinduism were once glorifed by the Vedas such as the use of fire and poisoned arrows. The use of fire and poison were later considered to be devious and demonic forms of warfare but in the *Atharva-Veda* (VII. 62, 1), the fire god "Agni is referred to as conquering the most powerful opponents, as a combatant on a chariot overcomes men fighting on foot" (Chakravarti, 1972, 15). This type of warfare was certainly not in accordance with the eventual rules of *dharma yuddha.* Since Agni defeated enemies by the use of the weapon of fire, his behaviour is incompatible with the rules of *dharma yuddha,* and thus such rules must have emerged at a later time in the historical development of Hindu thought. Dikshitar echoes this perspective:

> In the Vedic age we have no evidence to indicate the existence of an accepted code of fighting. Political society was just then emerging from the tribal community. But in the post-Vedic epoch, and especially before the epics were reduced to writing, lawless war had been supplanted, and a code had begun to govern the waging of wars. The ancient law-givers, the reputed authors of the *Dharmasūtras* and the *Dharmaśāstras,* codified the then existing customs and usages for the betterment of mankind. Thus the law books and the epics contain special sections on royal duties and the duties of common warriors. When society became organized and a warrior caste came into being, it was felt that the members of this caste should be governed by certain humane laws, the observance of which, it was believed, would take them to heaven, while their non-observance would lead them into hell (1987, 42).

As Indian warfare evolved away from the Vedic period, Chakravarti reports that significant changes began to occur in India military tactics and thinking. For instance, the war-chariots that were essential in the Vedic age

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began to be replaced with war elephants.[125]   During early Vedic times, war chariots were praised, which is seen in the *Atharva-veda* (VI. 125) that contains a beautiful hymn to the war-chariot. Moreover, there are numerous references to war-chariots in the *Ṛg Veda* (i. 20, 3; iii. 15, 5; iv. 4, 10; 16, 20; x. 103, 10 etc). In the epics they constitute the most important arm" of the military (Chakravarti, 1972, 22). However, even though chariots continued to be widely praised in the later Hindu epics, in reality, elephants became the decisive weapon of Hindu armies in later times.[126]   Indian elephant armies emerged as the most significant aspect of Hindu forces "about the time of the Macedonian invasion" (Chakravarti, 1972, 47).   Eventually, Hindu "military thinkers recognized that chariots needed a dry and plain soil for their use, that they could not be employed in hilly tracts or morasses, nor in the rainy

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[125]   According to Chakravarti, "There is, however, no reference in any of the Vedas to the use of elephants in war" (Chakravarti, 1972, 47) even though the king of the *devas,* Indra, was commonly depicted in Hindu iconography as riding a war elephant. He also reports that in the "succeeding centuries, the importance of elephants went on mounting higher and higher in Indian military estimation. In the *Arthaśāstra* (Bk. VII. Ch. 2) Kauṭilya provides us with an inkling into the military thought of his age when he writes that "it is on elephants that the destruction of an enemy's army depends" (Chakravarti, 1972, 48). Kamandaka (XVI, 10-12) says that "the kingdoms of kings depend on elephants," and that "one elephant, duly equipped and trained in the methods of war, is capable of slaying six thousand well-caparisoned horses"" (Chakravarti, 1972, 48). "The elephants continued to fill an important role in the Indian military system long after the conquest of India by [Islamic forces]. It was only after the introduction of fire-arms and the gradual extension of their use that they ceased to be of any value in the fighting line of battle" (Chakravarti, 1972, 49).

[126]   "Eventually, all over India "there was the same demand for elephants, the same implicit faith in their military effectiveness. In the eastern kingdom Magadha, Mahapadma Nanda had collected a huge contingent of elephants, numbering about four thousand, "all trained and equipped for war." Shortly afterwards Candragupta Maurya increased the strength of the Magadhan elephant corps to nine thousand. The age of chariots had passed, that of elephants had begun" (Chakravarti, 1972, 48). However, "elephants were sometimes of more harm than benefit. If wounded, they were liable to get beyond control and escape at the top of their speed. It also happened that once taken by terror, they turned round and trampled their own men under their feet. The earliest known instance of this kind occurred in the battle of the Hydaspes. Maddened by the wounds received from the enemy's missiles, the elephants in the Paurava army "attacked friend and foe quite indiscriminately, pushed them, trampled then down, and killed them in all manner of ways", and being at last spent with wounds, "spread havoc in their own ranks" (Chakravarti, 1972, 50). Moreover, in the *Arthaśāstra,* Kauṭilya "attaches much more importance to elephants, and even to horses than to foot-soldiers." (Chakravarti, 1972, 16).

season. Such restricted employment must have reacted fatally upon their utility as instruments of war ... consequently war-chariots fell more and more in disuse" (Chakravarti, 1972, 26-27). It seems that "the decline of chariots...[occurred during] the post-Kushan period [3rd–4th centuries CE]. There is not an iota of evidence to prove that they were employed by the Guptas, and it is certain that they were not used in the empire of Harsa. … The final disappearance of chariots from India's military system probably came about on the eighth century A.D." (Chakravarti, 1972, 26). Thus, Indian military conduct transformed from the early Vedic period, characterized by the frenzy of chariot warfare, into a slower more methodical clash of massive armies commanded by elephants in which army formations (*vyūha)* were used and chariots were no longer the key fighting force.

Given the above, it is a fallacy to suppose that *dharma yuddha* was the most ancient form of warfare in India. Rather *dharma yuddha* itself was a product of historical reflection on warfare that characterized post-Aśokan statecraft, which is the next focus of analysis.

4.4.3. Early Historical Challenges to Hindu Views of War

The nature of Hindu warfare slowly changed with the ascendency of the doctrine of *ahiṃsā* (non-injury/ non-violence) in India during the 6th century B.C.E., which is attributed to the rise of Buddhist and Jain religious teachings (Sharma, 1965, 147). The seminal teachers of these systems, the

Buddha and Mahavira respectively, emphasized the principle of *ahiṃsā* that required people to avoid activities such as hunting and warfare, which caused harm to living beings.[127] Three centuries after the Buddha's death, the Indian King Aśoka embraced Buddhist teaching and banned the killing of animals during his reign (c. 273-232 B.C.E.).[128] His legal decrees greatly affected the prestige of the Hindu Brahmins since at this time they killed animals for religious sacrifices and ate meat (Jha 2002, 61-90). Hindu Brahmins were compelled to change their religious practices due to Buddhist influence (Lal Sagar 1975, 66). Thereafter, the Brahmins themselves banned eating meat to save their reputation, power, and social status.[129] As a result, the Hindu idea of sacred cows became popular during this period due to Buddhist

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[127] According to the Buddhist Pali Canon, any type of war, including a Just War, is produced by greed, hatred and delusion, and therefore war should always be rejected. Buddhist scriptures "draw attention to the fact that in war, victory brings forth hatred (*jayaṃ veraṃ pasavati*); the defeated lie in grief (*dukkhaṃ seti parājito*)" [*Saṃyutta Nikāya* 1, p. 83] (Premasiri, 2008, 6). It is also notable that the Buddha himself "intervened in situations where people had thought of resolving their problems through war, and persuaded them to resort to peaceful and conciliatory methods of resolving conflicts, drawing their attention to the intrinsic worth of human lives" (See *Jataka Pali Text Society,* Vol. 5, pp. 412, cited in Premasiri, 2008, 5). According to the Buddhism, "one who fights a war does not generate wholesome thoughts but thoughts of malice and hatred, which are absolutely unwholesome [*Saṃyutta Nikāya,* Pali Text Society Vol. 4, p. 308.]. Therefore, their future destiny will be a woeful one, which is in accordance with their unwholesome *kamma"* (Premasiri, 2008, 3-4). Premasiri remarks: "The doctrine of the Buddha is such that one who lives in accordance with it succeeds in living in the world without coming into conflict with anyone (*na kenaci loke viggayha tiṭṭhati*). [*Majjhima Nikāya,* Pali Text Society, London, vol. 1, p. 109]. The Buddhist path of moral development is described as the noble and incomparable path of peace (*anuttaram śānti varapadam*). The requirements of the Buddhist path are considered to be fulfilled when one's mind attains perfect peace (*śāntim pappuyya cetaso*). Nibbana, the ultimate attainment can be described as the attainment of inner peace (*ajjhanta śānti*) (Premasiri, 2008, 2-3).

[128] "It is a question whether Ashoka's advocacy of Buddhism was a matter of personal conviction or a shrewd expedient" (Lannoy, 1974, 332).

[129] According to Whitaker (2004a), the "evidence suggests that Ashoka publicly supported Buddhism in order to undermine the political and social dominance of orthodox Brahmanism (Buddhism records that Ashoka's conversion was motivated by remorse over the horrors of warfare and conquest)" (Whitaker 2004a, 162). "He erected massive stone pillars, known as 'Ashokan edicts,' throughout his empire. On them were carved inscriptions that promulgated Ashoka's own ethical and religious code (*dharma*), which upheld notions of nonviolence (*ahiṃsā*), social ethics, and civic responsibility" (Whitaker 2004a, 162). "The ramifications were substantial because this new moral code transcended sectarian beliefs and instigated a new order of state control over daily life and religious practices" (Whitaker, 2004a, 162).

political pressures on Hindu priests to practice *ahiṃsā* towards animals in Hindu rituals (Jha, 2002, 61-90).

After high-caste Brahmanism incorporated non-violence into its religious worldview, many of its previously violent Vedic rituals involving animal sacrifices were reinterpreted to accord with the principle of *ahiṃsā,* and the Hindu tradition moved towards a more allegorical understanding of violence, militancy, and war.

Correspondingly, a philosophical basis for non-violence arose in Hindu texts such as the Upaniṣads, wherein non-violence was connected to both the ethical principle of karma as well as the Hindu ideal of the non-duality of the Divine (Brahman). In this non-dual framework, violence against another being was interpreted as violence against oneself and the affirmation of monism cultivated an awareness of the interrelatedness of all life, in which the "Self is seen as other and the other is seen as the self." As a result, the non-duality doctrine of Hinduism had a tremendous impact on Indian ethical thinking about war and made Hinduism more amenable to embracing "*ahiṃsā*" (non-violence) as an ethical precept.

Evidence for Buddhism's impact on Hindu attitudes towards war can be seen in the increase of Hindu statements in the *Mbh.* favouring *ahiṃsā:*

> "*Ahiṃsā* is the *dharma.* It is the highest purification. It is also the highest truth from which all *dharma* proceeds (*Mbh.,* 13:125. 25). *Ahiṃsā* is the highest dharma. *Ahiṃsā* is the best austerity (*tapas*). *Ahiṃsā* is the greatest gift. *Ahiṃsā* is the highest self control. *Ahiṃsā* is the highest sacrifice. *Ahiṃsā* is the highest power. *Ahiṃsā* is the highest friend. *Ahiṃsā* is the

highest truth. *Ahiṃsā* is the highest teaching (*Mbh.,* 13:116. 37-41).[130]

Furthermore, such statements of support for non-violence were not limited to the dominant Sanskritic culture of northern India because the Tamil classics of southern India also lauded non-violence. Hence, one finds the beautiful seventh century C.E verse from the *Tirumantiram* manual of Śaivism:

> Many are the lovely flowers of worship offered to the *guru*, but none [is] lovelier than non-killing. Respect for life is the highest worship, the bright lamp, the sweet garland and unwavering devotion (Verse 197).[131]

Hindu attitudes towards warfare went through a radical metamorphosis by exposure to Buddhist and Jain teachings. From a process of debate and syncretism with rival schools, the spectrum of Hindu opinions on the relationship of *ahiṃsā* to warfare become more nuanced and complex. The result of this fusion was the emergence of classical Hindu models of warfare that blended both Realist and Idealist thinking while simultaneously paying attention to non-violence. The Hindu Epics represent a hybrid of both schools of thought, and thus contain contradictory opinions on war. Their ethical ambivalence toward violence is clearly noted by Hopkins (1899, 183-184) in his assessment of Hindu militancy:

> peace is the ultimate goal of a happy kingdom but throughout the epic peace is proposed as an anomaly in life. Constant strife, with insidious citizens and with open foes, must always be carried on…the whole business of the whole warrior caste was fighting.

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[130] *Mbh.* cited in Christopher Chapple, *Nonviolence to Animals, Earth, and Self in Asian Traditions* (Albany, NY: SUNY Press, 1993): p. 17.

[131] Translated by Satguru Shivaya Subramuniyaswami, *Living with Siva: Hinduism's Contemporary Culture, 2nd edition* (Hawaii: Himalayan Academy, 2004), pg. 688.

Moreover, the warrior need not regard fighting negatively, as a burden imposed by his birth. On the contrary, death in battle provides a direct path to heaven, while dying at home in bed from illness is sinful as well as inglorious[132] (cited in Allen, 2006, 142).

Hence, the infusion of non-violent ethical ideals into Hindu praxis influenced the impulse in Hindu rules of warfare to mitigate wanton violence.

4.4.4. Rise of the Hindu Military Code (*Kṣatriya Dharma*)

Although the ideas of *ahiṃsā* and non-dualism had a significant impact on Hindu notions of warfare they did not completely eradicate or castrate the earlier militant ethos of Vedic culture. Rather war in Hindu society became reinterpreted as a type of sacrifice in subsequent Hindu texts or as an allegorical battle with a deeper symbolic meaning.[133] As a result, while *ahiṃsā* continued to be lauded as the highest ideal, exceptions were granted such as coercion against criminals and fights against demonic enemies (Flood, 1996, 60). As Shastri states, "Soldiers on the battlefield who kill their

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[132] See, for example, *Mbh.,* 12.98.23-31.

[133] Jan Heesterman, "a renowned interpreter of Vedic culture, has proposed a controversial theory that states that a controlled and safe ritual replaced an original … warrior sacrifice that was the arena of conflict and alliance where honor and status were contended and where a consecrated warrior patron (*dīkṣita*) bestowed gifts on guests and took stock of his raids. … Thus, the sacrifice … may have originally been a battleground where fire, food, and cattle were fought over. It was only through the intervention of specialized priests, who ordered and controlled the ritual, that the tension between patron and guests was pacified. Priestly involvement further allowed for any reciprocal exchange to be peacefully mediated. The priests thus created a harmless ritual from a once-ambivalent and violent warrior sacrifice" (Whitaker, 2004b, 173). Correspondingly, Zimmer remarks that the "threat of a blood-bath depicted in the *Mahābhārata* marked at once the climax and the close of the Vedic-Āryan feudal age. In the following period, which was that of the Upaniṣads, the Sanskrit term for "hero," *vīra,* was no longer applied primarily to the man of action but instead to the saint—the sage who had become the master, not of others, not of the surrounding kingdoms of the world, but of himself" (Zimmer, 1951, 74).

enemies do not engage in *himsā,* but are carrying out a professional duty—a duty towards one's own country, culture, and society-and this duty is considered an act of heroism" (2000, 80). This statement would suggest that even the glorified *ahimsā* (non-violence) of the *Mbh.* is not an absolute ethic in Hinduism.

The emergence of the concept of *kṣatriya-dharma* (warrior duties), was a key development in the post-Aśokan period when Hindu texts of this period introduced the principles of *dharma yuddha* into legal discourse:

> By the time of the Gupta dynasty (A.D. 330-445) the Hindu theory of war held sway over the subcontinent. Chandragupta II (A.D. 380-413) himself, the foremost Gupta king, was a devout practitioner of the Bhāgavata cult as expounded upon in the Gītā, and both he and his heirs assumed the title of *parama-Bhāgavata* while claiming to be incarnations of Viṣṇu. Coins from this period show kings reclining beneath Hindu deities and beneath the White Umbrella, symbol of *dharma,* which they have sworn to uphold in both times of peace and war. In the Golden Age of India as it is now called by Hindu scholars, the *Mahābhārata* and the *Rāmāyaṇa* both reached their final form and the legal treaties of which *The Laws of Manu* is the most familiar, were committed to writing (Aho, 1981, 72).

Lannoy suggests that the redactions of the *Mbh.* over a very long period of time reflect the transformation of Hindu society from an early chaotic period of Vedic warfare to a more civilized era characterized by the rules of *dharma yuddha:*

> The *Mahābhārata,* a heroic saga in praise of warrior nobles organized in a clan-system, was probably completed between the seventh and sixth centuries B.C. Subsequent editions reflect the slow transition from a tribal to a caste system, the eventual ascendancy of the Brahmans as the guardians of all knowledge,

and the establishment of their authority in all matters pertaining to the Dharma. Nevertheless, the aristocratic assumptions of all heroic tradition on which both Epics were originally based do not disappear in later redactions… The complexities and inconsistencies of the Epic arise from the fact that underlying its plot is the hidden drama of a social transformation from the heroic ideals of the tribe to a more religious and Brahman-directed caste society (Lannoy, 1974, 296-298).

Thus, kings and warriors who wished to attain a "righteous victory" (*dharma-vijaya*), "had to observe certain codes in warfare. These codes were incorporated in the *Dharmaśāstras* (loosely translated as Books of Law). Warfare carried out according to the codes was also called *prakāśa-yuddha* (illuminated or open warfare). There was nothing secret about it. Preparations for such a war were made openly in the full knowledge of the adversary" based on *nīti* (ethical principles) that are aligned with the cosmic and social order (*dharma*) (Deshingkar, 1998, 357).[134]

According to these principles, the *Laws of Manu* envisioned battle as "ideally a gigantic tournament with many rules: a warrior fighting from a chariot might not strike one on foot; an enemy in flight, wounded or asking quarter might not be slain; the lives of enemy soldiers who had lost their weapons were to be respected; poisoned weapons were not to be used" (Basham, 1954, 126). Indeed, the high-respect for this style of noble warrior combat infused Hindu writings of the period "in the same manner that the tradition of chivalry influenced literary and behavior patterns over successive

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[134] Thus one of the key features of *dharma yuddha* is that there was to be "no element of surprise and there were strict rules about seasons of warfare, the duration of combat was restricted to daylight hours" (Deshingkar, 1998, 357).

centuries in Western Europe. The tradition stretched from cradle to grave" (Elgood, 2004, 181).

In sum, open rules of warfare became firmly entrenched by the classical period of India's history (c. 300 B.C.E.—600 C.E.), and Hindu kings "invoked *kṣatriya-dharma* (the code of the warrior caste) as a sacred justification for waging war and for glorifying the warrior" (Lannoy, 1974, 167).

4.4.5. Outside Observations of the Hindu Practice of War

As a result of the transformation of tribal warfare into a codified system of rules by the *Dharmaśāstra* period (200 B.C.E.—200 C.E.), Hindu combat was thereafter regulated by a well-known system of rules (*yuddha-nīti*), which will be carefully elucidated in section 4.5 below. Evidence of the popularity of these rules can be attested to by outside observers who were impressed with India's civility in warfare. For instance, in the 4th century B.C.E., the Greek ambassador to the Mauryan Empire, Megasthenes,[135] wrote in his famous tome *Indica* that "at the very time when a battle was going on, the neighboring cultivators might be seen quietly cultivating their work – perhaps ploughing, gathering in their crops, pruning trees, or reaping the harvest" (cited in Danielou, 2003, 106). Megasthenes observed that Hindu warfare was governed by civility and respect for non-combatants: "the

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[135] For a study of Megasthenes' accounts of India, see J. W. McCrindle *Ancient India as Described by Megasthenes and Arria*. (Calcutta and Bombay: Thacker, Spink, [1877] 2008).

combatants on either side in waging the conflict make carnage of each other, but allow those engaged in husbandry to remain quite unmolested. Besides, they never ravage an enemy's land with fire, nor cut down its trees" (cited in Danielou, 2003, 106). Historians Majumdar (1960) and Aho (1981) confirm this civil pattern of warfare by citing Chinese Buddhist pilgrim Hiuen Tsang, who during the 7th century C.E. provided the following assessment of Hindu warfare on his pilgrimage to the Nalanda Buddhist monastery—once the largest university in Asia:

> When they have an injury to avenge they never fail to give warning to their enemy, after which each puts on his cuirass and grasps his spear in his hand. In battle they pursue the fugitives but do not slay them who give themselves up. When a general has lost a battle, instead of punishing him corporally, they make him wear women's clothes and by that force him to sacrifice his own life (cited in Majumdar, 1960, 95-96).

Additionally, Hiuen Tsiang "affirms that although there were enough of rivalries and wars in the 7th century [C.E.], the country at large was little injured by them" (Chakravarti, 1972, 188). Later Muslim writers such as the 11th century al-Bīrūnī also affirmed similar opinions. Thus, Aho avers that "some consensus among Greek, Chinese, and Muslim travelers" corroborates the civility and humaneness of Hindu codes of combat, which is significant because such foreign observers "were less likely to view Hindu war-making in an uncritically favorable light" (Aho, 1981, 68). From this external evidence, Aho concludes that Hindu *kṣatriyas* "did in fact fight chivalrously" (68).

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Such civilized Hindu rules of war, however, may have been one of the reasons for the downfall and collapse of the Hindu kingdoms at the hands of Muslim invaders from the 10th century C.E. onwards. These invaders held to different codes of military conduct and ethics in battle. The civil rules of *dharma yuddha* may have been the Achilles' heel of Hindu kingdoms whose political power in the Indian sub-continent was rapidly eclipsed by Muslim military hegemony. Ironically, the Hindu warrior spirit of noble combat enshrined in the codes of *dharma yuddha* resulted in political conditions of endemic warfare that weakened the overall cohesion of Hindu cooperation in defense against outside invaders. As Basham remarks, the social and political conditions for much of the history of pre-Muslim Hindu India were characterized "by inter-state anarchy resulting in perpetual warfare. In Europe, however, the well-organized and centralized Roman Church often acted as a pacifying element in the situation; Indian Hinduism, which had no all-embracing super-national organization, rather encouraged inter-state anarchy by incorporating many martial traditions into the Sacred Law" (Basham, 1954, 128). Aho laments the twilight of Hindu military power at the hands of invading Muslim armies who fought in a different way and repudiated the customs of *dharma yuddha*. He ponders the choice that Hindu kings had to make in fighting these so-called "barbarian" invaders:

> [Hindu] kings… were faced with a dilemma… They could attempt to defeat Allah's warriors by fighting as those warriors did, using any means including treachery. But this would mean not only ignoring the charge they had been given when crowned under the

White Umbrella to uphold *dharma* at all costs. More importantly, it would mean excommunicating themselves *de facto* from the world of men by becoming beasts like their barbarian foe. On the other hand, if they chose to persist faithfully in their obedience to sacred law, fighting fearlessly, but honorably and courteously against an enemy who despised battlefield restraint as a form of idolatry, they might preserve the larger world from utter chaos, but at the expense of their own lives and patrimony. Therefore, the choice for Hindu kings when confronting a foreign invader was either to sacrifice themselves to Viṣṇu, the God who maintains the world, gaining heaven as a reward, as promised in the Gītā, or to refuse to immolate themselves to God in order to preserve their own political power, but at the risk of knowing themselves to be less manly (Aho, 1981, 74).

Such an assessment of the ethical dilemma facing Hindu kings may be overstated,[136] but it suggests a psychological disconnect or cognitive dissonance between Hindu and Muslim attitudes towards warfare, which may have contributed to mutual misunderstanding and distrust.[137] Traditionally, much of the blame for the end of the golden age of *dharma yuddha* is attributed to the shattering impact of Islam on Hindu views of war (see Aho (1981), Elgood (2005), and Yadava (2001)); Elgood, however, argues

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[136] Aho's remark above are problematic because, first, it presupposes that the invading Muslims did not have their own religious rules of warfare, which is not the case; and secondly, it claims that Muslims soldiers viewed battlefield restraint as a "form of idolatry", which is a rather dubious claim reflecting an undercurrent of anti-Islamic sentiment.

[137] For studies of Just War thinking in Islam, see Kelsay and Johnson (1991), Hoffman (2006), and Kelsay (2007). Muslim attitudes toward warfare arose from the teachings and behaviour of Prophet Mohammed, Islamic jurisprudence, as well as an inherited code of military conduct from pre-Islamic society. Much like the Hindu rules of *dharma yuddha*, this code of pre-Islamic rules "forbade fighting during certain periods of the year and condemned excessive destruction, reflecting both a code of honor that protected the weak—women, children, the aged, and prisoners—and the view that fighting is instrumental to an end" (Nardin, 1996, 259). In general, two views of warfare prevailed in the Islamic tradition: (1) "war is justified to advance the faith against resistance; or (2) to defend Muslim lands against conquest by unbelievers" (Nardin, 1996, 252). Yet regardless of the motives for an acceptable Islamic war, Muslim conduct in war is always supposed to be fought in a civilized way (Kelsay, 2004, 224). In contrast to Western notions of "just war" as a "finite response to a particular threat", Islam "retains a worldview within which war is an instrument (frowned on by some and celebrated by others) in the permanent struggle to establish the universal dominion of Islam" (Nardin, 1996, 252). It is this latter attitude that Aho seems to insinuate in his comments about the Muslim invasions of India and the breakdown of Hindu codes of fighting.

that the situation of Muslim invasions was far more complex than easy generalizations suggest (2004, 45). He notes, for instance, that it is not very well known that "Muslim mercenaries were frequently employed by the Hindu states"[138] to help them in battle and were particularly valued by Hindu kings as trainers of their cavalry corps and knights on horseback.[139] Elgood suggests that the "ideological battle between Islam and Hinduism had limited relevance when mercenaries served either side" (135). It seems that this issue deserves further treatment to gain a better understanding of how the laws of *dharma yuddha* eventually collapsed into the dustbin of Indian military history.

The aforementioned military historians seem to be correct in averring that the impact of Islam on Hindu military thinking was significant:

> Muslim invasions of southern India must have been profoundly shocking to Hindus because the Muslims did not acknowledge the same moral codes. Hindu rules of warfare were protective of life, recognizing non-combatants and the means of surrender. Islamic jurists divided the world into two parts, the *Dar ul Islam* or world

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[138] Elgood reports that the "Hoysala king Jagademalla as early as the 1140s recruited Arabs from the Malabar coast, the so-called 'Syrians', unrelated to the Central Asian Turks who were occupying Hindustan. Ferishta, … claims that the Vijayanagara ruler Deva Raya II (reigned 1424-46) called a council of nobles and brahmans to consider the reasons for the frequent Muslim victories, despite the larger army and greater wealth of the Hindu state. This found that the Bahmani horses were superior to those available to Vijayanagara, and that the Muslims had large numbers of excellent archers, in contrast to the small numbers in the Raya's army. Deva Raya therefore recruited 2000 Muslim cavalry to train his cavalry and 10,000 Muslim bowmen (*turushkas*), even authorizing them to build mosques and cemeteries within the city of Vijayanagara" (Elgood, 2004, 45).

[139] According to Elgood, "Ferishta's account is corroborated in part by an inscription of 1430 which states that Deva Raya had 10,000 Muslim cavalry in his army (Elgood, 2004, 45). Chakravarti explains that an important reason "why the Hindus never did or could evolve a cavalry system comparable in strength and efficiency to that of the Greeks or [Muslims] was the lack of a good horse in India … This paucity of good horses within India proper often compelled powerful monarchs both in the north and in the south to get their supply of horses from foreign countries … The lack of good horses of indigenous breed must have proved a serious obstacle to the development of a first-rate cavalry system in ancient India. … This lack of horse-archery was another fatal lack in the military system of ancient India. It was especially so because the Turks, who invaded India in the 11th and 12th centuries, were masters in that art (36-42).

of believers, and the *Dar ul Harb* or world of war, where it was the duty of Muslims to wage war (*jihad*) against the infidels until their submission to Islam and payments of the poll tax (*jixiyah*). Muslim warfare initiated a conflict of culture as well as of arms. The introduction of Muslim and subsequently, European arms, into the subcontinent and their military success forced a reluctant Hindu reappraisal of their weapons [and tactics] (Elgood, 2004, 13).

It was only after the impact of Islamic invasions that several novel aspects to Hindu militancy began to grow in popularity such as bands of ascetic warrior monks,[140] Hindu guerrilla warfare (e.g., that of Shivaji),[141] the Thuggees of the British colonial period, and other combat approaches all of which deviated from *dharma yuddha* models (e.g., Aurobindo's "terrorism") (Heehs, 1993, 469-483; Kirpal and McDermott, 2003, 184-185; Lubin 2004, 168).

Given these considerations, the classical models of warfare elucidated in the section on Hindu statecraft do not exhaust the possibilities of the ways in which war has been fought or understood within Hindu India. The four-fold model outlined is merely a heuristic typology to help explain inter-state

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[140] Again Elgood (2004, 44) writes, "Armed militancy had characterized Hindu asceticism from at least the seventh century; and this increased and became institutionalized in the late twelfth century in response to the Muslim invasions. Warriors, predominantly of low caste, joined bands called Akharas. The word means 'a gymnasium, place to train the body in yoga and skill in arms'. Followers of this discipline are called nāgā Sannyāsīs, the 'naked renouncers of the world' or simply nāgās. The foundation of the six Akharas are traditionally dated as follows: Ananda Akhara 856, Niranjani Akhara 904, Juna Akhara 1106, Avahan Akhara 1547, Atal Akhara 1646, Nirvani Akhara 1749. An additional akhara, the Agni Akhara, which does not properly belong to the *Daśnāmi Sannyāsī* was formed in 1482. These bands developed their own rituals and fighting methods, which may be traced to the Kāpālikas, while having in common a devotion to Śiva. (The early Vijayanagara rāyas were Kāpālikas.) They were frequently found in the forces of the Indian rājas serving as shock troops in assaults. It was entirely in this tradition that in 1699 the tenth and last of the Sikh gurus instituted the Khalsa, an order possessing a religious foundation and a military discipline. Kerala martial arts called *kalari payattu* or *kalaripayat,* are also still practiced."

[141] According to H.J. Klimkheit (1976), Shivaji's campaigns were "an early example of [modern] Hindu nationalism centered on the symbolism of Hindu kingship expressed in the *Rāmāyaṇa*" (cited in Brekke, 119; cf. Limkheit, Hans-Joachim, "Der Politische Hinduismus der Neuzeit" in *Der Religionswandel unserer Zeit im Spiegel der Religionswissenschaft,* edited by Gunther Stephenson, Darmstadt: Wissenschaftliche Buchgesellschaft (1976): pp. 94-108.

relations in classical India pertaining to the attitudes of kings towards the *maṇḍala* (circle of powers). Other types of warfare outside these classical modes offer an expanded list of Hindu paradigms of war. For instance, "Allegorical Warfare" can be seen in Mahātmā Gandhi's interpretation of the *Bhagavad-Gītā* as a struggle within a person's conscience to conquer selfish tendencies. Conversely, during the period of India's Mughal Empire, the Hindu Rajputs resorted to guerrilla tactics to undermine Mughal power. Both Netaji (1897-1945) and Shivaji (1630-1680) have embraced Guerrilla Warfare to combat alleged oppression. In 1674, the Maharashtrian Hindu hero Shivaji became the "last of the Hindu rulers successfully to face down the Mughals prior to the establishment of British hegemony in the subcontinent, and for this he has become the symbol of Hindu resistance" (Lubin 2004, 168). Shivaji used guerrilla tactics to conduct his military campaigns against the numerically superior Mughal forces. These guerrilla tactics would formerly have been labeled as a *"kūṭa yuddha"* since they employed secrecy and deception; their positive reevaluation in modern times, in which Shivaji's cunning methods of warfare have become praised (!), is an interesting development in the evolution of Hindu views of warare.

4.5. The Specific Rules of *Dharma Yuddha*

"Philosophers, while destroying the opinion of their adversaries must carefully respect the principles of logic, because these principles are useful to them; just as kings, while destroying the soldiers of their enemies, respect the field-labourer who is the common help of both armies."   — *Abhidharmakośa-vyākhyā*[142]

As demonstrated in the previous sections, Hindu Kings/ warriors who wished to attain a "righteous victory" (*dharma-vijaya*) in battle were required "to observe certain codes in warfare. These codes were incorporated in the *Dharmaśāstras* (loosely translated as Books of Law). Warfare carried out according to the codes was known as *dharma yuddha* and also called *prakāśa-yuddha* (illuminated or open warfare). There was nothing secret about it. Preparations for such a war were made openly in the full knowledge of the adversary" (Deshingkar, 1998, 357).[143] The purpose of this section is to delineate these open rules of righteous Hindu warfare, which are central to understanding *kṣatriya-dharma* (the idealized warrior code), based on *nīti* (ethical principles) aligned with the cosmic and social order (*dharma*).

4.5.1. Sources of *Dharma Yuddha*

Several sources of *dharma yuddha* can be utilized to reconstruct the Hindu rules of the game of war. In particular, information on *dharma*

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[142] According to the *Encyclopedia of Religion and Ethics (Part I)* by Hastings and Selbie, the *Abhidharmakośa-vyākhyā* is "one of the most important Buddhist texts preserved in Nepal. It is a commentary, written by a scholar named Yasomitra, on a classical account of Budddhist metaphysics – *Abhidharma-kośa* ("Treasure of *Abhidharma*") (1908, 20)." The quotation from the *Abhidharmakośa-vyākhyā* is cited in Chakravarti (1972, 187).
[143] One of the key features of *dharma yuddha* is that there was to be "no element of surprise and there were strict rules about seasons of warfare, the duration of combat was restricted to daylight hours" (Deshingkar, 1998, 357).

yuddha can be derived from four main repositories: historical records, literary texts, archaeology, and the treatises of political statecraft. The main focus of this section will be on the principles (*nīti*) of *dharma yuddha* found in Hindu texts, although other sources of information ranging from archaeology to numismatics (study of coins) will be incorporated as well.[144]

It is from Indian religious, legal, and political texts that we get the most vivid accounts of *dharma yuddha,* although those accounts are fragmented and widely dispersed.[145] As Chakravarti notes:

> Among indigenous literary works, the most important for the purpose of [understanding Hindu views of warfare] – are the two Sanskrit epics, the *Rāmāyaṇa* and the *Mahābhārata,* treatises on *Arthaśāstra* and *nīti,* and extant manuals on *Dhanur-veda* and other cognate topics. As regards the interpretation of these works the greatest difficulty arises from the uncertainty of their chronology (2003, iii).

The previous chapter showed that Hindu military science dates back to Vedic times but it was not until the classical period[146] of Indian history (c. 325 B.C.E.—500 C.E.) that Hindu texts such as the *Dharmasūtra* and *Dharmaśāstra* literature, as well as *Itihāsa* (narrative history) began to extensively discuss rules of war. Whereas the early Vedas were not concerned

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[144] As Chakravarti (1972) notes, "Archaeological evidence consists mainly in the remains of old towns and forts, ancient sculptures, paintings … and inscriptions. There are often of high illustrative value, throwing a flood of light on methods of fortifications, equipment and arms" (ii).

[145] Again Chakravarti (1972) remarks, "there is an extensive military literature in Sanskrit [but] one has to work his way through these writings... and patiently collect the relevant information scattered through them" (xiv).

[146] According to Ludin (1994, 12), the "Maurya and Gupta empires" comprised the classical age of Indian civilization…" See also David Ludden, "History outside civilisation and the mobility of South Asia," *South Asia: Journal of South Asian Studies,* Volume 17, Issue 1 (June 1994): pp. 1-23.).

with the notion of fair play in combat,[147] this notion became normative in later Hindu war ethics reflecting a symbiosis with Buddhist and Jain ideas of *ahiṃsā*. Therefore, by the time of the *Dharmaśāstra* period, Hinduism had developed a well-defined system of rules of warfare where the code of conduct of the *kṣatriyas* in war was carefully explicated. In the *Dharmaśāstras,* the primary "proof-texts" for these rules of *dharma yuddha* are notably *Baudhāyana,* 1, 10.18.9-13; *Āpastamba,* 2, 11.5.10-11; *Gautama,* 10, 16.18; and *Manu* 7:91-93; 7:87-89, 94-95, 102-10, 158-65.

Another key textual source of information on *dharma yuddha* is the collection of writings known as *Itihāsa*. Such writings form the narrative backbone of the Hindu literary tradition. They comprise two famous epics: the *Rāmāyaṇa* as well as the enormous *Mahābhārata,* which are both tales of warfare (among other *leitmotifs*). Although the epics' original narratives take place in the distant past, they were completed much later and were finally redacted in their extant form by the 4th century C.E.[148] These epics provided

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[147] See Dikshitar, (1987, 42-59); and Chakravarti, (1972, 15).

[148] Our analysis raises the debated issue of the historical time-frame of the texts in question. According to the scholar Alf Hiltebeitel (2001), "Brahman authors composed India's great epic, the *Mahābhārata,* within several generations (c. 150 BCE onward). Although James Fitzgerald agrees that this represents the epic's formative period, he argues that the epic took its final form during the reign of the Gupta kings (300-550 CE)" (Whitaker 2004a, 162). However, the Hindu epics "seem, on the whole, to embody traditions of an age anterior to that of Alexander and the Mauryas. These traditions enshrined in ballads, lived on in the memory of the people; and these ballads formed the basis of both the *Rāmāyaṇa* and the *Mahābhārata.* We may here refer to two facts, which illustrate our point of view. The Greek writers make it abundantly clear (even if we leave aside the evidence of Kauṭilya on the point) that in the 4th century B.C. the Indians placed their chief reliance in warfare on elephants tamed and trained for the purpose. In the epics, however, the chief strength of the army consisted in car-warriors [chariots]. Bhīṣma and Arjuna, Karṇa and Droṇa and all the front-rank knights of the *Mahābhārata* were redoubled car-warriors, and if one or two of them occasionally appear (as Duryodhana does) on the battle-field riding on war elephants, these are exceptions rather than the rule. These facts, then, largely justify our assumption that the military traditions of the epics should be placed somewhere before the 4th century B.C. In view of these considerations, we have, as a rule,

a rich layer for the specific rules of *dharma yuddha*. Indeed, Chakravarti states that the epics "throw a flood of light on the military ideas, customs and usages of ancient India" because "the basic theme of both the epics is war" (Chakravarti, 2003, iii). In fact, several detailed lists of rules of war are found in the *Mahābhārata* in the sections of the *Bhīṣma-parva* (e.g. 6.1.27-32; 6.1:26-32; 6. 101.3:77-78), the *Śānti-parva* (e.g., 12.96.7-97.23; 12.45; 12.95-96; 12.98-99; 12.101-103), the *Karṇa-parva* (e.g., 8.69); and the *Ādi-parva* (e.g., 1.153, 1.155) (Chakravarti, 2003, viii).

In addition to the Hindu epics, other Hindu texts on politics and statecraft provide outlines of codes of warrior conduct. These include the extant treatises on *Dhanurveda* ("Science of Archery and Fighting"), which describe military tactics and training. "It will be a mistake to think, however, that the old manuals of *Dhanurveda* were concerned only with archery. They dealt with the preparation and use of other weapons also…" (Chakravarti, 2003, xiii).

Of course, one should not fail to mention the renowned *Arthaśāstra,* which contains extensive discussions of warfare from a Realist Hindu perspective. Kauṭilya, the famous author of this work was, himself, part of an

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put the bulk of the epic evidence on our subject of enquiry prior to that of the classical authors of the *Arthaśāstra*" (Chakravarti, 1972, v). In contrast to this viewpoint, Braj Sinha (1991) argues that the authors of the epics mitigated the *Arthaśāstra* tradition by tempering it with the rules of dharma thereby making it more amenable to mainstream Brahminical tradition. He writes, "it is important to recognize that in the *Śāntiparvan* of the *Mahābhārata*, a new conception of *rājadharma* emerges which attempts to synthesize the *daṇḍanīti* categories of *Arthaśāstra* with the *rājadharma* notion of the *Dharmasūtras*" (369). Sinha correctly points out that Kauṭilya's *Arthaśāstra* text is itself a part of a much older tradition of cunning political statecraft (1991, 373-375).

older tradition of Hindu statecraft predicated on the wisdom of animal fables called the *Pañchatantra* (lit. "the Five Tantras").[149] He, in turn, inspired copy-cat writers and successors in the field of political statecraft and military tactics, who included Kamandaka's *Nītisāra*, (8th century CE); Somadeva's *Nītivakyamrta* (10th century CE); Vaisampayana's *Nīti-prakāsika* (16th century CE); and Śūkra's *Nītiśāstra* (16th century CE)[150] (Chakravarti, 2003, VIII). The latter is a "well-known manual of the *Arthaśāstra* type, and an inestimable source of information regarding Hindu ideas on politics, sociology and war" (2003, viii). Less famous Indian Realist texts include the *Yuki-kalpataru* by King Bhoja of Dhara in Malwa (11th century CE) and *Mānasllāsa* by the Calukyan emperor, Somesvara III (12th century CE) (Chakravarti, 2003, viii).

Additionally, the corpus of Hindu devotional scriptures known as the *Purāṇas* ("Ancient tales") also contain discussion of the methods and codes of warfare such as those found in the *Agni Purāṇa* and the *Viṣṇu Purāṇa* (VIII, 67). Finally, an often overlooked body of literature that "throws some light on our subject of enquiry, are the ancient treatises on elephants and horses. These are plentiful in number, and available both in manuscript and print.

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[149] An important corpus of Indian literature pertaining to maxims of statecraft involves "stories about animals and people, such collections as the *Tantrakhyayika,* the *Pañcatantra* and the later *Kathasaritsagara.* These stories are typically short and funny and they were probably collected as a didactic tool to train young princes in the science of politics. It is in these stories that one finds the earliest traces of arthashastra tradition" (Brekke, 2006, 124).

[150] "It is generally agreed that neither of the two manuals in their present form could have been composed earlier than about the 16th century A.D. … chiefly on the ground that they contain references to guns and gun powder). (Chakravarti, 1972, ix).

The most noteworthy of the treatises on elephants are the *Hastyayurveda* of Palakapya and the *Matangalīlā* of Naranayana" while horses are discussed in "the *Aṣvacikitisa* of Nakula, *Aṣva-śāstra* of Hemasuro and *Aṣva-vaidyaka* of Jayadatta" (Chakravarti, 1972, xiii-xiv).

These texts constitute the seminal works in the Hindu canon of warfare along with Tamil, Telugu, and Malayalam texts from southern India, which deserve their own treatment in a separate study.

Turning now to the secondary sources, there is an excellent body of secondary literature on *dharma yuddha,* which dates far back into history. Earlier in this chapter, it was shown that several foreign travellers throughout India's long history were deeply impressed with the civility of Hindu warfare and commented on its practice. These foreign travelers (notably Megasthenes and Hiuen Tsang)*,* whose works are still available, constituted the earliest non-Hindu layer of secondary sources on *dharma yuddha.* Subsequent Islamic and European contact with Hindu kingdoms brought further external observations of Hindu military methods, practice, and codes of conduct (Sachau 2002, 290; Fisher 2007, 26-34).

Among the oldest English language studies of Hindu warfare are works written during the period of European colonialism and military expansion in South Asia. Not surprisingly, European powers were interested in studying Hindu-Muslim arms and military methods in order to defeat Indian armies (Elgood, 2004, 19). The British, in particular, were eager to

document and to understand the weapons and the tactics of their adversaries in order to expand and solidify their rule of India. British imperial expansion in India involved frequent battles with Hindu, Sikh, and Muslim kingdoms (Holmes 2006; Burton 2007). When the East India Company faced an insurrection of its sepoy soldiers during the Seapoy Mutiny/ Indian War of Independence of 1857-1858, the British Government took over military operations from the company (Wolpert 1993, 239). Government control of military affairs provided further impetus for the study of Indian warfare and resulted in important publications seeking to document Hindu military methods. As Elgood remarks:

> In the late eighteenth and early nineteenth centuries British officials published accounts of the peoples of India that indirectly contributed to arms history. …. The Indian army reforms that followed the 1857 Mutiny marked the start of a British obsession with the "martial races" who inhabited northern India and its neighboring states … In 1880 Lord Egerton published *An Illustrated Handbook of Indian Arms*, expanded in 1896 as *A Description of Indian and Oriental Armour* (2004, 19).

Correspondingly, in 1880, Gustav Oppert's book *Weapons and Army Organisation of the Hindus* was also published, providing a wealth of information on the arsenals and tactics of Hindu armies. Soon after, in 1899, Edward W. Hopkins published his extensive work *The Social and Military Position of the Ruling Caste in Ancient India,* which paid particular attention to the role of caste dynamics and relations in Hindu warfare. He noted how caste duties provided normative frameworks for military conduct but showed

how such frameworks were also transgressed in actual practice[151] (Hopkins, 1889, 154). Also deserving mention is R. Hume's article "Hinduism and War" published in the *American Journal of Theology* (1916), which is one of the first attempts to draw attention to the theological correlations of Hindu military ethics.

Other notable studies of India's military history published during the European colonial period included cognate works on Indian statecraft, which discussed warfare as a duty of Hindu kingship. Among these studies, U.N. Goshal's *A History of Hindu Political Theories* (1923) stands out as a classic in the field of Indian Political Science. Furthermore, it should also be noted that English translations of Kauṭilya's newly rediscovered[152] *Arthaśāstra* were emerging at this time, which transformed the understanding of Hindu warfare (Singh 1964, 57-62; Murthy 2009, 17). Armed with this new data, scholars produced additional studies of warfare such as G.T. Date's *The Art of War in Ancient India* (1929), W. S. Armour's *Customs of Warfare in Ancient India* (1922), and Surendra Nath Sen's *Military System of the Marathas* (1928). These studies further cemented knowledge of Hindu military methods, organization, and distinctive codes of military conduct.

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[151] For example, he discusses the role of Brahmins who take up arms. Correspondingly, Dikshitar (1987: 57) writes, "once a Brahman or a kinsman assumed the role of a warrior and a foe, there was no sin in killing him" (See the *Mahābhārata, Udyoga Parva*, 178.51.).

[152] Although Kauṭilya's *Arthaśāstra* was written during Mauryan times (321–296 B.C.E.), and was quoted in Hindu texts such as the *Mahābhārata,* extant copies of this work were lost until 1905 when a copy was rediscovered at the Mysore Oriental Library of the Victoria Jubilee Institute. Its librarian, Rudrapatnam Shamasastry (1868-1944), transcribed the Kannada version of the text into Sanskrit, which was released to the Indian public in 1909. A subsequent English translation was made available in 1915. This most famous of all Hindu Realist works has therefore only been available for modern scrutiny for over a century.

However, the newly rediscovered *Arthaśāstra* also provided impetus to growing military movements and nationalist organizations who adopted the *Arthaśāstra'*s *kūṭa yuddha* methods in efforts to overthrow British rule. Nationalist figures such as Sarvarkar and Aurobindo, among others, deliberately appropriated Hindu symbolism and motifs to promote their visions of military struggle for freedom (Charurvedi 2010, 417-435; Kirpal and McDermott, 2003, 185-186; Lubin 2004, 168). They fused together Hindu icons and mythology to propagate a powerful military ideology to liberate India from European colonialism. For example, Bankim Chandra Chatterji's 1882 novel *Ānanda Math* ("Abbey of Bliss"),[153] about the 1770 rebellion of holymen (*sādhus*) against British Rule, played on the theme of India as a "Mother Goddess," which needs to be defended militarily (Lipner, 2005). Such violent nationalist movements, and the behaviour of the Thugees during the British period, inculcated a new hybrid spirit of religio-political nationalism, which was often warlike in nature (Heehs, 1993, 469-483). These movements triggered further scholarly interest in the role of militant *sādhus* in Indian warfare, which resulted in a cluster of works on this topic including J.N. Farquhar's *"Fighting Ascetics of India"* (1925), W.G. Orr's *"Armed Religious Ascetics in North India"* (1940). These publications set precedents for further modern investigations such as D.H.A. Kolff's *"Sannyāsī Trader-Soldier"* (1971), D.L. Lorenzen's *"Warrior Ascetics in Indian History"* (1978), M. Neog's

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[153] Scholar Julius Lipner objects to this traditional translation of the title of the book. He proposes instead the rendering "The Monastery of the *Ānandas*" based on his detailed analysis of the text, which shows that there were several figures who inhabited the Monastery named Ānanda (2005, 44-45).

"A Militant Vaiṣṇava Sect: The Mayamariya." (1978), and most recently William Pinch's *"Soldier Monks and Militant Sadhus"* (1996) and his *Warrior Ascetics and Indian Empires* (2006).

The growth of scholarly knowledge of Indian ethics (including the ethics of warfare) was greatly facilitated by the translation of India's sacred books into European languages by early Sanskritists such as Max Müller who translated classical Sanskrit texts into English. Their efforts resulted in the series the *Sacred Books of the East,* published by Oxford University Press between 1879-1910, which discussed Hindu views of warfare as part of its Hindu scriptural translations. Equally ambitious were the efforts in varied European languages to publish the enormous *Mahābhārata,* which resulted in the first English edition being published in Calcutta in 1839 and many subsequent editions emerging thereafter (van Buitenen, xxx). J. A. B. van Buitenen compiled his own critical edition of the *Mbh.* in 1973, which remains widely cited in academic circles.

Knowledge of Indian military ethics also grew out of first-hand experience on the battlefield. For example, colonial observations of Hindu military conduct was gained from battles by armies of the British Empire. In these battles, many Indian soldiers who fought alongside the British and were decorated for their bravery. Hindu, Sikh, and Muslim soldiers participated in many British wars including the Boer War (1899-1902) and the two World Wars of the 20th century, among others. Indian soldiers,

especially the Gurkhas of Nepal, became renowned for their loyalty and courage and encouraged additional study into their roots of Hindu-inspired military ethics (Gibbs, 1947; James and Sheil-Small, 1965). Yet the Second World War was also notable for seditious/nationalist attempts to overthrow the British government when Indian military units from a large garrison of Indian soldiers fighting at Singapore in 1942 were captured and joined the Japanese Empire in an attempt to overthrow British rule by invading India through Burma (Fey, 1995, 1-15). The Japanese had invited the Indian troops to attack India in order to "liberate" their homeland from British rule (or else suffer in work camps). Although many Indian soldiers refused to join the Japanese, thereby staying loyal to the British Empire, thousands mutinied to the axis-Indian forces led by the charismatic Hindu leader Netaji and fought alongside the Japanese to "liberate" India (Fey 1995, 1-15; Lebra 2008, 27).

It was in the context of the Second World War that further excellent studies of Indian warfare emerged with insightful treatments of *dharma yuddha* and *kūṭa yuddha*. Deserving mention here, in particular, are the following two texts: P.C. Chakravarti's *The Art of War in Ancient India* (1941), quoted extensively in this work, which made a major contribution to the field of Indian military history by both debunking the myth that Hindu soldiers came only from the *kṣatriya* caste, and providing an analysis of the controversies surrounding the Hindu defeats during the Muslim invasions of India; and V.R. Ramachandra Dikshitar's *War in Ancient India* (1944), which

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contains a good summary of the Hindu rules of war, and attempts to delineate their meaning within the larger military system of ancient India.

In 1954, nine years after the cessation of WWII, Basham's now classic opus *The Wonder That Was India* emerged as one of the most perspicacious analyses of *dharma yuddha* that still holds the test of time. Many have been indebted to this work, and even today it is still cited widely by contemporary authors on *dharma yuddha* (e.g., Sinha, 2005, 287). Basham took a historical approach to understanding Indian culture and he included military affairs in his grand historical sweep. Several other books followed in his footsteps such as Bimal Kanti Majumdar's *The Military System in Ancient India* (1960), and Jadunath Sarkar's *Military History of India* (1960).

In the 1960s, several important publications on Hindu warfare emerged that helped to cast light on different aspects of Indian military thinking, especially the correlations between religion, violence, and warfare. Among the more notable works were a plethora of increasingly interdisciplinary studies including: B.P. Sinha's *The Art of War in Ancient India* (1965), Sarva Daman Singh's *Ancient Indian Warfare with Special Reference to the Vedic Period* (1965) with a foreword by Sir Mortimer Wheeler. A. Chattopadhyay's "Martial Life of Brahamans in Early Medieval India as Known from the *Kathāsaritsāgara*" (1966), George Dumezil's *The Destiny of the Warrior* (1969), and Stephen P. Cohen, *The Untouchable*

Soldier: Caste, Politics, and the Indian Army (1969). All of these publications enriched the secondary literature on the Hindu *Art of War.*

However, the post-war period also included the growth of ideological scholarship in which Indian warfare was often interpreted in light of Gandhian *ahiṃsā* (non-violence) or through the lens of India's Nehruvian non-aligned movement.[154] Such ideological viewpoints claimed to be in the true spirit of Indian warfare, such as the 1960s mantra that Hinduism promoted allegorical battles of the conscience devoid of real violence or deaths. India's real hot wars with Pakistan, China, Portugal (the reacquisition of Goa), and Sri Lanka (Tamil Tigers) were seen as exceptions rather than the rule of peaceful Indian statecraft (Wigneswaran, 2003, 1; Sinha 2005, 285-294). Such studies were deceptive insofar as they distorted Indian warfare through viewing them by their own ideological lenses such as that of Prime Minister Nehru's non-aligned movement following independence, which sought to balance Russian and American influence in the larger context of India's statecraft and strategic relations.

In the 1970s and 1980s, several excellent discussions of Hindu warfare were published that probed aspects of *dharma yuddha* from different academic theories and disciplinary angles. These studies explored themes of war as sacrifice; war as mythology; and war as duty. This era represented a

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[154] Katherine K. Young writes, "This idea was reinforced by India's policy of nonalignment under Jawaharlal Nehru and by a general image of Hinduism as the religion of peace (*śānti*) and tolerance (*tulyatva*) promoted by philosopher-statesman such as Sarvepalli Radhakrishnan (1888-1975)." (Young 2004, 276)

period of increasing subdivision into micro-level analysis. Three such examples from the 1970s will suffice here: G.N. Pant's *Studies in Indian Weapons and Warfare* (1970), Jagadish Narayan Sarkar, *Some Aspects of Military Thinking and Practice in Medieval India* (1974), and Sures Chandra Banerji's "War and the Duty of Soldiers*"* (1976). All of these studies sought to examine Hindu warfare from the point of view of tactics and contexts.

Scholars in the 1980s zeroed in on the specific injunctions of Hindu texts, especially the *Rāmāyaṇa* and the *Mahābhārata* so as to provide more nuanced and detailed philosophical analyses. Some examples include J.L. Brockington's "The Conventions of Warfare in the *Rāmāyaṇa*" (1985), Ruth Cecily Katz's *"Arjuna in the Mahābhārata: Where Kṛṣṇa is, there is Victory"* (1989), V.I. Kalyanov's "On the Military Code of Honor in the *Mahābhārata*" (1984), J.N. Sarkar's *"Military Morality in Medieval India: Laws of War and Peace"* (1984), and Surinder Kumar Bhakari, *Indian Warfare: an Appraisal of Strategy and Tactics of war in Early Medieval Period* (1981).

Of particularly impressive note is James Aho's comparative study, *Religious Mythology and the Art of War* (1981), which contained a chapter on "The Dharma of the *Kśatriya:* The Celebration of Military Violence in Hinduism." Aho argued that the dominant paradigm of Hindu warfare is the notion of a grand cosmic sacrifice, rooted in their oldest myths, and necessitating a "Hindu idea of sacramental warfare" (Aho, 61). His thesis was later corroborated by Alf Hiltebeitel, *The Ritual of Battle: Kṛṣṇa in the*

Mahābhārata (1990). Aho, Katz, and Hiltebeitel all looked at Hindu warfare in the context of the sacrifice and statecraft to understand the symbiotic religio-duties of Hindu kings in warfare.

Studies of Hindu warfare in the 1990s were conducted in the shadow of the rise of *Hindutva* (Hindu fundamentalism). Consequently, it is not surprising that the 1990s saw increased interest in Hindu militancy by vigilant scholars who were worried about the implications of *Hindutva* for the future of South Asia. Several important works emerged in this period that probed correlations between *Hindutva* and warfare, attempting to delineate its innate, latent, or imagined connections to Hindu militancy. Among these studies included Hans Bakker's *Ayodhya: A Hindu Jerusalem: An Investigation of Holy War as a Religious Idea in the Light of Communal Unrest in India* (1991), James G. Lochtefeld's *The Vishva Hindu Parishad and the Roots of Hindu Militancy* (1994), and Houben and van Kooij's excellent edited volume *Violence Denied: Violence, Non-Violence and the Rationalization of Violence in South Asian Cultural History* (1999).

Studies on Hindu warfare from the 1990s that escaped and transcended the *Hindutva* framework were Monika Thiel-Horstmann's "Warrior Ascetics in 18th Century Rajasthan and the Religious Policy of Jai Singh II" (1991), Stephen P. Rosen's *Societies and Military Power—India and its Armies* (1996), and C. Selvaraj's "The Ethics of War in Ancient and Medieval Tamil Country" (1991).

Overall, publications from the 1980s and 1990s sought to further examine the textual interpretation of Hindu notions of warfare and/or their application in specific contexts. Unlike the macro-level studies of previous generations, scholars of the 1970s onwards advocated more specific micro-level studies rather than delineating general patterns. While there are certainly advantages to this approach, its primary weakness is a lack of interconnections.

The dawn of the 21st century witnessed an explosion of publications on *dharma yuddha* paving the way for the need for more systematic and cogent analysis. The period from 2000 until 2010 saw over twenty different articles written directly or indirectly on the topic (see list below).[155] These articles were characterized by a dominance of European-American assumptions about Just War theory, which not only betrayed the influence of western scholarship but also affected even Indian writers who attempted to accommodate *dharma yuddha* into frameworks of international law

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[155] Nick Allen, "Just War in the *Mahābhārata*" (2006), Francis X. Clooney, "Pain but not Harm: Some Classical Resources toward a Hindu Just War Theory" (2003), Hans Bakker, Hans. "The Hindu Religion and War" (2006), Torkel Brekke, "Between Prudence and Heroism: Ethics of War in the Hindu Tradition" (2006), Torkel Brekke, "The Ethics of War and the Concept of War in India and Europe" (2005), Michael von Brück, "War and Peace in Hinduism," (2004), Jos J.L. Gommans and Dirk Kolff, *"Warfare and Weaponry in India, 1000-1800" (*2001), Valerie Morkevivius, "Hindu Perspectives on War," (2010), R.K. Nehra, *Hinduism and its Military Ethos* (2007), Steven J. Rosen, *Holy War: Violence and the Bhagavad Gītā* (2002), Kaushik Roy, 'The Theories of War' (2007); Kaushik Roy, 'Just and Unjust War in Hindu Philosophy' (2007); Kaushik Roy, 'Norms of war in Hinduism' (2009), Sandhu, Gurcharn Singh, *A Military History of Ancient India* (2000), Surya P. Subedi, "The Concept in Hinduism of 'Just War'" (2003), Richard Salomon, "Ancient India: Peace Within War Without," (2007), Uma Prasad Thapliyal's *Warfare in Ancient India* (2010), Jarrod L. Whitaker, "Divine Weapons and *Tejas* in the Two Indian Epics" (2000), Jarrod L. Whitaker, "How the gods kill: The Nārāyaṇa *Astra* episode, the death of Rāvaṇa, and the principles of *tejas* in the Indian epics," (2002), B. N. S. Yadava's "Chivalry and Warfare" (2001).

predicated on liberal-individualistic assumptions (Penna 1989, 333-348; Subedi, 2008, 339-361). Many of these writings presupposed *dharma yuddha's* compatibility with European Just War theory and even suggested that Hindu civilization was far ahead of its western (or Chinese) counterparts for its normative humane treatment of civilians in its laws of war. The implied message of these writings was that India has always been a moral leader in warfare and only belatedly has the "West" come to realize this fact.

In the contemporary period, there are several writers, however, who continue to produce excellent original work on Hindu warfare and *Dharma Yuddha.* Four of them in particular deserve to be mentioned here as the leading scholars in the field today:

- Torkel Brekke is a leading figure in the comparative study of warfare. His writings on *dharma yuddha* (2005; 2006) have attempted to show how Indian and European approaches to just warfare are fundamentally different from each other rather than analogues. In particular, his *The Ethics of War and the Concept of War in India and Europe* (2005), emphasizes this point.

- Kaushik Roy, an Indian scholar, has published extensively on the subject of Hindu warfare and stands out as the most prolific writer in the field today. Some of his relevant works pertaining to Hindu Just War theory include: *The Theories of War* (2007); *Just and Unjust War in Hindu Philosophy,* (2007); *and Norms of War in Hinduism* (2009).

- Jarrod L. Whitaker is emerging as a respected scholar of Hindu warfare after publishing several works in this area including *"Divine Weapons and Tejas in the Two Indian Epics"* (2000), and *"How the gods kill: The Nārāyaṇa Astra episode, the death of Rāvaṇa, and the*

principles of tejas in the Indian epics" (2002). He has positioned himself to make further important contributions to the field.

- Katherine K. Young has published several valuable works on *dharma yuddha*, taking the topic in important new directions. Her article "Hinduism and the Ethics of Mass Destruction" (2004), examined the implications of Hindu warfare in a world of nuclear weapons updating the study of *dharma yuddha* for current times. She also penned, "Just War Theory in South Asia: Indic Success, Sri Lankan Failure?" (2009), which questioned the validity of *dharma yuddha* for the Tamil Tigers.

These four scholars stand out today as leading writers on *dharma yuddha* who continue to produce promising publications on this complex topic.

This review of extant primary and secondary sources on *dharma yuddha* demonstrates that a rich corpus of materials exists from which to generate theoretical interpretations of Hindu warfare. The specific rules of Hindu warfare have been translated from the primary Hindu texts (namely the *Mahābhārata,* the *Rāmāyaṇa,* the *Dharmaśāstras,* and the *Arthaśāstra)* and interpreted in various ways. It is now incumbent to consider these specific rules/ codes of warfare found in the particular texts.

4.5.2. Rules of War in the *Mahābhārata*

The *Mahābhārata* contains the most extensive lists of the rules of *dharma yuddha* (e.g., 6.1.26-33; 12.96.7-97; 12.95.7-13; 12.100.27-29). In particular, its sections *Śānti parvan* and *Bhīṣma parvan* provide careful treatment of the rules of war as part of their discussion of the duties of a

righteous king. Much of the epic focuses on preparation for war, the war itself, and the aftermath of war. The narrative explains how the *kṣatriyas* were expected to declare war, treat prisoners, and to conduct operations. Both *jus in bello* and *jus ad bellum* concerns are addressed, albeit most of the epic's attention focuses on proper conduct in war (*jus in bello*). Nevertheless, before the war begins, a standard list of accepted principles was discussed between forces to lay the ground-rules for the forthcoming hostilities. The passage's level of detail is worth quoting in full:

> At the start of Book 6 (*Mbh.,* 1.26-33), a fairly standard list of rules is presented as a formal agreement: Kauravas and Pāṇḍavas make a covenant (*sāmay,* literally "together-coming"), and establish the rules (*dharmah*) for the fighting; but the covenant is not alluded to again as such, and the epic seems to regard the rules as well-established norms. Both in the rules and in the narrative, the focus is on duels between aristocratic opponents who are reasonably well matched. Ideally, then, one member of the warrior estate fights another member of the same estate using similar equipment and techniques—a chariot warrior versus a chariot warrior, and if one fighter uses deceit, so should the other. In general, one should not fight people who are at a disadvantage –those whose accoutrements are or have become deficient, who lack or have lost their armour or chariot, whose weapons are broken, whose bowstring is cut- nor those who are unprepared or unaware of their danger, whose chariot is unyoked, who are asleep, having a meal or grieving, nor those who have laid down their weapons, are retreating, weak, wounded, exhausted or terrified or have left the ranks, nor those who have surrendered, or are doing so, or are suppliants, nor those already engaged in a duel with someone else. Certain general categories are explicitly excluded: women and children, the aged (once), brahmans and ascetics, those from whom one has received food, drivers, transporters, drummers, conch players, foragers, camp-followers, doormen, menials or servants in charge of menials, artisans such as miners, those who are beginning a sacrifice, seeking Deliverance (*mokṣa*) or undertaking a religiously motivated fast to death (*prayā*) (Allen, 1996, 139).

Allen's description provides a good overview of the traditional rules of *dharma yuddha* but it is valuable to go into greater detail to see what the specific rules entailed.

An analysis of the Hindu rules of war reveals approximately thirty distinct stipulations that were incumbent on Hindu warriors for fighting a *dharma yuddha*. These rules are identified below and a unique system of notation is to be used to classify the rules. First, the rule is described and then the type of rationale underlying the rule is suggested. Each rule is grouped by distinctive categories that go beyond the traditional Western categories of *just in bello* and *jus ad bellum*. Specifically, this work proposes three innovative categories to provide greater clarity and analysis to understanding the Hindu rules of just war. These new categories coined by this work are called: (1) the "Compassion—Non-Cruelty Principle"; (2) the "Deference Principle"; and (3) the "Religious Non-interference Principle".

The first category denotes Hindu rules of military restraint arising from compassion for the suffering of others under the heading of the "Compassion—Non-Cruelty Principle". This principle is illustrated by the following *Mbh.* verse showing the extent to which a *kṣatriya* was supposed to exemplify compassion towards the enemy:

> After beating the enemy in battle and finding them suffering from
> the agony of wounds, the victor should show mercy to them and
> sympathize with them by comforting them, taking hold of their
> hands affectionately. It is said that he should even shed tears before
> them so as to secure their devotion. This was true of the soldiers of

his own army as well as of the enemy (*Mbh.* 12.102.34-39; cf. *Mbh.* 12.95. 17-18.)

As is evident here, the ideals of compassion and non-cruelty were an important Indian principle of *dharma yuddha.*[156] This principle is recognized in this work and given proper place in guiding the Hindu rules of warfare.

The second category, called the "Deference Principle," refers to Hindu rules of war that embody restraint based on respect for the social class of the enemy. Once again, this principle has distinct Indian connotations due to the caste system. The Hindu caste system stratified Hindu society into endogamous social groups that were ranked hierarchically. Deference was to be shown to the higher groups by the lower groups, and this principle of deference was built into the Hindu rules of war as well. This point, however, has not been given adequate treatment. A good example of the Hindu principle of deference in combat is seen in the *Mbh.'s* passage: "If a Brahman enters the field [of combat] to bring about peace between the contesting parties, both should stop fighting. And no injury should be inflicted on such a Brahman" (*Mbh.,* 12:96.8; trans. Dikshitar, 1987, 67-72). Such deference was to be shown to religious authorities regardless of the sect or religious lineage involved.

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[156] This point is corroborated by Professor L. R. Penna's article, "Retracing the Origins of International Humanitarian Law: Written and Customary Provisions relating to the Conduct of Hostilities and Treatment of Victims of Armed Conflicts in Ancient India," *International Review of the Red Cross.* 29 (1989): pp. 333-348.

Finally, the "Religious Non-Interference Principle" in Hindu warfare refers to rules of combat that are guided by respect for the adversary's religious authorities and practices. In fact, respect for religious rites trumps immediate military goals. As we have seen, if a priest from the enemy's kingdom strays onto the battlefield then the fighting must halt immediately to let the religious figure pass by. But the "Religious Non-Interference Principle" goes beyond even this level of "deference for authority" to include respect even for the humble enemy soldier doing prayers or those who have embarked upon spiritual realization. Of course, it would be all too easy for enemy soldiers to feign religious sentiment to take advantage of these rules of war, and escape defeat. Undoubtedly such manipulations occurred. Nonetheless, the Hindu rules of war reveal a great deal of respect towards the enemies' religious convictions and this may be one reason why Hindu religious wars, that is wars fought to propagate Hindu religious beliefs at the expense of other beleifs, were rare compared to other parts of the world.[157]

The above new categories coined by this work help to shed further light on the Hindu rules of war, which do not always fit nicely into the traditional just war categories of Western discourse. These principles indicate that *dharma yuddha* was motivated by an ethos of righteousness tied to notions of justice, compassion, deference, and respect for religious diversity.

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[157] Katherine Young suggests that Hindu wars over religion to spread sectarian beliefs were rather rare. While they did indeed happen, they were not usually the primary cause of Hindu wars, which tended to be the aspiration of kings to conquer one's neighbours. Young writes, "Religious wars did not happen because the just king supported, or at least did not harm, the religions within his realm. Indic rulers realized that it was advantageous for a prosperous kingdom that had multiple religious and ethnic identities to keep peace among them…" (Young, 2009, 49-50).

Specific Rules of *Dharma Yuddha* and their Underlying Principles:

1. One must not kill *or attack* a soldier who folds his hands and surrenders (*Mbh*. 12. 97.3 cited in Brekke 117); *Type / principle: Non-combat immunity.*

2. One must not kill or attack the aged, the children, women" (*Mbh*. 12. 9.47 cited in Brekke 117); *Type / principle = Non-combat immunity.*

3. One must not kill or attack one who is walking along a road (*Mbh*. 12. 100 cited in Aho 75-79); *Type / principle = Non-combat immunity.*

4. One must not kill or attack one who sets up army camps or are camp workers (*Mbh., 12.100. 27-29; Aho 75-79); Type / principle = Non-combat immunity.*

5. One must not kill or attack those who are sleeping (*Mbh., 12.100. 27-29; Brekke 117); Type / principle = Non-combat immunity.*

6. One must not kill or attack an enemy by deceitful or unfair means (*Mbh*. 27.100. 12-29 cited in Aho 75-79); *Type/ principle = Fair-play in combat. Proportionality.*

7. One must not kill or attack one engaged in drinking or eating (*Mbh*. 12.100. 27-29 cited in Aho 75-79); *Type / principle = Non-combat immunity.*

8. One must not kill or attack one who is insane (*Mbh*. 12.100.27-29 cited in Aho 75-79); *Type / principle = Compassion Principle.*

9. One must not kill or attack one who is in grief (*Mbh*. 12.100. 27-29; Aho 75-79); *Type / principle = Compassion Principle.*

10. "One who has thrown down his weapon may be taken prisoner but may not be killed" (*Mbh*. 12. 97.3; Brekke, 135); *Type / principle = Compassion Principle.*

11. One should warn the opponent before firing an arrow or striking a blow with a sword by shouting: "Shoot, for I am shooting at thee," (*Mbh., 12.95; Aho 63-65); Type/ principle = jus ad bellum*

12. One should avoid hitting below the belt: "No limb below the navel should be struck," admonishes Rāma. "This is the precept laid down in

treaties" (*Mbh.*, 9.6.6;   Aho, 63-65). *Type/ principle = Fair-play in combat and Proportionality.*

13. "A warrior in armour must not fight with a Kṣatriya who is not clad in a coat of mail" (*Mbh.* 12.95.7 cited in Dikshitar 67-72). *Type / principle = Proportionality Principle.* (*cf. Mbh.* 12. 100.27-29.)

14. "If the enemy is clad in mail, his opponent should put on armour" (*Mbh.,* 4.91; 12.96.3 cited in Dikshitar 67-72). *Type / principle = Proportionality Principle.*

15. One must not kill or attack those who are wearied (*Mbh.* 12.100. 27-9; Brekke 117); *Type / principle = Compassion Principle.*

16. One must not kill or attack another who has started out for liberation (*mokṣa*) (*Mbh.,* 6.1. 26-33; Brekke 117); *Type / principle = Deference Principle.*

17. One must not kill or attack another that has begun any task without having been able to complete it [particularly, sacrifice] (*Mbh.* 12.100; Aho 75-79); *Type/ Principle = Deference Principle.*

18. One must not kill or attack one who has been struck (Brekke 117); *Type / principle = Compassion Principle.*

19. One must not kill or attack a soldier whose armour is broken (*Mbh.,* 12. 97.3; Brekke, 135); *Type / principle = Compassion Principle and Proportionality Principle.*

20. "One should fight only one enemy, and cease fighting when the opponent became disabled" (*Mbh.* 12.95.7 cited in Dikshitar 67-72). *Type / principle = Compassion Principle.*

21. "A cavalry soldier should not attack a chariot warrior. But a chariot warrior could attack a chariot-warrior. Similarly a horse-warrior could resist another horse-warrior. The general rule is that warrior should fight only with their equals" (*Mbh.,* 12.10 cited in Dikshitar 67-72). *Type / principle = Compassion Principle and Proportionality Principle.*

22. "A warrior who requests to be rescued saying 'I am thine' or joins his hands in supplication, or throws off his weapon, must not be killed. But he can be captured as a prisoner of war" (*Mhb.,* 12:96.3 trans. Dikshitar 67-72). *Type / principle: Non-combat immunity.*

23. "A king should fight only with a king and not with warriors of inferior status" (*Mbh.*, 12:96.7 cited in Dikshitar 67-72). *Type / principle = Proportionality Principle and Deference Principle.*

24. "If a Brahman enters the field to bring about peace between the contesting parties, both should stop fighting. And no injury should be inflicted on such a Brahman" *(Mbh.,* 12:96.8; Dikshitar, 67-72). *Type / principle = Deference Principle.*

25. "Aged men, women, children, the retreating or one who holds a straw in his lips as a sign of unconditional surrender, should not be killed" (*Mbh.* 12.98.74. and *Baudhāyana,* 1.10.18. cited in Dikshitar 67-72).)

26. "The panic-stricken and scattered foe should not be pursued hotly" (*Mbh.* 12.99.14; Dikshitar, 67-72). However, it also paradoxically states, "He is wretch who retreats stricken with fear from the field of battle" *(Mbh.,* 12: 97.19-20 trans. Dikshitar 67-72).

27. Prisoners of war were generally to be accorded generous treatment [*Mbh.,* 12.96.4-5; Dikshitar 72). *Type/principle = Compassion Principle*

28. "A wounded opponent should either be sent to his own home, or if taken to the victor's quarters, he should have his wounds attended to by skilled surgeons. After he got well cured, he should be set at liberty" (*Mbh.,* 12.95.17-18 cited in Dikshitar, 74).[158] *Type / principle = Compassion Principle.*

29. "[I]t was a custom to make war during the day and cease fighting during night. This was also the practice in the *Mahābhārata* war and a practice of all righteous wars" (Dikshitar, 75). *Type / principle = Compassion Principle (to protect sentient life).*

30. "The *Mahābhārata* declared that it is a law of war that the vanquished should be the victor's slave, and the captive would normally serve his captor until ransomed" (*Mbh.* 3, 256. 11; cited in Basham, 152). *Type / principle = Compassion Principle (to protect life).*

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[158] *A propos* the treatment of prisoners, Basham writes that the "massacre of prisoners was unusual, and it was very strongly deprecated in the *Smṛti* texts. Captives were usually released on payment of ransom, and those who could not pay, and these probably included most of the common soldiers, were enslaved; but their enslavement was usually temporary, and they were released when they had paid their ransom by their labour" (Basham, 1954, 136).

Though the *Mbh.'s* rules of *dharma yuddha* primarily involve *jus in bello* concerns, it should be noted that they also address the issue of *jus ad bellum* regarding "Just Cause," "Last Resort," and "Proportionality." For instance*,* concerning the criterion of "Just Cause"[159] the epic suggests that the cause of the Pāṇḍavas is "just because their opponents have broken a contract when Duryodhana refused to return the kingdom to righteous Yudhiṣṭira as promised. We may find similar cases in Indian literature, where the case for war is seen to be just because of the misbehaviour of an opponent, as in the *Rāmāyaṇa*" (Brekke, 2006, 136). However, this case has more to do with violations of personal honour than with traditional grounds for war in European Just War theory.

Additionally, when it comes to the criterion of "Last Resort" we find consideration by Indian thinkers given to the avoidance of war. Before the war of the *Mahābhārata,* messengers were "exchanged between the enemies in an attempt to avoid the need for war" (von Brück, 2004, 19). Allen (2006) analyses the *Mahābhārata's* view of "Last Resort" further and concludes that the Pāṇḍava's fulfilled this criteria but the Kauravas did not. He writes:

> Let us turn to the idea that a just war can be undertaken only as a last resort. Here, rights and wrongs are not evenly balanced [in the *Mbh.* Epic]. The Pāṇḍava side makes several efforts to reach a compromise, and the Kauravas do not – Duryodhana refuses to concede even a pinprick of territory. The failed attempts to reach a peaceful solution occupy much of Book 5. Envoys travel to and fro between the two parties: Drupada's unnamed priest from Pāṇḍavas to Kauravas, the bard Samjaya in the opposite direction,

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[159] For an interesting discussion of the *Mbh.* conflict from the point of view of just warfare, see M.A. (Mehendale, 1995) *Reflections on the Mahābhārata War,* Shimla: Indian Institute of Advanced Study.

and Kṛṣṇa again from the Pāṇḍavas. When reporting back on his efforts, Kṛṣṇa uses a recognized list of methods available to deal with conflict (*Mbh.,* 5.148.7-16, Kalyanov, 1979). First he tries peaceful conciliation (*sāman*, hoping for a sense of fraternity to prevail; then he tries splitting their unity of purpose, fomenting internal dissension (*bheda*) by threats and by denigrating Duryodhana; finally he tries bribery (*dana*). Now that all three have failed, he sees no alternative to the use of force (*daṇḍa*). After Kṛṣṇa's mission one final envoy is sent by Kauravas, but by now the die is cast and what Uluka delivers is a challenge, not negotiation. War has been in the air since the start of the book, and the challenge seems equivalent to a formal declaration. The Kauravas outnumber the Pāṇḍavas by 11 armies to 7, but the impression is given that both sides can reasonably hope for victory (Allen, 140).

The last point addressed here the issue of proportionality. It appears that the rule of proportionality underlying the *Mahābhārata's* focus on duels was not always successfully followed. In fact, there are several violations of the principle of fair play among warriors in the epic. Perhaps two reasons why these rules were broken is due, first, to the chaos of war, and, second, to the impracticality of the rules on the battlefield. The *Mahābhārata*, for instance, states that a king must not be killed by anyone other than another king, stipulating, "Only a king can challenge a king and somebody who is not a king must never attack a king" (12.97.1, trans. Brekke, 2006, 115). Such a rule was typically a result of the high caste status of kings who "deserved" only to be challenged by equals, but it served to be impractical and unreasonable in actual combat.[160] Even a wicked king was not allowed to be

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[160] Moreover, kings did not always derive from high-caste status in classical India. The Naga and Nanda empires, for example, had famous low-caste rulers (e.g., Mahapadma Nanda (c. 4th century B.C.E.) a Śūdra king from Orissa). Though such low-caste kings may have risen in esteem among their contemporaries due

killed by ordinary soldiers according to the story of king Vena in the *Viṣṇu Purāṇa* 1.1316-18. Infringement of this rule led to "punishment of cosmic proportions" (Brekke, 2006, 115).

Additional considerations about proportionality in the Hindu tradition are found in other passages in the epic. For instance, Chakravarti remarks:

> In the course of a brilliant analysis of the position of the epic car-warrior, Hopkins writes: "The knight's adversaries are generally of his own class. If he becomes *apratirathaḥ*, or has no foeman worthy of his steel, he rushes about the field till he meets one. Incidentally, as it were, he may shoot a few hundred common soldiers. He never makes a premeditated attack upon the foot-soldiers alone, but when their chief is killed, of whom they are, like the horses, an appendage, they ought to disperse; and if they do not, they are shot as nuisances, not as antagonists (1972, 23).

Accordingly, the *Law Books of Manu* also speak of battle as "ideally a gigantic tournament with many rules: a warrior fighting from a chariot might not strike one on foot; an enemy in flight, wounded or asking quarter might not be slain; the lives of enemy soldiers who had lost their weapons were to be respected; poisoned weapons were not to be used" (Basham, 1954, 126).

4.5.3. Rules of War in the *Rāmāyaṇa*

Another treasure chest of information on the Hindu rules of war is the *Rāmāyaṇa,* which offers a narrative about the paragon of right conduct, devotion, and duty in classical Hinduism against a backdrop of war. The rules for "just warfare in the *Rāmāyaṇa* belong to a world of individual heroes

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to their actual position of power and authority, their original varṇa-status undermined traditional Hindu conventions of kingship.

and when applied in the discussion of larger battles or wars, a sense of incongruity sometimes surfaces, as it does in the *Mahābhārata*" (Brekke, 2006, 118). According to Brockington (1985), "nowhere in the *Rāmāyaṇa* do we find the detailed codes of conduct included in the *Mahābhārata* (e.g., 6.1.27-32). Instead, we find expressed general and rather vague notions of fair play based essentially on the idea that combat should be between equals" (Brockington, 152). Indeed, the *Rāmāyaṇa* speaks of a type of battle known as a "duel between two (*dvandvayuddha*), which is strikingly similar to the duels found in medieval European chivalry. In the *Rāmāyaṇa* as in the *Mahābhārata* the duel takes place in the context of a larger battle, but it is ordered in its form, the warriors are supposed to be of comparatively equal strength and nobody is allowed to interrupt or assist in any way" (Brekke, 2006, 118).[161] Nevertheless, much of the *Rāmāyaṇa* echoes the rules of war in the *Mahābhārata*. For instance, the rules of war in the *Rāmāyaṇa* precluded fighting against "those who do not offer to fight, who hide themselves in fear, or who go to the field as spectators" (*Rāmāyaṇa, Yuddha-kāṇḍa,* 80.39), which corroborates a Hindu ethic of non-combatant immunity. Correspondingly, there is also a similar emphasis on what this work has called the "deference principle" operating in both epics. The *Mahābhārata's* insistence that kings should only fight kings without being harmed by ordinary soldiers is also

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[161] For instance, during Rāma's "last combat with Rāvaṇa, Rāma fights from the ground while his enemy is still mounted on his chariot and the gods [Mātali with Indra's chariot] interrupt the duel on the basis that it is unfair" (Brekke, 2006, 118). See the *Rāmāyaṇa* 6.90. 4-13, 94.13 and 95.1 cf. Brockington, 1985, 136.

discussed in the *Rāmāyaṇa* when Rāma states that "kings, being gods in human form, should not be harmed or slandered (4.1728-30 and 18.38)" (Brockington, 1985, 125). Hence, the general military principle of the *Rāmāyaṇa* is 'fair-play' in combat, which according to Brockington:

> …amounts to a reluctance to take advantage of an enemy's weakness [as] exemplified in the actual action by Rāma's sparing of Rāvaṇa when he is exhausted and his bow is broken (6.47.132) … [Furthermore,] Rāma propounds the view which formerly was declared by Kaṇḍu son of Kaṇva that anyone seeking protection, however unworthy, is to be protected to the best of one's ability for otherwise his sins accrue to the one who fails to protect him (6.12.14-18) (Brockington, 1985, 151).

The *Rāmāyaṇa* also highlights some important Hindu conventions of warfare regarding open-warfare *vis-à-vis* secretive warfare. Wars were to be conducted during the daytime (not at night) and were also prohibited during the rainy season. As Brockington (1985, 150) states:

> Campaigning inevitably stops with the coming of the monsoon. It is for this reason that Rāma is urged by Sugrīva to stay with him in Kiskindha and Rāma recognizes the force of the argument, while insisting on staying outside the city to comply with the conditions of his exile, and explicitly defines the rainy season as lasting four months, declaring that they will resume activity in the month Kartikeya (*Rāmāyaṇa,* 4.25.12-15).

Although the *Rāmāyaṇa* "reveals the standard pattern of Indian warfare that campaigns start in the autumn after the cessation of the monsoons that rule out all travel" Brockington describes the deliberate breach of this rule when the demon Lavana, who could only be killed when he was away from his weapons, is attacked during the rainy season under Rāma's orders (*Rāmāyaṇa,* 7.56.10-12 trans. Brockington, 1985, 150).

Overall, the *Rāmāyaṇa's* treatment of the rules of war is not as systematic as the *Mbh.* but it still emphasizes common underlying principles of Hindu Just War thinking.

4.5.4. Rules of War in the *Dharmasūtras* and *Dharmaśāstras*

Beyond the epics, the Hindu rules of *dharma yuddha* are also elucidated in the *Dharmasūtras* (Aphorisms on Law) and the *Dharmaśāstras* (Rules of Human Conduct). There are four *Dharmasūtra* texts: those attributed to Gautama, Baudhāyana, Vaśiṣṭha and Āpastamba. These law books were "probably mainly composed between the 6th and the 2nd centuries B.C." (Basham, 1954, 112). Afterwards, the sūtras were expanded into the *Dharmaśāstras* ("Instructions in the Sacred Law")" such as those of Yājñavalkya, Viṣṇu and Nārada as well as the most famous *Mānava dharma śastra[162]* (a.k.a. *Manusmṛti),* which was "probably composed in its final form in the 2nd or 3rd century" C.E. (Basham, 1954, 112).

In both the *Dharmasūtras* and *Dharmaśāstras,* the military code of conduct of the kṣatriyas was "laid down, especially in the *Manusmṛti,* which contains an extensive source-list for the rules of *dharma yuddha."* The specific stipulations for a just conduct in war (*jus in bello*) were laid out in

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[162] *The Laws of Manu*, or *Mānavadharmaśāstra,* has recently been critically edited and translated by Patrick Olivelle (2004, 2005) in his "The Law Code of Manu". New York: Oxford University Press, 2004. See also his "*Dharmasūtras:* The Law Codes of *Āpastamba, Gautama, Baudhāyana,* and *Vāsiṣṭha".* New York: Oxford University Press, 2005. Unless otherwise cited, Olivelle's translations are used in this section.

several key verses (i.e., 7:90-93; 7:87-89, 94-95, 102-10, 158-65) and it should be noted that "hundreds of verses in Manu are also to be found in the *Mahābhārata*" (Basham, 1954, 113). Other specific verses of note are *Baudhāyana*[163] (I, 10.18.9-13); *Āpastamba,* (ii, 11.5.10-11); and *Gautama,* (x, 16.18) (Sinha, 1976, 125; Aho, 75-79).   These orthodox texts proclaim honorable warfare the eternal duty of warriors ("*sanātanaḥ yodhadharma*") (Whitaker 2004a, 163).

Looking at these sources in more depth, we can see that the following rules of war must be followed by a *kṣatriya* during battle according to the *Laws of Manu:*

1. A *kṣatriya* must not kill or attack one who has surrendered with the words, "I am yours" (*The Laws of Manu* 7:91; Olivelle 113); *Type / principle: Compassion Principle.*

2. A *kṣatriya* must not kill or attack someone who is fleeing the field with "loose hair" (*The Laws of Manu* 7:91; Olivelle 113); *Type / principle: Compassion Principle.*

3. A *kṣatriya* must not kill or attack nor [can he attack] one who sleeps (*The Laws of Manu* 7:92; Olivelle 113); *Type / principle: Non-Combatant Immunity.*

4. A *kṣatriya* must not kill or attack one "without his armour" (*The Laws of Manu* 7:92; Olivelle 113); *Type / principle: Compassion Principle.*

5. A *kṣatriya* must not kill or attack "a naked man" (*The Laws of Manu* 7:92; Olivelle 113); *Type / principle: Non-Combatant Immunity.*

6. A *kṣatriya* must not kill or attack one "without a weapon" (*The Laws of Manu* 7:92; Olivelle 113); *Type / principle: Non-Combatant Immunity.*

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[163] "*Baudhāyana*'s *Dharmaśāstra*," Sacred Laws of the Aryas: Part 2 *Vāsiṣṭha* and *Baudhāyana*, trans. By Georg Buhler, (Delhi: Motilal Banarsidass, 1969).

7. A *kṣatriya* must not kill or attack one who is "frightened", nor one who has turned to flight (*The Laws of Manu* 7:93; Oliville, 113); *Type/ principle: Compassion Principle.*

8. A *kṣatriya* must not kill or attack one who looks on with out taking part in the fight (*The Laws of Manu* 7:92; Aho 63); *Type / principle: Non-Combatant Immunity.*

9. A *kṣatriya* must not kill or attack one who is fighting with another foe (*The Laws of Manu* 7:92; Aho 63); *Type / principle: Proportionality Principle.*

10. A *kṣatriya* must not kill or attack one whose weapons are broken (*The Laws of Manu* 7:92; Aho 63); *Type / principle: Proportionality Principle.*

11. A *kṣatriya* must not kill or attack one afflicted (with sorrow) (*The Laws of Manu* 7:91-93; Aho 63); *Type /principle: Compassion Principle.*

12. A *kṣatriya* must not kill or attack one who has been grievously wounded (*The Laws of Manu* 7:93; Aho 63); *Type / principle: Compassion Principle.*

13. "When he fights with his foes in battle let him not strike with weapons concealed (in wood) nor with (such as are) barbed, poisoned or the points of which are blazing with fire" (*Laws of Manu* 7:90; Aho 63-65); *Type / principle: Proportionality Principle/ Fair-play in Combat.*

14. "Poisoned or barbed arrows should not be used" *(Baudhāyana Dharma* Sūtra, I. 70. 10. cited in Dikshitar 67-72). *Type/principle: Proportionality Principle/ Fair-play in Combat.*

15. A *kṣatriya* must not kill or attack anyone who has joined the palms of his hands in supplication (*The Laws of Manu* 7:91; Aho 63); *Type / principle: Compassion Principle.*

16. "It is forbidden to kill a Brahman by caste or by profession, or one who declares himself a Brahman, or a cow, or an outcaste" (*Gautama,* 10; cited in Dikshitar, 70). *Type / principle = Deference Principle.*

17. "He should not be killed who is a eunuch or a war-musician. [*Manu,* 7.91; *Gautama,* 10.18-20: *Yājñavalkya,* I,327-28: *Āpastamba,* II, 5.10; cited in Dikshitar 70). *Type / principle: Compassion Principle.*

18. "No one should kill the sleepy or the thirsty, or the fatigued, or one whose armour had slipped, a peaceful citizen walking along the road, one engaged in eating or drinking, the mad and the insane, one who went out of the camp to buy provisions, a camp-follower, menials and the guards at the gates" (*The Laws of Manu,* 7.92; cited in Dikshitar 67-72). *Type / principle: Compassion Principle.*

As can be seen from the above rules, Hindu notions of righteous combat were supposed to result in highly curtailed military engagements that contained so many rules to make sustained combat virtually impossible to maintain. However, these rules seemed destined to fail because they were so pedantic and virtually untenable to uphold during the inevitable confusion of warfare. These laws are unwieldy and unrealistic. In the chaos of battle they would become unworkable and fall apart. For most Hindu *kṣatriyas,* however, following one's military duty was essential and the abdication of *dharma yuddha* was tantamount to metaphysical apostasy, Realists notwithstanding.

4.5.5. Rules of War in the *Arthaśāstra* Tradition

Somewhat surprisingly, one can detect a layer of a *dharma yuddha* in Hindu Realist texts despite their overarching ethic of expediency. Indeed, even Indian Realist sources seem to countenance some laws of war although these legal rules were often broken when it served one's advantage. After all, it was considered "no sin to strike the enemy at his weak points" (*Kamandaka,* 20.57. quoted in Dikshitar, 1987, 62). The one principle, however, that was regularly highly praised by Realist sources was the high regard for non-combatant immunity, which can be observed as follows:

[The *Arthaśāstra*] is scrupulous about one principle: not to cause harm to the subjects of the enemy king. So, when laying a siege to the fort, the people inside must be assured of their safety and be allowed to leave the fort for safe places. If territory must be annexed—it was usually not annexed—only the king was forced to become an ally or a vassal—the people are to be won over through all means. Their customs must be respected and their gods must be revered by the new king. After the war, carrying away loot is forbidden. If the king was reduced to vassalage, he still retained control of the territory (Deshingkar, 1998, 360).

Thus, the principle of non-combat immunity, which is a central component of *jus in bello,* continued to shape Realist thinking about war showing the profound influence of the ethos of *dharma yuddha* on all Hindu views of warfare. Again the *Arthaśāstra* states, "an enemy coming upon a husbandman at work on land [must] do him no harm, for men of this class, being regarded as public benefactors, are protected from all injury" (*Arthaśāstra,* XIII. 4; trans. Dikshitar, 1987, 67-72). Other Hindu Realist-texts such as the *Agni Purāṇa* add that "[t]emples and their property[164] in places under military occupation and the private property of individual citizens were on no account to be seized" (*Agni Purāṇa* 226, 22-25 cited in Chakravarti, 1972, 185).

The *Arthaśāstra* contains important guidance regarding *jus post bello* behaviour in its instructions about how to treat conquered subjects. As Basham observes:

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[164] Another feature of the *dharma yuddha* was to leave the fruit and flower gardens, temples, and other places of public worship unmolested (*Agni Purāṇa* 236. 22; Dikshitar 71). *Type / principle = Discrimination Principle.*

> [D]espite its advocacy of every dishonest expedient for the acquisition and maintenance of power, [the*Arthaśāstra* emphasizes civilian contentment by stating] "In the happiness of his subjects lies the king's happiness, in the welfare of his subjects, his welfare. The king's good is not that which pleases him, but that which pleases his subjects" (*Arthaśāstra* 1, 16 trans. Basham, 1954, 89).

Basham, however, suggests that this generosity towards non-combatants and religious institutions is anomalous and atypical since he remarks:

> [This] passage [is] not in keeping with the main tenor of the work, it suggests allowing the conquered king to remain as a vassal, it ends on a note of humanitarian imperialism. The victor must do everything in his power to conciliate the conquered people; if their economy had suffered badly from the war, taxes must be remitted; ministers of the defeated king must be won round, and law and order restored as quickly as possible; when in the conquered country the king should wear local dress and follow local customs (Basham, 1954, 125-126).

Indeed, both India's military historians Dikshitar and Chakravarti explain that even in *realpolitik* of *kūṭa yuddha* and *lobha yuddha,* care was taken to ensure the physical and psychological well-being of the conquered peoples, whose positive state of mind was encouraged, as can be clearly established by this lengthy quotation from Dikshitar:[165]

> It was a well-established maxim of statecraft that a victor should acquiesce in the continuance of the laws, beliefs and customs of the vanquished peoples, and that instead of seeking the extermination of the defeated dynasties, he should be content with their submission and tribute [*Arthaśāstra* VII, ch. 16; Bk. XIII, ch. 5;

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[165] It is the author's suspicion that this Hindu ethos of *just post bellum* may have derived from the legacy of Alexander the Great, whom after conquering the Indian King Porus, asked Porus how he wanted to be treated. The ruler responded "As a King!" and Alexander graciously restored the conquered kingdom to Porus, which the latter ruled as a vassal state. In later centuries, victorious Hindu kings were likewise expected to be magnimonious to defeated kings, allowing them to continue ruling as vassals and to curry favour with the newly conquered subjects. This similarity between Alexander the Great's *post-bellum* conduct and the subsequent laws of *dharma yuddha* may hint at a historical correlation. Alexander, therefore, may have established a benchmark in India for such later behaviour.

Manu, VII, 201-203; Ag. P. 236, 62-65, etc. cited in Chakravarti, 1972, 187]; Usually the defeated king was reinstated on the throne. But if the enemy king had met with his death in battle, his son or nearest relative was installed on the throne on terms of subordinate alliance [*Arthaśāstra,* VII, ch. 16; *Manu,* VII, 202 ff.]. The subjects of the vanquished monarch were allowed to retain their own laws and customs [*Arthaśāstra,* XIII. Ch. 5.], for it was well realized that any violation of these would result in a mass rebellion which it would be impossible to quell. The chief leaders of the people were, it is said, to be conciliated with soothing words and alluring presents [*Mbh.,* 12.96.12-13]. It was the policy of the ancient Hindus that once in the field of action, the enemy could be subjected to rigour. But after the cessation of hostilities, the victor should behave in such a way as to secure the advancement of all, including the subjects of the enemy's kingdom" (*Mbh.* 12. 97. 4-5 trans. Dikshitar, 1987, 73).

Despite these surprising synchronicities of Hindu *realpolitik* with the civility of *dharma yuddha,* it seems that the underlying rationale of these Realist principles was not humanitarian benevolence but savvy pragmatism. If the civilians of a conquered territory were happy and content, then there would be less chance of their insurrection, rebellion, and guerrilla warfare. Thus, the *Arthaśāstra's* policies made strategic sense and were not likely motivated by Just War altruism. Later Hindu texts, such as Kamandaki's *Nītisāra* (700-750 CE),[166] which followed the *Arthaśāstra* tradition, do reflect Hindu military ethics that blended Realist and Idealist positions. Thus, we find Kamandaki counselling, "The king should not be a warmonger (*ativigrahi*), … A king should never join an ally in a campaign if the ally is unrighteous, or *adhārmic,* whereas a righteous ally should be helped even if

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[166] Maurice Winternitz, *History of Indian Literature,* Vol. 3. (Delhi: Motilal Banarsidass Publishers, PVT. Ltd. 1998), p. 635.

the king risks his own life" (Brekke, 2006, 128-129). Kamandaki advocates "*śuddha yuddha*" (meaning a "pure war" or "clean war"). Brekke notes that "The adjective used in [Kamandaki's] descriptions (*śuddha*) means pure, authorized, clean, faultless, right, according to rule, complete" (Brekke, 2006, 128-129). Thus, there seems to have been a symbiosis between the Hindu schools of thought that advocated *dharma yuddha* and *kūṭa yuddha*. These respective approaches to war were not as mutually exclusive as the texts seem to suggest, nor were they divided into water-tight compartments since their mutual influence is highly apparent.

4.6. Analysis of the Hindu Rules of War

The presentation of the rules of *dharma yuddha* makes it readily evident that Hindu civilization gave rise to a very humane and compassionate set of laws to govern the conduct of war. These rules were predicated on notions of fair-play, honour, righteousness, justice, and proportionality. Additionally, this chapter has suggested three distinctive Hindu principles of *dharma yuddha* that go beyond traditional Just War criteria and reflect deeply embedded Hindu values. These three distinct principles are: (1) the compassion principle; (2) the deference principle; and (3) the religious non-interference principle. As was previously shown, several laws of *dharma yuddha* transcend the regular constraints of proportionality and discrimination in warfare to evoke an ethos of compassion toward the

psycho-spiritual well-being and religious aspirations of enemy soldiers. Such metaphysical restraints in war are distinctive in Hindu attitudes towards warfare. Not even the Samurai of Japan with their honourable *Bushido* code exemplify the degree of compassion theoretically found in Hindu *kṣatriya* conduct. Perhaps for this reason Chakravarti (1972, 185) remarks:

> Wounded and armless opponents, for instance, were to be considered as exempt from slaughter. It was also regarded as a gross offence to quarter an armed enemy, who had ceased fighting and asked for mercy, Such a person might be imprisoned, but never wounded or slain [*Śāntiparva,* 45, 12; 96]. Similarly it was forbidden to slay one who was weary or asleep, one who was greatly enfeebled by wounds or stricken with grief, one who lingered trustfully, as well as the insane, the wounded, servants, camp-followers, old men, children and women [*Manu,* 7, 90-94; *Śāntiparva*, 100, 27-29.]. Moreover, prisoners of war were to be cared for and treated with humanity.

Consequently, Chakravarti concludes "it would seem that wars in ancient India were characterized by less violence and savagery than wars elsewhere" (1972, 187). Dikshitar concurs with this assessment by declaring:

> The foregoing survey may convince an impartial student of history that the ancient Hindus had evolved precepts on fair fighting which formed a chivalrous code of military honour. But it must be admitted that these laws of war including the laws of chivalry were so varied and so complicated that they led to ineffective discipline, in some cases owing to excess on the part of leaders and in others to the gradual extinction of the martial qualities by misplaced generosity through forgiving dangerous enemies who sought shelter or refuge in order to study the enemy's weakness and then attack him with redoubled force (1987, 92).

As has been shown, the binding force that kept the soldiers following the laws of war was the deep rooted and widespread belief that following one's dharma

led to rebirth in heaven[167] and maintained the cosmic order for those left behind. As a result, the battles of Hindu warriors were primarily duels waged within a wider war, much like the chivalrous duels fought between knights in medieval Europe. Fair play in combat was the salient rationale of duels between warrirors of equal rank and social status:

> The world of the *Mahābhārata* is the world of individual heroes, not that of systematic warfare. Great warriors go to heaven when they die, whereas the warrior who dies in bed or runs away from danger goes to hell. The ethos of this world is summed up in the verse: "There is nothing higher in the three worlds than heroism (*śaurya*)" [*Śāntiparvan,* 100.18.]. Many of the rules for warfare seem to concern duels rather than general battles. There is the same sense of tension between the ideals of the chivalrous duel and large-scale war as that we see through the centuries in Christianity. If we look at the more specific rules in warfare found in the *Mahābhārata,* we will find that many of them seem to be part of a code of chivalry akin to that of medieval Europe (Chakravarti, 1972, 117).

One suspects that the rules of *dharma yuddha* were an idealized set of statements rather than an accurate (or practical) description of reality on the battlefield. Indeed, many historians of warfare in ancient India concur that "it is doubtful whether the description [of *dharma yuddha*] is applicable to ancient Indian warfare in general" (Chakravarti, 118; cf. Dikshitar, 59).

The impracticality of *dharma yuddha* is likely for several important reasons. First, the reality of war on the ground was much different from what it was in theory, as nicely captured in the following words:

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[167] As declared in the *Mahābhārata,* "One should never lament over a hero killed in battle, for he becomes the lord of thousands of nymphs" (apsāras) (*Mbh.,* 12.98.70-72; trans. Dikshitar, 1987, 67-72).

The epics give one the impression that after the first plunge into the fight, no order whatever was maintained. "As soon as the armies meet," says Hopkins, "we read that there was complete disorder... Each knight flings himself in front of another, and the two then 'circle,' or wheel about each other, in the method admired by the Greek observer, until one is confused or weakened; for the charioteers do the twisting (except incidentally), while the knights have to keep the balance and shoot... Meanwhile the regiments led by the knights into the field either stand stock-still and look on at the spectacle, or they fling themselves against each other, two unheeded masses, and cutting and chopping each other in a promiscuous manner, lend their weight against the foe... While this by-play goes on, one knight is slain or flees. Then all his soldiers run away, since they fight not for a cause but for a leader (cited in Chakravarti, 1972, 117-118).

Second, there seems to be a disjunction between the theory of *dharma yuddha* and actual practice of war, which is clearly evident in the discourse surrounding kings on the battlefield. As explained above, a king was only supposed to fight another king according to the rules of *dharma yuddha* (*Mbh.,* 12:96.7); however, in practice, Hindu foot-soldiers attempted to murder the enemy's king for both monetary rewards and for the glory of victory because "when the king, who usually commanded in person [on the battlefield], fell or fled, his army also fled. [As a case in point,] … an important victory gained by Sultan Mahmud in 1008 A.D. was due to the flight of the elephant on which his opponent was mounted. To kill, or put to flight, the opposing king was thus the primary object in each battle"[168] (Chakravarti, 1972, 119). There were also significant monetary incentives

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[168] It would not be remiss to note here the resemblance of this strategy to the game of chess, which originated in India.

and reimbursements for any soldier who could kill the enemy's king even though these incentives undermined the rules of *dharma yuddha:*

> Besides pay, whether in the shape of salaries or land assignment, officers and troops were occasionally given special allowances on the eve of an expedition. In the *Arthaśāstra* (Bk. X. ch. 3), we come across a graded list of monetary rewards to be given to troops for acts of special merit. "A hundred thousand (*paṇas*)," says Kauṭilya, "for slaying the king (enemy); fifty thousand for slaying the commander-in-chief and the heir apparent; ten thousand for slaying the chief of the brave; five thousand for destroying an elephant or a chariot; a thousand for killing a horse, a hundred (*paṇas*) for slaying the chief of the infantry; twenty for bringing a head; and twice the pay in addition to whatever is seized." There are similar recommendations in the *Nītisāra* of Kamandaka (20, 18-21), the *Agni Purāṇa (*242, 34-35), and the *Nīti-prakāśika (*6, 88-89). The last-named work adds that this system of monetary rewards to troops in excess of their regular pay would inspire them to special feats of valour (Chakravarti, 1972, 91).

Indeed, even the *Mbh*. states that a "warrior was regarded as Viṣṇu in prowess and Bṛhaspati in intelligence who killed the commander of the enemy's force and rode upon the chariot of his fallen antagonist" (*Śānti,* 98. 42-3; cited in Dikshitar, 78).

Third, the vision of Hindu wars as combats between professional soldiers following noble codes of conduct was often tarnished in real wars due to the deliberate introduction of what are called *aṭavi-balam* ("predatory hordes") into Hindu armies, which "goes back to very early times. These predatory hordes used to live in vast forests and inaccessible mountains" (Chakravarti, 1972, 9). In his *Nītisāra* (19, 8), Kamandaka calls them "wild and undisciplined, faithless, greedy and sinful" (Chakravarti, 1972, 9). These

"Predatory Hoards" (*aṭavi-bala*) were used as shock troops in Hindu armies with serious implications for the rules of *dharma yuddha*. One historian writes:

> [These] wild tribes were often employed for military purposes by Hindu kings, in the same manner as the [aboriginal] Indians were employed by the English and French in their wars in North America. They brought their own war-apparatus to the theatre of war, but they fought for pay and plunder. Their services were considered specially helpful when a king's army had to pass through forest and defiles, morasses or mountains, or when it was the intention of the invader to ravage and devastate the enemy's country (cf. *Mbh.,* 12. 59, 48; as cited in Chakravarti, 1972, 9).[169]

The role of these shock troops casts a new light on Hindu code of warfare, and the dubious and tentative nature of following *dharma yuddha.* Suffice it to say, a significant consequence of the use of *aṭavi-balam* was the indiscriminate slaughter of enemy soldiers and civilians in which the principles of *dharma yuddha* (e.g., discrimination, proportionality, and compassion) were ignored and cast aside.

Fourth, despite the *Bhagavad Gītā's* ostensible position on *dharma yuddha* that only *kṣatriya* fighters ought to be involved in the Hindu "Art of War," such an idealized worldview was more fantasy than reality. Upon historical examination, it can be corroborated that virtually all Hindu armies involved non-kshatriyas as fighters on the battlefield. Moroever, these non-kṣatriyas warriors were not bound by the same rules of *kṣatriya dharma.*

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[169] "It may be noted here that the same customs of associating predatory tribes with the army continued in later ages among the Marathas and the Moghuls. It is well-known that the Pindharis often accompanied a Martha army in its expeditions, and were employed not so much for fighting as for plundering the country through which they passed" (Chakravarti, 1972, 9).

Consequently, the glorious laws of war, of which so much is said in the epics and *śāstras,* collapse and implode under the realities of warfare on the ground, which involved the admixture of castes.

As a case in point, the seemingly aberrant role of Brahmins[170] as warriors on the battlefield will be briefly examined here since this was not their traditional role in the sanctified caste structure. This example will help to illustrate the lingering misconceptions about Hindu warfare to separate fact from fiction.

4.6.1. Brahmins and other Non-Kṣatriya Warriors: The Fallacy of Caste Roles in Hindu Warfare

If one reads only the *Bhagavad Gītā* to gain an understanding of the dominant Hindu view of the Hindu Art of War, one might come away with the conclusion that classical Hinduism is dead set against the admixture of castes since such deviant *dharmic* behaviour destabilized the world order. As a result, only *kṣatriyas* were supposed to fight as Hindu warriors since this was their birth-duty; conversely, other castes had their own roles to play in the ongoing maintenance of *lokasaṃgraha* (lit., "well-being of the world"). Readers of the *Gītā* are thus presented with an idealized image of Hindu

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[170] According to Lannoy (1974, 217), the translation of the word "Brahmin" as "Priest" is "not adequate" because members of this caste "could be ritualists, scholars, king's councillors and chief ministers, or even frontiersmen… who played a key role in the opening up of virgin land and established land settlements under royal protection for kings." Moreover, Elgood (2004, 67) notes that "Brahmans served as soldiers" thereby supporting Lannoy's contention that in "the centuries of a monarchical consolidation, Brahmans occasionally revered roles with Kṣatryas" (Lannoy, 1974, 217).

society "rooted in the harmonious interplay of the four castes which are supposed to function like an orchestra in a *concerto*" (von Brück, 24). Yet, the *Gītā's* revulsion and horror toward Arjuna when he considered abandoning his caste duties was not always reflected on the actual historical battlefields of Hindu India, which are full of examples of deliberate caste admixture in the practice of warfare! This fact is corroborated by India's military historians who show that the *Gītā's* insistence that only *kṣatriyas* fought in battle is a myth. As stated by Chakravarti:

> The popular notion that the military profession was the exclusive monopoly of the Kṣatriya caste is wholly without foundation. Equally erroneous is the assertion that "except in some wildly supernatural legends, the Brahmans are not represented as warriors."[171] We need not recount here the formal law according to which any priest might serve as a soldier if unable to support himself as a priest [*Gautama Dharmaśāstra* VIII, 6; *Manu.* X, 81]. It is well-known that some of the most celebrated warriors in the *Mahābhārata* such as Drona, Asvatthaman and Paraśurāma were born in the priestly class (1972, 78).

Indeed, there are many other examples of Brahmins fighting in Hindu armies.[172] Moreover, these examples do not seem to be as anomalous as the Epics seem to suggest, for as Chakravarti remarks:

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[171] For instance, one could recount here the story of the Hindu avatar *Paraśurāma* ("Rāma with the axe"), who is considered to be one of the many incarnations of the Hindu God Viṣṇu. *Paraśurāma* was a renowned warrior from the Brahmin caste, "descended from the Bhṛgu clan, who were virtually kshatriyas. The entire *Dhanurveda*, including the four types of missiles, was revealed to a succession of Bhṛgu, Aurva, Rchika, Jamadagni, and lastly *Paraśurāma.* The culmination of the Bhṛgus' knowledge of military skills is Rāma's extermination of the *kṣatriyas* and only he amongst the Bhṛgus puts his knowledge to use. When the warrior caste (*kṣatriyas*) attempted to overthrow caste hierarchy and to rule without brahmanic sanction, Rama restored the previous order, demonstrating his protection of the divine order of society. The story may provide the mandate for militant action by brahmans in the early period" (Elgood, 2004, 134).

[172] Dikshitar substantiates this claim with historical evidence of Brahmins as generals and commanders in Hindu armies. For instance, during the reign of the Guptas, "Kumaramatya Prthivisena who was at first a member of the council of Kumaragupta was later on appointed his Commander-in-chief *(Mahābaladhikrta)*. In the Epic we find Droṇa, Asvatthama and Kṛpā as commanders. To the Pallava

The records of succeeding centuries point definitely to the conclusion that the Brahmans continued to serve as soldiers and commanders of armies... The names and exploits of Pusyamitra, the Brahman commander-in-chief of the last Mauryan monarch. Brhadratha, and of Mayurasarman, the founder of the Kadamba dynasty of Banavasi, are too well-known to need recapitulation. Epigraphic records disclose the names of a host of other Brahman generals, who figured prominently in the military history of Gupta and post-Gupta India. ... Moreover, there are a few passages in the *Rajatarangini* which go to show that Brahman troops were often enlisted in the Kasmirian army … In the kingdom of Orissa during the period of Kesari and Gangra dynasties, the Mahasthana Brahmans used to contribute a substantial number of military recruits to the peasant militia of the state. To this day some of their descendants bear the family title of *senapati*, meaning commanders of armies (Chakravarti, 1972, 79-81).

Of course, the co-option of Brahmins into Hindu armies had a legal precedent in the doctrine of *āpad-dharma* ("Emergency Duties"), which sanction cross-caste behaviour in times of military distress. This aspect of Hindu *dharma* helps to explain these alleged exceptions of Brahmins fighting as warriors. However, such casuistry does not explain the frequent involvement of the lower castes in warfare, nor the use of predatory hoards that were commonly part of the structure of Hindu armies.[173] Basham notes the prevalence of low-caste soldiers in Hindu armies, which mitigates the "continual

Narasimhavarman I (Mahāmalla) the Brahman Sirutondar otherwise known as Paranjoti was the commander in chief, who won a victory over Pulakesin II in 642 A.D. and captured his capital Vatapi. There is inscriptional evidence of the time of the Cholas of a brahman military officer named Kṛṣṇan Raman under *Rājarāja* the Great. When we come to the epoch of the Vijayanagara supremacy, we have the evidence of Kṛṣṇadevaraya's *Amuktamalyada* (canto V, 255, 262) that Brahmans were enlisted more and more for military service" (Dikshitar, 1987, 196).

[173] According to Hindu texts, armies are described as having either four limbs (e.g. *sena caturangini,* and *ćaturvidhabala ćamū*) (*Mbh.* 1.68.6b, 2.32.2b) comprising of infantry, elephants-archers, cavalry and chariots (e.g. 2.107.11 and 3.28.2) or six-limbs comprising allied, tribal, heredirary, mercenary, guild troops, and enemy forces (*mitra, aṭavi, maula, bhṛtya, śreṇī,* and *dviṣat* (*Arthaśāstra* 9.2.1, 9:11; cited in Brockington, 135; Chakravarti, 2). "In short this political treaties envisages two kinds of recruitment: standing army and mercenary troops" [*Manu* IV. 7. 9-15.] (Dikshitar, 1987, 195). The latter involved recruitment beyond "hereditary troops (*masula*)" to encompass "hired troops (*bhṛtya*), soldiers belonging to the corporations (*śreṇī*), troops of allies, of enemy and of wild tribes" (Dikshitar, 1987, 193).

injunctions to the king to ensure that confusion of class [(i.e., caste intermingling)] (*varṇa-saṃkara*) did not take place [albeit it suggests] that such confusion was an ever-present danger in the mind of [some] orthodox Brahmans" (146). Ironically, both Chakravarti and Basham explain the normality of this practice in classical India. Chakravarti remarks:

> Nor were the lower classes of the community-the Vaiśya and Śūdras - excluded from military service. The truth, on the contrary, seems to be that they constituted the rank and file of the army,[174] in spite of the formal law that men might follow the profession of a lower caste, if unable to sustain themselves by what appertained to their own, but must never follow the profession of a higher caste. We have already seen that caste-less forest tribes were often employed by Hindu kings for military purposes. Hopkins says that the mass of the epic army was composed of the lowest classes, mixed with barbarians and foreigners. Among these too fought men of the people-caste, when necessity called them into the field. In the *Arthaśāstra* (Bk. IX, ch. 2), Kauṭilya approved of the employment of Vaiśya and Śūdra troops in the army. The *Agni-Purāṇa* specifically lays down that the Śūdras have a right to the art of war and that they, along with the mixed castes are expected to contribute to the defence of the state" (*Agni-Purāṇa* 249, 8; cited in Chakravarti, 81).

Correspondingly, Basham adds the following useful information:

> The Sungas and Kanvas were Brahmans, as were several other Indian dynasties; the family of Harṣa is said by Hsuan Tsang to have been of the vaiśya, or mercantile class; while the Nandas, and perhaps even the Mauryas, sprang from the despised śūdras. In practice the aphorism "Whoever bears rule is a kṣatriya" was applied, and after a few generations kingly families from the lower orders were quietly assimilated in the martial class (1954, 91).

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[174] For example, in "southern India, caste-less indigenous tribes such as the Maravar formed the best recruiting ground for the Cola army...Epigraphic evidence proves that in the 10th and 11th centuries the Cola army was largely recruited from the Left hand and Right hand (*Idankaiyar* and *Valankaiyar*) castes" (Chakravarti, 1972, 82).

In summary, the "facts and examples cited above totally disprove the contention that the military profession was the exclusive monopoly of any one caste" (Chakravarti 1972, 82).   As noted above, a chorus of scholars echo this viewpoint. Although the *kṣatriyas* were the professional class of Hindu warriors they were not the *only* Hindu warriors involved in battles. Such a fact is reiterated by Basham (1954, 28):

> Of the four great classes the *kṣatriya* was the warrior par excellence, and no doubt most of the hereditary troops considered themselves to belong to this class, but all classes took part in war. Brahmans holding high military rank are mentioned in the Epics and in many medieval inscriptions, and their participation in it war is expressly permitted in some texts. The lower orders fought also, usually as auxiliaries or subordinates, but the late textbooks on polity ascribed to Śūkra [ii, 138-140] lays down that the highest military posts, even to that of general, may be filled by sudras or outcastes.

All of this information casts a new light on the rules of *dharma yuddha* and throws doubt upon how these rules were applied in actual warfare. As noted above, the principles of *dharma yuddha* imply social equality on the battlefield; but this equality is impossible to maintain if the people who are fighting are from different social levels, especially when so-called "barbarian" mercenaries are involved. Regarding the role of mercenaries in Hindu armies, both Elgood and Chakravarti note that "there was a long tradition of mercenary service in southern India. The *Cilappadikaram* ["Tale of an Anklet"], written in the early centuries A.D. refers to Yavana or foreign guards at Madurai (imprecisely referred to as 'Greek') armed with swords" (Elgood, 2004, 45; cf. Chakravarti, 1972, 57).   Furthermore, historical

"records prove that the army was not always composed of local recruits alone, but was strengthened by the enlistment of foreign adventures. To this latter category probably belonged the *bhṛtas* or mercenaries mentioned in the *Arthaśāstra* and the other politico-military manuals. Ancient Tamil authors sometimes speak of the Yavana body-guard of Pandya kings. We learn from the *Chachnama* [(a history of the Arab conquest of Sindh)] that in the 8th century A.D. king Dahir of Sindh had in his employment as many as 500 Arab troopers under the leadership of the Muhammad 'Allafi" (Chakravarti, 1972, 77). In fact, Basham explains that foreign mercenaries and invaders were so common in Hindu warfare that they were often assimilated into the socio-religious caste structure in order to elevate their social status and rank:

> The martial class of ancient India, from great emperors to petty chiefs, was recruited from all races and ranks, and all the invaders of India down to the coming of the Muslims were given a place in the social order in this way. Manu [*Manu* X, 44] describes the warlike peoples on the fringes of Aryan civilization, including the Greeks (*Yavana*), the Scyths (*Saka*), and the Parthians (*Pahlava*), as ksatriyas who had fallen from grace through their neglect of the Sacred Law, but who could be received once more into the Aryan fold by adopting the orthodox way of life and performing appropriate penitential sacrifices. This provision might be applied to almost any conquering people, and the Rajputs, in later times the *kṣatriyas par excellence*, were no doubt largely descended from such invaders (Basham, 1954, 142).

It can be concluded then that Hindu military combat was far more complex in actual practice than the rules of *dharma yuddha* suggest, because of the sheer fact of the complex composition of the Hindu armies themselves.

Fifth, it may be appropriate to ask the disturbing but warranted question of whether the underlying motivation of the rules of *dharma yuddha* was truly humane and noble (out of a sense of human decency) in the first place, or whether such rules were intended merely to mock and shame the enemy and to amplify their disgrace of losing the battle. This unorthodox question requires consideration not only because it has never been investigated before but also because some rules of *dharma yuddha* seem to imply an insidious undercurrent of dishonouring the enemy rather than protecting their dignity.

Three specific examples will suffice to illustrate this point: first, it was the Chinese Buddhist pilgrim Hiuen Tsang (c. 7th century C.E.) who noted the peculiar Hindu custom of warfare whereby defeated kings were required to wear women's clothing in an effort to disgrace them: "When a general has lost a battle, instead of punishing him corporally, they make him wear women's clothes and by that force him to sacrifice his own life" (cited in Majumdar, 1960, 95-96). Second, those surrendering were required to get down on all of their limbs in a posture of humble submission like an animal, in order to show their complete obedience to the conqueror, as evidenced in the Indian text, *Bṛhadarhaṇṇītiśāstra,* which "listed among those who should be spared from slaughter as those holding blades of grass in their mouth. This form of submission was intended to emulate the cow or non-combative herbivores" (Elgood, 2004, 129). Forcing defeated soldiers to get down on

their knees to emulate the submissive posture of animals was another humiliating gesture. Third, many Hindu warriors were highly motivated to die in battle since they held the assumption that they would be rewarded by being reborn in heaven. By refusing to kill their enemies in battle and taking them prisoner instead, the captured warriors were denied an honourable death.[175] Moreover, prisoners of war were often maimed as a punishment so they would be stigmatized in society. The impact of this shame was magnified in light of the following Hindu textual passages emphasizing the expectation of glorious death on the battlefield: "He must, moreover, never think of fleeing from the battle-field. 'The gods headed by Indra send calamities unto those who forsake their comrades in battle and come home with unwounded limbs' [*Śāntiparva,* 97, 20.]. Not only do they get disrepute in the world, but are condemned to eternal hell after death [*Śūkranīti,* Ch. 4, sec. 7, 11. 656-661.]. Bhīṣma roundly asserts that those who seek to save their own lives by deserting their comrades should be slain with staves or clods, or burnt in a fire of dry grass, or slaughtered like a beast" [*Śāntiparva,* 97, 21-22, cited in Chakravarti, 1972, 183). Conversely, the warrior "who dies a soldier's death on the battle-field is promised forgiveness of all of his sins and the thrilling delights of a sensual paradise" (Chakravarti, 1972, 183). Therefore, despite the rules of *dharma yuddha,* the normative principle of *kṣatriya dharma* is

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[175] Supporting this hypothesis is the famous scriptural passage from the *Bhagavad* Gītā when Kṛiṣṇa informs Arjuna*:* "People will talk about your disgrace forever. To the honored, dishonor is worse than death" (*BG:* 2.34). Translated by Ramananda Prasad. *The Bhagavad-gītā, 2nd edition.* (Delhi: The American Gita Society, [1995] 2003): pg. 25.

that "retreat in battle is shameful" (Brockington, 1985, 151). As a result, the facts do not fit the idealized image of the texts, and such ambivalence surely led to violations of the so-called Hindu rules of war.

Ostensibly, at a *prima facie* level, the rules of *dharma yuddha* seem to clearly protect the dignity and of enemy soldiers since the *Śāntiparva* (95, 12-14) requires captured opponents be sent to their homes or brought to the victor's quarters where their wounds were to be healed "by skilful surgeons, and when cured, [they were] set at liberty" (Chakravarti, 1972, 185). But a deeper level such protections may also be a type of demeaning insult that belittles the dignity of soldiers. This alternative perspective deserves somber reflection since it removes modern frameworks of assumptions about human rights anachronistically imposed on the Hindu materials and contexts when they were not present. Such a hypothesis casts a new light on the rules of *dharma yuddha*. This hypothesis would also help to answer the paradoxical riddle of why prisoners of war were to be cared for and treated with humanity, while at the same time death in battle was a glorious doorway into heaven and surrender was deemed to be cowardly.

Many Hindu soldiers, of course, did try to save their lives by surrendering or running away. According to the 26th chapter of the Tamil Epic *Cilappadikaram* (c. 2-3rd century C.E.), Hindu warriors attempted to escape "from the field of battle in disguise as ascetics, Brahmans, musicians, and, last but not least, hermaphrodites. Most of them were allowed to run

away, though some were captured and sent to far-off lands" (Dikshitar, 1987, 70). Thus, it remains an open question whether these rules of warfare were intended to prevent enemy soldiers from accessing the expected glory of heaven or whether they were devised to genuinely care for the conquered? The analysis here offers one possible way to account for the ambivalent assertions in Hindu texts that a *kṣatriya* must never kill a retreating or surrendering soldier while simultaneously asserting that a fleeing solider deserves to die (*Mbh.* 12.97, 21-22; trans. Chakravarti, 1972, 183). It is evident then that Hindu texts praise bravery and retreat from battle is the deepest of shames. The following story was common fodder for *kṣatriyas*:

> [When] a heroic mother heard the disquieting news that her son lost his courage in action and had fled in fear. If it were true, she expressed that she should cut off her breasts that had fed him with milk. With this determination she entered the battle-field with a sword in her hand and went on searching for her fallen son. When she saw her son's body cut in twain, she felt much more happy than when she gave birth to him" (Puram, v. 277 cited in Dikshitar, 1987, 388).

Such a glorified attitude towards warfare is astutely summarized by Dikshitar's words, "War was the pabulum on which our ancient warriors were great in name and fame" (Dikshitar, 1987, 388).

The final conundrum to be addressed here is the paradox that the rules of *dharma yuddha* were broken numerous times by those same forces that were supposed to be defending the principles of *dharma.* This startling contradiction is so significant that it deserves its own separate treatment in the next section.

4.6.2. Violations of the Rules of *Dharma Yuddha*

An enduring quandary in the study of Hindu ethics of warfare is the fact that the prized Hindu rules of *dharma yuddha* were often deliberately broken during actual combat by their alleged defenders. Such violations of the rules, perhaps, should not be surprising given the fact that actual warfare is frequently a messy business – chaotic and unpredictable. The ideology of Political Realism claims that ethical rules of combat shatter like a broken sword during war. Nevertheless, the frequency of ethical transgressions of the Hindu Just War tradition is deeply problematic because this tradition is sanctioned by divine legitimacy. In other words, the rules of the game of *dharma yuddha* are not merely seen as Hindu social conventions but as religious imperatives handed down from the teachers of old. As such, they carry special weight and therefore cannot be discarded lightly, yet it is the Hindu Gods themselves who, ironically, jettison the rules of war when they see fit. Brockington admits this paradox head-on by claiming that the regulations of *dharma yuddha* "are honored as much in their breach as in their observance" (1985, 131). Traditional rules of combat, moreover, are violated not only by those who advocate *kūṭa yuddha* but also by the defenders of *dharma yuddha* themselves! Such ethical transgression suggests that the rules of warfare are expendable, which undermines their entire legitimacy.

Aho attempts to resolve this discrepancy in the Hindu conduct of warfare by suggesting the following argument:

> The *Mahābhārata* is by no means consistent in its teachings. While it does exalt conformity to the aforementioned restrictions, it also has savants speaking in favor of the lowest forms of deceit and the bloodiest weapons and tactics [e.g., *Śānti-parva* 69, 149-155]. This apparent anomaly can be explained in part by noting that much of the dishonorable advice comes from the mouths of such Kuru counselors as Kanika [e.g., *Ādi-parva* 142; *Sauptika-parva,* 1-4]. The Kuru clan, it will be recalled, plays the role of the *asura,* the representative of cosmic evil, in the epic literature. Nonetheless, at least half the treachery in the *Mahābhārata* is committed not by the Kurus but by the seeming defenders of morality, the Pāṇḍus. And most of the despicable acts are undertaken upon the recommendation of Lord Kṛṣṇa himself, the incarnation [of the God] Viṣṇu (Aho, 1981, 66).

Indeed, it is the beloved Hindu God Kṛṣṇa himself—the preeminent theophany and philosophical teacher of the *Bhagavad Gītā*—who ironically demands deceit in war to protect the *dharma.* Duryodhana,[176] the leader of the Kauravas, blames Kṛṣṇa "for half a dozen other ignoble acts committed during the battle"[177] (Allen, 2006, 139). To elucidate the role of such transgressions in Hindu warfare, five specific examples of ethical deviance of *dharma yuddha* will be cited.

4.6.2.1 Transgression #1: Arjuna's Killing of Karṇa

One of the most infamous examples of deviation from the rules of *dharma yuddha* is found in an episode of the *Mahābhārata* involving Arjuna's

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[176]   This name also includes the notion of *Yuddha* (=Yodha) and it means "a difficult opponent to fight" or "one who violates the rules of war".

[177]   Some cases of Pandu treachery are found at *Sabhā-parva,* 20-24; *Bhīṣma-parva,* 110-119; *Droṇa-parva,* 142-143, 147, 191-192 and *Karṇa-parva,* 82.

chariot-duel with his step-brother Karṇa.[178] During their (in)famous duel, Karṇa's chariot-wheel gets stuck in the mud and his chariot comes to a halt. In order to keep fighting, he needs to get out of his chariot to dislodge the wheel. Obviously, this is a dangerous thing to do so Karṇa reminds Arjuna of the recognized rules of war by announcing:

> Brave warriors that are observant of the practices of the righteous never shoot their weapons at persons with disheveled hair,…at those that have turned their faces from battle, … at a brahmana,…at him who joins his palms,…at him who yields himself up or beggeth for quarter,…at one who has put up his weapon,…at one whose arrows are exhausted,…at one whose armour is displaced,…at one whose weapon has fallen off or been broken! Thou art the bravest of men in the world. … Thou art well acquainted with the rules of battle. For these reasons, excuse me for a moment, that is, till [sic] I extricate my wheel…from the Earth (*Karṇa-parva,* 90-91). Arjuna turns to Kṛṣṇa imploring him as to the proper course of action. Kṛṣṇa replies, "Cut off with thy arrow the head of this enemy of thine… before he succeeds in getting upon his car." Arjuna dutifully obeys and another Kuru prince is destroyed through immoral means (Aho, 1981, 78).

Kṛṣṇa's shocking advice illustrates a clear violation of the Hindu rules of war because, as it has been shown, fighting was supposed to be proportionate between equals (e.g., thus a chariot-warrior could only attack another chariot-warrior), not someone on the ground or bent over fixing a chariot wheel. Fair play was expected. Consequently, it was sacrilegious for a chariot-warrior to cut down an infantry soldier. Yet, according to the *Mbh.,*

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[178] The figure of Karṇa plays a tragic and poignant role in the *Mahābhārata* epic. Abandoned by his mother as a child, he was the unknown elder brother of the five Pāṇḍavas and raised as a brilliant warrior. He received excellent military training from Paraśurāma and his aptitude in warfare rivaled Arjuna's. Nevertheless, although he is related to the Pāṇḍavas, he fights with the Kauravas (*adhamric* forces).

this is precisely what Lord Kṛṣṇa advised the chariot-warrior Arjuna to do. One may seek to excuse this violation as an exception, or perhaps a prophecy,[179] but further investigation into Hindu texts reveals more ethical transgressions. Examples from the *Rāmāyaṇa* corroborate similar violations in situations of asymmetrical warfare, some of which are summarized by Brockington as follows:

> [In contrast to the standard rules of war,] Khara after losing his chariot continues to fight Rāma with his club (2.27.27-9), Jatayus destroys Rāvaṇa's chariot and attempts to continue the fight (3.49.14-36, cf. 4.56.10), Rāma smashes Makarakṣa's chariot but Makarakṣa grabs a pike to continue to fight (6.66.29), and Indrajit despite the slaughter of his horses and charioteer assails Lakṣmaṇa with a shower of arrows (6.77.29-37). … Malin, after leaving his chariot, seizes a club to continue this fight with Garuḍa (7.7.33). The death or disabling of the charioteer has of course the same effect as the destruction of the chariot but nonetheless … Indrajit twice is said to manage the feat of steering and fighting after the loss of his charioteer (1985, 136).

These examples illustrate that abandonment of the standard rules of war likely occurred more frequently than the glorified ethos of *dharma yuddha* suggests.

4.6.2.2. Transgression #2: Fighting at Night and Massacre of a Sleeping Army

Another violation of *dharma yuddha* occurred near the end of the *Mahābhārata* war when the Pāṇḍava army was attacked at night in contravention of the Hindu rules of war. This happened on "the fourteenth

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[179] According to Hindu lore, Karṇa was killed by Arjuna while he was freeing his chariot wheel because he was cursed to die in that way by a Paraśurāma.

day of the battle, [when] fighting continued at night" (Bhushan, 1976, 118). As was previously noted, the stipulations of *dharma yuddha* necessitate that all fighting must stop at sunset to allow soldiers to recover and recuperate at night, as well as give them time to eat their meals. However, in both the *Rāmāyaṇa* and the *Mbh.*, this well-known rule is violated. In the *Rāmāyaṇa,* "the fight between the Vanāras and Rākṣasa continues after nightfall [*Rāmāyaṇa* 6.34 and] the glinting of the weapons like fireflies and the sound of drums revealing the combatants' positions are graphically described..." (Brockington, 1985, 150 -151). Indeed, several instances of night-fighting are found in the *Mahābhārata* (4.32.1-3, 7.138-61, 7.22.13, 10.78-80). One of these battles lasted for seven nights (*saptarātram kṛte saṃkhye)* (7.22.13). Another involves the massacre of the sleeping Pāṇḍava army (10.78-80) when everyone on the Pāṇḍava side is killed except Draupadī and the five brothers.[180] In both of these cases, the perpetrators of the violations are the *adhārmic* forces but these acts are done in retaliation for infractions of rules by the Pāṇḍavas.

In an interesting case, Kṛṣṇa exploits the above rule of not fighting at night to support Arjuna's vow to kill Jayadratha. This particular event occurs after the death of Arjuna's son Abhimanyu under the auspices of Jayadratha. Arjuna vowed to kill Jayadratha before the following sunset but if he failed to do so, he promised to commit self-immolation. The next day, Arjuna fought but could not kill Jayadratha. Realizing that Arjuna's would fail in his vow ,

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[180] See W. J. Johnson (Translator), *The Sauptikaparvan of the Mahābhārata: The Massacre at Night* (Oxford World's Classics). New York: Oxford University Press, 1999.

Kṛṣṇa interevened through an act of trickery to prevent Arjuna's from losing. Kṛṣṇa used his *Sudarśana ćakra* to cover the sun causing the illusion of a sunset whereupon all fighting at night was to cease. Believing that he had won the combat, Jayadratha rejoiced over Arjuna's defeat. However, at this point, Kṛṣṇa made the sun reappear and he quickly told Arjuna to shoot and cut off Jayadratha's head, which Arjuna faithfully obeyed.

4.6.2.3. Transgression #3: Fighting During the Rainy Season

In addition to the epic's constraints on warfare at night, it has been noted that the *Rāmāyaṇa* forbids military campaigns during the monsoon season (Brekke, 2006, 118). Battles were to commence in the autumn season. However, once again we find this rule violated by the defenders of righteousness when the God Rāma deliberately breaches this rule by ordering his allied armies to attack during the rainy season. As Brockington explains, "Lavaṇa, the Rakṣasa ruler of Madhuvana, is invincible, unless he can be caught off guard and away from his weapons, and so Rāma orders Śatrughna to march against him during the rainy season" (*Rāmāyaṇa,* 7.56.10-12; cf. 7:67. 11; Brockington, 1985, 150). It is well known that the monsoon season in India is a time of immobility, shelter and rest from the deluge-like weather. Even religious ascetics and wandering mendicants are allowed to take refuge at this time to avoid harming the multiplicity of creatures that emerge during the rainy season. Likewise, kings and soldiers were not

supposed to launch wars during the rainy season due in part to topographical impracticality, and to compassion for life's abundant creatures, but even this principle is violated by dharmic forces.

4.6.2.4. Transgression #4: Rāma's Attack on Vālin

It is particularly perplexing to find a flagrant transgression of the rule of fair play and proportionality in the *Rāmāyaṇa* by none other than the paragon of *dharma* himself, Lord Rāma. As has been seen, intervention in a duel is "universally condemned" in *dharmic* rules of combat. Yet this objection "forms part of Vālin's dying accusations against Rāma (*Rāmāyaṇa* 4.17) … Another item of Vālin's complaint is that Rāma's attack was without provocation" (Brockington, 1985, 152). This objection arises from Rāma's intervention during the duel-combat of Sugrīva against Vālin. He helped Sugrīva win the battle by shooting Vālin in the back with an arrow even though both his assistance and manner of attack went against the rules of justice in warfare. This episode continues to befuddle scholars today, and casts another shadow on the tarnished rules of *dharma yuddha* (Shulman, 1979, 652-669; Prasad, 2009, 78-79).

4.6.2.5. Transgression #5: Bhīma Hits Duryodhana below the Waist

Another violation of *dharma yuddha* by those who allegedly support these rules occurs in the duel between Bhīma and Duryodhana in the ninth

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book of the *Mbh.* (*Śalyaparva*). This incident involves the club fight between Bhīma and Duryodhana. The rules of *dharma yuddha* prohibited striking one "below the navel"; however, that is precisely what Bhīma does when he fatally wounded Duryodhana (Allen, 2006, 139). Bhīma breaks the rules to win the battle by enacting the teachings of *kūṭa yuddha* rather than *dharma yuddha.* Once again, the conventions of warfare are disturbingly cast aside by those purporting to be champions of the cause of *dharma*.

4.6.2.6.   Transgression #6: The Deceitful Killing of Aśvathāmā

Additional examples of ethical transgressions from the *Mbh.* involve two cases of illicit murder. In the first instance, Yudhiṣṭira makes use of a clever strategy to slay the respected general Droṇa of the Kaurava forces. He claims that Droṇa's son Aśvathāmā had been killed by Bhīma while in actual fact Bhīma had only killed an elephant named Aśvathāmā instead. Therefore, Yudhiṣṭira (known as a man of truth and defender of *dharma*) told a lie to Droṇa about the death of his son to make him vulnerable to attack. When Droṇa approached Yudhiṣṭira and asked whether his son was indeed dead, the latter replied affirmatively. As a result, Droṇa laid down his weapons in grief and was killed without being armed! Here, again, the Paṇḍavas are responsible for violating the rules of *dharma yuddha* concerning not killing opponents without weapons. For the rest of his life, Yudhiṣṭira never forgave himself for telling this lie and breaking *dharma*.

In the second example, it is Droṇa who is responsible for breaking the rules of war by capturing Arjuna's son Abhimanyu within a circular war formation called the *ćakra-vyūha* (Das, 2009, xx). When Abhimanyu was surrounded by enemy warriors he found himself being attacked by seven warriors in contravention of the rules of war emphasizing proportionality. Although Abhimanyu was an impressive warrior, he was killed in this unrighteous fashion while he was unarmed and without a chariot.

Obviously, the cardinal question facing students of *dharma yuddha* is how can the above violations of the rules of *dharma yuddha* be explained? This last question receives careful and systematic investigation below.

4.6.3. Hermeneutical Strategies to Reconcile Violations of *Dharma Yuddha*

There are at least four possible hermeneutical[181] strategies to account for these deviant ethical transgressions, which offer sophisticated interpretations of the texts: first, supreme emergencies allow for violations of the rules of war during situations of emergency; second, the Pāṇḍava violations are responses to previous Kaurava violations because the training of warriors allowed for reciprocity in conduct; third, the carnage and ethical transgressions of war illustrate the ultimate futility of war since even the "righteous forces" are tarnished by the sins of war; and fourth, the violations

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[181] "Hermeneutics" refers to the study of the interpretation of texts, especially religious scriptures.

of the rules of war are all part of God's mysterious plan for saving the world and therefore remain beyond human comprehension. The last hermeneutical strategy suggests that some higher metaphysical purpose is attained by the Paṇḍava's actions and thus their transgressions are inculpable since they were ultimately devoted to "God" and therefore could do no "wrong" thereby echoing the teachings of the *Bhagavad Gītā* (2.38; 2; 37). Each of these points deserves further attention given their pregnant subject matter.

4.6.3.1. Supreme Emergencies as Justification for the Violations of *Dharma Yuddha*

Perhaps the most plausible rationale for the violations of *dharma yuddha* by forces purporting to protect *dharma* pertains to what is called *āpad-dharma* ("Dharma of Crisis"). The *Mbh.* states that the traditional rules of war may be transgressed in times of supreme emergencies (*Śāntiparva,* 80, 5).[182] The *locus classicus* of this teaching occurs when Bhīṣma on his deathbed affirms "the right of a king to resort, in cases of dire necessity, to the Dharma of Crisis or *āpad-dharma.* He does this in response to the persistent questioning of Yudhiṣṭira on the correctness of political ethics at a time when the moral values of the society have degenerated, the financial resources of the government are depleted, and the army is harried by its enemies, to whose side former allies have deserted" (Lannoy, 1974, 324-

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[182] Interestingly, Gandhi "would not endorse the Dharma of Crisis under any circumstances, and on this point he is perhaps unique in Indian history" (Lannoy, 1974, 326).

325). Bhīṣma allows transgressions of normative Hindu ethics but is "careful to qualify his answer by asserting that the Dharma of Crisis is only to be resorted to in time of war, [and] that the canons of the Dharma of Righteousness cannot be transgressed at any other time" (Lannoy, 1974, 325).

Whitaker (2004a) explains the philosophy of *āpad-dharma* in more depth to account for violations of the rules of war found in the epics:

> In times of chaos and warfare (*āpad-dharma*) the use of stratagems, treachery, and assassination is legitimate. This is one of the major dilemmas for the heroes of the epic, the Pāṇḍavas, who are at once warriors and kings. The great battle begins with just intentions and a code of fair combat. However, as the fighting progresses in intensity many unfair and unjust episodes occur that clearly contravene the prescriptions of *kṣatriya-dharma*. The battlefield is the scene of numerous questionable acts, which the *Mahābhārata* itself does not hesitate to call "transgression." Nearly all are committed by the heroic Paṇḍavas, and the guiding hand seems almost always to be that of the god Kṛṣṇa. In fact, the deity clearly and succinctly expresses the divinely sanctioned justification for warfare and violence through a martial theology contained in the famous *Bhagavad Gītā* (a Hindu devotional work), which foreshadows the outbreak of war and outlines the central doctrine of duty above all else and action for action's sake (*karma-yoga*) without suffering any soteriological (relating to theology dealing with salvation) consequence of violent deeds (Whitaker 2004a, 163).

Such a rationalization for the transgression of *dharma yuddha* helps to explain the repeated violations of the laws of war by the so-called forces of "righteousness." Nevertheless, these transgressions still seem to reduce the importance of the laws of *dharma yuddha* since one could argue that most wars involve some sort of "supreme emergency" or "grave crisis" to their

participants. It thus becomes tricky to identify when a supreme emergency actually is in effect or when a "crisis of dharma" is really present. There is a danger that such decisions might become rather subjective and arbitrary and eventually lead to a breakdown of the whole system of war conventions that are supposed to protect the cosmic order in the first place. Hence, the Hindu concept of *āpad-dharma* provides a dangerous loophole for breaking the rules of war.

4.6.3.2. The Rules of *Dharma Yuddha* allow Reciprocity in Conduct and Ethical Violations are Responses to Previous Transgressions.

It has been noted that the Hindu rules of war allow for *kṣatriyas* to adapt to the methods of their adversaries in order to fight a fair-fight (*Mbh.* 12.100.5). Thus, if the adversary is utilizing methods of *kūṭa yuddha* then a proponent of *dharma yuddha* can do likewise (Young, 2004, 295). That is why the Pāṇḍavas were taught both methods of warfare even though they themselves were sworn champions of *dharma*. Perhaps this fact helps account for the violations of dharma in the Hindu epics.

According to the *Mahābhārata*, "Both kinds of wisdom, straight and crooked, should be within call of the king" (12.100.5). Of course, it is observed that "throughout most of the *Mahābhārata* the teaching is of the 'straight' wisdom. Only when hard pressed by the unrelenting questions of the noble Yudhiṣṭira was the great guru of warriors, Bhīṣma, brought to reveal the dark secrets of the 'crooked' way, [which can be summed up in these

memorable aphorisms:]… 'The last word of social wisdom is never trust'
(*Mahābhārata* 12.80.12) [and] … 'As clouds change from moment to moment,
just so thine enemy of today becomes, even today, thy friend'" (*Mahābhārata*
12.138.154; trs. Zimmer, 123-124). As Dikshitar explains, "Whether an elder,
a kinsman, a preceptor, or a Brahman, he must be attacked if he would
attack him. This was the point raised by Arjuna and answered by Kṛṣṇa as
the veritable law of warfare. … The idea was that once a Brahman or a
kinsman assumed the role of a warrior and a foe, there was no sin in killing
him" (*Mbh.*, *Udyoga Parva*, 178.51; trs. Dikshitar, 1987, 57).

Thus, it seems that the principle of reciprocity was used as a
justification for violations of *dharma yuddha.* In order to keep the balance in
the fight, each side responded to the other accordingly, somewhat like
Clausewitz's theory of "absolute war" (where war leads to progressive
escalation of violence into an unlimited war of annihilation'), that is reflected
in the ending of the *Mahābhārata* war itself.

4.6.3.3. The Carnage from Ethical Violations teaches the Ultimate Futility of War

The ethical ambiguity and paradoxes in the Hindu epics surrounding
the rules of war may also have been meant to symbolize the anarchy and
moral depravity of war itself, since even the defenders of justice stoop to such
low levels. If this is the case, then the violations of *dharma yuddha* have a

deeper didactic meaning that offers perspicacious insight into the nature of warfare. This perspective is advocated by Deshingkar who writes:

> … a deeper message of the epics seems to be that "good is always mixed with or accompanied by the evil." Human nature is the product of a variety of influences (*karma*) from the previous births and the present life. So the same human being contains both righteous and unrighteous impulses, even the most ideally righteous person may occasionally commit unethical acts in the interests of larger righteous causes. Thus, in the *Rāmāyaṇa,* Lord Rāma, the most perfect human being known nevertheless kills Vālin, a brother of his ally, by deceit. In the *Mahābhārata,* Lord Kṛṣṇa, himself a major God in the Hindu pantheon, advises and resorts to all kinds of trickery in the service of the weak but righteous side in a dispute over a kingdom. Hindu classics always uphold the rhetoric of righteousness or *dharma* but condone and often justify lapses from the codes (Deshingkar, 1998, 359).

Seeing the multiple ethical transgressions of the epics in this way allows one to adopt what Paul Ricoeur (1970) calls a "hermeneutic of recovery"[183] that ultimately redeems the epics' message in a more favorable light and helps reconcile their apparent contradictions regarding why the defenders of *dharma* stab it in the back. As Whitaker acknowledges:

> The *Mahābhārata* skillfully portrays what must have been fundamental ethical concerns of the elites for whom it was created. Indian kings had to fulfill *rāja-dharma* and were duty bound to protect their subjects and maintain the security of the kingdom at all costs. However, the epic contains one last moral: In violating their code of conduct as warriors in order to perform their duties as kings, the Pāṇḍavas ultimately cause their own individual deaths but preserve their legacy through the continuation of their lineage and the maintenance of the kingdom. Pāṇḍava Yudhiṣṭira even states: "In all cases, war is evil. Who that strikes is not struck in return? Victory and defeat are the same to one who is killed. Defeat is not much better than death, I think; but he whose side

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[183] According to Paul Ricoeur, one can interpret a religious scripture with an *a priori* attitude of suspicion and contempt or with a spirit of magnanimity in an attempt to understand its meaning. He calls the latter attitude by the phrase "hermeneutic of recovery" (Kaplan, 114).

gains victory also surely suffers some loss" [*Udyoga Parva* XL]. This is the moral of the whole epic war in the *Mahābhārata,* its carnage, fratricide, and waste; *nobody* is the real victor (Whitaker 2004a, 163).

Perhaps then the violations of *dharma yuddha* serve to underscore the ultimate futility of war, which reminds readers that even the best-intentioned army (or soldiers) may feel forced to cast aside ethical principles to survive the chaos of war. For better or for worse, the epics seem to suggest that ethical transgression of public law and personal conscience is a frequent reality in warfare.

4.6.3.4. Scriptural Violations of the Hindu Rules of War are part of God's Mysterious Plan for the World

Finally, one can invoke theological arguments regarding metaphysical prerogatives in the divine's overriding of so-called "just laws". Hindu texts such as the *Bhagavad Gītā* legitimize infractions of *dharma yuddha* by subliminating them in a larger framework of *karma yoga* (detached action), *bhakti yoga* (devotional surrender to God), and *niṣkāma karma* (dispassionate action).   Moreover, the Hindu religious tradition provides sophisticated theological arguments surrounding notions of *māyā* (illusion) and *līlā* (sport/game) and *daiva* (fate)[184] as philosophical rationales for divine prerogatives in war.

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[184] Zimmer explains that "*Daivam,* the Sanskrit word for "fate," is an adjective that has become a noun, meaning properly "that which pertains to, that which is related to, the gods (*deva*)"" (Zimmer, 1951, 100).

One of these hermeneutical approaches to understanding Hindu attitudes towards war is the notion of "war as play". This counter-intuitive perspective makes sense within the larger cluster of Hindu metaphysical views of divinity and divine action. As von Brück remarks, the vicissitudes of history, "including war and peace in the history of humankind, [are] the result of the divine energies or the divine play (*līlā*)" (2004, 29). Lannoy further explains the significance of play in Hindu conceptions of divinity by connecting it to the underlying narrative of the *Mahābhārata* epic:

> The central position occupied by play in the dramatic scheme of the *Mahābhārata* takes us right to the heart of the matter. The world itself is conceived as a game of dice which Śiva plays with his queen. The whole story hinges on the fateful *dyūta,* or gambling tournament, in which Yudhiṣṭira plays dice with the Pāṇḍava tribe and loses all his property, his kingdom, and his wife, Draupadī. The place where the tournament was played, the consecrated playground, was the *dyūtamaṇḍala,* a gaming circle. It was drawn with the greatest care according to geomantic rites of orientation. ... The players were not allowed to leave the ring until they had discharged all their obligations. [...] But to understand the larger significance of the *dyūta* we should first recall the fact that the earliest literary reference to gambling is the celebrated "Gamester's Lament" in the *Ṛg Veda.* […] We might call it 'total theatre', with the play principle again the imprinting element. The symbolic import of the *dyūta* is typically Indian: a ritual contest in which the final decision is left in the hands of the gods. Though the *dyūta* scheme consists of the two most basic play elements – *competition* and *chance,* much the greater emphasis is on the latter. In games of chance the player has an entirely passive role, while in games of contest the player is active. Destiny is the architect of victory or defeat in a game of chance (Lannoy, 1974, 298-299).

Extrapolating from Lannoy, the implications of this view are quite serious for understanding the priority of *dharma yuddha* because the concept of *līlā*

(play) downplays the issue of personal and divine responsibility in warfare. As a case in point, we might again turn to the *Mbh.*:

> Arjuna's role is to maintain the social equilibrium at all costs. He must fight because contest between groups is a *ritualized game;* there are no real victors outside the play enclosure, the staked-out field of battle, the demarcated area in which the tiles of agnostic contest must be observed. Whether it is a game of chance or a game of competition, the play principle in the caste society does not cater for individual merit or vindicate personal responsibility (Lannoy, 1974, 300-301).

One problem with this theological argument is that it conveys an image of a "devious divinity"[185] who plays with the lives of humans. Whether the military rules of such a divinity ought to be trusted is certainly a concern. Indeed, the notion of a playful violent god raises the philosophical problem of "Divine Volunteerism" (also known as "Divine Command Theory"), which explores the morality of God's commandments to human beings.[186] It posits that a truly loving, omniscient, omnipotent, and perfect God would only issue good commandments to humans. Humans must therefore respond to God accordingly by obeying God's commandments, which are by definition "good" since God is seen as the very source of goodness. This theory, however, is problematic on the grounds that God could command anything, which by definition coming from God must be "good." The right response from humans

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[185] The term "devious divinity" here comes from Bimal Krishna Matilal's article, "*Kṛṣṇa:* in Defence of a Devious Divinity," found in Arvind Sharma (ed.) *Essays on the Mahābhārata*, (New York: E.J. Brill, 1991). His excellent article explores Kṛṣṇa's complicity in devious ethical conduct during the *Mbh.* war.
[186] For a good discussion of the 'Divine Volunteerism/ Divine Command Theory" see: Michael J. Harris, *Divine Command Ethics: Jewish and Christian Perspectives.* Abingdon, UK: Routledge, 2003.

would be to follow God's instructions. Thus, when God commands Abraham to sacrifice his son, Abraham must obey because God implicitly is right and good. The larger message of Divine Command Theory is that humans should always obey God's commandments. But what if God demands genocide as witnessed in some Hebrew Bible passages (e.g., Deut 7: 1-2; Deut 20:16; 1 Samuel 15:1-4). Must a human army obey such commands? The theory of "Divine Volunteerism" suggests that blind obedience to God's laws is foolish and dangerous. The theory also raises the questions: whose God is the authentic God anyway? Are all gods' commands equally valid? What happens when the gods' commands contradict each other? Suffice it to say, "Divine Volunteerism" casts a shadow over the assumption of absolute obedience to divine rules, and questions whether such obedience is deserved.

Returning to *dharma yuddha*, scholars have struggled to reconcile Hindu theological arguments in light of verses from the Epics that present the God Kṛṣṇa as a deity responsible for duplicitous divine infractions of ethical-religious laws (Katz, 1989, 155-200; Matilal, 1991, 369-383). For example, Kṛṣṇa claims that the end justifies the means in the *Mahābhārata* (9. 61, 61-67) as a basis for his deceptive actions:

> From my desire to do good to you, I repeatedly applied my powers of illusion and caused them to be slain by diverse means in battle. If I had not adopted such deceitful ways in battle, victory would never have been yours, not kingdom, not wealth! ... You should not take it to heart that this foe of yours has been slain deceitfully. When the number of one's foes becomes great, then destruction should be effected by contrivances and means. The gods themselves, in slaying the Asuras, have trod the same way. That

way, therefore, that hath been trod by the gods, may be trod by all (trans. Ganguli, 2002, 129).

Such expediency in warfare is further noted by Basham: "The heroes of the *Mahābhārata* infringe [the rules of war] many times, even at the behest of their mentor Kṛṣṇa, and the infringements are explained and pardoned by recourse to casuistical arguments of expediency and necessity. ... Where chances [of victory] were narrow, the claims of self-preservation inevitably made themselves felt" (1954, 126).

The fact that such justifications for sublimating *dharma yuddha* to higher divine imperatives are compelling explanations for ethical transgressions can also be seen in Hindu views of fate, predestination, and illusion, which have serious implications on how *dharma yuddha* is conceptualized in Hindu thought. As von Brück notes, "[f]or the issue of war and peace the concept of karma (*karman*) is of crucial importance. It signifies the interdependence of reality and the reciprocal causality between cause and result. This causality works not only in the physical but also in the mental and moral sphere" (von Brück, 27-28). When considering war in light of a larger Hindu religious framework, the issue of responsibility and blame in war becomes a very cloudy affair made opaque by the variables of fate, karma and divine play. This question of blame for war becomes significant because *dharma yuddha* requires a just cause to launch a war.

A case study illustrates this point. The *Mahābhārata* war is typically blamed on Duryodhana, the leader of the Kaurava army, for his power-

hungry selfish ways. Yet when situated in a larger context of Hindu religious beliefs, Allen (2006, 114) encourages readers to reexamine this assumption:

> Duryodhana was hardly a free agent. His very birth condemns him to represent evil, and it makes little sense to blame him. [After all,] It can be assumed that the gods are fighting a just war in defense of *dharma* against demons who represent *adharma.* … At a human level, Kṛṣṇa's failed embassy seems a catastrophe that confirms Duryodhana's wickedness, but at a divine level, the failure fits the *dharmic* plans of Brahmā. In other words, whatever the problems of justice among humans, from the viewpoint of the gods the war is both necessary and just.

Allen's article demystifies such metaphysical elements and insists that they must be *brought into the equation of understanding Hindu warfare,* especially in light of causation of the *Mahābhārata* war. Again, he notes that the key characters in the Epics blame the war on metaphysics—not human actions:

> Both Vyāsa and Dhṛitarāṣṭra blame the war in whole or part on fate (*daiva*). But as Vassilkov (1999) has argued, the concept of fate or destiny is very close to that of time (*kāla*), which is elaborated, both in the epic and elsewhere, to form a recognized doctrine (*kālavada*). When Kāla is personified, he is often identified with Śiva, and Śiva is god of destruction – albeit sometimes presented as creator no less than destroyer. … More centrally, the theory of time affects our evaluation of the war. Despite it being a victory for Yudhiṣṭira (who is Dharma incarnate), the outcome is paradoxically) not a better world, but a worse one: we must now endure the *kālī yuga* (Allen, 2006, 145-146).

Correlating the divine will with the march of time, one could also cite Kṛṣṇa's spine-tingling declaration in the *Bhagavad-Gītā* (Ch. 11: 32):

> "I am come as Time, the waster of the peoples,
> Ready for the hour that ripens to their ruin."[187]

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[187] Swami Prabhavananda and Christopher Isherwood, *Bhagavad-Gita: Song of God* (Penguin, 1981), 94.

When Arjuna recognizes Kṛṣṇa "as the Terror of time," he "surrenders" to Kṛṣṇa to become "the agent of the divine will" (Lannoy, 1974, 309). Thus, according to Zimmer, it is actually the Hindu metaphysical principle of "Time" (*kāla*) that operates in the background of Hindu warfare as the "supreme power" for even their gods "in their battle with the anti-gods, gained the victory, not because of valor, not by cunning or by the craft of their all-knowing Brahman-priest advisers, but only because *time* favoured them" (Zimmer, 1951, 99-100; italics mine). The message of the Epic here is that "No one can battle time. Its tides are mysterious. One must learn to accept them and submit to their unalterable rhythm [because] they will in time be swept away" (Zimmer, 1951, 100). Therefore, Hindu kings and warriors who fought valiantly but ultimately lost their battles could attribute their defeats to the vicissitudes of time "forsaken by fortune (*Śrī*), crushed by Fate (*daivam*), engulfed by Time (*kāla*)" (Zimmer, 1951, 102).

One other important theological framework impinging on Hindu discourse on warfare is to envision wars as a special type of religious sacrifice to the Gods to maintain order, which echoes and resembles the Vedic sacrifices of the past.[188] The concept of ritual sacrifice (Sanskrit: *yajña*) plays

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[188] In the Vedic period of ancient India, the performance of ritual sacrifice (*yajña*), allegedly ensured the maintance of social and cosmic order (Sullivan, 1997, 69). The ritual celebration of primordial cosmic creation was believed to facilitate the orderly working of society as the universe itself was envisioned as being created from the cosmic sacrifice of the primordial being Puruṣa and thus was created from violence. Consequently, the texts on *yajña* (sacrificial ritua celebration) are connected to Hindu attitudes towards violence in the scriptures. As the Vedas encouraged sacrificial rites, the cultivation of conscious violence (*hiṃsā*) was permitted with the intention to please (and emulate!) the Gods or Goddesses. As Elgood (2004, 53) states, "In the Vedic period…the five kinds of sacrificial victims were man, horse, bull, ram, and goat" (*Śatapatha Brāhmaṇa* 10.2.1.1.). Furthermore, "Wholesale sacrifice of men and animals, and

a seminal role in the early history of the Aryans and their cosmological conceptions of primordial time. Interestingly, *dharma yuddha* can be justified as a type of religious sacrifice that earns positive karmic merit on the battlefield. Indeed, the *Mahābhārata* describes battle as a great sacrifice in which "every soldier who advances against the enemy in battle takes part in the sacrifice of battle (*yuddhayajña*)" (*Śāntiparvan,* 99.13; Brekke, 2006, 115). Aho graphically describes the symbolic violence of Hindu warfare as follows:

> [L]ike no other holy book of the major world religions, [the *Mahābhārata*] glorifies warfare as a form of gruesome play, even more, as a sacrificial banquet: "The flesh of foes constitutes its libations and blood is its liquid offering." Lances, spears, and arrows are the "ladles of the sacrificer," and bows 'the large double-mouthed ladles.' Swords are the *sphis* or the wooden sticks with which lines are drawn on the sacrificial platform. Cut, pierce, and other such sounds that are heard in the front ranks of the array, constitute the *samans;* sung by the Vedic chanters in the abode of death. … That warrior whose altar is strewn with the severed heads of foes and steeds…obtains regions of felicity like those of the gods. He should therefore join in battle "as he does with his wife, with joy. He whose blood drenches the sacrificial altar already strewn with hair and flesh and bones, certainly succeeds in attaining a high end (*Mbh.* 12.98; Aho 1981, 71-72)).

Indologists Alf Hiltelbeitel (1976), Jarrod Whitaker (2004a, 162), and others further elucidate how Hindu descriptions of the carnage of military battles is cleverly reinterpreted as a "ritual sacrifice" where "the gore and carnage" are seen as "oblations (gifts offered in worship)":

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most probably of weapons too, took place' (Elgood, 2004, 66). cf. Jatavallabhula, Danielle Feller "*Ranayajña*: The Mahābhārata War as a Sacrifice" in *Violence Denied: Violence, non-Violence and the Rationalization of Violence in South Asian Cultural History,* edited by Jan E. M. Houben and Karel R. Van Kooij, Leiden: Brill. Brill's Indolgical Library, 1999: 97-103.

Thus, the flesh and the blood of the dead become oblations, and the mutilated bodies, bones, hair, severed heads, weapons, elephants and even the sounds of cutting and piercing have precise functions in the sacrifice of battle, according to Bhīṣma. Such references have made scholars conclude that the *Mahābhārata* war really is a sacrifice; the war is here compared to a *yajña* or Vedic sacrifice, and he who fights to the end enjoys the same benefits as would accrue from the performance of a *Vedicyajña* (Brekke, 2006, 115).

This sacrificial model of war offers a deeper theological value to the violence of Hindu battles even if its macabre symbolism is difficult to swallow or hear. "War itself was personified as *yajña*. It was then deemed that both war and Vedic sacrifice resulted in the same effect, viz., the attainment of heaven [known as *Vīrasvarga*] (*Mhb. Shānti* 98, 39; Dikshitar, 1987, 64).

In sum, Hindu metaphysical concepts such as *līlā, māyā, daivam, karma,* and *yajña* all play a significant (albeit ambivalent) roles in both underpinning and undermining Hindu notions of just war, and they deserve further exploration in future studies of *dharma yuddha*. This section has merely noted their invocation as an excuse for violations of the Hindu laws of war, and pointed to further grounds for exploration.

4.7. Chapter Conclusions: Misconceptions about *Dharma Yuddha*

This extensive chapter on Hindu paradigms of warfare has provided a detailed analysis of the militant etymology, historical roots, subsequent genesis, and actual stipulations of *dharma yuddha* within the realms of both political statecraft and theological frameworks. The chapter has elucidated

the textual sources that outline the rules of *dharma yuddha* in classical Hinduism, and demonstrated that these rules were an integral part of Hindu statecraft concerning the conduct of *rāja dharma*. Hindu scriptures and political texts legitimized and validated the laws of *dharma yuddha* thereby elevating the *kṣatriya dharma* and providing it with a noble and honourable vocation that justified killing for the sake of *dharma* (righteousness). Accordingly, *dharmic* kings and warriors were taught to fight to protect, maintain, and even expand the political state and the religio-cosmic order. Fulfilling these social and religious duties were said to bring a warrior a glorious rebirth in heaven filled with nymphs (*Mbh.,* 12.98.70-72).[189] Given such praise for sanctified violence, Hindu civilization was characterized by a martial ethos that resulted in along history of almost continuous endemic warfare (Chakravarti, 1972, 181; Dikshitar, 1987, 38).

On paper (or palm leaves to be more accurate), the Hindu rules of war embodied the principles of valour, fair play, compassion tolerance, and deference for spiritual and hierarchal authority, which came to characterize the idealized ethos of Hindu warfare. Such principles provided distinctive *dharmic* criteria for understanding "Just Warfare" in light of the Hindu

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[189] The cited passage above reads, "One should never lament over a hero killed in battle, for he becomes the lord of thousands of nymphs" (*Mbh.,* 12.98.70-72; Dikshitar 1987, 67-72). Another source states that the Hindu "belief that soldiers dying on the battle-field are transported to heaven is as old as the *Ṛgveda* (cf. *Ṛgveda* 10:154, 2-5) and is repeated almost to weariness in the *Mahābhārata*. For instance, the *Bhagavad Gītā* famously states: "You will go to heaven if killed, or you will enjoy the earth if victorious. Therefore, get up with a determination to fight, O Arjuna. (2.37)" (Whitaker, 2004b, 172). For similar sentiments expressed in later literature, see. Kauṭilya Ch. 10.3 (cited in Chakravarti, 1972, 184).

experience. Certain classes of people (beyond traditional non-combatants) such as religious priests (Brahmins), mendicants (*sādhus*), and those seeking salvation (*jīvan-muktis*) were not allowed to be killed despite the fact that these figures were often involved in combat anyway. Nevertheless, the Hindu principle of respect for authority, which has here been categorized by the term "the deference principle," was operational and normative in the idealized Hindu ethos of warfare. Additionally, *dharmic* Hindu warriors were guided by the distinctive "Compassion Principle" to avoid killing enemy soldiers who were not adequately physically, mentally, or emotionally prepared to fight (such as those who were frightened, mourning, confused, or injured). These prohibitions in the code of warrior code, however, may sound somewhat naive since they could be abused by a savvy and unscrupulous enemy who feigned distressed emotions to escape defeat; yet, nevertheless, *dharmic yuddha* elevated the psychological well-being of the enemy soldiers as a noble good, which was to be taken seriously. Moreover, the continued valorization of the Hindu warrior code after the arrival of Muslim armies in India is a testament to the deep-rooted influence of *dharma yuddha* in the psyche of Hindu military ethos (Yadava, 2001, 66-99).

However, this chapter has shown that the reality on the ground was far different than in the valorized depiction of warfare in the Epics. As Chakravarti (1972, 186) wisely remarks:

> To what extent these conventions of chivalry were observed in actual practice we do not know. It is probable that, like the Hague

and Geneva conventions in modern times, these rules were often forgotten in the bitterness of the conflict. Instances on record of villages and towns being burnt and destroyed, in which combatants and non-combatants alike suffered, of the desecration of temples and sanctuaries by relentless conquerors, and of the imprisonment of women in violation of the precepts of the *Dharma-śāstra.* There are instances also of the use of treachery and fraud, of broken pledges, of cruel assassinations in cold blood.

Ironically, the rules of *dharma yuddha* were often violated even by those who supported them. Numerous examples have been cited from the Epics illustrate the fickle commitment to *dharma yuddha* by its protagonists. Indeed, one begins to question if such rules were merely a vestige of high-caste honour (representing a veneer of self-righteous bourgeois identity), which were sacrificed on the altar of expediency once lives were put on the line. Since the *kṣatriya* viewed themselves as higher than other groups in Hindu society, it stands to reason that they were theoretically bound to a higher code of noble conduct; yet we may reasonably question the underlying rationale of some *dharma yuddha* stipulations and even suggest that there may be more insidious motivations behind them such as efforts to humiliate prisoners of war and to deny them entrance to the heaven of the warriors.

Finally, this chapter has noted several hermeneutical strategies used to reconcile the paradoxical Hindu affirmations and contraventions of the rules of war. These strategies were enumerated as follows: (1) Supreme emergencies allow for violations of the rules of war during situations of emergency; (2) Pāṇḍava violations are responses to previous Kaurava

violations because the rules of *dharma yuddha* allow for reciprocity in conduct; (3) The carnage and ethical transgressions of war illustrate the ultimate futility of war since even the "righteous forces" are tarnished by the sins of war; and (4) The violations of the rules of war are all part of God's mysterious plan for saving the world, which can be explained in terms of *līlā, daiva, kāla, avatāra,* and *yuddhayajña.*

In addition to these points, this author has identified ten important fallacies about *dharma yuddha* that have never been collated together in one source until now. These fallacies are presented here for further academic scrutiny as common misconceptions about *dharma yuddha*:

1. Contrary to the popular Western view of "Hinduism" as a religion of non-violence this chapter has shown that war was a normal practice in Hindu society for most of its history as a result of its political statecraft, militant mythology, and even theological formulations. It is incorrect to see Arjuna's doubt and confusion about fighting as an early example of Hindu "conscientious objection" because Arjuna's internal conflict pertained to his tension over conflicting duties rather than the moral reprehension of killing.[190] Nevertheless, Hindu warfare can be classified as "tolerant warfare" rather than "intolerant warfare" in so far as the rules of *dharma yuddha* were applied and war was not waged to annihilate enemy peoples and/or ideologies.

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[190] Von Brück concurs with this assessment when he argues that Arjuna's dilemma *is not* pacifism or conscientious objection but rather a conflict of duties. He remarks, "Arjuna does not refuse to fight because he entertains any abstract idea of non-violence (*ahiṃsā*) or a pacifistic anti-war complex" (von Brück, 2004, 26). Rather he refuses to fight because of a conflict of duties. As he looks across the battlefield, "he sees among the hostile army all his relatives, uncles etc. His dutiful connectivity with the family and the clan, his *kula* ('family') *dharma,* obliges him to protect his relatives; but at the same time, as a warrior prince, he is obliged to fight. Thus we have a classical conflict of duties. Arjuna's *svadharma,* as a member of the Kṣatriyas, contradicts his *kuladharma.* Kṛṣṇa convinces him successfully that his duty to uphold the universal dharma in society is a higher value than his duties towards his relatives because it is a just war which serves the reinstallation of the true and right *dharmic* order in society. Arjuna's war, therefore, is not a war of aggression (as in the case of Kauṭilya's *Arthaśāstra*), but a form of *daṇḍa* in a universal dharmic sense" (von Brück, 2004, 27).

2. Contrary to the viewpoint that militancy is an aberration in Hindu history, this chapter has shown that warfare was a major practice of classical Hindu statecraft. Organizations such as the *World Council of Churches* are wrong when they claim, "Hindu Militancy is not scripturalist" (World Council of Churches, 2001, p.2). Such a claim is ill-informed about the links of Hindu scriptures to war. A selective reading of Hindu scriptures could be used (and has been used) to justify warfare in both historical and contemporary times as the *Hindutva* movement attests (Malik, 2009, 1-9; Bhatt, 2001, 193).

3. Contrary to the viewpoint that classical Hindu warfare was always fought chivalrously by the principles of *dharma yuddha,* this chapter has shown that two schools of military thought characterized ancient India: the devious war school (*kūṭa yuddha*) and the righteous/fair war school (*dharma yuddha*). Both of these schools of warfare characterized the classical period in the history of Hindu statecraft.

4. Contrary to the assumption that the heroes of the Hindu epics always upheld, honoured, and lived up to the principles of *dharma yuddha,* this chapter has shown that the Hindu code of warfare was often transgressed by even the best intentioned Hindu warriors resulting in serious ethical violations. Contrary to the idealized picture of fair-play in war described in the Epics, violations of the standard rules of war occurred for a variety of reasons including the actions of mercenaries.

5. On the other hand, it would be a misconception to conclude that Hindu civilization endorsed physical warfare as its highest ideal. This chapter has embedded Hindu models of warfare within the larger framework of moral obligations concerning class duties, political statecraft and theological exigencies. It was also shown that the Hindu tradition makes important distinctions among the meanings of the terms violence (*hiṃsā*), force (*daṇḍa*), and war (*yuddha*) in its mythic, legal, and philosophical corpus. Thus, not all wars are judged to be the same.

6. Contrary to the viewpoint that only *kṣatriya* soldiers fought Hindu battles, this chapter has demonstrated that even in classical times, Hindu armies consisted of soldiers from each *varṇa* including the prestigious Brahmins and the despised untouchables. Such facts challenge the widespread assumption, lauded in the *Gītā,* that Hindu combat prohibited non-*kṣatriyas* from employment in Hindu armies. In theory, this may have been the case but in reality all castes were used as warriors. Consequently, Dikshitar's is wrong to suggest that military service was confined to only the *kṣatriya* caste (1987, 6).

7. Contrary to modern Gandhian views of Hinduism as a religion of peace, many Hindus living before Gandhi did not see Hindu scriptures about battles as merely allegorical conflicts. Instead, they read (and even today some still read) tales of Hindu warfare as inspirational for real combat with noble guidance about how wars ought to be fought.

8. Contrary to one-dimensional readings of the *Bhagavad Gītā* as either a text promoting Holy War or advocating peaceful spiritual battle in one's conscience, it has been noted that the *Gītā* propounds *dharma yuddha* (a righteous war) within a larger soteriological framework. A *dharma* war and a holy war are not necessarily the same thing. As a case in point, the early Vedic wars were certainly holy wars fought by the Aryans against the Daysus since the former invoked gods (*devas*) to bring victory, but these wars did not uphold principles of fair play in combat. Thus, they were Hindu holy wars but not a *dharma yuddha*.

9. Contrary to the popular stereotype that the *Bhagavad Gītā* epitomizes the normative view of Hindu warfare, this work has shown that Hindu attitudes to war found in the *Gītā* are one-sided. The *Gītā* is a small part of a much larger religious tradition. Adopting its perspective as normative for the entire Hindu tradition leads to fallacies about Hindu warfare. Such fallacies are evident in a statement made by the Pakistan News Service, which claimed: "Hindu warriors can fight without feelings of guilt because the souls of those killed will be reincarnated" (*Pakistan News Service,* 1998, 2). Here, Hindu views of war are reduced to a trivializing of the *Gītā's* nuanced complexities.

10. Contrary to the view that the rules of *dharma yuddha* stand out as a shining light in the history of civilized warfare (Basham 1954, 8-9), this work has suggested that some of the rules may have been rooted in less noble motives such as the desire to shame or humiliate adversaries. As previously noted, enemy prisoners were required to wear women's clothes and to get on their knees like animals to beg for clemency. Captured warriors were also denied entry into heaven, which was arguably the *raison d'être* of the warrior's life alongside protecting *dharma* and expanding the king's domains. In this light, the Hindu rules of war may reflect mixed motives, which is a position that has not yet figured much into scholarly discussions.

It is hoped that having clarified these misconceptions, this particular chapter provides greater precision as well as a better foundation for further scholarly research into *dharma yuddha* in the years ahead.

CHAPTER FIVE:

COMPARATIVE ANALYSIS OF JUST WAR AND *DHARMA YUDDHA*

5.1. Introduction

A comparative study of Walzerian and Hindu notions of Just War offers stark differences and unexpected resonances between their respective rationales of warfare. Fundamental tensions exist between their positions on the relationship between individual rights and collective duties as well as the grounds for the justification of military force. Whereas Walzer embraces a human rights based approach of Just War theory that is predicated on the notion of a universal morality, Hindu thinkers conversely adopt a duty-based communal approach. Moreover, Hindu texts promote contextual or situational ethics that depend on time, place and station in life. Nevertheless, both Walzerian and Hindu notions of Just War identify inalienable duties or rights, which may be overruled only in a "supreme emergency".

An innate tension between moral individualism and political communitarianism underlies both Walzer's and Hindu writings, and each approach to Just War simultaneously seeks to reconcile these two strands in their theorizing. This tension is illustrated by Walzer's simultaneous emphasis on individual human rights, state sovereignty, and the collective aspirations of nations for self-determination. Correspondingly, Hindu ethics reflects a similar tension in so far as it simultaneously affirms a deontological duty-based approach to *dharmic* rules to protect communal well-being

(wherein the individual is subsumed in a larger whole), yet at the same time includes laws to protect individuals from abuses during wartime. As will be shown, both Walzerian writings and Hindu ethics include provisions allowing the normative rules of warfare to be overruled in situations of "supreme emergency" where society's very existence is threatened. In such cases, the preservation of the collective trumps individual rights. Yet, despite this outward similarity, each system is morally predicated on different ethical foundations, which cannot be assumed to be commensurate.

The purpose of this chapter is to compare the precepts of *dharma yuddha* with Walzer's theory of Just War. Significant points of consensus will be elucidated and several major conceptual divergences will also be explored. In particular, the chapter will juxtapose the underlying ethical differences behind Walzer's theory with the principles of *dharma yuddha*. Important questions will be asked regarding whether each theory of Just War plays by the same "rules of the game" or whether they even share similar values, goals, or motives in their respective conceptualizations of warfare. In doing so, the work will probe the salient moral dilemmas, philosophical contradictions, and structural differences found within both Walzerian and Hindu perspectives on Just War.

The rationale of *dharma yuddha* provides an alternative understanding of warfare from a non-Western paradigm. Although the rules of warfare may be similar, their underlying rationales are not. By

investigating how an Indian dharmic religion views human rights and duties in the context of war, we can inquire into whether practitioners of *dharma yuddha* see human rights as having a valid place in war, or whether they see individual rights as being abrogated by the greater demands of the military struggle.

5.2. Similarities between Walzer's Just War and *Dharma Yuddha*

Our analysis will start with the identification of five conceptual convergences between Walzer's and Hindu thought. These similarities provide salient points of comparison between Walzer's Just War principles and the rules of *dharma yuddha.*

5.2.1. Shared Mutual Concern for *Jus in Bello* Conduct, especially for Civilian Well-Being (Non-Combatant Immunity)

Walzer's theory and the Hindu principles of *dharma yuddha* both show admirable respect for the classical Just War principle of non-combatant immunity. In Just War terminology, respect for non-combatants falls under the traditional criteria of "Discrimination" and "Proportionality." Both criteria are intended to protect civilians from being killed or molested during combat operations, and to ensure that fighting is fair and proportionate to the threat. Each of these criteria receives substantial attention in Walzerian and Hindu writings. The Hindu *Law Books of Manu* and the *Mahābhārata* insist that civilians must not be injured or killed (*Mbh.* 12.9.47; *Mbh*

12.100.17-29). Likewise, Walzer repeats this Just War mantra[191] (Walzer, 2000, 171; 185-186). Both the Hindu *dharmic* tradition and Walzer also aver the legitimacy of fair play (proportionality) in their insistence on combat between equal partners or forces, which is evidenced in the ubiquity of dual combats found in the Hindu epics. In these respects, then, each body of writings affirms classic principles of Just War to "civilize" the combat and to minimize its destructive aspects outside the realm of soldiers.

5.2.2. Shared Mutual Concern for Fighting for a 'Greater Good'

A second similarity between Walzer's model of Just War and Hinduism's *dharma yuddha* is found in their mutual emphasis on fighting for a greater good. Both systems do not support unlimited or unrestrained war. Rather they support war for the greater benefit of humankind, or for a more grandiose cosmic well-being (Sanskrit: *loka-saṃgraha*).

One could even suggest that both Hinduism and Walzer advocate forms of military Utilitarianism (although Walzer claims his views are rooted more in notions of "rights" and "contractarianism") (Walzer, 2000, 54-55) since echoes of Utilitarianism are found in both systems. For instance, if we turn to the famous Hindu text, the *Bhagavad Gītā,* killing one's enemy is justified for the greater good of society and the well-being of the world

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[191] Accordingly, in his discussion of Guerrilla Warfare, Walzer writes, "if civilians had no rights at all, or were thought to have none, it would be of small benefit to hide among them" (2000, 186).

(Majumdar, 2010, 299; cf. Sen, 2000). From the *Gītā's* perspective, fighting a *dharmic war* ("righteous war") leads to the benefit of more people than the individual deaths involved, and it is a sacred duty of the warrior caste to protect society.

The Gita's emphasis on fighting to uphold the well-being of the world (*loka-saṃgraha*) finds resonance in Walzer's comments regarding the notion of "Double Effect," which is the permissive view that soldiers may take actions that accidentally harm innocent lives for a greater good. This military doctrine is analogous to Kṛṣṇa's advice in *Bhagavad Gītā,* which allows soldiers to take actions that may kill innocent lives as unintended consequences of seeking the well-being of the world. Hence, hints of utilitarianism are evident in both perspectives on war as each affirms that the protection of the social fabric is a greater good than unintended deaths caused by wars.

5.2.3. Shared Mutual Concern for "Right Intention" in Combat

A third similarity between Walzer's Just War and *dharma yuddha* regards the classic Just War criteria of "Right Intention." As explained in Chapter Two, a standard condition of *jus ad bellum* is the importance of "Right Intention" by the proper authorities to undertake the serious endeavor of war. Thus, one's "motives in waging a war can also be an important consideration in judging it morally: to fight out of hatred or for the pleasures

of battle is always wrong" (Nardin, 1996, 256). However, a war that is "fought without willing the deaths of enemy soldiers – that is, one fought in circumstances in which peace does not exist or is threatened, and where one's intent is to achieve or restore peace by resisting an enemy while causing as little harm to that enemy as possible" (Nardin, 1996, 257), is more morally legitimate in Just War discourse. Hence, the question of 'Right Intention' is an important principle of Just War theory:

> [It] forbids actively willing the deaths of one's enemies. … Both governments and soldiers must intend to fight on just grounds, and their choices must not be motivated by hatred or other doubtful motives. They must avoid causing disproportionate ("unfair") destruction in pursuit of military ends. Above all, they must not intend, either as an end or as a means to an end, the deaths of innocents. The moral force of this last constraint is often called the principle of discrimination or noncombatant immunity. But one may choose to conduct military operations one knows will harm noncombatants, provided that such harm is unavoidable and that it is proportionate (Nardin, 1996, 257-59).

Hindu and Walzer's writings both elevate the criterion of "Right Intention" as one of the key principles in their thinking. They mutually agree that a Just War must not be waged for selfish reasons such as greed, spite, anger, hatred, jealousy and revenge. In the Hindu sphere, this is best exemplified by the teachings of the *Bhagavad Gītā,* which espouses a doctrine of *niṣkāma karma* (dispassionate action) rooted in both *karma yoga* (disciplined action), *jñāna yoga* (discerning wisdom) and *bhakti yoga* (disciplined devotion). As previously explained, this famous Hindu text teaches that violence and war are not to be undertaken for their own sakes (or for greed and power), but

performed in a spirit of passionless action (*niṣkāma karma*) without desire for reward. In the *Arthaśāstra,* this type of selfish war is called *"lobha vijayin"* (greedy conqueror). The *Gītā* makes it clear that in battle, "a true spiritual warrior can only use violence if it is not for his own gain and, if while engaging in it, he maintains tranquility of heart and mind" (Klaus, 1975, 18). This means that a *"dharmic* warrior" cannot wage war if he or she is fighting for personal gain or if he or she has feelings of anger or hatred.[192]

Similarly, Michael Walzer emphasizes the role of "Right Intention" in his theory of Just War by introducing his doctrine of "Double Intention." Briefly put, soldiers must not only ensure that the harm inflicted on non-combatants is proportional to the military objectives sought but also construct strategies to minimize harm to all non-combatants as part of their calculations. He expands the traditional Just War principle of "Double Effect" to include motives in order to make it more restrictive (Walzer, 1977, 155).[193]

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[192] Despite this point, the *Bhagavad Gītā's* teachings on warfare have been criticized as being permissive towards violence. Richard Lannoy (1974, 307) argues that the most controversial verse in the *Gītā* is Krishna's divine instruction: "If you are killed in action, heaven will be your lot; if you survive, you will rule the World. Hence, fight!' Many have found this argument immoral; the glorification of worldly power as a just reward for violence... [However,] the answer to this charge is implicit in the text: acts must be performed without the attachment to their fruits. The *Gītā* formulates this most important ethical doctrine as follows: 'He who resigns his activities to the Universal Self by forsaking attachment to them and their results, remains unstained by evil – just as the lotus leaf remains unstained by water.' [Nevertheless, Lannoy argues] The manner in which Krishna expresses his injunction to fight seems to come dangerously near to moral equivocation, for it appears to be no more than a specious declaration that a violent action cannot be wrong as long as the doer is detached from what he is doing. To say that it is impossible to kill an opponent's *soul* because one only kills his *body* might conceivably be right in Arjuna's case, but the *Gītā* is couched in terms which clearly imply universal applicability."

[193] Analysis of Walzer's concept of "Double Intention" in circumscribing warfare against non-combatants can be found in Stephen Nathanson (2006, 10-12), and Shannon E. French (2003, 38-46).

5.2.4. Cognate Doctrines of Emergency Ethics in Walzerian and Hindu Statecraft

A salient convergence between Walzer and Hindu rules of Just Warfare is their parallel perspectives on the topic of "Supreme emergencies," which support the abrogation of the normal rules of war. Both theories of war agree that in situations of extremity and duress, a community may rightly choose to set aside its rules of warfare for survival.[194] The underlying premise here is that ordinary morality is not absolute because it can be abrogated in situations of dire need, such as genocide. In this manner, Just War criteria are penultimate guidelines and not ultimately binding rules. However, both Walzer and Hindu writings agree that it is only in very rare circumstances when the rules of war can legitimately be broken. This fascinating coincidence of beliefs deserves further investigation.

What is an "extreme emergency" in war? According to Walzer, an extreme emergency in wartime consists of a situation in which the very existence of a group of people and its culture is on the brink of extermination (Walzer, 251-268; cf. Cook, 2007, 138-161). In such cases, such as his example of the Nazi genocide of European Jews, transgressions of the rules of war are justified, he argues. He also contends that prior to 1943, the Battle

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[194] Interestingly, several religious traditions of the world recognize the importance of overriding standard rules of morality in extreme emergency situations. For instance, "Bassam Tibi calls attention to the Islamic precept, "Necessity overrides the forbidden," (Miller 1996, 268). Correspondingly, a "version of this argument has long been acknowledged in Judaism, on the ground that the law was given so that Jews might live by it, not die by it. Thus, it is accepted that certain laws (like those that ban fighting on the Sabbath) may if necessary be set aside" (Nardin, 1996, 260-261). Parallel notions of *Taqiyya* (in Muslim ethics) and *Upāya* (in Kālachakra Buddhism) allow for violations of everyday morality. The aforementioned examples provide fertile ground for futher inquiry into the topic of emergency ethics in cross-cultural perspective.

of Britain of WWII, was another example of 'extreme emergency' at least for the British people. He suggests that the very survival of the British people was at stake from the Nazi bombing of the British cities. This latter example, however, does not have as much weight as his former one. The Nazi bombing of British cities during WWII, though indiscriminately destructive, did not threaten its population with complete extermination since most bombing of civilian targets missed their mark. Nevertheless, Walzer justifies British retaliation with "terror bombing" against German civilian targets (not industrial targets) as a legitimate response in this situation, thereby violating the Just War principle of "Discrimination" and "Non-combatant immunity". Suffice it to say, because war is an inherently dangerous and life-threatening activity surrounded by emergency, the idea of a supreme emergency is deeply problematic.

Correspondingly, the Hindu perspective on "Supreme Emergencies" (*Āpad-dharma*) also allows for the theoretical possibility of the suspension of *dharma yuddha* in wartime situations of "distress (*āpattikāla*) where 'righteousness is transgressed by all,' [and] the rāja may be permitted the use of any scheme or tack to defend the social order" (Aho, 1981, 66). The Hindu rules of *āpad-dharma* are explicated in the *Śāntiparva* (80, 5) of the *Mahābhārata:*

> [The widely respected Hindu military general Bhīṣma] upholds, the right of a king to resort, in cases of dire necessity, to the Dharma of Crisis or *āpaddharma*. He does this in response to the persistent questioning of Yudhishthira on the correctness of political ethics at

a time when the moral values of the society have degenerated, the financial resources of the government are depleted, and the army is harried by its enemies, to whose side former allies have deserted. In reply, Bhīṣma grants any man the right to transgress the injunctions of the Dharma at the time of crisis, but that at all other times in the course of normal life the dharma of Righteousness must be observed. This is a point of extreme importance, for it raises the whole problem of the extent to which Indian tradition sanctions immoral actions in wartime, and the degree of guilt to be imputed to those who have recourse to such actions in their effort to defeat an implacable foe (Lannoy, 1974, 324-325).

Āpad-dharma then is the suspension of *varṇāśramadharma* and *svadharma* so society can survive in an emergency situation brought on by war or the social admixture of caste. This practice allows a society to be able to temporarily reallocate certain caste duties in order to give some relief to the stress that is occurring from the emergency situation but such an inversion of roles should only be performed for the shortest possible time as Basham explains:

> The Smṛti literature contains special sections of "duty when in distress" (*āpad-dharma*), which carefully define what a man may legitimately do when he cannot earn a living by the profession normally followed by his class, and by these provisions Brahmans might pursue all manner of trades and professions. Many were employed in important government posts, and several royal families were of Brahman origin (Basham, 1954, 140).

However, an exception to *āpad-dharma* involves the role of the priestly Brahmin who may be able to relocate into other *varṇa* but no other *varṇa* would be able to relocate to the Brahmin. These situations of emergency are countenanced in Hindu thought in part due to Hindu metaphysical conceptions of time: According to Hindu cosmology, the earth goes through

several cycles of creation and destruction. Each cycle consists of several ages and it is claimed that humans currently live in the Dark Age (Sanskrit: "*Kālī-Yuga*"), which is said to be characterized by war, violence, crime, greed, lust, pride, ego, and selfishness (Sharma, 1974, 31). In order to survive in this dark time, 'transgressive ethics' are occasionally utilized to deal with the alleged increasing moral depravity of humanity (Katz, 1989, 175-178). These ethics are necessitated by the corruption of the *Kālī-Yuga* wherein pristine ethics no longer function with effectiveness. Such metaphysical temporal considerations are relevant to understanding Hindu views of Just War since the latter is embedded within the former.

It is also interesting to note that the idea of "Supreme Emergency" is not merely a religious concept in India but is a principle that is deeply embedded within Hindu politics and society. Consequently, one of the modern Prime Ministers of India, Mrs. Indira Gandhi, was during the 1970s, able to impose a controversial period of martial law on India's population, aptly called "The Emergency," for an alleged crisis of democracy (Wolpert, 1993, 356). Modern India's very own constitution was written with built-in emergency provisions allowing the executive branch of government to override parliament with extraordinary powers giving it a political trump card in emergency situations. This feature was already deeply rooted in Hindu war thinking and Indian consciousness.

In summary, the role of "Emergency Ethics" in Walzerian and Hindu thinking provides a fascinating parallel of their views of war. Both concede that the rules of Just Warfare are not always entirely binding in times of severe distress; despite their efforts to restrict the abuses of this doctrine, however, each system of thought contains a slippery loophole that undermines the rules of war. Such a theoretical "escape value" provides a clause for abuse by unscrupulous rulers/commanders who may take advantage of this point to violate conventional rules of warfare. Commentators have noted that it is difficult to draw the line between regular wartime emergencies and supreme emergences and some would suggest that the line should never be drawn because it severely weakens the rules of war (Nathanson, 2006, pp. 12-16; Coady, 2002, pp. 8-21).

5.2.5. A Shared Spirit of Chivalry in *Dharma Yuddha* and Just War Conduct

The Hindu rules of *dharma yuddha* and Walzer's Just War theory also share an ethos of fair play rooted in an earlier chivalrous age of feudal values. We have seen that both Walzerian and Hindu thought advocate balanced battle in military conduct. Such considerations arise from an earlier period of warfare in which chivalry and feudalism[195] characterized European

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[195] Bashman writes that authors "differ on the definition of a feudal system. Some would confine the term to the complex structure of contractual relations covering the whole of society from king to villein, which prevailed in medieval Europe. Others use the term so loosely that they apply it to any system where political power is chiefly in the hands of those who own land. ... Something very like European feudalism did evolve among the Rajputs after the Muslim invasion... Ancient India had, however, a system of over-lordship, which was quasi-feudal, though never as fully developed as in Europe, and resting on a different

and Indian thinking about war. Such chivalry resulted in the notion of warfare as *dullem* (duels between knights of equal status). It was consequently inappropriate for a knight on horseback to strike a foot-solider. The emphasis on fighting duels between knights of equal standing in the midst of a larger battle was particularly salient in Hindu attitudes towards *jus in bello*. Elgood reports that the "influence of this warrior tradition permeated [Hindu society] in the same manner that the tradition of chivalry influenced literary and behavior patterns over successive centuries in Western Europe. The tradition stretched from cradle to grave" (Elgood, 2004, 181). In India, as described in the previous chapter, *kṣatriyas* were only supposed to fight *kṣatriyas* while other so-called inferior soldiers (e.g., non-heriditory warriors) were supposed to mind their own business. Of course, the reality was much different than theoretical models suggest and these rules broke down when *kṣatriyas* fought foreign armies who did not play by the same rules. Battle chaos ensued. Nevertheless, the spirit of chivalrous fighting lingered on in India even after it was overrun by foreign armies, until Hindu kingdoms were forced to adapt to new tactics. Indian Historian

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basis. The Indian system differed from that of Europe in that the relations of overlord and vassals were not regularly based on contract, whether theoretical or otherwise, and ancient India had nothing quite comparable to the European manor. When decisively defeated in battle a king might render homage to his conqueror and retain his throne. Thus vassals usually became so by conquest rather than by contract, although the *Arthaśāstra* advises a weak king to render voluntary homage if necessary to a stronger neighbour. This state of affairs was supported by the Epics and Smrti literature, which discourages outright conquest. 'Lawful conquest' (*dharmavijaya*) did not involve the absorption of the conquered kingdom, but merely its reduction to vassal status. … The degrees of control of overlord over vassal varied much. Ideally the basal was expected to pay regular tribute to his emperor, and to assist him with troops and funds in war. He attends the overlord's court on ceremonial occasions...In his charters the vassal was expected to mention the name and title of his overlord before his own...and his daughters might be demanded for the imperial harem" (Basham, 1954, 93-95).

Dikshitar provides a realistic assessment of this chivalrous spirit of Hindu warriors in his following indictment:

> The foregoing survey may convince an impartial student of history that the ancient Hindus had evolved precepts on fair fighting which formed a chivalrous code of military honour. But it must be admitted that these laws of war including the laws of chivalry were so varied and so complicated that they led to ineffective discipline, in some cases owing to excess on the part of leaders and in others to the gradual extinction of the martial qualities by misplaced generosity through forgiving dangerous enemies who sought shelter or refuge in order to study the enemy's weakness and then attack him with redoubled force (Dikshitar, 1987, 92).

5.3. Differences between Walzer's Just War and *Dharma Yuddha*

Beyond the above convergences, however, lies a cluster of differences that also demand attention, which are the fous of this section.

5.3.1. Lack of Hindu Concern for *Jus ad Bellum* Rules

Perhaps the most obvious difference between Walzer's and Hindu models of Just War is the relative lack of interest that Hindu texts show toward issues of *jus ad bellum*. Brekke acknowledges this point in his article *"Between Prudence and Heroism: Ethics of War in the Hindu Tradition"* when he states, "At this point we are in a position to pose the first fundamental comparative question about the ethics of war in India and Europe. Indian writers produced plenty of literature about war but they were never concerned with *jus ad bellum*. Why did pre-modern Hindu writers take so little interest in questions of legitimate authority, just cause, right intention

and the like?" (2006, 119). One reason for this lack of attention, he suggests, is that "Indian political scientists did not perceive the international system as a whole with autonomous states with kings of equal standing. There were clear notions about how a king should run his country and how he should behave towards other kings but there was no notion of sovereignty in the European sense" (2006, 120). In other words, the "classical Hindu kingdom did not have clear borders. In fact, the state described by Kauṭilya is a state with fuzzy and permeable borders" (Brekke, 2006, 121). It was taken for granted as a king's divine right to conquer. Indeed, "In the classical Hindu world view, the legitimate authority of the king needs no defending or explanation. In the tradition of statecraft, war against another king is an extension of the proper use of violence to maintain order within the realm. The legitimate authority is self-evident in external affairs, as it is in internal affairs where it is part of the social contract where the king must maintain order and punish the evil" (Brekke, 2006, 121). For the above reasons, Hindu writers typically "did not care to discuss legitimate authority in matters of war" (Brekke, 121). Consequently, the *Dharmaśāstra* literature, which outlines the duties of the kings, according to Brekke, does not contain "clear statements about the right authority to initiate war or what constitutes a just cause for war" because warfare was taken for granted as part of the duties of kingship *rājadharma*) (Brekke, 2006, 115). Yet, at the same time, this "does not mean that the Hindu tradition did not care about justifications of war.

The fact is that, in the worldview of the *rājadharma,* questions of just war were so fundamental that they were seldom spelled out. They were implicit in any debate on the rights and duties of kings" (Brekke, 2006, 115). Moreover, it "can be assumed that the gods [or heroes] are fighting a just war in defense of dharma against demons who represent *adharma*" (Allen, 2006, 144). Within this context, it makes sense that the authors of the *Mbh.* supposed a just cause of the *Mahābhārata* war since the Paṇḍava's "opponents have broken a contract when Duryodhana refused to return the kingdom to righteous Yudhiṣṭira as promised. We may find similar cases in Indian literature, where the case for war is seen to be just because of the misbehavior of an opponent, as in the *Rāmāyaṇa*" (Brekke, 2006, 136).[196]

5.3.2. Hindu Discourse on War Places Duties before Rights

Walzer's Just War theory is predicated on the assumption that universal human rights require soldiers to adhere to codes of conduct in warfare to protect civilians (non-combatants) based on the classical Just War principles of discrimination and non-combatant immunity. Walzer's views on human rights therefore underpin his advocacy for "just causes" of wars such as aggression or when rights are violated. Moreover, Walzer suggests that all cultures are likely to accept his rights-based theory because everyone, he claims, adopts an implicit universal morality (called a "Thin Morality" in his

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[196] For an interesting discussion of the *Mahābhārata* conflict from the point of view of "Just Cause", see M. A., Mehendale, *Reflections on the Mahābhārata War, Shimla: Indian Institute of Advanced Study*, 1995.

discourse) (Walzer, 1994, xi). As previously noted, "Thin morality, in short, consists of those basic moral rules that everyone, everywhere believes in" (Orend, 2002, 77). While Walzer's position may seem morally attractive to some, however, it is misleading to suggest that human rights are a universally accepted notion. The classical Indian context did not place much emphasis on notions of universal human rights, as illustrated below.

In Hindu thought, the role of duties by far outweighs the notion of human rights. Given the ubiquitous role of *dharma* in the religious, cultural, and political fabric of Hindu society, interlocking levels of *dharma* have been identified as operating throughout Hindu thought like a loom with interrelated strands. These multifaceted levels have been previously enumerated as follows: 1) duties depending on age (*yuga dharma*); 2) duties toward one's family (*kula dharma*); 3) duties of the male (*purusha dharma);* 4) duties of the female (*strī dharma*); 5) duties of the king (*Rāja dharma*); 6) duties of political subjects (*prajā dharma*); 7) duties in worldly life (*pravṛitti dharma*); 8) duties of spiritual life (*nivṛitti dharma);* 9) duties of the warriors (*kṣatriya dharma*), among others. Traditionally, Hinduism stressed the performance of duties instead of demanding individual rights.[197]   It was undertood that if every individual fulfilled his or her duties then the rights of

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[197] However, as noted above, Hindu ethical thinking involves the use of ethical hierarchies to resolve occassional conflicts of *dharmas.* Nevertheless, such ethical hierarchies do not preclude an underlying general morality. Consequently, Lannoy suggests that it "is not true, as some would claim, that there is no universal *Hindu* ethic, only relativistic morality" and he identifies the key virtues of this 'universal moral code' as follows: "leading a generous and selfless life, truthfulness, restraint from greed, respect for one's elders – principle in accordance with a virtually global idea of 'righteousness'" (1974, 217-218). He adds that Hindu philosophy does "adumbrate a *universal moral code* for all Hindus" albeit this code is trumped by situations of specific caste oriented morality (Lannoy, 1974, 294).

the whole would be automatically secured. The basic belief causing Hindus to place community over individuality is the view that people do not have rights; rather they have debts. Whereas Westerners often demand their rights, traditionally Hindus emphasized paying off their debts, and in classical Hindu thought, Hindus are subject to three types of debts to the ancestors, gods, and sages.[198]

It may seem strange to many Westerners to hear that a person is born automatically indebted to the world, but the notion of karmic debts is an important aspect of Hindu duties (*dharma).* Of course, there are times when different Hindu debts may contradict each other and an individual may be faced with a moral dilemma regarding which *dharma* is more binding/ significant. Knowing one's duty can be quite complex because it is not always easy to decide the course of the action one must take. Such decisions usually depend on the individual's position in society, stage of life, and the situation itself. Since *sva-dharma* is unique to each individual (because everyone has different capacities) therefore not all of the castes in Hindu society are expected to meet the same social standards. Moreover, some situations of *dharma* are not covered by the *Vedas* so the *Dharmaśāstras* (Hindu law texts) recognized and identified four sources of *dharma,* as noted in the *Law Books of Manu*: "(1) *śruti* or the Vedas; (2) *smṛti* or sacred tradition; (3) *sadācāra* or the customs of virtuous men; and (4) *ātmatuṣṭi*: what is congenial to oneself or

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[198]   Anne E. Monius, "Origins of Hindu Ethics," in William Schweiker (ed.) *The Blackwell Companion to Religious Ethics* (Oxford: Blackwell Publishing, 2005), 337.

perhaps to the 'conscience'" (Gopalan, 1979, 142-143). According to *Manu*, "the customs of countries, castes and families may be followed in the absence of rules propounded by the *Veda*" (As cited in Gopalan, 1979, 147), which has interesting implications for Walzer's notion of a specific Hindu "War Convention" because Walzer suggests that even though the military customs of cultures are different, their underlying values are the same, especially when it comes to the protection of non-combatants:

> The war convention rests first on a certain view of combatants, which stipulates their battlefield equality. But it rests more deeply on a certain view of noncombatants, which holds that they are men and women with rights and that they cannot be used for some military purpose, even if it is a legitimate purpose. Here is the critical test, then, for anyone who argues that the rules of war are grounded in a theory of rights: to make the combatant/ noncombatant distinction plausible in terms of the theory, that is, to provide a detailed account of the history of individual rights under the conditions of war and battle – how they are retained, lost, exchanged (for war rights) and recovered (2000, 137).

Walzer's theory falls short in this because the Hindu context reveals that soldiers must elevate the collective well-being over individual human rights in the quest to fulfill their caste duties.[199] Thus, it is questionable to posit universal human rights as a timeless and ubiquitous framework for Just War theory since notions of rights are rooted in specific socio-cultural milieus.

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[199] The classical Hindu emphasis on actualizing one's god-given duties has led to much consternation in Western (and some Indic) eyes since many Hindu practices appear to violate human rights. For instance, Hindu society has been criticized for what systematic violations of human rights in its treatment of its *dalits* ("oppressed peoples") formerly known as "untouchables," as well as women (such as the practice of *satī*).

5.3.3. **Transgressive Ethics in Hindu Just War Praxis**

Paradoxically, Hindu writings assert the importance of *dharma yuddha* for the *kṣatriya* caste but at the same time allow violations of the said warrior practices. Such ethical inconsistency within Hindu philosophy has raised eyebrows about the legitimacy (and seriousness) of the *dharma yuddha* stipulations. As has been shown, many of the transgressions of *dharma yuddha* are condoned by the Hindu gods themselves who allow the rules to be broken. This fascinating issue of transgressive morality suggests that Hindu traditions give less importance to Just War principles than Walzer's theory. This section will examine this argument to appraise the alleged permissiveness of the *dharma yuddha* stipulations *vis-à-vis* Walzer's Just War model.

Many authors have attempted to reconcile the apparent paradox in Hindu Just War conduct between the affirmation of clear-cut rules of war and the permission to break the code (Katz, 1991, 136-149; Matilal, 1991, 401-418). The previous chapter highlighted examples of ethical trickery found in the Hindu warfare by the upholders of *dharma* themselves, and discussed hypothetical reasons why such violations could be allowed. The main arguments were summed up namely as: (1) Ethical transgressions of *dharma yuddha* were permitted for a higher cause; (2) The gods themselves broke the rules to show they are not bound by them; and (3) Situations of distress (*āpad-dharma*) blur the lines of ethical conduct. It was also noted that

different standards of ethics exist in Hindu traditions depending on one's caste, stage in life, and cosmic age, which are built into its ethical way of life. Therefore, Hindu ethics is not a homogeneous system of morality, for both universal ethics and situational ethics co-exist in tension and help to explain the idiosyncrasies of *kṣatriya* ethics, which allow soldiers to eat meat, forcibly abduct and marry girls (*rākṣasa marrage*), and kill in warfare, which other Hindus are not allowed to do.

From an outside perspective, the numerous examples of deviant Hindu rule-breaking during warfare seems to substantiate the argument that Hindu morality supports "transgressive ethics" (meaning the breaking of rules for a higher purpose). This issue of antinomianism deserves further scrutiny in light of the paucity of textual explanations for wartime ethical transgressions. Accordingly, it should be noted that various Hindu sects (e.g., the Lingayats, Kāpālikas, and Śakta Tantrikas) utilize transgressive ethics in ritual contexts to provide outlets for subverting Brahminical authority (Hiltebeitel, 1989, 231-238; Lorenzen, 1972, 47). Breaking the rules of the religious establishment is a classic way of challenging deep-rooted orthodox modes of power that are associated with casteism, partiarchy, and other forms of oppression. The act of transgressive behaviour thereby offers a mechanism for challenging stifling, rigid doctrines of orthodoxy.

Hindu episodes of rule-breaking, however, are not as radical as they may seem, because similar examples of transgressive ethical behaviour can

be found in other religious communities to mitigate the uniqueness of the Hindu examples (Stout, 1978, pp. 319-325; Rao, 2006, pp. 1; Ibrahim, 2010, pp. 3-13). For instance, one could turn to an examination of "Situation Ethics" in Christian theology,[200] the *Taqiyya* doctrine in Shia Islam,[201] as well as the *Upāya* doctrine ("skillful means") in Buddhist ethics, which point to the "Transcendency Thesis".[202] All of the above examples corroborate cross-cultural religious precedents of deviant morality, which focus on the outcome of actions (ethical consequentialism) rather than whether certain actions are intrinsically right or wrong (ethical deontology).

In the context of cross-cultural warfare, the transgressive ethics of *dharma yuddha* by the heroes of the *Mbh.* as well as Kṛṣṇa himself clearly violate the rules of *dharma yuddha.* However, it is notable that Hindu

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[200] The term "Situation Ethics" derives from the writings of Joseph Fletcher, a Christian priest, who argued that sometimes standard Christian morality (deriving from the Ten Commandments) can be cast aside in certain situations when love (*agape*) is best served. He believed that there are no absolute laws other than the law of Love. For him, 'Love is the ultimate law' and all the other laws are secondary to it. Thus, the course of action that achieved the greatest amount of this love trumps ordinary morality. Consequently, in the case of situational ethics, the ends may justify the means. One case study from J. Fletcher's book *Situation Ethics* (1966) is the example of "Sacrificial Adultery," where during a war a captured married woman agrees to have has sexual intercourse with an enemy soldier in order to escape to be reunited with her children who need her to look after them.

[201] The Arabic word "*Taqiyya*" conveys the meaning of guarding Islam against persecution. Such guarding permits deception under duress, or permissible lying in situations of fear. For example, according to Raymond Ibrahim (2010), the practice of legitimate deception in both Shia and Sunni Islam "is not only permitted in certain situations but may be deemed obligatory in others. Contrary to early Christian tradition, for instance, Muslims who were forced to choose between recanting Islam or suffering persecution were permitted to lie and feign apostasy. Other jurists have decreed that Muslims are obligated to lie in order to preserve themselves, based on Qur'anic verses forbidding Muslims from being instrumental in their own deaths." See Raymond Ibrahim, "How Taqiyya Alters Islam's Rules of War," *Middle East Quarterly.* Winter 2010, pp. 3-13.

[202] The "Transcendency Thesis," also known as the King-Spiro Hypothesis, derives from the writings of Winston King (1964) and Melford Spiro (1970) who argued that Buddhist ethics are tentative in so far as the attainment of Nirvana results in the transcendence of the ordinary rules of morality that govern conventional Buddhist ethics. In contrast to this viewpoint, Damien Keown has argued forcefully against this position in his book *The Nature of Buddhist Ethics* (2001), pp. 83-106.

authors have taken the time to insist that any extrapolations from Kṛṣṇa's actions to derive some sort of transgressive principle for Hindu ethical conduct in wartime or any other time is unacceptable. It is worth remembering that the legendary Hindu military general Bhīṣma in the *Mahābhārata* warned Hindu soldiers to avoid callously violating dharma. As Lannoy recalls:

> [You may] transgress the injunctions of the Dharma at the time of crisis, but that at all other times in the course of normal life the dharma of Righteousness must be observed. This is a point of extreme importance, for it raises the whole problem of the extent to which Indian tradition sanctions immoral actions in wartime, and the degree of guilt to be imputed to those who have recourse to such actions in their effort to defeat an implacable foe. Bhīṣma is careful to qualify his answer by asserting that the Dharma of Crisis is only to be resorted to in time of war, but that the canons of the Dharma of Righteousness cannot be transgressed at any other time (Lannoy, 325).

In the 21st century, Bhīṣma's views are echoed by the *Hindu Himalayan Academy*, which declares:

> Let us not presume to take the *Mahābhārata* and *Rāmāyaṇa* as permission to do whatever one wants to do, for any cause whatsoever. Simply because it is said in certain Hindu texts that Kṛṣṇa lied, stole some butter and dallied with the maidens does not give permission to the ordinary person to lie anytime he wants to, steal anytime he wants to or be promiscuous anytime he wants to and perhaps make all this way of life. This definitely is not *dharma*; it is lawlessness, blatant lawlessness.[203]

In this respect, it is important to keep in mind the Hindu distinction between lawfulness (*dharmya*) versus unlawfulness (*nindya*). Whereas the former is

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[203] Yuddhah Shantishcha- "War and Peace. Himalayan Academy: Living with Shiva" http://www.himalayanacademy.com/resources/books/lws/lws_ch-40.html   Retrieved Nov. 27, 2005.

demarcated through the nature of commandments, prescriptions (*vidhi*) and prohibitions (*niṣedha*), the latter involves deliberate violation of these rules (Gopalan, 1979, 142). Yet this passage suggests serious tensions and discomfort over Kṛṣṇa's actions in Hindu texts. Normally, Kṛṣṇa's behaviour is accounted for by saying that it is the mysterious play (*līlā*) of God, a magical delusion (*māyā*),[204] or predestined time (*daiva/kāla*), but such accounts may not satisfy the victims of real wars who have been deformed, raped, and maimed. Lannoy suggests that the transgressions of the Hindu texts are themselves a product of three points: the various redactions of these texts over a long period of time, the conflicting agendas, loyalties, and motivations of their authors, and the evolving thinking in Hindu society itself: "The complexities and inconsistencies of the Epic arise from the fact that underlying its plot is the hidden drama of a social transformation from the heroic ideals of the tribe to a more religious and Brahman-directed caste society" (Lannoy, 1974, 297-298; 301). As a result, the tensions evidenced in the codes and rules of *dharma* may imply ongoing power struggles between the top two castes (Brahmins and Kṣatriyas) within the Hindu caste-system. It is well known that these two castes competed for dominance and authority in the Hindu social hierarchy and such tensions are reflected in the

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[204] According to this theory, "the epic war is the play of the *māyā... Śāntiparva,* the title of the long book in which the ethics of the *Mahābhārata* are expounded, means the 'book of peace'; its implicit assumption is that, in the course of cyclical time, all returns to quintessential peace" (Lannoy, 1974, 301).

inconsistencies of the epic about warfare ethics (Drekmeier, 1962, 82-85; Bouglé, 1971, 53).[205]

5.3.4. Walzer's Rejection of the Hindu 'Compassion Principle' and 'Non-violence' as Effective Responses to Aggression

A particularly interesting difference between Walzer and Hindu models of Just Warfare is Walzer's rejection of non-violence. His rejection of this tactic in war is highly relevant to India because Walzer misreads the Indian ethical landscape by undervaluing its distinctive War Convention that embodies compassion and non-violence within its scope of righteousness. As previously noted, Walzer argues that each culture has its own War Convention that arises from its own community ethos and he further contends that fair play in warfare is a universal notion seen in different cultural conventions. Given his argument, it would seem that India's own War Convention should be given more credit in Walzer's writing because it champions a distinctive ethos of non-violence and the "Compassion Principle" in its military thinking.

As previously noted, non-violence (Sanskrit: *ahiṃsā)* is one of the key teachings of classical Hinduism. According to the *Mahābhārata, ahiṃsā* is the highest dharma; the highest power; the highest sacrifice and the highest

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[205] Lannoy adds another interesting perspective to this issue: "One school of thought advances the idea the at *Gītā* reports to paradox in order to shock the reader into an awareness of its deeper meaning. This is to turn the *Gītā* into a kind of Kṣatryan mysticism, not unlike that of Japanese Zen Buddhism (which originally appealed to the Samurai class). This idea of a 'Zen Hinduism' had some historical justification as can be seen from the inconsistencies of the *Gītā*" (Lannoy, 1974, 307).

truth.[206] Indeed, Gandhi believed that it takes more bravery to use non-violence to face an opponent than to use a weapon (Attenborough, 1996, 34). Gandhi declared, "...strength does not come from physical capacity. It comes from an indomitable will" (cited in Attenborough, 1996, 40). He also insisted that the one who hides behind a gun (or any weapon) is the true coward.[207] Yet, to this way of thinking, Walzer responds with the following rejoinder:

> It is easy to say that "Non-violent action is not a course for cowards. It requires the ability and determination to sustain the battle whatever the price in suffering..." But this sort of exhortation is no more attractive than that of a general telling his soldiers to fight to the last man. Indeed, I prefer the exhortation of the general, since he at least addresses himself to a limited number of men, not to an entire population (Walzer, 2000, 333).

Perhaps in recognition of the fact that non-violence should be more prominent in his own discourse, Walzer penned an afterword to his book on just wars entitled "Non-violence." Here, he condemns Gandhi's paradigm of non-violence as an inept response to war and aggression. He suggests that the tactic of non-violence by occupied civilians might "demoralize the soldiers

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[206] *Mahābhārata* XVIII: 116.37-41. See Christopher Chapple, *Nonviolence to Animals, Earth, and Self in Asian Traditions* (Albany, NY: SUNY Press, 1993): p. 17.

[207] "Even for Gandhi, non-violence (*ahiṃsā*) was not an absolute. Gandhi remarked, "I do believe that, where there is only a choice between cowardice and violence, I would advise violence....I would rather have India resort to arms in order to defend her honor than that she should, in a cowardly manner, become or remain a helpless witness to her own dishonour.... But I believe that nonviolence is infinitely superior to violence, forgiveness is more manly than punishment" (Prabhu and Rao, 1967). Thus, Gandhi believed that "where there is only a choice between violence or cowardice, [he] would advise violence" (Attenborough, 1996, 37). For example, when his eldest son asked him what he should have done if he was present at the time when Gandhi was almost fatally assaulted in 1908, Gandhi instructed him that in circumstances like that, it would have been his duty to defend him (Attenborough, 1996, 37-38). Gandhi writes, "Cowardice is impotence worse than violence. The coward desires revenge but being afraid to die, he looks to others, maybe the Government of the day, to do the work of defence for him. A coward is less than man. He does not deserve to be a member of a society of men and women." (*Harijan* 15.9.1946 cited in Kibriya, 1999, 73).

who are called upon to do what appears to them – if it appears to them – indecent work, and it may undercut support for the occupation among the friends and relatives of those soldiers [generating] disgust and shame. [However, he claims that the] success of the defense is entirely dependent upon the moral convictions and sensibilities of the enemy soldiers" (Walzer, 2000, 334). For Walzer, some enemies are morally bankrupt, morally paralyzed, or morally agnostic so they cannot be trusted to do the right thing.

His disgust with Gandhi's non-violence seems to be rooted in the psychological revulsion he feels towards Hitler's unfettered extermination of six million Jews. Walzer, it seems, resented Gandhi's suggestion that the Jews should organize a civil disobedience movement against Hitler (Gandhi 1942, 183-188; Gordon, 1999, pp. 470-479; Jack 1956, pp. 317-322). In this light, it is understandable that Walzer dismisses non-violence as a plausible strategy to combat war though it is still somewhat surprising to see Walzer rather quickly dismissing the significant role pacifism has played in human history. If we apply Walzer's Just War theory to the classical Indian milieu, his dismissive attitude toward the role of non-violence poses a problem. In India, non-violent thinking about warfare has played a central role throughoht history. Walzer, however, insists that "nonviolent resistance" had "not figured much" into the war convention that he advocated (2000, 59), which is controvertible since there are other war conventions in which it does figure and he chooses to ignore these examples.

5.4. Critiques of Walzer's Theory in Light of *Dharma Yuddha*

The aforementioned incongruences between Walzer's and Hindu models of Just War lead to possible new correctives for Walzer's model. This section provides a more detailed critical analysis of Walzer's theory in light of Hindu *dharma yuddha* principles.

5.4.1. On Karma, Suffering and Humanitarian Intervention in War

Traditional western and Indic paradigms of Just War theory have regularly emphasized the criteria of "Discrimination" and "Proportionality" in efforts to protect civilians (non-combatants). Correspondingly, Walzer holds these principles dear in his own theorizing about war and he even seeks to expand these principles to include humanitarian intervention as a just cause for war when non-combatants are being targeted for genocide. Walzer poignantly asks, "How much human suffering are we prepared to watch before we intervene [in another society]?" (p. xii). This question, however, reveals implicit assumptions about both the *value* and *nature* of suffering found in Walzer's ethics, which hinge on a hierarchy of priorities that may (or may not) be compatible with Hindu ethics, as explained below.

Traditionally, Hindu thought has deliberately *not* emphasized humanitarian intervention to eradicate suffering at the social level. Conversely, the issue of everyday suffering in society was traditionally viewed by traditional Hindus as a result of *karma* (Sanskrit: "actions").

Indeed, this so-called "Law of Karma" provided Hindu society with a comprehensive logic to account for the existence of individual, social, and global suffering. It is important to recognize that the concept of karma plays a ubiquitous role in Indian society, permeating the Hindu worldview like the sky. Moreover, the Hindu doctrine of karma is not simply limited to the operation of individual lives but also encompasses interpersonal, family, social, and cosmic levels. The ethics of karma thus have a deep-rooted place in the fabric of Indian society, which has fecundated much of India's philosophical and political thought.

It is important to recognize that the doctrine of karma seems to negate moral arguments of humanitarian intervention in Hindu views of warfare. Indeed, one of the compelling arguments made by the Christian missionaries who came to India during European colonialism (17th-20th centuries) was that Hindu society was apathetic to the suffering of one's neighbour (whereas Christianity was not). Geoffrey Oddie's book on *Religious Conversion Movements in South Asia* (1997) demonstrates that Christian missionaries employed this argument (and material incentives) to convert (primarily low-caste) Hindus to Christianity through acts of charity and social service (cf. Massey, 1995, 1-32; Sharpe, 1971, 29). Such Christian behaviour provoked Hindu backlash and reform, which sought simultaneously to counteract Christian influence while ameliorating archaic Hindu practices. Yet, despite these examples, the traditional normative Hindu outlook towards others'

suffering could aptly be summarized by the saying: 'All suffering is deserved suffering due to one's past karma,' therefore wars to ameliorate "oppressed" peoples were not typically a part of classical Hindu military ethics unless these wars (in Kauṭilya's estimation) could be cynically used to advance one's own strategy for political expansion and consolidation. Of course, there have been exceptional cases of Hindu saints and reform movements in India's long history (e.g., the Śaivaite Liṅgāyats of South India) who have made social service (Sanskrit: *sevā)* to help others a central part of their religious outlook and practice, but these examples prior to the advent of the Hindu Renaissance in the 18th century, were anomalous rather than normative in Hindu society.

Suffice it to say, Indic notions of karma also play a critical role in understanding the pain of war as *deserved suffering.* Walzer's view of individual ad communal suffering, therefore, is not really cross-cultural because it does not account for Hindu (and wider Asian) assumptions about deserved karmic suffering. His supposedly universal theory of just war neglects to acknowledge the widespread Asian conviction that suffering is tied to past actions (karma). This Asian doctrine has serious implications for the issue of civilian innocence since it could be used by Asian armies in wartime to justify the destructon of populations that are no longer deemed to be "innocent" targets.

5.4.1.1. On Innocence, Responsibility, Free-Will and Non-Combatant Immunity

The Hindu doctrine of karma has three important implications for understanding Hindu views of warfare: (1) it makes each person *responsible* for his or her actions, including the choices he or she makes in war; (2) it suggests that people's suffering in war is deserved (including civilian suffering) in direct correlation to their karmic misdeeds; and (3) it suggests that the idea of civilian innocence in war needs to be revisited in light of karmic ethics.

To put this issue into more conceptual sharpness, it is worthwhile to quote Walzer's views on the seminal role of "innocence" as a key component in the Just War criteria of non-combatant immunity. He writes that non-combatants are afforded "immunity from attack ... We call them *innocent* people, a term of art which means they have done nothing, and are doing nothing, that entails the loss of their rights" (Walzer, 2000, 146). Suffice it to say, incorporating Hindu frameworks of ethics into the cross-cultural analysis of Just War theory renders Walzer's view of innocence to be rather parochial. It is just not the case that all cultures see civilians as an innocent monolith that cannot be attacked. Indeed, even ancient wars often deliberately involved the suffering of civilians when entire cities were surrounded in siege warfare and whole populations were forced to starve to death or surrender. In these situations the non-combatants suffered together with the combatants. In fact, it is possible that the women and the children

suffered disproportionately more than the men because most of the food and water rations were given to the male soldiers who were defending the city from attack (Walzer, 1977, 160-169).

Walzer has a great deal to say about the issues of innocence and responsibility in war-time and he appropriately asks several important questions for deeper consideration:

> When we answer the question, "Who started this war?" we have not finished distributing responsibility for the suffering that soldiers inflict; "It is a soldier's responsibility to determine if his side's cause is just..." Soldiers must choose, like Rommel, to kill prisoners or let them live, they are not mere victims or servants bound to obedience; they are responsible for what they do (2000, 33; 40).

However, Walzer also suggests that while each soldier is responsible for his or her decisions and actions during combat, the soldier's victims did not have a choice to suffer or die and therefore did not deserve such suffering. He remarks, "the greater number by far of those who suffer in war have made no comparable choice" to be involved (Walzer, 2000, 30).

Do Hindu doctrines support a similar conclusion? Although the doctrine of karma presupposes the ability to make choices (and the underlying premise of free will), it also suggests that notions of "innocence" in war might be overrated. Within the corpus of Hindu texts, the issue of responsibility for the conduct of warfare becomes quite complex upon deeper scrutiny, especially in light of larger metaphysical considerations. The causal links of responsibility in war according to Hindu thought are brilliantly analyzed by Allen in his treatment of the *Mbh.'s* view of *jus ad bellum:*

On the human level, [the *Mahābhārata* war] was basically a just war against the wicked [king] Duryodhana. But once the picture included the gods and the cosmic order, the moral dilemmas of humans paled to insignificance: the blame lay with demons or fate. The fatalistic/ deterministic dimension: the difficulty of harmonizing it with the free-will agency of humans and gods is and enduing philosophical problem; … [A]t the human level, the casual nexus behind the war is intricate, and if we want to say that the Paṇḍava cause is just, it is because in the calculus of justice we normally prioritize proximate causes. … Pāṇḍu is reckoned the father of the Pāṇḍavas, but his two wives are impregnated not by him, but by gods, of whom he selects the first three. Thus, in order of birth, Yudhiṣṭira is biological son of Dharma (Socio-cosmic Order personified), Bhīma is son of Wind (an old Indo-Iranian war god), Arjuna is son of Indra (king of the gods); and the twins are sons of the twin Ashvins, selected by Pāṇḍu's second wife. Clearly if the Pāṇḍavas are led by the son of Dharma, they are likely to be fighting a just war, one directed against *adharma;* and the assumption is confirmed when we find that Duryodhana is the incarnation of the evil and destructive demon Kālī, while his 99 brothers incarnate equally demonic Rākṣasas. … It is Duryodhana who blocks any concessions, and a simplistic reading of events, as proposed for instance by the sage Vyāsa to Dhṛitarāṣṭra (*Mbh.,* 11.8.27), blames the whole war on Duryodhana, together with fate (Allen, 2006, 142-146).

This description of the complex factors involved in causal nexus of the responsibility for the *Mahābhārata* war is a warning against any facile attempt to attribute blame and responsibility for wars to singular sources. Allen notes that the chain of culpability for war goes back much further than can be seen on the surface. Hindu mythology and karmic ethics require the abandonment of simple notions of innocence in warfare, since virtually everyone involved in war has somehow contributed to its genesis. While Yudhiṣṭira "is torn with anguish for" believing that he was "the ultimate cause of a catastrophic and useless war" (Lannoy, 1974, 304), in contrast, the

epic shows that karmic suffering distributes the responsibility for war to be shared by many. It further suggests that notions of innocence can mask complicitity and collusion in wars. Pāṇḍava Yudhiṣṭira recognizes the mutual culpability for war when he exclaims: "In all cases, war is evil. Who that strikes is not struck in return? Victory and defeat are the same to one who is killed. Defeat is not much better than death, I think; but he whose side gains victory also surely suffers some loss" (Narasimhan, 1965, 101-02)

5.4.2. Assumptions of Universal Morality and Human Rights

The single most contested aspect of Walzer's theory of Just and Unjust War in this work is his assumption of universal morality. As has been shown, Walzer bases his argument on what he calls "universal notions of right and wrong" (Walzer, 2000, 42), which are rooted in the notion of an underlying cross-cultural consensus of values (which he calls "Thin Morality") transcending state and national borders (Walzer, 1994, ix; Orend, 2000, 31-60). Suffice to say, Walzer's assumptions are problematic from a variety of perspectives, and it is valuable to test his key assumptions by applying them to two case studies in the Hindu context: (1) rape in war; and (2) honouring slain Hindu warriors through widow immolation (*sati*). Each of these examples tests Walzer's position because virtually all people find the act of rape in war to be morally repugnant and unacceptable, and most are also against the practice of self-immolation. On the surface, the widespread disgust with rape across cultures and its modern designation as a war

crime[208] seem to support Walzer's theory of a universal morality, but let us see if his argument holds true in the case of traditional Hindu *kṣatriya* conduct during warfare.

5.4.2.1. Case Study #1: Rape in Wartime by Hindu Warriors

The act of rape is widely considered to be taboo and illegal in both war and peace. Walzer claims that rape is commonly listed as "a crime, in war as in peace, because it violates the rights of the woman who is attacked. To offer her as bait to a mercenary soldier is to treat her as if she were not a person at all but a mere object, a prize or trophy of war" (Walzer, 2000, 134). At face value, Walzer's statement makes sense and seems to be correct. Yet, his position on rape could be challenged on both historical grounds as well as the perspective of military expediency in Political Realism.

Contrary to the biblical prohibition against immediate rape in war,[209] the Hindu tradition actually allows for the forcible capture, abduction and rape of women by its *dharmic* warriors (Dikshitar 49; McGrath 2009, 58-59;

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[208] On the history of rape as a war crime see: Theodor Meron, "Rape as a Crime Under International Humanitarian Law," *The American Journal of International Law.* Vol. 87, No. 3 (Jul., 1993), pp. 424-428; and Jocelyn Campanaro, "Women, War, and International Law: The Historical Treatment of Gender-Based War Crimes," 89 *Georgetown Law Journal* 2001, pp. 25-57.

[209] See Deuteronomy Ch. 20:10-14. This biblical passage is interesting for several reasons: first, it prohibits the immediate rape of captured women in wartime but it seems to allow their eventual rape following a month of the mourning by the woman. The woman's feelings about the matter do not seem to be taken into account; it also places the implied eventual sexual relations within the context of a marriage that may be forced on the captured woman against her will; it admits that sexual relations of this type taint the woman because if the wife is discarded by the male then she will be viewed as "dishonourable" regardless of whether she consented to the sexual relations in the first place. Therefore, it seems that the biblical passage merely postpones the rape of captured women and attempts to "dignify" it through forcing potentially unwanted marriages upon the conquered. Nevertheless, these stipulations were considerable advances over forms of conduct in warfare that allowed the indiscriminate rape and butchering of civilians.

Lingat 1973, 59). This form of marriage was known as "Rākṣasa Marriage" (demonic marriage), which constituted one of the eight types of marriage recognized in classical Hinduism.[210] Interestingly, as explained in Minoru Hara's article, "A Note on the Rākṣasa Form of Marriage" (1974, 296), warrior rape was allowed as a special prerogative of *kṣatriyas* and therefore ethically "approved exclusively for the *kṣatriya* caste." Shocking to modern Western ears, this type of marriage implied "the use of violence entailing even the murder of her guardians" (Hara, 296).[211] Indeed, the classical Hindu law books accepted rākṣasa marriage as a primitive form of marriage by the law-givers" (Dikshitar, 1987, 17). Moreover, it should be noted that the "capture of maidens belonging to the neighbouring kings and countries" was not simply restricted to *asuric yuddha* for even the forces of *dharma yuddha* were responsible for such behaviour (Dikshitar, 1987, 16). For example, in the *Mhb.* (1.102, 3) it is told that *Bhīṣma* "once met three girls in the course of his visit to Kāśī and carried them away. He threw out a challenge to the party that came to recover them. He fought with all the contestants and established his right of possession" (Dikshitar, 1987, 17). Other instances of forcible abduction are found in the epics. The *locus*

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[210] According to the *Laws of Manu*, the "eight forms of marriage are *brahmā, daiva, arśa, prajāptya, asura, gāndharva, rākṣasa,* and *paiśāca.* [*Manu*, III. 20-21.] Of these the *paiśāca* was condemned as the lowest form of marriage. To a warrior four forms of marriage are recommended in Manu: *asura, gāndharva, rākṣasa,* and *paiśāca.* [*Manu* III. 23]. The *Mahābhārata* allows the Kṣatriyas the first six forms of marriage – *brahmā, daiva, arśa, prajāptya, asura*, and *gāndharva*" [*Ādi Parva* 94.16-20]. However, "The epic is not in favour of the *paiśāca* and *asura* forms of marriage for any member of any caste" because it involved the rape of a woman while she was asleep, incapacitated, or intoxicated (Dikshitar, 48).

[211] Dikshitar differentiates the two controversial types of Hindu marriage by remarking the "*asura* form is to get a girl by paying a heavy price to her kinsmen, while the forcible removal of a girl by overpowering or slaying her kinsmen is said to be the *rākṣasa* form" (1987, 49).

classicus is Rāvaṇa's kidnapping of Lord Rāma's consort Sītā who was taken to the island of Ceylon. Interestingly, this was a more common practice than modern sentiments would admit. In sum, it is clear that "marriage by capture was permitted to the [Hindu] *kṣatriya* warrior" (Basham, 1954, 142) and "the instinct of sex impelled by passion and emotion led to the capture of girls and also to rape which often led to wars in the ancient world, sometimes of great magnitude" such as Helen of Troy (Dikshitar, 1987, 17-18).

To be fair to the historical data, it is also necessary to add that rape was not always repudiated during war in other cultures as well. Indeed, the threat (or insidious incentive) of rape was often used as a military strategy (or scare tactic) by unscrupulous military thinkers who embraced Realist policies to enforce their penetrating wartime objectives.[212] During the Second World War, for instance, the Free French forces fighting with the Allied armies in Italy used Moroccan mercenary soldiers by bribing their services with the "reward" of raping the defeated Italian civilian population. Shocking to modern ears, rape was actually formally allowed by the chain of command as a "spoil of war" (Walzer, 2000, 133). These mercenary recruits were permitted in 1943 to "rape and plunder in enemy territory. … [and,

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[212] For specific case studies and analysis of rape as a weapon of war, see the following sources: Claudia Card, "Rape as a Weapon of War," *Hypatia: Special Issue on Women and Violence.* Volume 11, Issue 4, pages 5–18, November 1996: pp. 5-18; Madeline Morris, "By Force of Arms: Rape, War, and Military Culture," *Duke Law Journal.* Vol. 45, No. 4 (Feb., 1996): pp. 651-781; Jean Franco, "Rape: A Weapon of War," *Social Text* 25 /2 (2007): pp. 23-37; Elizabeth A. Kohn, "Rape as a Weapon of War: Women's Human Rights during the Dissolution of Yugoslavia" *Golden Gate University Law Review.* Vol. 24, Issue 1. (1994): pp. 199-221; Sharon, Frederick, *Rape: Weapon of Terror.* Hackensack, NJ: World Scientific Pub Co Inc., 2000; and Beverly Allen, *Rape warfare: the Hidden Genocide in Bosnia-Herzegovina and Croatia.* Minneapolis: University of Minnesota Press, 1996.

unfortunately, a] large number of women were raped; we know the number, roughly, because the Italian government later offered them a modest pension" (Walzer, 2000, 133). Thus, military generals and tacticians have used rape as a tactic for their soldiers to sack and loot enemies cities and as a way to demoralize enemy populations (Walzer, 2000, 134). Walzer disdains this type of behaviour (and the arguments behind it) because, as we have seen above, he forcibly asserts that "rape is a crime, in war as in peace": offering a woman as "bait to a mercenary soldier is to treat her as if she were not a person at all but a mere object, a prize or trophy of war" (Walzer, 2000, 134). However, Walzer's assertion that rape is wrong because of the "rights of women being violated" is not an argument with historical weight because scholars such as G. Rattray Taylor note that rape in ancient cultures was merely seen as a property offense toward one's husband rather than as an offense against a woman's inherent rights (Taylor, 1970, 240-241). Therefore, even though rape is widely viewed today as a "War crime," it was not always seen that way by different cultures, thereby weakening Walzer's argument that rape represents a cross-cultural example of moral agreement.

5.4.2.2. Case Study #2: Hindu Self-Immolation (*Jauhar*) in War

The second example used to test Walzer's assumption of universal morality involves the Hindu practice of *jauhar* (mass suicide in war). This controversial Hindu custom involved the ritual act of self-immolation. The

Hindu practice is linked to notions of honour and protection of virtue; in some ways resembles the Hindu practice of *Satī* (Sanskrit: "virtuous wife")[213] —the death of widows on funeral pyres (Hawley 1994, 23; Oldenburg 1994, 164). Many Hindus, though not all,[214] viewed self-immolation as a deeply respectful practice symbolizing "loyalty" to one's ideals, or "respect" for one's deceased beloved (Hawley 1994, 12). Moreover, the practice of self-immolation was not merely reserved for females since men, especially warriors, also committed voluntary ritual deaths to avoid shame and dishonour. For example, the "defeat of a king in the field was considered so low that the vanquishing hero would seek self-immolation, [known as] the custom of *vadakkiruttal,* literally to sit facing the northern direction. Having taken leave of his rank and file, the fallen hero chose a place, sat down facing north with his sword by his side and fasted unto death. Cognate religious practices can be seen in the *prāyopaveśaṁ* of the Sanskritists and the *sallekana* of the Jains (Dikshitar, 1987, 390). Dikshitar further reports that the Hindus of South India were also deeply affected by such notions of honourable deaths in combat:

> The idea of death at the theatre of war was such a ruling passion
> with the Tamils that if a warrior met with a natural death it was
> the custom to make the dying man lie on a bed of *kuśa* grass and

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[213] For a discussion of the range of semantic meanings associated with this term see John Stratton Hawley (ed.), *Sati, the blessing and the curse: the burning of wives in India* (New York: Oxford University Press, 1994), pp. 11-15.

[214] Some Hindu Reformist organizations were established to counter European influence such as Ram Mohan Roy's *Brāhmo Samaj* (est. 1828) and Swami Dayanada's *Ārya Samaj* (est. 1875). However, they agreed with the British that the practice of *Satī* should be abolished.

have him cut with a sword, the *purohita* chanting special mantras. The belief was that by this the hero reached heaven like the soldier fallen in battle" (See *Puram*, 74 and 93. *Manimekalai* XXIII. 11. 13-16; cited in Dikshitar, 1987, 56).

As can been seen, the practice of self-immolation was widely associated with warfare in India, and had roots in notions of honour and loyalty. Elucidating this point, Basham remarks:

> [According to the Hindu martial ethos] the soldier slain in flight incurs the guilt of his lord, and suffers proportionately in the after-life, but the soldier slain while fighting to the last passes straight to heaven. Such ideals culminated in the *jauhar*, the final holocaust which was the fate of many a medieval Rajput king, with his family and bodyguard, to women and children burning alive in the inner chambers of the fort while the men fought to the last on the battlements (1954, 126).

However, such customs erupted in the flames of controversy following the British rule of India. During the period of British Raj, preventing "widow burning" was an ethical argument used by the British to justify their intervention in Hindu culture on the grounds that it helped to end this 'barbaric custom' (Sharma, 1988, 9). The negative portrayals of Hinduism by British administrators (especially toward *Satī* and untouchability) allowed them to sway English public opinion to further justify and consolidate their imperial rule in India, thereby entrenching colonialism on the local populace. The British made *Satī* illegal in 1829 (Sharma, 1988, 13) and subsequently punished anyone responsible for assisting and abetting the so-called "crime" of *Satī*. Here we see Walzer's principle of outside intervention at work, which simultaneously facilitated imperial expansion. Thus, British moral outrage at

the burning of widows resulted in pressure to outlaw *Satī,* but while some Hindus applauded this action, others challenged British interference in Hindu society and their obstruction of such traditional practices (Hawley, 1994, 4). Moreover, they condemned British intrusion in Hindu customs (under the pretext to abolish *Satī*) because it allowed for further imperial expansion. The British replied to such criticisms by saying that *Satī* offended western ethical sensibilities and required them to intervene. Walzer seems to side with such arguments against cultural relativism because he writes, "the chief dilemma of international politics is whether people in danger [from their own governments or other internal threats] should be rescued by military forces from outside when crimes are being committed [like *Satī*] that shock the moral conscience of mankind"; in such cases, Walzer supports unilateral military intervention and he asserts that "any state that can stop [these crimes] has the right to do so" (Walzer, xi-xii).

Walzer's assertion that outside powers can (and should!) launch military attacks to invade states if their people are being shockingly oppressed is problematic because it does not clearly define the criteria for what "shocks the moral conscience of humankind." There are many things that shock the moral conscience of humankind, or to be more exact, shock a large percentage of humankind (though certainly *not all* of humankind). Take, for instance, the issue of female genital mutilation, which continues to be practiced in certain states today. This ongoing *cultural* practice (it is not

intrinsically religious) regularly disturbs and shocks the conscience of a large percentage of people (Rahman and Toubia, 2001, 6), and presumably some of its victims, but we ought to ask whether it warrants outside military intervention to protect the afflicted? Although female genital mutilation is offensive to human dignity based on a framework of human rights, it does not necessarily lead one to the conclusion that outside military intervention is necessary to proscribe the practice. Rather this issue may be something for the local population to resolve in their own cultural evolution towards greater gender and ethical sensitivity.

There are two issues at stake here when it comes to Walzer's justification of humanitarian intervention on the grounds of "shocking" the moral conscience of mankind:

First, it becomes evident that not all people find certain so-called 'shocking' practices to be really disturbing, or else there would be greater effort to stop the perpetrators from doing them. Of course, there may be other compelling reasons for the continuance of the practices such as religious legitimacy. Going back to the context of Hindu ethics, we have seen that the practice of *Satī* occurred for many years before it was almost completely eradicated by the British Raj.[215] One could, correspondingly, mention the practice of untouchabilty in the same framework, since it too, in British eyes at least, led to the shocking degradation of a large portion of Hindu society,

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[215] The British were not entirely successful at completely eradicating the practice of *Satī*, which continued to sporadically occur in India until our present time. The last recorded *Satī* occurred in 1987 by an eighteen year-old Rajput woman named Roop Kanwar.

who are known today as the *dalits* ("oppressed people"). Yet, these practices continued for thousands of years because they had other pillars of religious legitimacy for their preservation. They had a cultural support system that rendered their alleged "shock value" to be obsolete or at least muted within the system itself. One inference that can be drawn from these examples is the straightforward axiom: *what is shocking to one person may not be shocking to another.* Walzer, however, seems to believe that what is morally shocking to some should be shocking to all. We need to ask ourselves if Walzer sufficiently allows for both insider and outsider moralities (the *emic* and the *etic*) in his theory of Just War, for it seems that he did not take these varied perspectives into his theory at this stage of his scholarship.[216] Given the fact that he is formulating a self-proclaimed "moral theory" of Just Warfare, this type of issues is significant and should not fall off the radar.

Second, it seems that Walzer is attempting to formulate a universal principle to guide his Just War thinking but falls short of his own goals because this specific aspect of his theory remains too vague. When he says that states are justified to launch wars to invade other states if their citizens

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[216] As Walzer's thinking developed in his later writings, he gave more attention and value to *emic* and *etic* perspectives in his understanding *of* morality. For instance, his books *Spheres of Justice* (1983) and *Thick and Thin* (1994) advanced more nuanced understandings of morality such as "distributive justice" to accommodate cultural differences. Intriguingly, Walzer cited the Hindu caste system as an example of insider (*emic*) morality that provides meaningful value to those in the system. His book *Spheres of Justice,* refers to the Indian caste system, "where the social meanings are integrated and hierarchical" (Walzer 1983, 313) "as an example of a non-liberal society that may be just according to its own standards. Not surprisingly, few readers were inspired by this example of non-liberal justice (not to mention the fact that many contemporary Indian thinkers view the caste system as an unfortunate legacy of the past that Indians should strive hard to overcome)" (Bell, 2010, 1-4). For further discussion of Walzer's views of *emic* and *etic* morality see: Clara Sabbagh and Deborah Golden, "Reflecting Upon Etic and Emic Perspectives on Distributive Justice," *Social Justice Research.* Vol. 20, No.3, (2007): pp. 372-387.

are afflicted by forces that shock the conscience of mankind, Walzer specifically refers to the issues of genocide and "ethnic cleansing". Yet, today there are many other human cultural practices that 'shock [a large portion of] the moral conscience of mankind' such as cannibalism, sexual slavery, human trafficking, child labour, female infanticide, in addition to genocide and "ethnic cleansing". Do all of these issues justify military intervention to preclude their practice? According to Walzer's theory, if they shock our conscience, then yes, they do justify decisive military action. However, Walzer himself seems to have only genocide and "ethnic cleansing" on his list, which seems to be a principle of degree rather than kind. Moreover, many of these issues are so complex and international in scope that military action would likely not be an effective solution unless coordinated at a multilateral level. The point here is that if Walzer wishes to support the principle of unilateral outside military intervention in conditions of moral outrage, then he ought to be consistent instead of merely applying it in his own pet situations. If the principle applies to some then it should be consistently applied to all.

In sum, though Walzer's emphasis on military intervention to preclude crimes that shock the moral conscience of humankind seems to be well intentioned, we have seen that it raises two important questions: (a) who ought to define what is considered to be shocking in ethics, and (b) where does one draw the line about what is deemed to be shocking? Of course, the

answers to these questions will imply certain types of power relationships and structures that Walzer ignores. Although Walzer wisely notes in his book *Just and Unjust Wars* that "humanitarian intervention" has often been used in history to justify imperial expansion, such as the Spanish conquest of Mexico on the grounds of combating the Aztec practice of human sacrifice, he does not seem to go far enough in drawing out the dangers of his own position. Thus, a second critique of Walzer's book is his weak and inconsistent grounds for humanitarian intervention, which provides too permissive definition of a "just cause" for warfare in cases of human rights violations.

5.4.3. Walzer Undermines his own War Convention by Admitting the Obsolescence of Past Moral Codes

Walzer's theory of Just War can also be critiqued from another angle: he seems to show paternalistic chauvinism towards war conventions of bygone times that are associated with honour and chivalry, which he contends are outdated and incompatible with the War Convention that he expounds. His writings are characterized by a conscious disapproval of chivalrous combat, which he dismisses as passé.

However, many cultures, including that of classical Hindu India, placed significant value on chivalrous modes of warfare that were incorporated into their moral codes about war. Indeed, much of the ancient, classical, and medieval world relied on an enduring system of convention as

and customs based on honour and reciprocity to regulate inter-group relations. One underlying premise of honourable conduct was the principle of fairness in military combat, which was exemplified in the ancient maxim, "An eye for an eye" reflecting the principle of retributive justice.[217] Though this saying was typically maligned in the post-Christian period as vindictive, it is predicated on the noble idea of fairness and honour in human conduct and relations – including war. In other words, if you hurt or kill my family, tribe, or clan then I will hurt or kill yours. This is actually an ancient precept of military fairness whereby *"quid pro quo"* ("tit for tat") rules supreme – not forgiveness. This model of retributive justice characterized much of the relations of antiquity and has affected thinking about warfare that Walzer dismisses as outdated. However, in many societies these rules still hold sway. In Islam, honour was paramount among the Bedouin tribes, and such views were absorbed and transmuted towards honour for the Prophet, his teachings, *Sharia,* and the *Ummah.* Wars over honour were also endemic in the Hindu political relations in rivalries between kingdoms (Chakravarti, 1972, 181; Dikshitar, 1987, 38). Furthermore, the Hindu epic tradition placed a great deal of value on the principles of honour and heroism in chivalry, which were central themes in *dharma yuddha* discourse.[218] Therefore,

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[217] Interestingly, this principle could even be interpreted as an early type of humane conduct (i.e., "no more than an eye for an eye") if the intention of the principle was to limit vengeance.

[218] These themes are expounded in Hindu texts and rituals emphasizing the importance of honourable and chivalrous conduct in battle. Indeed, the glory of warfare was such a "ruling passion with the Tamils that if a warrior met with a [non-battle inflicted] natural death it was the custom to make the dying man lie on a bed of kusa grass and have him cut with a sword, with the purohita chanting special mantras. The belief was that by this the hero reached heaven like the soldier fallen in battle" [*Puram*, 74 and 93. *Manimekalai*

Walzer's theory of Just War is problematic for the disdain it reveals toward traditions of military honour, viewed both diachronically (through time) and synchronically (across cultures).

As a case in point, Walzer's condescending view of past moral codes (codes which may still exist in other non-western cultural contexts) is visible in his argument for pre-emptive strikes when a state's security is threatened based on his distinct understanding of aggression.[219] Walzer suggests that pre-emptive strikes are justified in being launched against an aggressor when there is either an overwhelmingly clear and present danger of state destruction, or when atrocities of human rights in neighbouring communities' demand humanitarian intervention; albeit he notes the caveat that routine provocations and insults in inter-state relations are not the same as serious military threats:

> "Injury and provocation" are commonly linked by Scholastic writers as the two causes of just war. But the Schoolmen were too accepting of contemporary notions about the honor of states and, more importantly, of sovereigns. The moral significance of such ideas is dubious at best. Insults are not occasions for wars, any more than they are (these days) occasions for duels (Walzer, 81).

XXIII. 11. 13-16.] (Dikshitar, 1987, 56). After all, for a kṣatriya, a "Peaceful death at home is a sin" [*Mhb.*, *Śānti*, 97.21-30. Consequently, the *Mahābhārata* has a warrior proclaim] "I elect glory even at the cost of life' (*Mbh.*, III, 300, 31; cited in Dikshitar, 1987, pp. 19-20; 56).

[219] To reiterate from Chapter Three, Walzer's view of aggression is summarized in six propositions: (1) There exists an international society of independent states. [a very liberal and non-realist assumption; (2) This international society has a law that establishes the rights of its members—above all, the rights of territorial integrity and political sovereignty; (3) Any use of force or imminent threat of force by one state against the political sovereignty or territorial integrity of another constitutes aggression and is a criminal act; (4) Aggression justifies two kinds of violent response: a war of self-defense by the victim and a war of law enforcement by the victim and any other member of international society; (5) Nothing but aggression can justify war; (6) Once the aggressor state has been military repulsed, it can also be punished" (See Walzer, 2000, pp. 61-62)

The Hindu materials embody a view of war in a chivalrous age when warrior conventions of mutual respect, honour, valour, and fair play were championed. As a result, the rules of war in classical Hinduism reflect a chivalrous code of military honour. In this code, protecting one's honour was a just cause for war, which Walzer rejects as antiquated and passé. Yet, the Hindu context tells us that the Indian expectations of war were different than Walzer's view:

> The [Hindu] warrior's code enjoined that, once challenged, the *Kṣatriya* must respond. If he did not, he was not doing his duty. It is said that having heard that he had been challenged to fight, a *Kṣatriya* laid down his crown and braided up his hair, an outward sign of hasty preparation for the fight. He thus extricated himself from disgrace and from the sin arising out of the non-observance of duty. It made no difference whether one expected to win or to be killed in the battle (Dikshitar, 1987, 56-57).

Walzer's rejection of the principle of honour and chivalry as an outdated and inappropriate *modus operandi* for war, while sensible from a human rights perspective, once again undermines his argument because it negates both his assumption of a universal morality for all places and all times, as well as his (hollow) acknowledgment of the War Convention.

It is important to note that Walzer's book on *Just and Unjust War* actually makes a direct mention of Hinduism's ancient rules of warfare, but only once and in passing during his analysis of military customs found across cultures; He remarks that "war is a social creation. The rules actually observed or violated in this or that time and place are necessarily a complex product, mediated by cultural and religious norms, social structures, formal

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and informal bargaining between belligerent powers, and so on" (Walzer, 43).

He goes on to nuance his argument by citing classical Hindu rules of war as

an example of such unique social conditioning:

> The [Hindu] lists are often more specific and more picturesque
> than this, reflecting the character of a particular culture. Here is
> an example from an ancient Indian text, according to which the
> following groups of people are not to be subjected to the
> exigencies of battle: "Those who look on without taking part,
> those afflicted with grief...those who are asleep, thirsty, or
> fatigued or are walking along the road, or have a task on hand
> unfinished, or who are proficient in fine art" (Walzer, 2000, 43).

Walzer dismisses these Indian rules as fanciful and unrealistic. By doing so,

he reflects a paternalistic attitude to non-European cultural norms, and

undermines his emphasis on a shared substratum of moral values in war.

5.4.4. Walzer Dismisses Alternative 'War Conventions' in which Religious Convictions Supersede Human Rights

Walzer's theory also belittles non-secular conventions of warfare in

which religious imperatives justify violence and trump notions of universal

human rights.

Within traditional Hindu thought, the goal of attaining spiritual

enlightenment (*mokṣa*) supersedes all other temporal aims in the bigger

picture of religious salvation. Consequently, Hindu metaphysical goals trump

ethical notions of *dharma yuddha,* which has serious implications for Hindu

Just War doctrine. In contrast, Walzer's Just War doctrine elevates the goal

of justice in the here and now, and not in an imagined or real future religious

salvation. This difference goes to the heart of understanding *dharma yuddha*

in light of Michael Walzer's theory because the ethics of Hindu warfare are entangled in metaphysical doctrines that impinge on the intricacies and perplexities of the Hindu rules of war. It has been shown that the precepts of *dharma yuddha* were often violated and cast aside without much explanation in Hindu texts; yet, the explanation is precisely to be found in Hindu theology, as elucidated below.

In order to understand the place of *dharma yuddha* within the overall religious architecture of Hinduism, it is necessary to consider some larger metaphysical considerations (such as cosmology, soteriology, and eschatology) in the matrix of Hindu calculations of Just War. Indeed, one must not overlook these variables if one wants to get a nuanced understanding of *dharma yuddha.* In Hindu discourse, Just War is always secondary to soteriological priorities, although the former can become a vehicle for the latter. Even the famed Hindu text, the *Bhagavad Gītā,* which stresses an ethos of *dharma yuddha,* is rooted in a metaphysical framework that trumps ethics: a *kṣatriya* must do what the divine commands him to do and surrendering to God's will takes priority over compliance with just war precepts.

This chapter identified and analyzed several key metaphysical considerations that operate in the background of Hindu views of *dharma yuddha* such as seeing Hindu warfare as a type of cosmic sacrifice; seeing Hindu warfare as a type of divine drama or sport/game; seeing Hindu

warfare as a consequence of karma or cosmic fate; and seeing Hindu warfare as a reflection of a larger struggle between order (*dharma*) and disorder (*adharma*) represented by real or symbolic military forces. These various principles point to a deeper underlying religious edifice for Hindu notions of Just War. When these perspectives are incorporated into understanding *dharma yuddha* then Hindu notions of Just War become far more complex than a mere laundry list of military rules. Hindu metaphysical elements highlight the various religious variables involved in substratum of *dharma yuddha* and draw out their implications. One major conclusion of this work is that *dharma yuddha cannot be properly understood without an awareness of these deeper metaphysical considerations or else it becomes artificially packaged into western models of Just War criteria and divorced from the larger Hindu theological framework.* An awareness of such metaphysical considerations challenges homogeneous cross-cultural Just War models, which is a significant step forward in cross-cultural studies of warfare. This study has partially sought to demystify these hidden assumptions and to probe their implications.

5.5. Summary

This chapter has offered a comparative analysis of Walzer's theory of Just War in light of Hindu notions of *dharma yuddha.* The chapter has not only provided a critique of Walzer's theory in light of Hindu Just War materials

but also examined several areas that suggest further investigation. In particular, the following topics were suggested and investigated:

1. Normative notions of non-combatant immunity and civilian innocence need to be reassessed in light of the Hindu doctrine of karma;
2. Metaphysical questions of fate, responsibilty, and free-will in war also need to be assessed in light of distinctive Hindu conventions of war;
3. The role of "Emergency Ethics" (*āpad-dharma*) in both Hindu and Walzer's writings provide a fruitful area of convergence for dialogue;
4. Expanding upon point #3, the question of "transgressive ethics" in the Rules of War certainly deserves further attention;
5. Walzer's assumption of "Universal Human Rights" needs to be questioned in light of the theory of Cultural Relativism;
6. Finally, expanding upon point #5, the ethical correlations between human rights versus human duties in war require further scrutiny to consider whether this dichotomy is actually a valid bifurcation.

These six issues provide the substantive content that has been examined in the framework of this chapter. However, the aforementioned cardinal issues deserve additional scholarly consideration. This chapter offers a first step to encourage further scholarly investigation into these fascinating matters. It is suggested that the above topics provide worthwhile areas for further critical reflection and original scholarship.

CHAPTER SIX:

CONCLUSION: MAJOR FINDINGS AND IMPLICATIONS

6.1. Overview of Chapters

This dissertation has sought to make a substantive contribution to the comparative study of Just War theory by investigating Hindu paradigms of warfare within the larger framework of contemporary Just War discourse represented by Michael Walzer. The preceding examination of Hindu materials has offered reflection on the role and nature of Hindu notions of righteous warfare (*dharma yuddha*) in light of Walzer's distinctive model of Just War thinking.

The path of engagement taken in this work was as follows: A strategy of cross-cultural analysis has been utilized to gain intelligence on *dharma yuddha*. Potential obstacles to the comparative study of Hindu military ethics were investigated to appraise the merits of such an approach. It was argued that Hindu and Western categories of Just War discourse embody incommensurate assumptions about human nature and agency. Additionally, it was posited that classical Just War criteria harbour Eurocentric baggage that often precludes cross-cultural understanding. Nevertheless, the chapters of this work advanced several points of convergence between Michael Walzer's theory of Just War and the principles of *dharma yuddha* as well as some significant differences. These points are delineated in the following chapter summaries:

The opening chapter of this dissertation outlined the growing importance of both comparative studies of warfare as well as the rise of Hindu military power on the world stage. It intimated that each of these aspects deserves more attention in academic scholarship.

The second chapter focused on the evolution of Just War theory in a comparative framework. Different models of warfare were examined in order to extrapolate consensual principles for Just War thinking across cultures. A tentative typology of warfare was advanced and articulated, which distinguished the "Just War" model from models of "Holy War" and "Expedient War". It was shown that Just War theory is not a static body of thought because conceptual battles continue to be fought over the appropriate methodology to be used to study wars in a cross-cultural context in order to avoid criticisms of cultural imperialism and *nouveau Orientalism*.[220]

The third chapter focused on Michael Walzer's theory of Just War and interrogated his conceptual foundations. The key presuppositions of his theory were put into the limelight and examined for their conceptual clarity and cogency. Walzer's secular Jewish, ideologically leftist, and communitarian background was also explored for its implications regarding his understanding of human nature and social relations. The premises of Walzer's theory of just and unjust war were clearly identified to assess the foundations of his theoretical framework, draw out the implications of his theory, and to pin-point the apparent structural weaknesses in his approach.

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[220] Author's term.

Additionally, the chapter looked at how Walzer's theory evolved over time in a dialectical relationship with the writings of his critics.

It was shown that Walzer's seminal contribution to the body of Just War thinking was his grounding of moral discourse in a secular framework based on human rights rather than Natural Law or Utilitarianism. Prior to Walzer, prominent theorists of Just War such as Vitoria, Suarez, and Grotius advocated Natural Law foundations for Just War thinking (Hudson 2009, 20; Hensel 2008, 15) or alternatively Utilitarian arguments (Brandt 1992, 336). However, Walzer placed moral discourse about war within an ethical framework founded on human rights (Walzer, 137). For this contribution alone, his work is very significant; yet, at the same time, this foundation is perhaps the Achilles heel of his ediface of Just Warfare.

The fourth chapter investigated Hindu notions of *dharma yuddha* in depth, looking at historic, political, textual, and legal foundations of classical Hindu views of warfare. Both the terms *dharma* and *yuddha* were carefully defined and differentiated from other concepts found in Hindu statecraft and jurisprudence. Moreover, the chapter highlighted the operative ideals of Hindu statecraft in which the rules of *dharma yuddha* are embedded.

In the "idealized order" of the Hindu caste system only *kṣatriya* (warriors) were supposed to engage in military conduct; however, it was demonstrated that this idealized vision of the world was rarely met in practice. The chapter revealed the considerable latitude for transgressions of

Hindu rules of warfare, especially in supreme emergencies, or for lofty metaphysical ends. These tensions are evidenced in the two dominant approaches to Hindu statecraft (i.e., the *Arthaśāstra* and *Dharmaśāstra*), which give rise to different fighting methods (*dharma yuddha* and *kūṭa yuddha*). In reality, it was shown that Hindu warfare was much different on the ground than in theory because members from the various Hindu castes frequently fought together with mixed motives (Cohen, 1969, 453-468; Basham, 1954, 91; Chakravarti, 1972, 82). Despite the glorification of *varṇāśrama dharma* (and by extension *dharma yuddha*) in the Hindu epics, the research suggests that Hindu warfare was an ethically messy and socially variegated affair that undermined the rules of *dharma yuddha.*

The fifth chapter of this work offered a comparative analysis of Walzer's Just War theory and *dharma yuddha.* Amongst the most salient findings of this chapter were the following four points:

1. Hindu ethics of war operate on an entirely different cluster of assumptions than those underpining Walzer's model of Just War. This argument was substantiated by three examples used in the work, namely: (1) Hindu notions of karma negate the common assumption of civilian innocence and non-combatant immunity in warfare because karma undermines *a priori* notions of moral innocence; (2) Hindu rules of warfare are predicated on 'human duties' not 'human rights'; and (3) Hindus understand war as a natural and expected duty of rulers in classical Hindu conceptions of statecraft. As a result, Hindu assumptions necessitate broadening traditional Just War theory to accommodate non-

western ways of understanding human moral accountability, agency, and political statecraft.

2. Hindu views of war are embedded within a larger metaphysical and ethical framework that affects their operation. Violations of the rules of war are justified by larger metaphysical considerations in the context of cosmic or mythological struggles. It has been shown that the precepts of *dharma yuddha* were often transgressed and cast aside without much explanation. Yet, the explanations are precisely hidden in Hindu theology, and this study has sought to demystify these hidden assumptions and to probe their implications because metaphysical considerations trump ethical precepts of *dharma yuddha*.

3. This study has also drawn attention to the conflicting notions of human duties and human rights that underlie traditional views of just warfare across cultures. It has been shown that Hinduism encompasses ideas of both human rights and human duties but clearly places its emphasis on the latter, which eclipse human rights in warfare. Moreover, it was suggested that even though Hindu texts seem to promote non-combatant immunity, the underlying motives for these rules may be less than dignified by shaming one's enemy or preventing them from death on the battlefield.[221] Given the Hindu emphasis on human duties, it was argued that Walzer's model of Just War needs to be amended to accommodate normative Hindu views of moral action, accountability, and agency.

4. This study has attempted to make an original contribution to Just War theory by proposing three distinctive Indic contributions to updating Just War discourse in the 21st century—namely: (1) "the compassion principle";

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[221] As noted earlier, a glorious death on the battlefield was believed to lead to heaven whereas surrender and protection was deemed to be an inglorious failure.

(2) the "deference principle"; and (3) the "religious respect principle." As noted in this work, Hindu rules of war go above and beyond standard just war fairness, discrimination, and proportionality by encompassing compassion and non-cruelty towards both soldiers and non-soldiers alike, as well as respect for religious authorities and deference towards superiors. These three criteria advance traditional Just War discourse beyond its Eurocentric orbit into a larger cosmos of cross-cultural discourse on warfare. The "religious respect principle" strengthens the Hindu restrictiveness of Just Wars from the unlimited conflagration of Holy War models, by encompassing respect for religious authorities and maintaining their immunity in battle.

6.2. Returning to the Cross-Cultural Study of the Ethics of Warfare

This work began with the premise that the comparative method can be useful to help investigate the cross-cultural ethics in warfare. Now it seems appropriate to return to this point. It has been acknowledged that although comparative studies of warfare across religious traditions can be challenging because of incommensurate assumptions, such differences do not preclude scholarly comparison but compel it further. In fact, those who argue that comparative study should be discarded altogether because such study distorts the data (Smith, 1971), seem to be missing an important point: comparison is often at the very heart of how we come to know about the world around us even if its methods demand constant scrutiny and evaluation. According to ethicists such as Terry Nardin (1996) and J. T. Johnson (1990), comparative moral reflection on war allows for "a more thorough exploration of the moral

traditions of the world's civilizations, in order to identify and understand the conception of war and its limits to be found in each one" (227). In the same way, a comparison of Walzer's Just War criteria with Hindu principles of warfare yields valuable data for cross-cultural dialogue.

For example, first, it was shown that Walzer's famous model of Just War theory dismisses religious imperatives to justify violence, and whether such imperatives can trump his emphasis on universal individual rights. However, Hindu materials suggest that Walzer's model requires a reconsideration in light of Hindu views of righteous war embedded in religious discourse. Hindu religious notions such as karma affect Walzer's concept of innocence because they undermine his assumption that the suffering of civilians in war is undeserved.

Second, this comparative study reveals that current Eurocentric models of Just Warfare need to be updated by the inclusion of non-western principles to make themselves more relevant for the contemporary multi-polar world. As a constructive and tangible step in this direction, this research work has shown that the Hindu model of *dharma yuddha* operates on different assumptions about human relations and agency that challenge notions of human rights, innocence, and collective duties. These Indian materials necessitate an expansion of traditional Just War criteria to encompass Hindu criteria such as the "compassion principle" and the "deference principle." Whereas the former principle pertains to the extension

of non-cruelty and kindness to enemy combatants, the latter refers to ritualized respect on the battlefield due to the social status of the enemy. Both principles are distinctly *dharmic* in nature.

Third, this work has demonstrated that Hindu ethics emphasizes collective responsibility and duties rather than individual human rights, which challenges Walzer's theory of Just War. As noted in chapter two, there is an internal tension within Hindu philosophy regarding proper ethical behaviour: first, Hindu law speaks of *sāmānya dharma* (general universal duties) that apply to all people such as the requirments to cultivate forgiveness, self-restraint, non-stealing, not injuring others, practicing good will, truthfulness, and avoidance of quarrel (Dhand, 2002). At this general level (also known as *sādhāraṇa dharma),* such duties are said to apply to all people, irrespective of creed, race, age, sex, nationality, or stage in life.[222] On the other hand, in order to support cosmic and social harmony, a caste-Hindu must follow his or her *varṇāśrama dharma* (specific caste and stage duties) at all times, even if it means breaking the rules of *sādhāraṇa dharma*. Typically, the paramountcy of caste duties has been emphasized in Hindu ethics eclipsing non-violence leading to support of warfare. However, the ethical rules of *dharma yuddha* were often ignored, transgressed, or deemed

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[222] Consequently, Lannoy (1974, 217) suggests that it "is not true, as some would claim, that there is no universal *Hindu* ethic, only relativistic morality." He adds that Hindu philosophy does "adumbrate a *universal moral code* for all Hindus" albeit this code is trumped by situations of specific caste oriented morality (294). He identifies this code as: "leading a generous and selfless life, truthfulness, restraint from greed, respect for one's elders—principles in accordance with a virtually global idea of 'righteousness'" (Lannoy, 1974, 218).

to be impractical. Consequently, Hindu ethical thinking involves the use of ethical hierarchies to resolve occassional conflicts of *dharmas;* such ethical hierarchies, nevertheless, do not preclude an underlying general morality.[223]

One of the interesting results of this research has been the discovery of divergent cross-cultural opinions on the comparative value of *jus ad bellum.* According to Brekke, the lack of explicit Hindu interest in the criterion of just causes for war is "the point on which Asian civilizations seem to deviate most from the Christian just war tradition" (2006, x). He remarks, "[t]he fact remains, however, that matters under *jus ad bellum* receive far less attention in Hindu thought than in the European tradition" (2006, 137). As a result, he argues that "a major question for research in the ethics of war should be: Why were Christians, Jews and Muslims so interested in matters of *jus ad bellum* and why did Indian, Chinese or Japanese writers take so little interest in the same questions?" (2006, xi). According to Nardin's judgment, this difference can be partially explained "by the clash between deontology and consequentialism, the other by the opposition between universalism and particularism – are required to make sense of differences both within and between the major ethical perspectives" (1996, 4). Conversely, Brekke

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[223] Thus, a question of interest that emerges from this study is "Do the laws of *dharma yuddha* provide a prototype for Hindu human rights?" In other words, is an incipient idea of human rights found in Hindu Just War rules? It seems that the answer to this question could be both "Yes" and "No" depending on how one looks at the rules. Some scholars have argued that Hindu concept of *dharma* indeed provides a prototype for the notion of human rights in Hinduism, which would make modern Hinduism compatible with human rights discourse (Rai 1995, 34-50; Mukerji 1990, 70-78); other scholars, however, argued that such attempts to fit Hindu thought into Western categories are spurious, reductionist, and essentialist (Coward, 2005; vii-xii, 14).

contends "ideas of just cause may be implicit in the [Hindu] discourse on war and statecraft. For instance, the actions of the sovereign may be perceived as inherently just" (2006, x). He suggests that a key difference between Hindu and European visions of just war was their respective conceptions of state violence. "[T]he lack of a systematic *jus ad bellum* in the Hindu tradition must be attributed, at least in part, to [the Hindu absence of differentiating] between external and internal and private and public violence" (137). In other words, righteous warfare was seen as a legitimate tool of the just king who was simultaneously responsible for punishing criminals within the kingdom

Finally, it was suggested that a fruitful area for further study and investigation is the role of "emergency ethics" in wartime. Both Hindu and Walzer's writings allowed for the violations of the Rules of War in supreme emergecies. Hindu texts legitimized transgressions of *dharma yuddha* during periods of distress. There are certain emergency duties (*āpad-dharma*) that are afforded to the Hindu castes, which are not allowed outside of wartime. Likewise, Walzer's permits the temporary suspension of normal military conduct during situations of "extreme emergency", which justify the violation of just war precepts. This fascinating convergence in their moral thinking warrants further study for both its dangerous implications and its interesting ramifications for Just War principles.

6.3. Summarizing Hindu Views of Just War

This author has suggested that it is necessary to situate *dharma yuddha* within the larger context of Hindu political statecraft to understand its underlying rationale, function, and objectives as a tool of politics. Within this larger context, classical Hindu discourse on war fell under the headings of *Rāja-nīti* (the conduct of kings) and *daṇḍa-nīti* (the administration of force), both of which outlined the ruler's duty to conquer neighbouring kingdoms as an integral aspect of political statecraft (Goshal 1959, 255; Sinha 1991, 374). Hindu texts such as the *Manusmṛti* and the *Arthaśāstra* affirmed that war was an unavoidable part of a ruler's reign. As stated in *The Laws of Manu* (7:98), *Yodhā-dharma sanātanaḥ,* "War is the eternal law of kings." Whereas the *Arthaśāstra* allowed for unscrupulous tactics wherein the means justified the ends, the *Manusmṛti* insisted on regulating war through principles of ethical conduct (*dharma*), manifested in rules of war (*yuddha-nīti*), thereby tying *Rājanīti* to the idea of *rāja-dharma* (the rules of kings). Nevertheless, both the *dharmarāja* and *Arthaśāstra* traditions of Hindu statecraft promoted a spirit of militarism that resulted in frequent wars among Hindu kingdoms, which were competing for power, prestige, and honour.

The Hindu traditions provide a complex and nuanced response to the justification of war. While the highest ideal of the *Mahābhārata* was *ahiṃsā* (non-violence), in reality the Hindu tradition legitimized and praised the use of *daṇḍa* (force) and *yuddha* (war) but called for appropriate and righteous

means. Military force was allowed as the perogative of kings, at certain times, and for certain purposes to mitigate *asuric* dangers lurking in the darkness. War was seen as a necessary force to protect and uphold *dharma* while implementing strict rules to oversee its enforcement. However, Hindus did not speak with a unified voice on this matter. Consequently, one cannot single out a proscriptive stance that is consistently embraced by all Hindu sacred texts and religious teachings. Rather, within classical Hinduism, four distinct and seemingly contradictory beliefs surround the subject of warfare, which produced a spectrum of classical Hindu views towards warfare. These attitudes are delineated in Figure 2:

Figure 2. REVIEW OF CLASSICAL HINDU ATTITUDES TO WAR
(From most accepted to least accepted in Hindu legal texts.)

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1) RIGHTEOUS WAR (*dharma yuddha*) – Wars allegedly fought to protect the sacred order or as an extension of the divine duty of kings to rule. Espoused by classical legal texts such as the *Manusmṛti* and the Hindu Epics (i.e., *Rāmāyaṇa* and *Mahābhārata*).

2) GREEDY WAR (*lobha yuddha*) – Wars fought solely for selfish goals to acquire territory, wealth or power at the sake of others. These wars transgressed the rules of *dharma* since they were based on greed or ambition.

3) DEVIOUS WAR (*kūṭa yuddha*) – Wars involving means of trickery, deceit, and cunning. Espoused by Kauṭilya's *Arthaśāstra,* Kamandaka's *Nītisara* ("Essence of Politics"), Somadeva's *Nītivakyamrta* ("Nectar of Political Aphorisms"), and Śūkra's *Nītiśāstra* ("Political Treatise").

4) DEMONIC WAR (*asura yuddha*) – Wars characterized by wanton civilian casualities where uncivilized methods were employed. India's foreign invaders who fought differently from Hindus were often characterized this way. A paradigm supported by mythological stories of struggle between demonic and godly forces found in Hindu texts.

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The aforementioned Hindu types of warfare are not necessarily mutually exclusive. The form of war known as a *kūṭa yudda* ("Devious War") could encompass both a "Greedy War" and a "Demonic war" (Roy, 2007). These categories could also be subsumed under the broader heading of *adhārma yuddha* ("Unrighteous War") (*Mbh.* 12.96.1-2). The war labelled as a *dharma yuddha* ("Righteous War") is fundamentally different than the other types of Hindu warfare because it is based on ethical principles that must be upheld at all times notwithstanding situations of extreme stress.

In sum, this work has demonstrated that Hindu texts recognize several types of wars depending on the political and metaphysical orientation of the king: 1) a righteous war; 2) a greedy war; and 3) a demonic war; 4) an expedient war; and 5) a holy war. This typology resulted in two *modi operandi* in the military conduct of Hindu rulers: either a leader ruled righteously following the paradigm of *dharmarāja* (righteous king), or else the leader ruled unscrupulously using violence to oppress others and acquire wealth, power, and land for personal, selfish gain. The second paradigm was governed by the 'logic of the fish (*matsya-nyāya*) in which Darwinian political statecraft prevailed and the big fish (i.e., the Hegemon) ate the smaller fishes (i.e., rival kingdoms). As can be seen, both idealism and *realpolitik* are found in the art of classical Hindu statecraft.

Given the above context of statecraft, it is certainly true that war was seen as a policy tool for the Hindu king. War was not to be shunned but to be

embraced for either selfish gain or to protect *dharma*. The particular approach to war adopted depended on the king's commitment to *dharma*.

Those kings favouring the approach of *dharma yuddha* were to obey strict rules in combat (*jus in bello*) in order to remain just in the eyes of God: notably they were to restrain from killing anyone who had surrendered, who had asked for mercy, who was asleep, disarmed, wounded, or simply a spectator and not involved. In particular, women and children were especially not to be harmed (*Mbh.* 12.9.47). Every *kṣatriya* fighting in battle needed to be careful to preserve righteousness during combat because "[d]eath in battle entitled the warrior to *svarga* or Indra's Heaven, while a bad death, *durmarana,* made one a *paiśaca,* or ghost" (Elgood, 2004, 181). Such a view is echoed in the *Bhagavad Gītā*, which exclaims:

> Only the fortunate warriors, O Arjuna, get such an opportunity
> for an unsought war that is like an open door to heaven (2.32) …
> If you will not fight this righteous war, then you will fail in your
> duty, lose your reputation, and incur sin (2.33).[224]

Thus, the *dharma yuddha* type of war is different from the others because this approach to warfare allegedly opens a doorway to heaven (*Vīra-swargam),* thereby justifying the military conduct of *kṣatriya* warriors as sanctified violence (Aho, 1981, 60-79). Such a marriage of political statecraft with religious theology raises the question of the relationship of *dharma yuddha* to holy war, which is addressed in the next section.

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[224] Ramananda Prasad (trs.), *The Bhagavad-gītā, 2ⁿᵈ edition.* Delhi: The American Gita Society [1995] (2003): pp. 24-25.

6.4.   The Religious Implications of *Dharma Yuddha:* Just War versus Holy War: A 'Just' Dichotomy?

One of the lingering problems in studying *dharma yuddha* is deciding where to place it on the continuum of warfare. Is *dharma yuddha* exclusively a "Just War" model or does it contain elements of a "Holy War" thinking? This question is important because it targets the deeper rationales underlying classical Hindu views of warfare. This work has shown that the typology of Holy Wars and Just Wars are not synonymous concepts in the Hindu context because some Holy Wars transgress standard ethical codes of military behaviour in Hindu texts. Consequently, there seems to be some confusion regarding whether the Hindu corpus promotes Holy Wars, Just Wars, or both wars at the same time, especially since *dharma yuddha* seems to simultaneously encompass both lofty ethics and an ethos of holy sanctification. Brekke (2006, 136) intimates that Hinduism supports both types of wars in a conceptual *masala* of mixed motives, and other scholars have also used the term "Holy War" to describe Hindu warfare (Granoff, 1984, 291-303; Bakker, 1991, 80). The *Bhagavad Gītā's* famous teachings on war are often cited as "evidence" of the Holy War paradigm in Hindu thought where Kṛṣṇa insists that when warriors "kill with no concern"[225] for the fruits

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[225] On this point, Brekke remarks, "Hindu ideas on war have often been seen as following a completely different type of rationality from other world religions. This alien rationality has been summed up in one word: *karmayoga*. To support this view one can point to the famous verse of the *Bhagavadgītā* in which Kṛṣṇa tells Arjuna to see the fighting itself as the end and not the fruits of the battle" (Verse 2.30; Brekke, 2006, 114). Correspondingly, the *Mahābhārata* addresses the issue of *karmayoga* in its discourse o n the duties of the king (*Mbh.* 12.99). Here Yudhiṣṭira asks asks his teacher Bhīṣma, "to what worlds (*loka*) the heroes go when they die in battle. In the proceeding verse Yudhiṣṭira has pointed out that in the business

of their actions then they will go to heaven (Aho, 1981, 70; Sinha, 1976, 127).

Unless one adopts a metaphorical interpretation of the *Gītā*,[226] it is hard to

dispute the argument that some Hindu texts support Holy War. However,

this study would like to suggest that more research needs to be done into

differentiating the nature and scope of *dharma yuddha* from Holy War

models in Hinduism since the two types of warfare are often at odds. There

needs to be greater clarity regarding whether Hindu Holy Wars are defined

by intention, goals, or source of inspiration to determine the criteria for

Hindu Holy Wars *vis-à-vis* wars of *dharma yuddha.* This study has primarily

focused on *dharma yuddha* models, but Holy War paradigms ought to be

brought into the equation since they exist in a symbiotic relationship.

To advance this discussion it is worth noting that the *Bhagavad Gītā,*

is primarily focused on elucidating the pathway to salvation rather than

outlining the merits of Hindu just war theory. As Allen remarks:

> … like most philosophical/theological discourse in India, the *Gītā*
> is primarily soteriological. It is telling Arjuna how to obtain
> salvation. It is not exploring the rights and wrongs of the war.
> [Although] it does refer to the war as 'just' (*dharmya* 2.31): if
> Arjuna dies in such a war he will go to heaven, while if he wins he
> will enjoy the Earth'; [However,] Arjuna's worry is not whether

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of war the king kills large numbers of people [and t]here is in fact no profession or duty which is more sinful than that of the Kṣatriyas (*kṣatriya dharma*) he maintains [*Śāntiparvan,* 99.1.] Karmayoga is the solution" (Brekke, 2006, 115).

[226] Mahātma Gandhi interpreted the military violence of the *Bhagavad Gītā* as "an allegory and 'not historical work'; [For him,] Kurukshetra is within, a battlefield of the soul. 'Kṛṣṇa is the dweller within, ever whispering to a pure heart...under the guise of physical warfare'. For Gandhi, the Gītā 'described the duel that perpetually went on in the hearts of mankind... Physical warfare was brought in merely to make the description of the internal duel more alluring.' But this does not square with the integral scheme of the epic, the central episode of which has always been war. The whole epic, of which the Gītā is a small part, started as a bardic tale of Kṣatriya valour, extolling the Kṣatriya *dharma*" (Lannoy, 1974, 307-308).

the war is just, but whether he should kill people he knows. Admittedly, he refers to killing them from desire for kingship and its pleasures (*rājyasukhalobha* 1.15), thus implying both that this is his motive for fighting and that, although it is morally acceptable as a motive, it is outweighed by the sin of killing close associates. As for the desire for kingship, [Kṛṣṇa] urges that Arjuna should fight without it (2006, 141-142).

Nevertheless, the *Gītā* does emphasize the importance of following one's caste dharma and the *dharmic* model of battle: "Considering also your duty as a warrior you should not waver because there is nothing more auspicious for a warrior than a righteous war" (2.31). It also implies a just cause for battle, which is upholding justice and the cosmic order.

Consequently, the *Gītā* offers mixed messages about warfare that blend together two distinctive models (and rationales) of fighting: on the one hand, one is supposed to fight a righteous war but on the other hand, one is not supposed to care about the fruits of one's actions or the consequences of one's violence. Kṛṣṇa promises "that if they kill with no concern either for the fruits of victory or rewards of heaven, fearless and desireless like the sage, recognizing that relative to God, this world even with its riches and sufferings is an illusion, then they too can obtain ultimate release (*mokṣa*) from the eternal wheel of reincarnation" (Aho, 1981, 70). Again, the *Gītā* states: "You will go to heaven if killed, or you will enjoy the earth if victorious. Therefore, get up with a determination to fight, O Arjuna" (BG 2.37).[227] The implication of this religious argument is significant: it

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[227] Translation of *Gītā* passage by Ramanand Prasad, as cited in Whitaker, 2004b, 172. It is repeated many times in Hindu texts that the "highest duty and pleasure for a warrior is to die fighting in war. Why is this?

releases the warrior from moral-spiritual culpability for his or her belligerent actions so long as he/she does not fight for selfish reasons and dedicates all action to the divine. As Michael von Brück remarks:

> Therefore it is not Arjuna who is ultimately acting in killing, but the divine power itself [*Gītā* 3: 24]. This power is beyond time; therefore, due to the transtemporal nature of God, all those who are to be killed right now in battle have already been killed [*Gītā* 11: 34]. Again this killing is not to be misunderstood: it is part of the loving and saving action of God (2004, 28) .

What then accounts for Holy War in the Hindu context? Is it the dedication of one's actions to a god/goddess? Is it the goal of heavenly reward? Is it the commands of religious authority figures? Is it the exhortation of religious texts? Certainly, the numerous stories of the Hindu gods (*devas*) engaged in battle with demons (*asuras)* lend support to "Holy War" patterns in Hindu thought where wars are seen as sanctified representations of mythological struggles. When combined with notions of righteous combat (*dharma yuddha*), warfare can be seen as a cosmic struggle against evil, which resembles a Holy War mentality:

> The battle between good and evil is conceived as a cosmic sacrifice for the common good, ultimately uniting gods and men in the rule of *Rājadharma.* This conception is extremely archaic but astonishingly durable; in the Hindu scriptures history is represented as a ceaseless conflict between the *Dharma* and *Adharma*—between the moral, idealistic, spiritual, forces and the

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It is because one's death in a contest makes him live in heaven" [*Mbh,* II, 22, 18.] (Dikshitar, 1944, 19). "The belief that soldiers dying on the battle-field are transported to heaven is as old as the *Ṛgveda* (Rv. X, 154, 2-5) and is repeated almost to weariness in the *Mahābhārata.* (cf. Kaut. Bk. X, ch. 3 (cited in Chakravarti, 1972, 184). Even greedy warriors can go to heaven if they die in battle. Ironically, the first person that Yudhiṣṭira sees in heaven (though it seems that he may not stay there long) is Duryodhana, who has performed his kṣatriya duty of dying on the battlefield (*Mbh.,* 18.1.4, *Mbh.,* 18.3.12).

unregenerate forces of darkness, lust, and evil—in which the Dharma always wins (Lannoy, 1974, 294).

This conception blends both righteousness and holy war into one. Given the above considerations, this work has shown that Hindu notions of righteous warfare are not static or one-dimensional. They change like a chameleon depending on the metaphysical seasons of thought. Classical Hindu views of warfare are shaped by questions such as: "Is the purpose of war to protect and uphold the cosmic order or something else?"; "Who or what is the enemy?"; "Is warfare a metaphor for the struggle for noble righteousness and purity in our daily lives?" "Is life itself the battlefield"? "Are one's actions a canvas of sacrifice and/ or part of God's divine plan?" Suffice it to say, the different answers to these questions will affect the ways in which Hindus see war and their value judgments about it.

6.5.   Conclusion

This study has challenged the view that traditional Hindu principles of war have no relevance to modern Just War thinking. As Zimmer claims, "the theories of politics evolved in Indian antiquity may be by no means out of date. They [may] have remained unnoticed [but their low-profile] … does not mean that they could be of no use or interest to the modern mind" (Zimmer, 1951, 91). This work has shown that Hindu frameworks of warfare are not "doctrinal relics, the hardened deposits of past debates. Such traditions are also a resource for future debates and moral choices – choices and debates

that will, in turn, reshape our multivocal heritage" (Nardin, 1996, 10). Suffice it to say, global events today continue to be shaped by the religious traditions of the world. India's one billion Hindus will likely play a significant role in the future of international relations and military alliances. Therefore, India's rising economic and military power cannot be ignored.

The combined chapters of this work demonstrate that India's resilient civilization has deeply rooted principles of Just War thinking that could contribute in significant ways to the evolving dialogue about warfare in the 21st century. Informed by its enduring codes of religious ethics, its treaties of political cunning, and its difficult experiences of religious communalism and colonialism, India's military thought offers a blend of both *realpolitik* and benevolence in a creative fusion.

As India's military juggernaut rises again in the 21st century, it will be interesting to see whether its longstanding ethical traditions on war will remain subservient to modern international treaties (what Walzer calls the "Legalist Paradigm"), or whether its sophisticated traditions of *dharma yuddha* and *kūṭa yuddha* will reassert themselves. These deep-rooted Hindu traditions suggest that India has both the conceptual and strategic tools it needs to assemble religious or secular justifications for righteous wars. Such traditional values could be used to justify belligerency in the pursuit of *dharmic* ideals. This work has showcased the myriad ways in which Hindu notions of righteous warfare have been conceptualized, articulated, justified,

and infused with an ethos of sanctification. It would be wise to learn about India's traditional models of Hindu warfare to provide prescient understanding of the possibilities of India's future military path (*yuddha-mārga*)[228] in the 21st century.

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[228] Term coined by author.

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