

Draupadi Jeopardizing Jurisprudence A Critical Analysis of Dharma as Law in the Light of Draupadi's Question(s) in the Sabhā

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Abstract

The character of Draupadi in the *Mahābhārata* has generally been read through the victim-perpetrator lens, where she is either seen as being at the receiving end of violence, or as an agent of questioning the very violence that is perpetrated on her, mostly by appealing to the morality of the men, warriors and kings present in the Assembly Hall, the scene of violence. The present paper reads the character of Draupadi in a new light: as a learned scholar and dialectician who is well-versed in the issues/debates of law, the legal code, and the codified system of ethics. The paper argues that it is her act of challenging and negating the prevalent, largely 'masculine' judicial system that she ends in pitting an alternative legal system against the then socio-judicial order. In so doing, she poses hair-raising questions against the abstract concept of 'dharma' and its drawbacks and the authority of the king on earth: thus unsettling the two pillars on which the society in the ancient times was based and sustained itself, both the cosmic principle which holds, and the kingly counterpart which executes. She marks a paradigm shift in and punctuates the masculine system of jurisprudence, thereby exposing its follies and its weaknesses, also anticipating the possible improvements in the present day legal set up in the country.

Keywords: Draupadi, *Mahābhārata*, dicing, law, dharma

Whom did you lose first, yourself or me?

-- Draupadi, *The Mahābhārata* II.60.7

What is left of the dharma of kings? . . . This ancient eternal dharma is lost among the Kauravas.

-- Draupadi, *The Mahābhārata* II.62.12

The aforementioned questions raised by Draupadi in the *sabhā*, posed before an assembly hall full of elderly, learned men, most of them kings and great warriors (by virtue of which they are responsible for meting out justice to their subjects), are not conclusively answered in the epic. They arguably remain unanswered to date, as Bimal Krishna Matilal (1989) would also postulate. The dicing scene in the *Sabhāparva* (The Book of the Assemble Hall) is what constitutes a situation of unsolvable crisis in the *Mahābhārata*, and as various scholars would generally maintain, is also what leads to the action in the rest of the narrative, with Draupadi (and not what is done to her in the *sabhā*) being held as the sole cause of the epical war. Needless to mention, during this apocalyptic episode which plays itself out in the assembly hall, Draupadī, the wife of the five Pāṇḍava brothers, is assumed to be reduced to the status of a *dāsī* (maid servant/slave) after her husband, Yudhiṣṭhira, the eldest of the five Pandavas, wagers and loses her in a game of dice after having lost all his possessions, his brothers, and himself to the Kauravas.

Draupadī, the heroine-goddess of the *Mahābhārata*, is dark like the goddess Earth from birth and an embodiment of Srī, the goddess of prosperity. She stands out among other strong female characters in the epic, as she is born, not out of a woman's womb, but of a sacrificial fire to King Drupada of Pāñcāla. Draupadī or Pāñcālī's birth is accompanied by the prophecy that she will bring about the ruin of the *kṣatriyas* (the warrior class). She is depicted as exceedingly beautiful, virtuous, fiercely independent, a fiery woman and well-learned in the scriptures. Vedavyasa describes her as "loving (*priya*), learned (*darshaniya*) and scholar (*pandita*). Above all, [she] was an exponent of dialectics. . . [which is] seen at best in her sabha confrontation" (Kumar, 2017, p. 257). In fact, one of the epic's primary foci, in Alf Hiltebeitel's (2011) words, is "the question of who Draupadī is as a figure— a rebel, a figure who is independent, vigorous, challenging, a principled woman, a very difficult kind of woman, [and/or] intellectually shrewd" (p. xxvi).

The most disturbing part of the dicing scene rolls out when after Yudhiṣṭhira loses Draupadī in the game and Duryodhana orders that Draupadī be brought to the assembly of the Kauravas as a slave of her new masters. But Draupadī refuses to come with the messenger till the time she receives an answer to her question: "Whom did you lose first, yourself or me?" She asks the messenger to pose the question to Yudhiṣṭhira and come back to her with an answer. Interestingly, the question posed by the messenger in the assembly hall is markedly different from that of Draupadī: "As the owner of whom did you lose us?" As experts of language and of law would readily notice, the messenger "sharpens the focus" of Draupadī's question (Das, 2009/2012, p. 38). Draupadī's question, as Hudson would point out, focused on the issue of sequence, and the usher's question focuses on the issue of ownership (2013, p. 101). Draupadī's question, thus, draws attention to her strength and sanity even in adverse circumstances; she has her head firmly placed on her shoulders even in such outrageous a situation, thus wanting to put the command under scrutiny before blindly doing what she is ordered/expected to do or sheepishly embracing defeat and servitude. What is noteworthy is Draupadī's sense of argumentation in the question she poses, her knowledge of law and propriety, which she is going to execute at length later in the hall, but a taste of which one gets here.

As Gurcharan Das (2009/2012) would point out, the question as put forward by the messenger, also has a "psychological focus, pointing to Yudhiṣṭhira's accountability. Was he a master of his faculties? Or was he temporarily deranged by the gambler's frenzy?" (p. 38) Continuing the same line of argument, Das would put the ball in Yudhiṣṭhira's court, pointing out that Yudhiṣṭhira was possibly in a state of "temporary insanity" when he staked his wife, who was also, equally, the wife of his four brothers (p.38). Das possibly builds up his conclusion on the warning given by Vidura to Duryodhana: "I think she was staked when the king was no longer his own master" (p. 38). One is inclined to think that the messenger is more experienced, knowledgeable and empathetic to the cause of Draupadī than her kith and kin, giving her the respect she deserves by obeying her command and also reinforcing, albeit differently, the force of her question in the assembly hall.

Evading the crucial question posed by the messenger (and Draupadī), Duryodhana sends Duhśāsana to fetch Draupadī. Horror unfurls as a menstruating Draupadī, clothed in a single blood-stained garment, her hair disheveled, is dragged into the assembly hall despite her protests. She is "dragged, seized, held down, shaken, ridiculed, called "a slave" (*dāsī*), and almost fully stripped" (Hudson, 2013, p. 98). One must not forget the fact that she was recently anointed the queen of a *chakravartī* (literally, an ideal universal ruler) after Yudhiṣṭhira successfully organized the *Asvamedha* (horse) sacrifice: the command of being stripped of her fiefdom might have been extremely shocking for her at this juncture. If Draupadī, a queen and wife of five husbands, can be treated in this fashion, contemporary readers can only imagine the horror that stares ordinary,

unattached, unprotected women in their faces down to this day. This is possibly one of the reasons why Draupadī's insult and suffering continue to have a perennial relevance, more so in India than elsewhere!ⁱ

Draupadī throws a scornful glance at her husbands when she enters the assembly:

Not the kingdom lost, nor the riches looted
 Not the precious jewels plundered did hurt
 As much as did her sidelong glance. (II.60.35, 36)

Sally Sutherland believes that “the character of Draupadī has a special appeal, for coupled with victimization is a strong realization of her victimization. And she responds to it by mounting aggressive and outspoken attacks on her husbands” (as cited in Shah, 2012, p. 110). Instead of resigning to her fate, she rebels against her oppressors (including her husbands, who are supposed to be her protectors) and questions Yudhiṣṭhira's right over her, especially after having lost himself in the game. She makes this into a legal question of the rights of a husband over a wife, and the freedom of a wife/woman and poses it to the assembly of men, kings and lawmakers. Matilal (1989) maintains that “the question that Draupadī asked was more concerned with the rights or legality of her husband's action than with the morality of the situation” (p. 2).

Draupadī's question is a question of dharmaⁱⁱ in the *sabhā*, which is incidentally both the men's gambling hall as well as the courtroom to dispense justice. Although dharma as a concept has myriad meanings and is considered to be “subtle” and “untranslatable,”ⁱⁱⁱ Olivelle (2009) draws attention to the meaning of dharma which coincides with the duties of a king (both the here and the beyond):

Dharma. . . has acquired the primary meaning of law and order within society, a law that is hypostatized into an abstract entity as *dharma* that stands above and gives legitimacy to *kṣatra*, the ruling power of the king. . . [It thus becomes] a cosmic force that stands above the king; it is called *kṣatraya kṣatram*, the power behind the royal power” (pp. 75-81).

Writing about the multiple possibilities of the interpretations of dharma, Gurcharan Das (2009/2012) points out that “in the second century BC, the Vedic exegete Jaimini” defined dharma in a “practical, action-oriented way—‘what is to be done’. . . [b]ut dharma also means ‘law’ and Draupad[ī] makes a legal argument on the assumption that it is more likely to resonate with the rulers in the assembly” (p. 37). In fact, Hildebeitel (2011) would argue that Draupadī certainly knows enough about *dharma* to question it (p. 200). She appears to be the victim, but the epic instead projects her as the fiery woman who refuses to be victimized at the hands of her husbands or the Kauravas and give in to the adversity she finds herself in because of patriarchal mores. Shah observes that “[i]n spite of the humiliation. . . Draupadī showed both the presence of mind and the gumption to challenge the all-male audience of the *sabhā*, stating that ‘[t]hese Kurus stand here in the hall, lords of their daughters and daughters-in-law. . . answer this question of mine the proper way” (2012, p. 47). She will only rest (or surrender) once the legalities of her question have been looked into and satisfactorily answered.

At a very basic level, Draupadī seems to be asking “a woman's question, if not the woman's question. . . [which o]ther heroines in the *Mahābhārata*— Damayantī, Sītā, and Ambā— also raise. . . in various forms: Is this really you who is doing this to me?” (Hildebeitel, 2011, p. 197). It is a reflection of her shock and dismay at the treatment that is meted out to her as a wife, as a queen, and of course, as a woman. These feelings of disappointment become intensified at the thought of the miscreant: her very own husband, the eldest and (supposedly) the wisest ‘Dharmarāja’ Yudhiṣṭhira. At another level, according to Hildebeitel, she speaks about, and perhaps for, *women*

as a class, and challenges the men to consider a question that questions their lordship over and 'ownership' of women in contexts of patriarchy (2011, p. 198). Additionally, her question to Yudhiṣṭhira also raises the legal issues of property, ownership and slavery in the hierarchical context of patriarchal marriage, and symbolized around the figure of the ultimate lord, master and owner, the king, in relation to the subjecthood and objecthood of the queen, his wife (Hiltebeitel 198, emphasis removed). However, Draupadī is not stoppable at this juncture: she converts her "legal challenge" into "a moral one" (Das, 2009/2012, p. 39). She seems to be asking "Is it right or fair that a woman, let alone a queen, become a slave because *her husband staked her* in a gambling game?" (Das, 2009/2012, p. 39, emphasis mine)

This sets off a "tangled discussion" about dharma^{iv} in the assembly hall, which "centers on two intimately connected questions: The first is whether Draupadī's forced entrance into the hall is a violation of dharma. The second is the validity of Yudhiṣṭhira's stake" (Hudson, 2013, p.101, emphasis removed). Vidura, the first person to raise the issue of the legality of Yudhiṣṭhira's stake (especially that regarding Draupadī), urges the kings and the elders gathered in the *sabhā* to answer Draupadī's question. Shah (2012) has done a thorough study of how, in trying to answer Draupadī's question, the various leading lights of the Kuru assembly are forced to put into words their biases (p. 48). Used to dealing with matters of state, Bhiṣma looks upon Draupadī's question as a legal challenge (Das, 2009/2012). It is not unreasonable for both Draupadī and the readers to expect a sane, unbiased, well thought-over answer from Bhiṣma. He, however, makes an explicit statement after a long line of argument that despite the state a husband may be in, his authority over his wife does not cease (Shah, 2012, p. 48). Bhiṣma tries and fails, passing the buck on to the abstract, deeming dharma too *sūkṣma* (subtle) to be interpreted (Hudson, 2013, p. 101). Vikarṇa's defence of Draupadī "does not turn out to be a defence at all. . . and his arguments do not in any way contradict the general belief that a wife is her husband's property" (Shah, 2012, p. 48). Karṇa reiterates this belief when he says that "as Yudhiṣṭhira had staked all his possessions as a free man, he had already lost Draupadī (*abhyāntara ca sarvasve draupadī*)" Karṇa regarded Draupadī as property because of her polyandrous marriage, a whore because she submitted to more than one husband (Shah, 2012, p. 48). Shah (2012) has rightfully pointed out that "by refusing to accord the status of a wife by dharma to Draupadī, Karṇa's. . . intention was to seize the moral highground from Draupadī who had afterall challenged the Kuru precisely on the ground of the righteousness of their conduct" (Shah 48).

The Kauravas continue to humiliate her: Karṇa questions her chastity and honour (owing to her five marriages), Duśāsana attempts to disrobe her, and Duryodhana makes an indecent sexual gesture towards her. Hiltebeitel (2011) is of the opinion that "it is the insolubility of the question, and the impasses it opens, that provokes the two violent scenes of Draupadī's violation, her hairpulling and disrobing" (p. 196). Draupadī chooses to be referred to as the unattached woman because of her humiliation (to which her husbands were silent spectators), and bewails aloud "O Kṛṣṇa for me there is no husband, sons and relations. For me there is no brother and father" (cited in Shah, 2012, p. 42). Different versions of the epic have differing explanations for the cause/reason/agent behind the failed attempt of the complete disrobing of Draupadī by Duśāsana. One would like to go with the opinion that she is saved, not by Krishna, but by 'cosmic justice' in the hour of disrobing. As Das (2009/2012) would opine, "it helps build Draupad[ī]'s character. . . It vindicates her courage as she stands up to the political and social order, reminding the rulers about the dharma of the king" (p. 42).

Bhiṣma also appeals to Yudhiṣṭhira as "the authority" (*pramāṇa*) in these matters, but Yudhiṣṭhira. . . refuses to say a word. Despite Vidura, Vikarṇa and Draupadī's pleas, Droṇa, Kṛpa, and the other

elders in the hall like Yudhiṣṭhira, fail to respond: they either refuse or are not able to speak to Draupadī's question" (Hudson, 2013, p. 101). In trying to find an answer to the reason why Draupadī's violation is so very unsettling for the characters as well the readers, Hudson (2013) arrives at the following conclusion:

It is the presence of those elders, kings and family members in the assembly hall who act as passive witnesses to Draupadī's abuse. The elders, who have studied the *śāstras*. . . are speechless in the face of what appears to be a gross transgression of *dharma*. . . They fail her in one of their most important dharmic duties as kings: protection" (p. 98-99)

In this regard, Mukhoty (2017) has also pointed out how Draupadī not only challenges the rule of law of/by men, thereby shaking its very foundation, but also threatens the male order by drawing up a parallel judicial system: "If absolute acceptance of a husband's opinion and beliefs was constituted an ideal pativrata, then Draupadī was an altogether unusual one. Throughout the. . . epic [after her humiliation in the court of the Kauravas], she follows the dictates of her own sense of justice" (p. 15)

Hudson also posits that the silence of the elders in the assembly hall "calls into question their ability to perceive dharma. This raises the question of whether dharma can be perceived at all, an implicit anxiety that runs through the text" (2013, p. 102, emphasis removed). Trapped as the elders in the assembly hall are by their inability to answer Draupadī's question, and, by extension, "because of their inability to interpret dharma. . . they [also] fail to act" (Hudson, 2013, p. 103, emphasis removed).

Hudson's suggestions pave the way for further deliberations in the present study. She further suggests that "dharma's inscrutability paves the way for what would seem to be one of dharma's greatest transgressions, the abuse of Draupadī. . . If this is the case, then the category of dharma itself is implicated in Draupadī's molestation and affliction" (103, emphasis removed). One is inclined to think deeply whether this provides us with some food for thought regarding the limitations of our legal and judicial set up, both in the ancient times as well as in the modern world, about the need to make law immune to both outside influence and internal fallibility?

Das (2009/2012) has rightly driven home the problem regarding the idea of dharma as law, and the idea of a final/universal/supreme authority which separates the lawful from the unlawful, the right from the wrong, the good from the bad. He points out that:

Draupad[ī]'s insistent second question—"What is the dharma of the king?"—unsettles the assembly. . . [It] suggests that she does not think that what is lawful is necessarily right. . . [that] dharma must mean something other than what is customary. . . it also raises the issue about who has the authority to decide about dharma" (p. 46)

However, for the semblance of order and for the sake of perpetuation of the human race, man has always felt the need to have a leader for every group/community/society. In the ancient times, the king was considered to be the leader and his people his subjects. Olivelle (2009) explains that in the Indian context, since time immemorial, "the kingly power or *kṣatra* is intimately connected with *dharma*. . . [The king is] lord and upholder of *dharma*. . . within [the] society. . . *Dharma* is. . . placed squarely within the public realm of law and social norms that must be overseen by the king" (pp. 71-75) In the *Mahābhārata*, Draupadī is failed as a subject by the two kings she appeals to: her husband and the *chakravartī* king Yudhiṣṭhira, and the Kaurava king Dhṛtarāṣṭra in whose court she stands demanding justice.

By standing her ground and asking the question, Draupadī is really revealing the dark side of the masculine code of both heroism and chivalry: her questioning of her humiliating treatment ends up exposing them rather than her, as was the Kaurava intent (Shah, 2012, p. 47). In the grueling episode, however, there emerge the bright facets of Draupadī's personality. Not only does she understand her scriptures and the legal debates therein extraordinarily well, she emerges as a great dialectician, a woman with a never-say-die spirit, someone, who, as Lena Taneja would postulate, "never seems to doubt for a moment that is truly free" (as cited in Hildebeitel, 2011, p. 200). Taneja also argues further that "it is perhaps her sense of freedom that keeps her sticking to the question that will also free her husbands" (as cited in Hildebeitel, 2011, p. 200). Draupadī makes a "class-action appeal for daughters and daughters-in-law. It calls into question two kinds male lordship: that of kinship and family, and that of the *dharmic* politics of kingship in the *sabha* or men's hall" (Hildebeitel, 2011, p. 202).

Draupadī, inadvertently perhaps, creates deep trouble for exponents and propagators of dharma as the king's law. Das posits that although Draupadī has "little hope of success. . . [she is] not afraid to challenge the ruler's brute power by appealing to a higher dharma. Since the king's law. . . is defective, dharma must mean something other than what is legal or customary" (2009/2012, p. 59). Does she seem to suggest that what is lacking in the judicial system owes to the absence of female intervention? Hudson rightly points out that that "while the epic does contain passages that describe dharma in strikingly legalistic terms, many of the narrative passages seem to call into question the idea that dharma is codifiable, suggesting instead that dharma is subtle and may be understood only by deep insight" (Hudson, 38, emphasis removed). It does need a learned scholar to point out that being insightful is not the prerogative of men; perhaps a female hand in deciding convoluted matters of law can take away much of the trouble, also giving it a human, somewhat egalitarian finesse.

Draupadī, therefore, is not just a "social rebel" or a "non-conformist" (Matilal, 1989, p. 2). She is immortal and relevant because she symbolizes the figure of the unprotected woman in a patriarchal society, feminine honour which is to be guarded even in adversity, standing for prosperity in peaceful times as well as for the potentially destructive feminine wrath which can unleash unbridled devastation if challenged. She is an ideal woman who thoroughly knows the very discourse, the socio-politico-legal structures which can subdue and subject her to dishonor and violence. She uses her knowledge of these structures to use to stand up against her exploitation, and to save herself and her husbands. That knowledge, and of course her argumentative skills, according to me, are the necessary evils which safeguard her. It is precisely this kind of awareness about our (mostly) inaccessible legal institutions and the technicalities involved therein that we need to spread far and wide, for women to stand up for themselves, their dignity, and against any form of violence, intended or enacted. The example of Draupad[ī]'s intervention should act as the flag bearer of and lead the way towards the rectification and improvement of the contemporary notions of jurisprudence in the country.

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Notes

ⁱ Hildebeitel puts forth a very interesting proposition in his article titled “Draupadi’s Question,” where he sets out to enquire the possible links between “goddesses and flesh-and-blood historical women” by tracing “what a heroine questions,” since this, according to him, would help in arriving at the answer to the question of whether or not “the goddess is a feminist” (196).

ⁱⁱ One of the many meanings of dharma is ‘law’ or ‘law code.’

ⁱⁱⁱ Gurcharan Das (2009/2012) points out at the very beginning of his study on dharma in the *Mahābhārata* that the dharma is “untranslatable” as it has a host of meanings in the original Sanskrit, and his thesis in the book veers towards the “subtlety” of the same (p. xv)

^{iv} The meaning of dharma that is referred to here is in terms of justifiability, morality, and ethics: the debate between the right and the wrong.

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