

Can Wife be a wager: Ethical dilemma of *Mahābhārata* from *dharmaśāstra* perspective

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Abstract

This paper explores the profound ethical and legal dilemma presented in the Sabhā-parvan of the *Mahābhārata*, where the unskilled Yudhiṣṭhira wagers and subsequently loses Queen Draupadī in a rigged game of dice. By connecting this epic narrative with classical *dharmaśāstra* legal frameworks—specifically the concept of *dattāpradānika* (the resumption of unrighteous or improper gifts)—the study investigates the socio-legal validity of such a gambling contract. Special attention is given to the insights of the young prince Vikarṇa, who boldly challenged the silent royal court by presenting a multi-layered legal defense for Draupadī. Vikarṇa argued that Yudhiṣṭhira's contract was entirely void because of Addiction, Compromised Consent and Loss of Legal Agency. The paper demonstrates how these arguments directly mirror *dharmaśāstra* rules regarding illegitimate gifts (*adatta*), which explicitly nullify asset transfers made under the influence of addiction, emotional distress, or financial dependency. Furthermore, classical texts like the *Yājñavalkyasmṛiti* mandate that a man's primary obligation is to protect and maintain his family, explicitly forbidding the gifting or selling of a wife and children. Finally, the author analyzes how subsequent commentators (such as Nīlakaṇṭha and Vijñāneśvara) and digest (*nibandha*) writers utilized these precise legal filters to retroactively invalidate the wager. By doing so, they neutralized a dangerous epic precedent, resisted the absolute narrative of patriarchal "ownership" over women, and preserved institutionalized social morality.

Keywords: *Dattāpradānika* (Resumption of Gift), *Vikarṇa*, *Gambling Contract*, *Illegitimate Gift* (*Adatta*)

Introduction

In *Sabhā-parvan* of *Mahābhārata*, Pāṇḍavas was invited to a gambling event by Duryodhana. Unskilled Yudhiṣṭhira lost multiple times in this game and lost everything he had. When he played the last game he kept Draupadī as wager. After losing the game, when Draupadī was called to the royal court, Vidura raised a very pertinent issue regarding the validity of such a gambling contract. Many protagonists got involved in this debate; such as Bhīṣma, Draupadī, Vikarṇa, Karṇa, Duryodhana etc. Commentators found this issue very intriguing and discussed it at length. Later *dharmaśāstra* (specially the *nibandha* or digest writers) raised this issue indirectly and forwarded various arguments to negate the validity of such heinous deeds or contracts. This paper would like to connect *mahābhārata*'s narrative with the *dharmaśāstra*'s description of *dattāpradānika* or resumption of gift. Additionally, the changing attitude towards the issue will be analysed.

The incidents reported at *Mahābhārata sabhāparva* (particularly the gambling session could have caused the war between Kaurava and Pāṇḍavas. Yudhiṣṭhira was invited to *hastināpura* for gambling and he accepted it as a kingly gesture. He stepped into the trap designed by Duryodhana with his maternal uncle Śakuni, who was an ace gambler. Yudhiṣṭhira lost every single round and thereby lost all his wealth, kingdom, his brothers and even himself as wager. After such disastrous loss Śakuni reminded him that Yudhiṣṭhira had one more thing to bet upon; his queen Draupadī. Result was obvious and it happened. Duryodhana became the winner and he sent a messenger to call Draupadī to the royal court. The wise minister of *hastināpura* raised an important doubt regarding the issue and commented that such a contract cannot be permissible in a social and

legal domain. As Yudhiṣṭhira had lost himself in the game earlier and had surrendered his independence, he possessed no legal right to personal property nor was he eligible to give consent on any contract and therefore had lost his rights to bet on Draupadī. Bhīṣma, being the eldest and wisest member of the family emphasized that the issue of right over the wife was much debated in the society and a very crucial one. So, despite being the most experienced, Bhīṣma, declared his inability to decide what was right and wrong on the issue (“*na vivektuṇca te praśnamimaṃ śaknomi niścayāt/ sūkṣmatvāt gahanatvācca kāryasyasya ca gauravāt*”).

Bhīma observed that due to popular social customs and out of pity, even the gamblers did not bet on women. Bhīma got furious and lodged his disagreement with his elder brother's decision. A tender aged boy came forward to solve the issue which was mind boggling even for the wisest one. Duryodhana's brother Vikarṇa, who was hardly a teenager, was moved by the humiliation of Draupadī, invited the members of the royal court to debate on the ethical importance of the issue¹ and provided four following reasons from legal perspective;

- Gambling was considered to be one of the most dangerous addiction in the society and the dharmaśāstra also discussed it along similar lines. Anything done in such addicted state should be undone and such activities should not hold any validity. Yudhiṣṭhira was addicted to the prohibited game called gambling and thus his contract, done during the game, did not hold any validity.
- Draupadī was not married only to Yudhiṣṭhira, but to four other husbands. Draupadī's responsibility was shared equally among the five brothers. Yudhiṣṭhira had only one fifth right over Draupadī. Therefore, he could not provide consent alone to the gambling contract. Commentator Nīlakaṇṭha² from seventeenth century A.D. (following the instruction of *Dāyabhāga*) added further that Yudhiṣṭhira could have betted his share of rights over Draupadī but Vikarṇa's third argument removed such possibility³.
- Yudhiṣṭhira lost his independence first and so he holds no right over his wife, Draupadī. The commentator added that dead husband and the husband who lost/sold himself in gambling had no more right on his wife.
- Typical contract must declare that consent was given without being under any pressure created by other person or in proper mental state. As Yudhiṣṭhira was pressurised and influenced by Śakuni to bet his wife, such contract stands invalid.

Vikarṇa's speech was highly appreciated by the many members who were present and they cursed Śakuni for his bad intentions. Those members voiced their disagreement as a group but could not come forward with their individual voice as they were petrified by the presence of Karṇa and Duryodhana.

Vyāsa gave a twist to the narrative as king Dhṛtarāṣṭra granted respite (i.e. boons) to Draupadi to reduce her mental agony, caused by such public humiliation and the above mentioned contracts were made void by the king Dhṛtarāṣṭra against the stern opposition of Karṇa and Duṣṣāsana. Vyāsa's perspective towards the issue was quite evident by the twist in the story. Vidura and Vikarṇa's arguments were based on *Dharmaśāstra* laws or laws of moral and legal conducts. Commentators expounded along the same line. It seems to be deduced

¹ *Yājñasenyā yaduktam tadvākyam vivrūta pārthivāḥ/ avivekena vākyasya narakaḥ sadya eva naḥ//* (sabhā 65/12)

² Author of *bhārata-bhāva-dīpaḥ* commentary on *Mahābhārata*

³ “*nanu 'ekāṃ strīm kārayet karma yathāṃśena grhe grhe' iti (dāyabhāgadhrta) smṛteḥ ekasyā dāsyāḥ pañcānām bhātṛṇāmekena svāmśavikraye yathā kretustat pañcamabhāge svatvaṃ pañcamabhāgena ca karmakaraṇam, tathā draupadyā api pañcamabhāge duryodhanasya svatvaṃ pañcamabhāgena ca dāsikarmakaraṇamāstāmityāha jiteti| kiṅca śakuninā jitapūrveṇa anena pāṇḍavena yudhiṣṭhireṇa, paṇaḥ kṛtaḥ| ...etat sarvaṃ vicārya ahamimāṃ draudadīm duryodhanena vijitāṃ na manye |*” – *bhāratakaumudī* commentary on Vikarṇa's argument.

from the laws of resumption of gift or *dattāpradānika*. Analysis of those rules could give us a better understanding of those arguments presented by Vikarṇa.

Dharmaśāstra perspective:

Dharmaśāstra identified certain issues of legal litigation (i.e. *vivādasthāna*), that were taken to the judiciary quite often. Numbers and specifics of the aforementioned problems varies across the whole literature of the *dharmaśāstra*. Manus and Nārada enumerated eighteen types of legal disputes while Kauṭilya stopped at sixteen. Vṛhaspati and Yājñavalkya count, respectively, nineteen and twenty. Most common issues of dispute are the following: Non-payment of debts, deposits, partnership, resumption of gifts, breach of contract for services, non-payment of wages, sale without ownership, non-delivery of sold object, reneging on a purchase, non-observation of conventions, land disputes, relation between men and women, partition of inheritance, violent acts, verbal and physical assault, gambling and contests, theft, ordeals and other minor issues⁴.

However, laws of gift are discussed compendiously in *dharmaśāstra* texts, it is to be interpreted with the help of other laws; such as laws of pledge, laws of bailment, laws of mortgage and other laws relating to contract. It shows why it deserves considerable attention.

Dattāpradānika is defined as a dispute about gifting an object in improper manner and reclaiming the object back. The original description is so poorly developed that further investigation is needed⁵.

1.1. *Dharmaśāstra* took away gifting rights from women, slaves and minors. Commentators justified the injunction with the argument of financial independence, as these groups were unable to donate by their own will. Does this imply that the earning men had the independence to donate according to their whims? In male dominated society, men are supposed to have all the agency regarding the donation of their earned money. In conjunction with it Hindu Law imposed certain filtering conditions to ensure some moral and ethical bindings, towards their family as well as society, by the earning members of the society.

1.2. Yājñavalkya has outlined three basic rules of gifting: 1) someone can give the rest after syphoning enough to hold his extended family; 2) no one is obligated to give his own wife and children⁶ whatever the situation might be; 3) if anything is promised to be given to someone, it cannot be given to anyone else. The laws above, indicate that if anybody has no dependent; in the given situation, he has no obligation whatsoever, is allowed to donate everything⁷. Although Yājñavalkya briefly discussed the concept, commentator Vijñānesvara explored the problem's intricacies. He cited Nārada for displaying the issue's legal purviews.

1.3. Nārada classified the contracts in four major classes; Gift of legally permitted objects (*deya*), Gift of legally prohibited objects (*adeya*); legitimate (*datta*); illegitimate gift (*adatta*).

1.3.1. Gifts are considered illegitimate (*adatta*) when these are given out of following conditions:

⁴ According to Nārada

⁵ *Dattvā dravyamasamyagyaḥ punarādātumicchati/ dattāpradānikam nāma tadvivādapadam smṛtam//* Nārada.4.1

⁶ Giving a child to another person during the legal process of adoption is not taken into account.

⁷ *svaṃ kuṭumvāvirodhena deyam dārasutādṛte / nānvaye sati sarvasvaṃ yaccānyasmai pratiśutam//* Yājñavalkyasamhitā.2/175

- a. Fear,
- b. Anger,
- c. Antagonist attitude,
- d. Strong impulses; such as extreme grief and infatuation
- e. Given as bribe
- f. As a joke
- g. Through deceit
- h. Given by a minor or mentally challenged
- i. Gift by financially dependent
- j. Gifted by an intoxicated or lunatic person
- k. Promise of donation by a diseased individual
- l. Donated with an intention to get something in return

The description of illegitimate gifts (*adatta*) in *dattāpradānika* includes the idea of consent and intention. *Dharmaśāstra* put immense emphasis on debarring unethical use of consent and intention during framing of agreements and recommended exclusion of such activities. Nārada's list of conditions of illegitimate gifts included many factors applicable to Yudhiṣṭhira while he gave his consent to the contract; He was financially dependent, he donated with an intention to get something in return (his own freedom) and he was under strong impulses or addiction. *Bhāratakaumudī* commentary of *mahābhārata* suggested that Yudhiṣṭhira's consent in this contract should not be considered⁸.

Yudhisthira's action seemed to be a clear violation of first two basic rules of gifts mentioned by Yājñavalkya. An earning member, who in most cases used to be a male, was obliged to provide for his wife and children along with other family members. The term *bhartā*, which was quite popular, denotes such responsibilities. *Bhartā* implies a man who takes care of the needs of his family members. These requirements vary from food and raiment to fulfilling certain essentials. Manusmriti specifically instructed that core family maintenance should be performed anyhow, even by obtaining unlawful means. *Dharmaśāstras* enumerates nine types of *poṣya-vargas* or persons who should be taken care of by a family man; parents, teachers (also can mean other elderly members), wife, children, other dependants, guests, and acquaintances. *Dakṣasamhitā* prolonged the list by including relatives, friends and orphans, who are in dire financial condition. Further emphasis was placed on such actions by celebrating it and non-performing such tasks viewed as heinous acts.

*Sarasvativilāsa*⁹ (Sastry 277–88) explained that someone who gifts or sells his wife and children become abandoned by the society. “*putrādārādīdātā patito bhavatīti, dātṛśabdo vikreturapyupalakṣaka*”. Gifting is a process of transfer of rights from donor to donee. In case of forbidden objects, gifting process cannot be completed as the right on those objects (or person) cannot be created in donee. Donor's right on those gifted

⁸ “...kitavair-duryodhanādibhir-dyutakāraiḥ samāhūtena, na punaḥ svecchayā samāgateneti bhāvah, pāṇḍuputrena/ yudhiṣṭhireṇa, vyasane dyūte, bhṛśaṃ varttatā atyantāsaktenaiva sataa, draupadīrūpaḥ paṇo draupadīpaṇaḥ, āsthito dhṛtaḥ/ tena ca vyasanāsattatayā aikāgryābhāvāt paṇamevāsiddhamiti bhāvah”

⁹ Early sixteenth century A.D.

(restricted) object remained until the right of donee is established without objection - “...*taddāne’pi parasvatvā*”.

Nīlakaṇṭha’s¹⁰ commentary also explained the issue along similar lines – “*putradāreṣu svatvābhāvaḥ pūrvamupapāditāḥ svatvavivāde | etaddāne na kevalaṁ vyavahārāsiddhiḥ kiṁ tu prāyaścittamapītyāhaitāni prakṛtya...*”.

Gifted or selling of wife and children cannot be completed due to the similar reason. Right on wife and children is nothing but a mental construct, so such right cannot be an object of gifting resolution. “*putradārādīdravyasya tu dāne kṛte’pi svatvasyānapāyāt | svatvaṁ mānasikā kriyā saṅkalparūpatayā nāpaiti |*”

Vijñāneśvara in his commentary named few other objects that should not be given away even if someone is caught in a severe quagmire; as a deposit entrusted to an intermediary, a deposit for a specific purpose, a pledged object, property held in common and bail¹¹. Draupadī being a common responsibility of five brothers, cannot be betted (or gifted) by Yudhiṣṭhira alone.

In sabhā-parva, Vikraṇa, one of the younger brothers of Duryodhana, addressed the assembly of Kurus and advocated for protecting draupadī’s pride and to avoid her humiliation. He was lone voice of righteousness there. Vikraṇa showed his courage and addressed other kings presented there to keep aside their *kāma* and *krodha* and raise their just and judicious voice against the disrobing event¹². Vikraṇa pointed two very pertinent issues regarding the wager incident. Firstly, he referred dharmaśāstra to prove that Yudhiṣṭhira was addicted to gambling, which is the one of the four deadliest addiction according to Manu. Words of an addicted person cannot be accepted as legally binding. Therefore, Draupadī cannot be taken as a wager as Yudhiṣṭhira’s words bear no legitimacy¹³. Another important issue was that Yudhiṣṭhira was not a free man anymore, when he kept draupadī as a wager, as he lost himself as a wager earlier. Any slave or bonded person loses his/her ownership over everything whatever he/she had earlier. So, no slave and bonded person can keep anything as wager. Furthermore, Draupadī belongs to all five *pāṇḍava* brothers. So, Yudhiṣṭhira cannot keep her wager without the consent of other brothers¹⁴.

Conclusion:

Patriarchal control over the women was very much dominant in the *Mahābhārata* period and “ownership of women” became the crux of the entire narration. Though betting wife was an exception but that was described in details by Vyāsa. *Mahābhārata*’s popularity across the cultural could have created a bad instance to follow and thus it also caused embarrassing situation for the caretakers of Indian culture. Onus of explaining this incident as a mistake done in addicted state was on the commentators. Yudhiṣṭhira, the most knowledgeable

¹⁰ late sixteenth century

¹¹ *anvāhitam yācitamādhiḥ sādharmaṇam ca yat/ niḥkṣepaḥ putradāraṁ ca sarvasvaṁ cānvaye sati//* Nārada 4.4

¹² “*Brūta bhūmipayo vākyam yadyad yuktaṁ vicārataḥ | Kāmāt krodhācca saṁtyajya vimśadhvaṁ yathātatham |*” – *Mahābhārata, sabhā-parvan*

¹³ “*Catvāryāhurmahārāja vyasanāni mahīkṣitām | Mṛgayā pānamakṣāśca kāmāścātiprasaṅgitaḥ | Eteṣu pramatto hi dharmamutsrjate naraḥ | Tasya pramattavākyam tu na pramāṇam vidurbudhāḥ |*” – *Mahābhārata, sabhā-parvan*

¹⁴ “*yaṁ ca sarvapāṇḍūnām sādharmaṇadhaṇā hi naḥ | Pūrvamātmānamutsrjya svayaṁ rājā hyaśaktayā | Śakuninā samāhūtaḥ pratipannastataḥ priyām | Imaṁ vimśamāno’haṁ manye kṛṣṇānavijitām |*” – *Mahābhārata, sabhā-parvan*

person regarding the ethical values (*dharmā*), in spite of being requested by many members of the court, remained silent in the entire situation. Yudhiṣṭhira's silence offered a scope for the commentators to implement their views to establish the unethical nature of such incident and resist to the chance of conveying bad example for the society. Vikarṇa's protested while the other wise members of the court, terrified by the presence of Duryodhana, remained silent. It showed that age has never been a criterion for revolting against the social wrong deeds. *Dharmaśāstra* commentators and digest writers discussed the issue in general and imposed the legal restriction on such contracts.

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