India’s 1971 Intervention: In Conformity with Just War Theory?

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Abstract

Just War tradition is used to morally evaluate the warfare which nations wage against each other. This paper aims to employ Just War principles to the 1971 India-Pakistan war, that witnessed humanitarian intervention by India in East Pakistan which later became Bangladesh. Whether Indian intervention during 1971 Bangladesh liberation war fulfils the criteria of ‘just’ humanitarian intervention? This paper aims to investigate this related question by examining India’s intervention in East Pakistan from the perspective of Just War Theory principles. The paper initially explains the theoretical concept of Just War theory and then explains the notion of humanitarian intervention within the realm of Just War tradition advocated by Michael Walzer. Further the paper provides a brief background of genesis of 1971 war and Pakistan’s claim to sovereignty over East Pakistan citing UN Charter. Paper then delves upon the arguments provided by the Indian side in favour of Just Humanitarian Intervention in the backdrop of increasing brutality by Pakistan. Paper further, broadly assesses India’s intervention in terms of Jus Ad Bellum and six principles associated with it and also Jus in Bello and its subsequent principles. Paper finally concludes that India’s Intervention was in conformity with Just War Principles.

Introduction

Just war theory, is part of a common humanity concept, like ethics, believing that certain principles must be adhered to, even in the war situation, as epitomised in the Indian epic of historic Mahabharata. The age-old "war realism" notion, irrespective of the morality quotient, defends war as a natural and normal activity, with emphasis on victory. The role of morality in the international relations realm has often been questioned by realists. However, morality judgements, an intrinsic part of any human activity, hold true in case of war too, which are amongst significant human activities.

Just War Theory (JWT) is primarily an instrument that provides justifications of political positions/policy choices of states in situations of armed conflict and humanitarian crisis, based on criteria provided by veteran theorists. The morality doctrine provides a framework that encompasses layers of arguments/counter-arguments and evidences/counter-evidences for/against a particular war/intervention. The Just war tradition include two themes viz : (i) the 'Jus Ad

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Bellum’ or moral justification for war; and (2) the ‘Jus In Bello’ or moral guidelines for war-conduct. These themes stipulate several conditions to meet before terming an intervention/war as a just war.

The ‘jus ad bellum’ entails six conditions, viz.: (1) Cause must be just; (2) War-decision should be by a right authority; (3) Intention for war must be right; (4) War must be a last resort, (5) The goal of war must be to bring peace; and (6) Proportionality of ‘good’ achieved in war must be more than the ‘evils’ in just war. Meeting each condition independently is a pre-requisite to decide if it is just to go to war.

The ‘jus in bello’ primarily stipulate two criteria for just war viz: (1) Proportionality of Means; and (2) Discrimination and Non-Combatant Immunity. Hence, just war is a composite framework of ‘jus ad bellum’ and ‘jus in bello’. Non-fulfilment of any of the condition under two themes disqualifies the war as ‘just war’.

**Humanitarian Intervention and Just War Theory**

Michael Walzer defines humanitarian intervention as a response to massive human rights violations. He differentiates it from other kinds of intervention, which include intervention: To protect one’s own nationals; Intervention in a civil war to maintain a balance of local forces against intervention by another state (‘counter-intervention’); and Intervention to facilitate independence of a national community from a state considered as alien and oppressive by the secessionists. Walzer opines that intervention on humanitarian grounds is justified only for crimes, having no alternative remedy, while he is unfavourable to interventions for freeing people from the persecution by ordinary home-grown tyrants or alien power.

Hence, the government, committing crimes against its own people, cannot invoke claim of sovereignty. In such cases, victims automatically qualify for assistance. However, sovereignty claim is justified if an intervention is made as an exception, because of extremity of a particular situation. However, the burden of proving exceptionality lies with the intervening state and that the victims cannot be protected any other way.

Post-Cold War, the focus of the world politics shifted to humanitarian than hard security issues. This shift-initiated policy debates on humanitarian intervention, as the state activity, both at national and international level. During Cold War, every region of world was entangled in superpower politics, hence states and international organisation avoided intervention in internal crisis, fearing, it could trigger major war. State’s decision to intervene during humanitarian crisis is also influenced by state power and national interest as they intervene when self-interests that meet their national agenda are at stake. National interest and humanitarian motives provides requisite stimulus to an intervention in another state.

However, according to Articles 2 (4) and 2 (7) of UN charter, subject to Chapter VII of the UN Charter, no UN member state can threaten the sovereignty/territorial integrity of another state with ‘use of force’. In Post-Cold War period, intra-state
warfare increased, demanding external intervention, but noticeably, many humanitarian interventions were outside UN mandate. In such interventions, which lacks UN mandate, the 'JWT' provides certain criteria as guidelines for intervention and the conduct, thus providing a kind of legitimacy to such interventions. It also provides strong moral critique to unilateral interventions, aimed at power projection.

'JWT' is in fact an ethical reflection on organised violence and ways to prevent it. Moreover, humanitarian intervention has its roots in 'responsibility' than 'power' and 'interest'. Hence 'JWT' advocates war for justice and not for power gains.

This paper will argue that Indian intervention in East Pakistan in 1971 was morally 'Just' as it was both: a resistance to aggression and humanitarian intervention. Though, because of Cold War politics, India was then unable to strongly justify itself but UN’s post-hoc assessment of intervention indicated that it was the apt case of humanitarian intervention. Walzer hailed Indian intervention as one of the better cases of humanitarian intervention, not because that Indian intention was pure but because it converged with East Pakistanis/Bengalis demands for ending human rights violations and political representation in East Pakistan.

1971 Bangladesh Liberation War Background

In December 1970, Pakistan held free and fair elections in both of its wings, which were decisively won by East-Pakistan- based ‘Awami League’, a moderate Bengali nationalist party, both at provincial and national level, to rule the country. The then Pak military dictator and President General Agha Muhammad Yahya Khan, held constitutional negotiations, which only led to deadlock. Later, in a shocking military solution, backed by President Yahya, the Pakistani army launched (March 25, 1971) a crackdown across East Pakistan to terrify the restive Bengali population into quietude. This resulted in thousands of deaths, with millions of refugees fleeing into India. Indian PM Indira Gandhi, while not yet ready for war by recognizing Bangladesh as independent, considered military plans for a possible intervention to prevent atrocities on East Pakistanis. Given the Indian support to Bengali insurgents, Pakistan, in desperation, attacked (December 3, 1971) India. After fourteen days combat, Pakistani troops were routed. With Indian forces deep inside Bangladesh, Pakistani troops offered (December 16, 1971) to surrender in Dhaka. The war culminated with the creation of new independent state named Bangladesh, soon recognized by international community. Later, India released 93,000 Pakistani POWs. While 300,000 Bengali speaking women were raped during the period, the war casualty figure stood between 300,000 and 500,000.

Pakistan's claim of sovereignty citing International law

To support Pakistan’s sovereignty claims, its lawyers and diplomats always resorted to UN Charter’s Article 2(4) and 2(7), which categorically states that no UN member can threaten the sovereignty and territorial integrity of another state by ‘use of force’. 'Chapter VII' of the UN Charter only, allow such interventions. The Charter mandating respect for “human rights and fundamental freedoms,” (Article 55 C) is
nonbinding and inconclusive on the intervention-ban. US and China’s veto power supporting Pakistan, further, ensured that India do not take resort to Chapter VII. Pakistan contended that India violated, international law, stipulating respect of territorial integrity and jurisdiction of other States, by covertly supporting Bengali rebels. It accused India of transgressing “legal duty” under “many international treaties/conventions, obligating States to prevent its inhabitants, national or alien, from aiding, abetting or promoting civil strife in other countries, with every possible means.” Pakistan cited “unmistakable norms of international law” including a prominent 1965 General Assembly declaration that “no State shall organise, assist, foment, finance, incite or tolerate subversive/terrorist/ armed activities to overthrow another State’s regime, violently or interfere in civil strife in another State.” Pakistan’s sovereignty arguments enlisted wider global support, including from US, Britain, France, West Germany, and Japan, who termed atrocities as “a matter of internal affairs of Pakistan”, thus affirming Pakistan’s right to sovereignty and the rule of non-intervention. Pakistan accused India of furnishing exaggerated number of refugees', maintaining that only around 2 million and not 11 million refugees, actually entered India. With regard to security situation, Pakistan expressed willingness to allow refugees, return, under UN supervision, whereas, India demanded a political settlement with 'Awami league' as the only condition to facilitate return of refugees. Pakistan viewed it as an intervention in its internal affairs.

India’s Arguments for Humanitarian Intervention

In the backdrop of rivalry with Pakistan, India, during 1971 East Pakistan crisis, apparently, harboured mixed objectives viz. strategic goals as well as genuine humanitarian sentiments among Indian officials/public. Every government holds political preferences but in context of international law, of pertinence is, how a state modifies its policies, in line with acceptable norms/laws to justify them, in a moral or legal framework. While one can ill-afford to overlook the strategic India-Pakistan antagonisms, it is equally difficult to coherently define that India’s motives were in total ignorance of international law. In fact Indian diplomacy tried to restrict within the architecture of international law, rather than pursuing the examples of overt unlawfulness by nations like US in Guatemala/Cuba; or Soviet intervention in Czechoslovakia/Hungary. Though Indian intervention-arguments were somewhat flawed, subsequently, in 1990s, it echoed with some of the arguments, voiced by Western democracies in UNSC. However, the support was lacking when India cited the worthiness of chapter VII at UNSC in 1990s. Importantly, in 1971, UNSC did not convene/pass any resolutions on South Asia starting from Pakistan’s Operation Searchlight (March) up to India-Pakistan war (December). Indian government’s main argument for its 1971-intervention was based on human rights’ aspect, as Indian constitution incorporates this issue, derived from sources like UDHR and US Bill of Rights. Indian lawyers cited Article 2(4)’s phrase i.e. "or in any other manner inconsistent with the purposes of United Nations" to justify India’s intervention. It allows the use of force for certain essential ‘purposes’ as given in Article 1(3) of UN Charter, including the purpose "to achieve international co-operation in solving international problems of an economic, social, cultural or
humanitarian character, and in promoting respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion". Hence, use of force for salvaging human rights was not inconsistent with the purposes of UN. India also argued that its intervention was in line with the Preamble to UN Charter, which states that "to reaffirm faith in fundamental human rights, the woman and of nations at large and small" as fundamental goals of UN. India argued that human rights violations of 75 million people, out of 130 million population of a state, cannot be viewed as internal affair of that country. Further, international law was never absolute in prohibiting humanitarian intervention.

Following Pak attack (December 3, 1971), Indian PM Indira Gandhi instead of justifying war as self-defence, (which would have easily met all UN Charter parameters) chose to project it as fight for freedom and basic human rights in Bangladesh. When India finally recognized (December 6) Bangladesh’s independence, India’s foreign ministry affirmed restoration of fundamental human and political rights of the people.

India also invoked Rhodesian precedent to back its humanitarian intervention. In 1966, UNSC with maiden invocation of Chapter VII, imposed economic sanctions in Rhodesia. India urged Rhodesia’s erstwhile colonial power Britain, to wage war against the “illegal racist minority regime” and also sought international backing for the rebels, fighting against white supremacy. Indian government promoted (1968) a draft UNSC resolution condemning the execution of prisoners as a threat to international peace and security and urged Britain to take all necessary measures. Finally in March 1970, UNSC invoked Article VII and denouncing fundamental human rights violations, called upon U.N. member states “to increase moral and material assistance to the people of Southern Rhodesia”. Indian commentators questioned whether Rhodesian oppression was under domestic jurisdiction? Emphasising that UN proceeded with its actions because of systematic human rights suppression in Rhodesia, India’s foreign ministry asked UN to show the same concern against Yahya Khan’s actions in East Bengal in line with its actions, in South Africa, Portuguese colonies and Rhodesia.

The human rights’ argument raised awareness of Pakistani atrocities, but failed to get international approval for sanctions/military measures. India’s invocations of the human rights provisions in the U.N. Charter fell flat for obvious doctrinal reasons. The Charter’s Article 55, states that “the United Nations shall promote . . . universal respect for, and observance of human rights and fundamental freedoms for all without distinction to race, sex, language or religion.” Article 56, states that members pledge "to take joint/separate action in cooperation with the Organization to achieve the purposes of Article 55". UNSC’s actions to promote human rights are considered acceptable than obligatory. However, the phrase ‘take joint and separate action’ under Charter does not specify military force for human rights because the Charter would have then stipulated it explicitly.

Apart from human rights, India also revealed a systematic ethnic slaughter i.e. genocide by Pakistan. It branded Pakistan’s crackdown as violation of international norms/law. In these circumstances, an interventionist state could potentially claim
itself as a victim, engaged in exercise of self-help. Indian diplomats argued that genocide in Bangladesh was not an internal matter under the Genocide Convention/other international instruments. At the UNSC, Indian Foreign Minister Swaran Singh cited genocide and suppression of human rights for leading to the war-situation. With India and Pakistan, both signatories to the Genocide Convention, India highlighted genocide’s definition as “killing, harming, or perpetrating certain kinds of persecution that are “committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group”. India contended that Bengalis, with a different language and culture, can be considered an ethnical group under Article II of the Genocide Convention. Hence, deliberate killings of a substantial number of the Bengalis are genocide under Article II of the Convention. In 1990s, International Criminal Tribunal (ICT) for Yugolslavia, ICT for Rwanda and International Criminal Court were established owing to genocide only. However, Indian plea for action under Genocide Convention elicited no response.

India also argued from the perspective of principle of self-determination, based on popular consent. The Indian foreign ministry pointed out that, before the crackdown began, the Awami League had not asked for statehood, only autonomy: “It is only the Pak military repression, making Bengalis realised that it was not possible for them to live in peace with West Pakistan”. India argued that the democratic will of Bengalis amply demonstrated their nationhood; hence, Pakistani sovereignty claim was a dead letter because the Bengalis refused to be governed from Islamabad. Bengalis comprised a nation which had a right to secession; and they had democratically voted for the Awami League, amounting to a referendum on self-determination. The Indian foreign ministry claimed that “The Pakistan Army’s brutal attack and the genocide convinced the people of East Bengal that they would continue to be treated as a colony if they remained as part of Pakistan. Seen in this context, the Bangladesh issue is not an issue of secession but that of self-determination”.

India argued that owing to Pak government’s discrimination against economic, social and cultural development of East Pakistan and making Bengalis subject of their domination, the principle of self-determination automatically comes to fore. India's standard reference in 1971 was the Montevideo Convention on the Rights and Duties of States (1933), which stipulates that “The state as a person of international law should have: a) a permanent population; b) a defined territory; c) government; and d) capacity to enter into relations with the other states”. The last two criteria usually demonstrate independence and India knew that once Bangladesh defined itself as a state, it would gain sovereignty. Bangladesh fulfilled the abovementioned criteria hence deserved a statehood and sovereignty.

Indian Intervention in East Pakistan from the lens of Just War Theory
Indian intervention in 1971 initiated debates/arguments within international politics, leading to controversies over sovereignty issue and India’s use of force in conflict with international norms/order, including Article 2(4) of UN Charter. Hence, Indian action was viewed as an unjustified act of war. However, once Indian intervention is placed within the paradigm of Just War Theory, the abovementioned debates/arguments seem futile.

I. Jus Ad Bellum (Recourse to War)
i) Just Cause:
As per just war tradition, aggression in response to an aggression can only be justified. Aggression entails threat or use of force by one state against the sovereignty/territorial integrity of another. Self-defence, forms the rationale for indulging in war. The principle of just cause has been extended to cover defence of another state against aggression, intervention to protect potential victims of massacre, assisting secessionists, and even pre-emptive strikes against potential aggressors.

On 25th March 1971, the West Pakistan army launched Operation Searchlight which targeted at removing East Pakistani dissident voices. Consequently, around 10 million refugees crossed the border and came to India. Being the neighbour and witness to events across the border coupled with the refugee problem in its border-states, India was morally obligated to stop the army reprisal, if necessary, by force. The concern here was grounded on a case for justice: protecting people who are not in a position to do it on their own. The UN Charter, Article 2(4) and Article 2(7) are based on principles of sovereignty and territorial integrity. These twin principles are sacrosanct in international order amounting to non-intervention in the internal affairs of states. However, interventions to counter extreme human rights violations by government of its own people constitute an exception to this rule against intervention.

Thomas Franck and Nigel Rodley commented that the ‘Bangladesh case is an instance, by far the most important in our times, of unilateral use of force justified inter alia, on human rights ground’. In its Justification on use of force in East Pakistan, India invoked Charter Article 51, which allows use of force in self defence. By referring to this particular article and concept of refugee aggression. India argued that aggression resulted from the 10 million East Pakistani refugees residing within India. India argued that if aggression against a foreign country means that it strains its social structure, that it ruins its finances that it has to give up its territory for sheltering the refugees, then what is the difference between that kind of aggression and other type, the more classical type (when someone declares war or attacks). Also India explicitly states that military repression in East Pakistan was on scale that “shocked the conscience of mankind”, which is a criteria for intervention put forward by Walzer for humanitarian intervention.

Due to Cold War rivalry creating an international system tilted in favour of order over justice, India was caught up in a clash of obligations. First, the preservation of international order. Second, respond to public pressure within India to aid the East Pakistani’s struggle for self-determination. The 10 million refugees in India also had to be ensured a safe return to their homes. Despite such disturbing developments, the Indian intervention was not supported by UN. Such posturing ignored the moral reality that ending crimes against humanity on scale of the East Pakistani case called for forceful intervention. The Indian intervention is a justified case primarily because it succeeded in granting self-determination to the East Pakistanis and ended months of army repression. It also enabled millions of refugees to return to their homes.
ii) War is declared by a Competent Authority

Competent authority implies the legitimate decision makers. A state; an international organization or an individual, authorised by them, only holds the right to declare war. When Pakistan attacked (December 1971) India, PM Indira Gandhi while informing the nation that it is at war with the neighbouring state also endorsed the right of East Pakistanis to self-determination.

On 3rd December 1971, Indian Air Base at Bhuj (Gujarat) was attacked by Pakistan Air Force which rendered the Air Strips useless. Consequently, Opposition parties were united about the fact that the attack on an Indian airfield had created a situation of national emergency and immediate action must be taken, they unanimously extended their support to the government. Notably many opposition parties extended their support by specifically pointing to India’s moral obligation to stop the genocide occurring in East Pakistan. Hence with the approval of then President V.V Giri, Article 352 of Indian constitution was imposed which related to the national emergency in the situation of war or any external threat to the sovereignty of the country. Hence the criteria of undertaking decision of war by competent authority is fulfilled.

iii) Right Intention

Though, at times complex nature of motives makes it difficult to perceive the true intent of state’s intervention, but while deciding in favour of war, the intention should be linked to humanitarian aspect rather than with motives of hegemony or territorial expansion. Critics viewed Indian intervention in East Pakistan with scepticism. According to them, the real motive behind Indian intervention was based on its own national interest. The Pakistani crisis provided India with an opportunity to weaken Pakistan’s stature in South Asia. However, such arguments depict a lack of sensitivity to the ground realities. Considering the level of violence and its acceleration in months following March 1971, the Indian government was obligated to help East Pakistanis. The Indian position throughout the East Pakistani crisis was that any settlement of the issue depended upon respect for the democratic and human rights of the East Pakistanis. Furthermore, mixed motives are a normal course in domestic and international politics. An absolutely singular motivation, a pure goodwill, is a political illusion. The intention was India can be discerned by the three achievements: i) The Indian Army and Indian Air Force stopped the repression of the East Pakistanis by Pakistani Army; ii) The intervention secured East Pakistan for the return of a large number of refugees from India back to their homes; iii) Indian Army withdrew its troops after the surrender of Pakistan and liberation of Bangladesh thereby refraining from influencing the course of political events there also India facilitated the effective and credible political system manned by the elected representatives.

Hence, India’s national interest was not distinct from demands of order and justice or of international common good. Statecraft to be effective must be guided by all
three. Any state capable of stopping the slaughter of human beings must do so, and in East Pakistan case, India’s intervention averted the human disaster.

iv) 'Force' as Last Resort
Before categorising a war ‘just’, firstly, all available means, like sanctions, threats, and dialogue process, must be explored to rectify the wrongs of aggression i.e. exploration of peace-making process before stopping diplomatic negotiations and using force. If such steps fails to extract abandoning of aggression/abuse of human rights from the defiant state, force is justified.

The Indian intervention in East Pakistan did not take place in the immediate aftermath of Pakistan's Operation Searchlight on 25th March 1971 in which thousands of Bengalis were massacred and was the most brutal operation which generated the demand of liberation from West Pakistan. The Indian government tried to garner international consensus to condemn the atrocities within East Pakistan. Sufficient time was given to the UN as well as other major powers to respond to the crisis. Indian diplomats travelled worldwide to brief the world leaders about the plight of the Bengalis. In September 1971, Indira Gandhi visited the USSR and Western Europe and in October 1971, she travelled to the US in order to invoke a greater concern towards the crisis. The UN exhibited apathy despite witnessing acceleration in the levels of violence due to Pakistani Army action. The appalling situation facing those in the refugee camps and thousands more fleeing to India forced the Indian government to consider intervention.

Pakistan was deeply focused and caught up in publicizing Indian actions, intentions and capabilities that it failed to chalk out a policy to reach out to Bengalis. Instead the violence escalated, leading to more refugees in India creating huge financial constraints on Indian economy. By December 1971, India had no other option but to intervene in order to end the crisis.

v. Proportionality of Ends

An intervention/war must achieve ‘better’ than the 'harm' it inflicts. The violations and their magnitude should commensurate “with the reasonably calculable loss of life, destruction of property and expenditure of resources”. There should be visible decrease in violence after the intervention.

The Indian action qualified as a just case of humanitarian intervention due to the overall good achieved by the intervention. Pakistan’s massacring of a million people constituted a supreme humanitarian emergency and warranted humanitarian action. Notwithstanding the mixed array of motives, the Indian action was one of justice due to positive humanitarian outcome in the end. Indian army defeated the Pakistani army and put an end to the crisis. The cost of lives to the Indian armed forces and to civilians killed during the intervention were outweighed by number of lives saved due to the intervention. Had India not intervened, one could not estimate how many more Bengalis would have been massacred. Moreover, Pakistan had not shown any signs that its repression in East Pakistan was over at the time when India
intervened. The Indian intervention was successful not only in securing lives but also bringing about a political solution the crisis. According to Walzer, India’s intervention in East Pakistan was an apt example of humanitarian intervention primarily because it was a rescue of human lives. He applauded the fact that the Indians achieved a cost-effective victory with less of lives. Despite worries that neighbouring states in the strict sense of strategy utilise unilateral interventions under the guise of human motives to further their own sphere of power influence, yet the moral choice theory would support India’s action as it had a positive humanitarian outcome.

vi. Probability of Success
The violence, pain, and suffering brought by war should not only outweigh the destruction but also ensure that war would 'succeed'. It would be termed 'Just' war, if it succeeds in restoring a just peace.

Post 1965 India-Pakistan war, India started modernizing its arms and ammunitions with the USSR's help. In 1968, the creation of the external intelligence agency 'Research and Analayis Wing' (R&AW) added to the India's growing military prowess. Despite, Pakistan as a NATO member, getting arms from US, India by 1971, outweighed Pakistan qualitatively and quantitatively in terms of ground forces and weapons. India was already aware of possible Pak -’attack’ (December 3, 1971) through its sources amongst Bangladeshis, trained by India under the name 'Mukti Bahini’. Consequently, India was able to mobilise and defeat Pakistan without suffering many casualties. Further, Indian armed forces ably and effectively stopped Pakistan Army’s repression on East Pakistanis in a short time. It proves India was assured of its success in this 'Just' war because of its superior forces and operational capabilities. Indian success not only led to Bangladesh’s liberation, a sound political system with elected representatives also followed.

II. Jus in Bello (Conduct in War)
i. Proportionality of Means
The 'combat-means' should proportionally be lesser than the 'good' achieved. The proportionality criteria require that use of force must be fitting/proportionate in response to the injury, received or threatened i.e. a symmetry between means and the end must exist. Hence the proportionality test sees, if the 'evils' perpetrated by combat-means will be outweighed by the 'good' from the war. If not, the act is disproportional and thus prohibited.

The means used (1971) by the Indian Army and Air Force divisions did not outweigh the 'good' achieved. In the war more lives were saved than the killed. The Pakistan Army, assuming an all-out offensive had deployed its all three divisions in the battle. The Indian army moved forward cautiously. Based on intelligence inputs, by Mukti Bahini and locals, on strategic locations and threat of attacks India was able to restrict its casualties and simultaneously safeguarded the locals. Additionally, India’s conduct in war was in line with Geneva Conventions as manifested by release of 93000 Pakistani POW’s, who had surrendered. Given the brutality/Pak Army’s scale of operations, in absence of Indian intervention; the casualties would have been unprecedented in East Pakistan. Moreover, Indian army used weapons in
accordance with the Geneva protocol 1925, which prohibits use of any chemical/biological weapons in the war. Hence in this case, Indian means justified the ends, as the final outcome was positive.

ii. Discrimination and Non-Combatant Immunity
The law of war prohibits targeting civilians/non-combatants. The 'Jus In Bello' (moral guidelines for war-conduct) does not support targeting civilians or civilian infrastructure. However, the killing of innocents and damage to infrastructure can be justified as 'collateral damage' due to legitimate military attacks. Notably, the costs to human lives (spread of diseases) increases disproportionately, if economic infrastructure, communication and transportation systems, electric power grids and water pumping systems are targeted, in violation of Just War criteria.

Pakistani Army action (March-December 1971) in East Pakistan was termed as worst cases of human rights violations. Innocent civilians were tortured, raped and killed. The Indian Army action saved the East Pakistanis from further persecution. The intervention aimed to defeat Pak Army, morally necessary in order to stop their repression. It was achieved with the minimal damage to local population. Civilians coming within line of fire were negligible. There was no butchery and looting of property by Indian Army. Locals and 'Mukti Bahini' leaders praised the precision of Indian army operations, preventing civilian casualties as collateral damage. Hence, Indian military avoided the killing of innocents by attacking legitimate military targets. Notably, Just War criterion of 'double effect' justified it as an 'inadvertent' consequence.

Analysis
The Indian intervention in East Pakistan in 1971 was a strong case. This was not due to the fact that The Indian government's decision of humanitarian intervention was built on a strong case. Despite multiplicity of intentions, India's intervention succeeded in fulfilling the demand of East Pakistani political leadership. Moreover, an action by the UN or coalition of states would not necessarily reflect a superior moral ground to that of Indian action. Mixed motives would have influenced even a coalition of governments.

Indian intervention was vindicated, the way, Bangladesh was quickly and widely recognised as a legitimate entry into the international community. Notably, UNSC resolution 307, endorsing a ceasefire, armed forces' withdrawal and voluntary return of refugees to their homes, did not condemn India. The US, who had opposed the intervention, accorded recognition to Bangladesh as early as March 1972.

Finally, despite the benefits of Indian humanitarian intervention, there was widespread criticism, apprehending that it would create a precedent for unilateral interventions, endangering the foundation of international order and become a recurring feature. It would provide hegemonic states a leverage to intervene into the internal affairs of weaker state to bring it under their influence. However, India’s argument that its use of force for humanitarian purposes was in line with UN Charter, is justified and satisfy the criteria of Just War as the end result was a positive humanitarian outcome for East Pakistanis.
Conclusion

As the practice of morality in a war is constantly evolving, hence a conclusive moral judgement on humanitarian intervention is unjustified. The Just War Theory, itself has contested paradigm offering its varied interpretations. Eventually, one must understand that humanitarian intervention decisions, primarily part of political decisions of states are not solely based on 'Just War Theory'. It is rather, more appropriate to state that the theory plays a partial role in such decisions. These decisions take into account not only the human rights violations in the target state, but also the national interests/concerns of the intervening state. Philosophically speaking, the Indian intervention stopped the injustice meted out to the East Pakistanis by West Pakistan military. The intervention proves the point wherein the varied mix of national interests and humanitarianism worked in favour of the population of East Pakistan. It is often speculated that, to militarily undermine its arch rival, Pakistan, the Indian policy makers grabbed the opportunity offered by East Pakistan crisis. However, there is no official record of the Indian government, making statements to that effect. Moreover, it would be naïve to expect a state/a group of states that intervene in another state to admit that they intervened due to certain geo-strategic calculations, instead of concern, to salvage human rights violations for the suffering population. It can be said that Indian intervention fulfilled all the criteria of Just War Theory principles. When seen from the lens of Just War Theory, as also affirmed by Michael Walzer and other theorists, Indian actions were just and apt.

Bibliography