

## **Gendered Humanitarianism: reconsidering the ethics of war**

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### **Introduction**

For some time there has been a growing literature focused on deconstructing the concept of the 'human' in the ideas of 'human rights' and of 'humanitarianism' that have played such a significant part, both rhetorically and practically in post-Cold War politics (Peterson 1990, Butler 2004, Carver 2005). There has also been the growth of a major literature focused specifically on the rights and wrongs of military humanitarian intervention (Wheeler 2000, Bellamy 2006, Belloni 2007), including feminist work addressing humanitarian legitimations of war (Elshtain 2004, 2005; Sjoberg 2006; Denike 2008). This chapter draws on these literatures in order to examine the assumptions that enable ethical humanitarianism, philosophically and in practice, especially when it takes a violent form. In particular, I am interested in how assumptions about moral authority and agency necessary for humanitarian ethics are underpinned by gendered discriminations of the human. And in the implications that follow from challenging those assumptions, for humanitarianism in general and humanitarian war in particular, from a feminist perspective.

Of all of the developments in international politics in the past twenty years it is humanitarianism (a category that increasingly encompasses a range of practices from emergency aid to peace-keeping and war-making) that apparently relies most clearly on a universal conception of the human, since it is the violation of the human as such that triggers the requirement for a humanitarian response. As many scholars have argued however, if we examine the humanitarian script we find, not a notion of the 'human' as such, but rather sets of criteria through which the simply 'human' are differentiated from

other sorts of human. In the first two sections of what follows, I will argue that this is true across the range of humanitarian practices, from famine relief to military intervention for humanitarian purposes, but that it becomes particularly stark and consequential in the case of military humanitarian intervention, where the script of a politics of rescue meets the script of just war. I will argue that the only way in which the script of military humanitarian intervention can be sustained is by reproducing differences between people, most reliably through the naturalising effects of familiar gendered narratives. These gendered narratives replay, and thereby embed and reinforce, understandings of moral authority and moral agency that permit a way of thinking about war that keeps it at a distance. On these accounts the 'just warrior' remains untouched by war, even as he makes war.

The gendered humanitarian script poses particular problems for feminist theorists seeking to establish legitimate grounds for war making. In the final section of the paper, I turn to examine feminist engagements with the ethics of war that are premised on a scepticism about the sanitised relation to violence suggested by the 'just warrior', but that simultaneously remain self-consciously 'in touch' with collective political violence as part of a repertoire of possible responses to injustice. Many feminists have argued that the gendered presuppositions of war make feminism incompatible with any kind of ethical legitimisation of war, however humanitarian (Carroll 1987; Ruddick, 1990). In contrast, theorists such as Jean Elshtain and Laura Sjoberg, from different perspectives, argue for the possibility (or necessity) for feminists to engage in ethical discrimination between different kinds of violence. Both thinkers are critical of the gendered narratives that work to leave us untouched by war. But they see feminist pacifists as effectively colluding with the humanitarian fairy story, by placing themselves as outside of, or as uncontaminated by, the existence of political violence. I will suggest, however, that in their opening up of ethical thinking to the wounds of war, there is an ever-present danger of reinventing the (gendered)

fairy tales through which it has traditionally been justified. The acknowledgement of complexity and ambiguity is always in tension with nostalgia for the moral authority and agency of the maximally human, and the asymmetric relation between hero, victim and villain. In this respect, the work of Elshtain and Sjoberg sits more or less uneasily between the humanitarian script and the insights of feminist ethics.

The purpose of the following argument is not to make a case that is either for or against humanitarianism. In relation to humanitarianism in general, I argue that the category of the 'human' is one that is always embedded in narratives and practices that belie its pretensions to universality and neutrality, and that simplify and thereby distort the ethical stakes of humanitarian action for both 'rescuer' and 'victim'. In relation to military humanitarian intervention I argue that for feminists in particular the ethical legitimation of such actions poses deep problems. Awareness of these problems does not resolve them, but it does point us to the need to incorporate the ethically weighty consideration of the practice and experience of war into our *ad bellum* and *in bello* judgments about it. Moreover, any serious touching of war as a practice and experience implies a need to re-think predominant accounts of moral authority and moral agency in humanitarian ethics and politics.

### **The Ethics of Humanitarianism**

Peter Singer's article, 'On Famine, Affluence and Morality' (1972) exemplifies humanitarianism as a universal doctrine, premised on the moral significance of the human as such. Inspired by the famine in East Bengal, Singer made a trenchant and straightforward utilitarian argument as to why affluent people in the developed world were morally obliged to contribute to famine relief even up to the point of marginal utility. In doing so, Singer cut through a range of traditional moral arguments that

claimed that moral obligations of charity did not hold towards distant strangers, asserting that the unnecessary suffering and death of humans per se triggered obligations on all other humans to do something about it. Singer's argument, then, appeared to rely solely on a universal conception of the human. On his account any human undergoing unnecessary suffering and death prompts the moral requirement for help from any other human. On examination, however, there is still a differentiation in Singer's argument between the human element of the ethical relation who either helps or does not help and the 'simply' human element that requires or demands help. The latter is recognisable because of his or her 'unnecessary' (that is to say preventable) suffering and danger, but also because of his or her inability to help his or herself. This kind of 'human' is the residual core or what it means to be human, the core to which the former human, if necessary, is obliged *almost* to strip himself or herself, if he or she is to respond to their own and the other's humanity adequately.

In order for Singer's argument to be persuasive, we not only have to be convinced by his account of the moral implications of unnecessary human suffering and death, but also of a relation between humans characterised by agency and power on the one hand and the absence of agency and power on the other. In addition to this there are two further assumptions implicit in the argument. First, that the origins of the famine are irrelevant to the morality of the situation. This is underlined in Singer's famous analogy between the obligation to provide famine relief and the rescuing of a child from drowning in a puddle. According to Singer, refusing to give famine relief is the moral equivalent of leaving the child to drown because it might get your clothes wet. The fact that this is a child means that we do not take his or her agency seriously in relation to the question of how he or she got into the puddle in the first place as well as whether she or he has the ability to get out. Second, that the capacity to act of

the affluent is linked to a means that we know will work, and that will neither preserve the status quo nor make the famine worse. The moral authority of the injunction to act is grounded in a high level of certainty about efficacy of the action and the technical competency of the actor.

Singer's argument was powerfully made, and it provoked and continues to provoke a range of responses in relation to the ethics of humanitarian aid. If we look at these arguments we find that they tend to separate into three kinds. There are those that share his utilitarian assumptions but argue that their implications are different, most notoriously in the argument that actually it would maximise the limitation of human suffering if the starving were allowed to die, and therefore limit unsustainable population growth (Hardin 1996). Secondly, there are those that essentially agree with his analysis but ground the moral significance of human being differently, often in a deontological account of fundamental human rights or human needs. In the case of the former argument, the starving have had their rights violated and the affluent have a responsibility to respond to that violation, on some accounts not solely because they could be prevent it but also because they are partially responsible for that violation (Pogge 2008). In the case of the latter the affluent have a strict obligation to do something about the starving, whether they have deliberately contributed to the harm done or not (O'Neill 1987). The third kind of argument challenges Singer's universalism, deploying a range of arguments to show that the relation between the affluent and the starving should not be read as analogous to the child in the puddle, perhaps because the responsibility for the starvation historically lies elsewhere, or the starving have an agency which the child/ puddle analogy denies, or because the distance between the affluent and the starving is morally salient on contractualist or communitarian grounds. The impact of these arguments is not necessarily to deny the

'human' as a category altogether, but it is to suggest that the humanitarian relation only holds where we can be sure that the object of humanitarian help does not share either the capacity or responsibility of the helper. The 'human' in humanitarianism remains defined as a relationship between the fully human (knowledgeable, capable adult) and the residually or potentially human (ignorant, incapable child).

The above discussion attempts to make the point that even within the philosophical discussion of the ethics of humanitarianism, discrimination between modes of being human is essential. Humanitarianism is inherently relational and requires criteria for distinguishing between the human as helper and the human as helped. At the philosophical level this involves differentiating between degrees of responsibility and agency, which is in turn linked to the degree and immediacy of suffering and need. But of course, humanitarianism is not just an ethical position, it is a policy and a practice, one which, following Singer, seeks to respond to human suffering, simply on the grounds that it is human suffering. In putting this philosophy into practice, there therefore need to be ways in which human suffering as such can be distinguished from other kinds. The clues as to how this can be done are already there in the philosophical debates provoked by Singer's article in which the humanitarian call is located in those humans that are neither responsible for their plight nor able to do anything about it, and whose situation is capable of being addressed by the actions of others. But how do we know who these people are?

The answer, it would seem, is self-evident, these are the people displaced by the earthquake, by crop failures, by war, gathered in makeshift camps and shanty towns, their desperation speaks for itself. When it comes to the practical implementation of any humanitarian policy, however, suffering cannot just be taken to speak for itself, it has to be spoken for by a range of governmental and non-

governmental agencies that articulate the plight of the suffering to the institutional and individual actors who are deemed to be in a position to do something about it. This discourse has to construct the two dimensions of the humanitarian relation through entrenching a series of discriminations. One such discrimination is between purely human suffering and other kinds of suffering, since it is only with the assurance that the people in question are purely human (essentially innocent and incapable) that the claim that this is humanitarian aid becomes legitimate. This sets up a necessary boundary between 'deserving' and 'undeserving' recipients. At the other end of the humanitarian relation, other sorts of discrimination are at work, ones that separate out humanitarian givers from other kinds of powerful actors, those contributing for humanitarian purposes as opposed to acting in their own self-interest, those that have perpetrated the problem as opposed to those who will resolve it, or simply those who have the technical know-how and resources as opposed to those who don't.

The line drawn between humanitarian aid and other kinds of aid may be blurred by all sorts of considerations. Sometimes these relate to the causes of humanitarian crisis, sometimes to the length of time that the crisis has continued, the actions of either helper or helped, or the broader implications for the political context in which the humanitarian crisis unfolds. For example, if the crisis is the result of war (as is often the case), humanitarian aid can be seen as sustaining the conflict or benefiting one side or the other, perhaps including those who have done most to bring the crisis about. No donor wants to see their aid as a reward for violence or as the means by which dictators are kept in power. To count as humanitarian it needs to relate to the human as such, to be moral rather than political. Given that no situation of humanitarian crisis is without these kinds of complexities, humanitarian agencies need a language of humanitarianism through which they can link the objects of their

help to a residual (and unthreatening) humanity (Singer's child), and the helpers to a fully-fledged, powerful conception of humanity (Singer's adult). One of the most reliable ways of doing this is to foreground those recipients of aid that exemplify that residual and unthreatening humanity in western thought, archetypally, the sick, the old and 'womenandchildren'.

Then a close-up of a baby – a tiny body, but a large head, and its mouth open wide in a silent cry. It is held close to its mother's face. She shields it with a cloth that drapes them both, drawing it to her and looks down. The infant's silent anguish, eyes closed, mouth wide, screaming, continues -. Finally the mother tries to nurse it. (Edkins 2000, 107-8)

As Edkins points out in her discussion of the coverage of the Ethiopian famine in 1984-5, even at the time there were many protests at the construction of the Ethiopians as pure 'victims' and the west as pure 'rescuers'. Since then, the academic debate surrounding emergency aid has increasingly sought to disrupt this simple binary, and practices and policies surrounding emergency aid have become increasingly sensitive to the political complexities of the contexts of such aid operations, and to the ways in which aid itself may contribute to creating and sustaining situations of emergency need (Edkins 2000, 129-152; Barnett and Weiss 2008). However, as Edkins also points out, even as experts and technocrats challenge the idea that you can treat famine as a 'natural' disaster, if they are to preserve the meaning of humanitarian aid then they have to reinvent the humanitarian relation, in which the helper is defined by their capacity, and the helped by their incapacity, to address the sources of suffering.



The politics of rescue needs ways of cutting through the complexity and ambiguity of actual humanitarian crisis in order to establish distinctions between the innocent and guilty, victims and heroes. We can see this, as much as anything, in the reluctance of publics to accept that humanitarian workers themselves might need to be paid or to have their work in the field supported by bureaucracies. Organizations such as Oxfam are only able to retain their moral authority by affirming their actions are uncontaminated by interests, and that they have the knowledge and capacity to identify and rectify humanitarian wrongs. All of this is rendered plausible through gendered discriminations between rescuer and victim, autonomy and vulnerability, control and chaos. In the following section, I examine how the discriminations of the human that are embedded in the ethics of humanitarianism become intensified when humanitarianism turns to violence, where the discourse of a politics of rescue meets the discourse of just war.

### **Military Humanitarianism**

Humanitarianism originated as a response to the sufferings of those affected by war (often dated back to the founding of the Red Cross in 1863). The idea of military humanitarianism, although arguably foreshadowed in imperial ‘civilisational’ interventions in the nineteenth century, has only recently been recognised as a potentially legitimate, or even required, policy option for states and the international community. It brings together practices that have traditionally been seen as distinct into a new, hybrid practice that is both humanitarian and war. There are of course those who would deny the existence of ‘humanitarian intervention’ as an actual phenomenon – regarding the discourse of humanitarianism rather as an ideological disguise for the pursuit of straightforward national or sectional, elite interests. Within this chapter, however, I treat humanitarian intervention on its own terms as being, at least in part, about the pursuit of justice.

My interest is in the relation between the moral script of humanitarianism and the moral script of 'just war' into which, as a practice of war, military humanitarianism is inserted both by its proponents and opponents. Since scholars started to pay attention to the theory and practice of military humanitarian intervention in the 1990s, many commentators have pointed to its gendered dimensions, from the discourses through which it is described and legitimated, to the ways in which it should be carried out, to the nature of its aims, to its short and long term effects (Cockburn & Zarkov 2002, Sjoberg 2006).

The idea that just war thinking is a heavily gendered script is now well established in feminist and non-feminist scholarship. The classic statement of this gendering can be found in Elshtain's *Women and War* (1987), which demonstrated in detail how the discourses through which war has been legitimated in western culture are premised on the division between 'just warrior' and 'beautiful soul', chivalrous protector and vulnerable victim, regardless of the actual roles played by men and women in collective violence. The just warrior/ beautiful soul duality is constituted and maintained as mutually reinforcing through its inter-relation with another gendered distinction between just (civilized – controlled masculinity) and unjust (barbarian – hyper-masculinity) warriors, the latter providing the requisite threat from which the beautiful souls must be protected. Scholars, such as Kinsella (2004), have shown how in the refinement and institutionalisation of Christian just war principles in Europe from the seventeenth century onwards, the distinction between legitimate and non-legitimate targets in war, traditionally that between the 'innocent' and the 'guilty' was stabilised by using sex/ gender as a marker. Whilst the borders between innocent and guilty, child and adult or sick and well were shifting, uncertain, not always easily observable, the boundary between male and female was presented as static and obvious. Some clear demarcation was necessary to sustain the distinction between Christian and barbarian warfare, and that between male and female

bodies became exemplary. In twentieth century efforts to codify and reinforce the distinction between combatant and non-combatant, fighter and civilian, again the distinction between male and female bodies became crucial to 'in bello' justice. To the extent, as Carpenter argues (Carpenter 2003); that the idea of a male civilian has become a kind of blind spot in both military and humanitarian thinking.

If we take the main principles of just war: legitimate authority; just cause; proportionality *ad bellum*; proportionality and discrimination *in bello*, we can trace a gendered politics in relation to each in which the just warrior, his barbarian other and the beautiful soul play their appointed parts. However, in humanitarian intervention these archetypes become particularly clear, because of a mutual reinforcement between the two discourses. The moral requirement to rescue is now compounded by the fact that someone is actively trying to push the child into the puddle. Both the vulnerability of the victim and the requirements on the rescuer are amplified by the addition of an evil perpetrator to the plot, which has been referred to as the 'fairy story' implicit in military humanitarianism (Belloni 2007).

In his work on humanitarian intervention, Wheeler boils down the relevant just war criteria to just cause (supreme humanitarian emergency), last resort (necessity), proportionality (means should be proportional to ends) and probability of success (positive humanitarian outcome) (Wheeler 2000). This slimmed down version of just war theory, involves dropping those categories from traditional just war theory, such as 'legitimate authority', 'just intention' or 'comparative justice', through which the gendered plot of just war might be disturbed. 'Legitimate authority' is problematic because, under current international law, there can be just warriors that behave illegitimately (make illegal interventions), and barbarian actors that are legitimate (oppressive states) – thus blurring the gendered lines of, for instance, the distinction between the state as the legitimate user of

controlled violence (over which it has a monopoly) as opposed to the terrorist organization, the illegitimate user of uncontrolled violence (to which it has no right). 'Just intention' is a problem, because the idea of mixed motivations undermines the clarity of the 'just warrior' category – how could he be just if he was also acting to increase his own power as a barbarian warrior would? 'Comparative justice', traditionally calls upon parties to war to be aware of the fact that there can be right on both sides, or at least that, not being God, neither side can guarantee the certainty of their own justice. But this is the most problematic criterion (guideline) of all for the purposes of humanitarian intervention, since the just cause is premised on a certainty of injustice, in which it could not be possible for both sides to be just warriors, or even to think of themselves in those terms.

I would suggest, therefore, that in humanitarian intervention we get a kind of distillation of the gendered just war plot, stripped of possible ambiguities, and reliant on simple assumptions about the moral authority and moral agency of the just warrior and the innocence and incapacity of the 'beautiful soul', which in turn set up what it means to act morally in the face of injustice, the villainous third party. As with the representation of the Ethiopian Famine referred to earlier, no one could ever take this as an accurate account of the complex politics of any humanitarian emergency, which raises the question of why the plot remains ethically convincing. Clearly one reason is that as with the earlier example, the account of moral authority and agency involved here is sustained by gendered binaries that enable clear cut distinctions between reason and emotion, autonomy and vulnerability, control and anarchy, rescuer and victim.

The moral authority of the humanitarian just warrior relies on the same kinds of moral self-certainty that Singer articulates in his account of the ethics of famine relief in terms of knowledge of the natures of, and relation between, rescuer and victim, and in terms of confidence in his own capacity and technical competence. This moral self-

certainty *necessarily* requires that not all humans share either the knowledge, the capacities or the goodness of the just warrior. As a moral actor, he is rational, autonomous and self-disciplining. This rationality and autonomy underpin a capacity for heroic action, in which he stands up for the right in the face of others' evil or indifference ('here I stand I can do no other'). Within this account of moral authority and agency, moral humility and emotion are marginalized, in part through the disconnection between the just warrior and the differently human. Those uncertain of what to do or incapable of action by definition cannot be just warriors. And it is only because not everyone is human in the same way that the just warrior is able to be a humanitarian, and discriminate between the inhuman (perpetrator) and the residually human (victim). The same qualities of rationality and autonomy that ground moral authority, also underpin moral agency as the capacity to act, for moral purposes, in a way that instantiates the good in the world through controlled and controllable means. Although Singer's moral actor does not engage in violence, he does presume the reliability and neutrality of the techniques through which suffering should be addressed, and this presumption is bound up with the moral actor as both knowledgeable and in control. The just war theory script introduces humanitarianism to violence as a technique, but the conviction of the capacity of the moral agent to direct and control the means and outcomes of action is already entrenched in the humanitarian script, even in the face of the mass of evidence of the failure of violence to deliver its aims. Moreover, the humanitarian hero remains himself unaffected by the violence he employs, the practice and experience of killing and injuring in no way compromises either his authority or his agency.

## **Feminists Touching War**

One of the most significant dimensions of feminist ethical and political thought over the past thirty years has been its challenging of the conception of moral authority and agency embedded in the script of humanitarian ethics. Most notably in the ethics of care, feminist moral philosophers have disrupted the discriminations that underpin the fiction of the rational and autonomous moral agent, not solely because of the gendered politics that this fiction is sustained by and reproduces but also because, feminists argue, it misrepresents the conditions of possibility of moral authority, agency and action (Robinson 1999, Sjoberg 2006, Held 2006). A feminist account of moral agency premised, in Bar On's words, on 'attentiveness to life as it is lived and experienced' (Bar On, 2008a: x), problematises the humanitarian script because it undermines the clarity of the distinction between the fully and the residually human. The discriminations that enable Singer's humanitarian actor and the just warrior in military humanitarian intervention to act rightly cannot be maintained if the difference and separation between them and the victim and perpetrator does not stand up to scrutiny. This not only muddies the waters of the rescuer/victim and rescuer/perpetrator distinctions, but also the distinction between the means and outcomes of action, given that the latter is only sustained by the myth of autonomy that full humanity requires.

Humanitarian arguments provided a distinct strand of justification for both of the US led wars in Afghanistan and Iraq. In both cases the enemy regime was presented not only as a threat to others but also as an oppressor of its own population, in the case of Afghanistan in particular the population of women. Feminist responses to 9/11 and its aftermath, although predominantly critical, demonstrated how the question of the legitimacy of violence is contested within feminism (Alloo et al 2002; Bar On et al 2003; Hutchings 2007; Bar On 2008a). From a feminist point of view, the imbrication of

humanitarian war making in the reproduction of gendered hierarchies and dangerously hubristic accounts of moral authority and agency undermines claims to ethical legitimacy (Ruddick 1990; Sjoberg 2006). Feminists have argued that the practice of humanitarian violence requires an ethical orientation in tension with humanitarian goals, which give priority to the relief of suffering. In order to kill and injure, not only do soldiers (whether men or women) have to identify their enemy as killable, they have also to sustain a vision of their own just violence through gendered discriminations that reproduce and reinforce gendered relations of power. And the experience of violence, of both perpetrators and victims, is deeply transformative of the moral agent, leaving legacies of trauma and disconnection that persist, and potentially corrupt the heroism of the hero and the humanitarian outcome at which military action is directed (Alloo et al 2002; Poe 2008). In spite of this, however, feminists returning to re-think the ethics of humanitarian war have not all come to a pacifist conclusion.

Elshtain is sometimes referred to as a 'conservative' feminist and her position has been highly contentious within the feminist community (see Sjoberg 2006). Nevertheless, her theoretical work has both shaped and been influenced by feminist ethical thinking about moral authority and agency. In her book *Just War Against Terror* (2004) Elshtain argues in favour of the invasion of Afghanistan after 9/11. In the book one of the threads at work is a humanitarian one, in which military action is, in part, justified by the good it will deliver not just to the 'west' but also to the people, women in particular, of Afghanistan. As the author of *Women and War* (1987) in which the gendered discriminations enabling war were deconstructed, Elshtain is clearly well aware of the gendered script of war. From a feminist point of view, therefore, her position post 9/11 seems to contradict her previous arguments. On examination, however, Elshtain's justification of military humanitarianism turns out to be closer to the insights of feminist critiques of humanitarian war than is initially obvious.

For Elshtain it is those who assume that we can eradicate war from the arena of international politics that are premising their arguments on a humanitarian fairy tale. In an exchange with Anthony Burke, who had criticised her argument in *Just War On Terror* as a justification of imperialist violence, Elshtain responds that whereas Burke lives in a world of moral clarity, based on clear binaries between good and bad, war and peace, her argument embraces moral ambiguity (2005: 95; Burke 2005). In effect, Elshtain is turning the feminist critique against the humanitarian moral script and its implications for moral authority and agency against what she calls the ‘new utopianism’ of humanitarian critics of post 9/11 US and NATO violence. In order to do this, she relies on a turn back to some of the aspects of traditional just war theory that disturb the straightforward binaries of humanitarianism. In contrast to the simplified version of just war theory put forward by those seeking to identify clear criteria of justification for humanitarian uses of force (Wheeler 2000), Elshtain argues for a revival of an older version of just war theory, in which moral ambiguities are assumed to be ineradicable. For Elshtain, just war theory provides a resource for practical reasoning in a world in which the actualities of political violence and injustice present us with ‘hard’ choices (Elshtain 2005: 92). From this standpoint feminist pacifism and versions of liberalism that envisage a world of perpetual peace (Burke) are equally guilty of a refusal to touch the murky world of political conflict.

Elshtain invokes a classical (Augustinian) realist sensibility as the most appropriate frame within which to reason morally about collective violence for humanitarian ends in contexts of complexity and moral ambiguity. In contrast, Sjoberg’s work takes a very different feminist turn, though equally one in which the justification of political violence is not automatically ruled out on feminist grounds. For Sjoberg, who is deeply critical of Elshtain’s post 9/11 arguments, the appropriate feminist response to the ethical issues raised by war, including humanitarian war, is to articulate a distinctively feminist just war



theory (Sjoberg 2006: 165-180). In *Gender, Justice and the Wars in Iraq* (2006), she sets out a systematic re-writing of just war principles from a feminist perspective, using the Iraq wars from 1990 onwards as an illustration.

I argue that, through empathy, care, and dialogue, feminisms can revise, rewrite, and revitalize the just war tradition to deal with the political conflicts of the twenty-first century -. (Sjoberg 2006: 15)

Sjoberg's 'feminist security ethic of empathetic cooperation' builds on aspects of the feminist ethic of care and claims to avoid the distorting detachment provided by fairy tale accounts of just war, including humanitarian intervention. One of Sjoberg's key arguments is to introduce the notion of 'human security' into just war theory (2006: 51). By doing this she makes the individual's experience of threat and harm central to the meaning of war. This draws attention to ways in which war is experienced, by people on the ground before and after the conflict's supposed beginning and end, it also draws attention to injuries and harms that may not be the direct result of violence means. As Sjoberg points out, in criticising assumptions about non-combatant immunity: "The humanitarian impacts of war are so far reaching that it is not possible to be *immune* to them" (2006: 101). This undercuts the gendered discriminations that underpin justifications of humanitarian war as the protection of the innocent from harm.

Although Sjoberg argues that her feminist security ethic provides grounds for the moral condemnation of the recent US led wars in Iraq, it does not condemn war as such. Rather it attempts to formulate principles that provide a way into thinking about the ethical legitimization of war that are fundamentally in touch with the gendered experience of what war is and does. In spite of their bitter political opposition, therefore, there are commonalities between the positions of Elshtain and Sjoberg. In both cases they claim a

greater 'realism' about the actualities of political violence than can be found in either feminist pacifism or gendered humanitarian ethics. I suggest, however, that in spite of their best efforts to 'touch' war, neither of them fully succeeds in escaping from the humanitarian fairy tale.

In Elshtain's case, a revealing aspect of her exchange with Burke focuses on her identification with a particular superhero. Burke points to Elshtain's use of the idea of a 'Spider-Man' ethic, in which superpowers are understood to carry and be obliged to respond to wrongs in any part of the world. Elshtain corrects Burke's understanding of the use of this analogy on the grounds that unlike Superman, Spider-Man is a deeply conflicted super hero, who is tormented by 'tragic' choices every step of the way. In place of the straightforward hero of humanitarian intervention, Elshtain argues that powers engaging in humanitarian intervention are flawed and compromised: "What a pity that Burke has not familiarized himself with this existential and troubled hero!" (Elshtain 2005: 93) On reflection, however, even though Elshtain's vision of the humanitarian hero may be more nuanced than the identity of 'Superman', her position still mirrors standard aspects of the humanitarian fairy tale. In particular, this is because of the way in which we are still presented with a three-fold world of hero, victim and villain. Spider-Man may be a flawed and tormented character, but it is still in him that the capacity for both action and moral agency resides. He is also, of course, still a man. The script remains one that is thoroughly gendered and is difficult to render plausible in the absence of gendered discriminations that simplify and disambiguate the world of political violence.

Sjoberg goes much further than Elshtain in putting the role of 'victim' under scrutiny. Her revised criteria for just war theory engage in detail with the actualities of the experience of war, and directly challenge the clarity of distinctions on which Elshtain relies, for instance in relation to the principle of non-combatant immunity. In Sjoberg's

case, however, it is difficult to see how the highly demanding criteria she sets out for just war could actually be met in a world in which political violence remains part of the repertoire of political action. A just war theory based on a feminist security ethic of empathetic cooperation would appear to require a world in which the gendered discriminations that underpin the legitimation of war were no longer being made. In this respect, Sjoberg does end up sharing a lot of ground with feminist pacifism, and from Elshtain's point of view embraces the fairy tale of a political violence without remainder. The fairy tale that is crucial to legitimations of military humanitarianism in the first place.

## **Conclusion**

Feminist critiques of the 'human' in humanitarian suggest that it is multiply illusory. There is no universal humanity in either the residual or the maximal versions of the human that are built into it, not just because the two categories of human are mutually exclusive, but more significantly because they are both politically loaded, gendered fictions. But if this is so, where does this leave us in practice? When it comes of military humanitarianism, the examples of Elshtain and Sjoberg, in different ways, suggest that attempts to re-write humanitarian scripts without reference to these gendered fictions are fraught with difficulty. This raises the question of whether in seeking to touch war as a practice and experience, feminists necessarily return to a choice between realism, however 'tragic', on the one hand, and pacifism (in practice if not in theory) on the other. As Bar On notes, this is a troubling conclusion in a world in which violence is embedded and feminists cannot but desire 'a normative differentiation of violence into kinds' (Bar On 2008b: 149). The question is whether it is possible to develop our ethical and political imaginations in such a way that the discriminate violence played out in the humanitarian script does not depend on gendered fictions of moral authority and agency, and does not

work so as to reproduce a world in which political violence is the default mode of political struggle.

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