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# Gendered Realities of the Immunity Principle: Why Gender Analysis Needs Feminism

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The discipline of international relations has had different reactions to the increased salience of gender advocacy in international politics; some have reacted by asking feminist questions about IR, while others have encouraged the study of gender as a variable disengaged from feminist advocacy. This article takes up this debate simultaneously with current debate on gender and the noncombatant immunity principle. Through a causal analysis of the ineffectiveness of the immunity principle, it argues that feminism is an indispensable empirical and theoretical tool for the study of gender in global politics. Concurrently, it demonstrates that gender stereotypes in the immunity principle are a natural part of the gendered just war narrative, rather than a deviation from normal immunity advocacy. It concludes by arguing that the gendered immunity principle fails to afford *any* civilians protection, and by suggesting a more effective, feminist reformulation based on empathy.

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Wars in Bosnia, Kosovo, and the Great Lakes region in Africa in the 1990s brought new salience to the noncombatant immunity principle. Rape as a tool of genocide in Bosnia brought a new sense of international horror about the tactics that we use in fighting wars. Mass death and destruction in the Democratic Republic of the Congo led members of the civilian protection network to decry the international community's lack of attention to civilian suffering in areas of less strategic importance. Many in the international community took notice when civilian deaths outnumbered military deaths in the United States' campaigns in Iraq and Afghanistan after September 11 (Sjoberg 2006). Along with advocacy communities, the discipline of political science is paying increasing attention to questions of individual human rights, the suffering caused by civil wars, and ways to protect civilians from the effects of twenty-first century warfare. These engagements have ranged from studies of the long-term human effects of infrastructural damage (Ghoborah, Huth, and Russett 2003) to the strategic choices of civilian immunity advocacy campaigns (Carpenter 2005). A number of common themes run through this new political science dialogue: concerns for individual well-being that are separate from traditional concerns about state security; recognition of the differential effects of different kinds of warfare; and an increasing sense of transnational responsibility for the most vulnerable victims of violent conflict. The biggest theme running through this dialogue, however, is a political theory rarely explicitly studied in the empirical context of war: the just war tradition's noncombatant immunity principle.

The noncombatant immunity principle is the moral prescription that some manner of precaution should be taken by belligerents to avoid injuring or killing

civilians in war. The noncombatant immunity principle can be traced back to ancient Greek and Roman just war theory, and is responsible for many of our impressions about the ways in which civilians should and should not be treated in times of war. When scholars write about the long-term damage that war causes to civilian infrastructures, they are operating on the assumption that the immunity principle has moral validity, and that war should not destroy civilians' lives. When Charli Carpenter (2005) writes about the civilian protection network, she is studying a group of people advocating the more effective implementation of the immunity principle. Political science's new concern for the civilian victims of war is important, but incomplete without a comprehensive understanding of this underlying principle.

In this article, I argue that it is imperative to study the foundational assumptions of the immunity principle in order to understand the problems of modern civilian protection. I do so first by criticizing Carpenter's (2005) argument that the immunity principle neglects civilian men. I argue that her analysis is necessarily incomplete without a look at the context of the immunity principle that her subjects utilize in their advocacy. The gendered representations that she recognizes, I contend, are not isolated but instead based on a long, gendered history of the immunity principle specifically and the just war tradition more generally. After showing that Carpenter's assumptions would be improved if she considered the context of the immunity principle, I go on to argue that it is not the enforcement of the immunity principle that has been flawed in the fighting of recent wars, but the moral structure of the principle itself. In doing so, I make two distinct theoretical contributions: a demonstration that gender analysis that does not take account of historical gender subordination suffers explanatory deficiency, and a contextual reformulation of the immunity principle based on critical feminist insight. This reformulation, I argue, adds the missing piece to the civilian protection debate: empathy. The structure of this article is, then, as follows: a critique of nonfeminist approaches to the study of gender and the protection of civilians, a demonstration of the gendered underpinnings of the immunity principle, an explanation of how these genderings render the immunity principle generally ineffective, and a proposed feminist reformulation of the immunity principle.

### **Charli Carpenter and a Nonfeminist Approach to the Protection of Civilians**

In her recent article, "Women, Children, and Other Vulnerable Groups," Charli Carpenter explains gender essentialism in international advocacy concerning the protection of civilians by reference to advocates' belief that their message will be more salient if it is couched in terms of protecting "women and children specifically" (2005:295). Carpenter (2005:295) characterizes this result of her in-depth interviews as cost-benefit analysis on the part of the advocacy networks. She alleges that, as a result of this cost-benefit analysis, the immunity frame has been distorted by reliance on the proxy of "women and children" for "civilians" (Carpenter 2005:296, 303). She worries that this distortion may affect civilian protection in suboptimal ways, including putting civilian men's lives at risk (2005:296). Carpenter laments the "specific gendered understandings of who deserves protection and why" and the effect those understandings have on civilian men (2005:307). In international dialogue, "innocent women and children abounds as a synonym for civilians," which marginalizes men (Carpenter 2005:303). Instead, Carpenter argues that "protection should be available to all who need it" (2005:308). There is a difference, however, between rhetorical advocacy concerning protection and the actual availability of protection.

Carpenter's data are significant. It tells us important things about both the immunity principle specifically and gender in war more generally. I argue, however, that there is both more and less going on in the gendered discourse that Carpenter

observes than the neglect of civilian men. I contend that Carpenter has missed the complexity of the gendering of the immunity principle, and that she has done so because of her insistence on studying gender from a nonfeminist standpoint. Carpenter is correct that transnational advocates specifically and actors in global politics more generally rely on “women and children” as a proxy for “civilians.” She is wrong, however, about the causes and effects of this reliance on proxy. As a casual argument, Carpenter focuses on the salience of gendered norms without exploring why these norms are salient and what their salience means. Her contention that the proxy is embedded in “pre-existing cultural ideas” does not explore the levels of gendering that the immunity principle has contained throughout modern history (2005:295). It is not the advocacy groups’ words that are responsible for the perpetration of gendered war-fighting, but the salience of gendered war-fighting that inspires the advocacy groups’ words. Carpenter’s argument that the reliance on the proxy neglects civilian men assumes that either civilian men or women would be effectively protected by the immunity principle absent the frame distortion she discovers. The effect is only the neglect of civilian men if women are being protected and civilian men otherwise would be. In other words, her argument that women and children benefit disproportionately assumes that gender essentialism in protection advocacy actually protects women.

It is not that the use of “women and children” as a proxy protects women and neglects men. Instead, the evidence demonstrates that it stereotypes women as helpless and perpetuates the gender-subordinating effects of war-fighting. The proxy may be salient in advocacy dialogue, but it was not born in the advocacy community. Instead, it was born of deeper gendered assumptions about women’s roles in modern warfare. I contend that the proxy correctly identified in Carpenter’s research is not a problem of the unequal treatment of men, but a symptom and a cause of the gendered roles in war, that allow war both to exist and to affect women disproportionately. The gendered immunity principle at once enables both gender subordination and violence in global politics.

### The Importance of Gender Analysis

Carpenter (2002) correctly recognizes that, while critical feminist international relations (IR) continues to grow as a subfield, mainstream IR is still largely silent about gender. She argues that this disparity can be explained by a discipline-wide perception that gender studies in IR are largely synonymous with feminist IR (Carpenter 2002). Carpenter (2002) contends that this is a misperception that deprives conventional IR of observations about gender that do not stem from feminist insights. She is concerned that feminists are constrained epistemologically and methodologically (2002). She also contends that nonfeminists who study gender would undertake insightful studies that feminists would eschew based on their epistemological break with orthodox methodology. Carpenter’s assumption is wrong, however: it is not her methods that feminist IR scholarship problematizes; it is the incompleteness of her substantive analysis. It is not *gender as a variable* that feminist work critiques; it is an insufficient understanding of that variable. It is not the observational results of Carpenter’s study that feminists have a problem with; it is the incomplete analysis of the meaning of those results that feminists critique. A woman and child on the front of a Red Cross brochure *means something* about gender; it means more than that there is no man in the picture. It means that women are seen as vulnerable, as less than, and as a liability in war. It means that men will fight to protect women. It means that women’s viewpoints and women’s suffering are incompletely understood. Carpenter successfully recognizes the empirical phenomena of gender essentialism. Without the tools of feminist analysis, however, she is unable to explain either its causes or its effects.

Carpenter (2002) resists feminist analysis, however. She calls for analytical clarity in reading sex and gender as categories, worrying that feminists find themselves collapsing sex and gender. She is bothered by the fact that, in IR, gender is often used interchangeably with women, both in political parlance and scholarship. If Carpenter is right, however, her critique of poorly executed feminist work is not an excuse to omit important [albeit feminist] explanatory hypotheses from her framework of analysis. Feminist understandings of gender contribute to a causal explanation of gender essentialism in the civilian protection network.

Where Carpenter sees the neglect of studies of masculinity, feminists see that history is the study of masculinity in global politics. Where Carpenter sees “enabling and legitimizing the targeting of adult civilian men and older boys,” feminists see enabling and legitimizing a social system and a war system based on gender hierarchy (2005:296). Where Carpenter sees omission of civilian men, feminists see an immunity principle shaped by and reliant on the subordination of women. Where Carpenter sees women and children becoming more vulnerable as a result of the disappearance of their men, feminists see that war disproportionately victimizes women and children regardless of the location of their men (Vickers 1993). The gender essentialism in the civilian protection network *reflects* gender essentialism inherent in millennia of just war theories and *continues* the gender subordination perpetrated by the gendered just war tradition. This gender subordination renders the immunity principle ineffective for men, women, and children.

### **Ineffectiveness of Nonfeminist Approaches to Noncombatant Immunity**

The first step in this argument is to demonstrate that it is not only, and not even mainly, civilian men who actually suffer from the gender essentialism of advocacy around the immunity principle. Civilians, men and women, are injured and die in war at an alarming rate (Chesterman 2001). States that fight wars tout the immunity principle, claiming to protect women and children in their tactical and strategic choices. Despite the lip service given to the immunity principle, most of the evidence shows it to be almost entirely ineffective. In the 1990s, 80% of war casualties were civilians (Chesterman 2001). Advocacy networks urge militaries to be more vigilant in their protection of civilians; yet, civilians keep dying. A number of just war theorists observe that, while protecting innocent civilians in a time of war is a nice idea, it is either outdated or fundamentally impracticable (Greenwood 1993). The immunity principle is often ignored or directly violated in war, regardless of the gender that advocates assign civilians.

It is not for lack of salience that the immunity principle suffers failures. References to noncombatant immunity are everywhere in war discourse—civilians are the subject of belligerents’ claims and third-party concerns. Still, the immunity principle is reliant on a distinction between those who are fighting for the enemy and those who are not. It instructs belligerents to refrain from targeting those who are not guilty of the enemy offense. This limit on belligerents’ targeting is meant to mitigate the brutality of war and improve the chances that belligerents are able to resolve peacefully their differences following the fighting (Giossi 2001). One of the immunity principle’s major difficulties, however, is that the distinction between those who are “guilty” of the enemy offense and those who are “innocent” is nowhere near as simple as it sounds. There is substantial debate concerning the line between innocence and guilt in war-fighting, and the method by which that distinction is made (Mavrodes 1975:121).

Some define combatant by guilty action, where guilty behavior implicates a person in the enemy offense (Hartigan 1982). Still, different theorists have different understandings of what counts as a guilty act. Some argue that taking up arms in battle is the only guilty act, while others assign responsibility to people who work in

war-supporting industries or provide services to military personnel. Instead of assigning culpability based on acts, Jenny Teichman (1986:66) associates responsibility with power: innocence is the inability to cause harm, and guilt is dangerousness. A third model is a membership-based model, which implicates the “enemy” society more broadly. It contends that people who take part in the war effort, either as soldiers or in a supporting role, are participating in the war effort and are therefore combatants. It holds a society generally, instead of individuals specifically, responsible for a war. Culpable supporting roles include business, industry, agriculture, and government (Kalshoven 1973:35). This interpretation, however, neglects the fact that the fruit of people’s everyday labor may be appropriated by belligerent governments without workers’ interest or consent (Kalshoven 1973:38–39). If they simply continue to do the job that supports their family, it hardly seems appropriate to assign liability to industry workers for war efforts.

Combatants are often defined by appearance, situation, or belligerent motivation rather than by some objective or easily understandable standard. The result of this vague definitional process is often unrepresentative. Definitions of combatant and noncombatant often do not incorporate the complexities of consent, human interdependence, and human security when estimating liability for making and fighting wars. As a result, the noncombatant immunity principle cannot distinguish noncombatants. This fundamental theoretical shortcoming means that, in practice, wartime effects on “noncombatants” are often ignored while belligerents claim to be adhering to the doctrines of the just war tradition. The civilian casualties that are acknowledged are accounted for by the principle of double effect. The principle of double effect is a principle that recognizes the moral acceptability of hitting a civilian target when the goal is a military target and the civilian damage is not disproportionate to the military importance of the target (Hare and Joynt 1982). The principle of double effect marginalizes the human suffering in collateral damage by allowing belligerents who intend to hit a military target to injure civilians knowingly in the process, so long as the principle of proportionality is fulfilled.

The principle of double effect, combined with extensive data demonstrating massive civilian casualties in most wars, shows another problem with the immunity principle. Even if those who tell just war stories and practice just war politics could agree on the distinction between combatants and noncombatants, it is difficult to define what sort of rights accompany the immunity that they might receive. Michael Walzer (1977) defines immunity in positive terms: immunity is a right that people must choose to cede by active participation in the fighting of a war. According to Walzer, noncombatants are “men and women with rights and they cannot be used for some military purpose, even if it is a legitimate purpose” (Walzer 1977:137). Others see immunity not as a right to be protected, but as a prohibition on certain military behavior. George Mavrodes (1975:119) describes immunity as instructing belligerents that civilian deaths can never morally be an intended consequence of a military action.

Still, there is even a bigger problem with the term “immunity” than the question of whether it is a positive or negative right. The use of the term “immunity” is in itself the perpetration of an illusion. It is impossible for people who live in a war zone to be fully immune from a war; they will feel its social, political, economic, and collateral effects. Further, most formulations of the immunity principle do not even pretend to be suggesting that those classified as noncombatants have full immunity from the war. The principle of double effect tolerates civilian “collateral” damage. Belligerents who choose to fight air wars necessarily value military lives over civilian lives, which cripples civilian protection efforts. Belligerents can destroy infrastructure, economic livelihood, social fabrics, and trade routes in a war zone while still claiming noncombatant immunity because they have not targeted civilians. Still, infrastructural attacks and structural violence wreak catastrophe on people’s lives and are responsible for the majority of civilian deaths during war. The humanitarian impacts of war are so far-reaching that it is not possible to be *immune* to them.

The immunity principle's effectiveness suffers as a result of its indeterminacy and flawed internal logic. As noted above, the immunity principle is often ignored or directly violated in war. Substantial numbers of civilians (by any definition) die during most wars, even wars touted by belligerents as clean. Richard Hartigan concludes that "it is obvious that if the practice does not coincide with the theory, something is wrong: either the commitment to norms is not real or is not possible" (1982:7). If belligerents' commitment to protecting civilians is either a pretense or ineffective, the immunity principle is problematic in theory and practice.

In practice, civilians have never been safe from war, and civilian protection is not improving over time. In fact, "some civilian casualties have always been tolerated as a consequence of military action" (Gardam 1993a:398). This tolerance either comes from the principle of double effect or from belligerents' general perception that it is not possible to protect civilians entirely. Belligerents who are confident in the justice of their cause often believe that such justice is morally primary to any means that are necessary to accomplish it. Thus, belligerents confident in their *ad bellum* justice often violate the standards of *jus in bello* behavior, including the noncombatant immunity principle. After all, belligerents are trying to win wars. John Howard Yoder explains, "often, 'military necessity' means that an otherwise-applicable rule can be discarded because it would be disadvantageous to the goal of winning the war" (1996:27).

Many belligerents also disregard the immunity principle when their opponents target civilians. For example, when the Iraqi government surrounded key military targets with civilians, many in the United States claimed that the U.S. military was no longer obligated to obey the immunity principle. While belligerents have an interest in opening the immunity principle to produce like obedience on the part of their opponent, this incentive goes away when they perceive that their opponent has ceased to heed its prescriptions (Regan 1996:99). Then, it is in a belligerent's interest to win the war by whatever means possible. Given this interest, belligerents often dispose of the immunity principle.

Even if belligerents were committed to following the immunity principle, many scholars of just war question whether or not it is possible to avoid civilian targeting. Judith Gardam (1993b:401) documents the fruitlessness of attempts to discriminate between combatants and noncombatants in the face of total warfare. If a pregnant woman can be a suicide bomber, the argument goes, there is no such thing as a recognizable noncombatant. William O'Brien (1969:248ff) contends that it is either impossible or strategically impracticable to expect belligerents to be able to distinguish civilian and military targets in a war that involves whole societies. The lines between civilian and military are so blurred that war-fighting does not work unless they are ignored entirely, so the argument goes. In order to discriminate effectively, soldiers would have to meet each other in combat, which is outdated in the practice of war-fighting (Wells 1969:827).

An important feature of twentieth-century war was the increasing popularity of guerilla warfare, which thrives on the enemy's inability to distinguish combatants and noncombatants as military strategy. Kenneth Vaux (1992:137) explains that guerilla wars *intentionally* make it impossible to know who is a combatant and who is not. Walzer (1977:156) argues that it would be an unreasonable risk to soldiers' lives to require them to spare civilians in a guerilla war, as every potential civilian is also a potential attacker. Even wars that were not guerilla wars had problems with the immunity principle. A number of those problems were caused by aerial warfare. Instead of soldiers meeting each other in battle, twentieth-century wars were largely fought in the air, where discrimination is much more complicated. Airplanes in war do not fight each other; they fight targets on the ground in the war zone. Aerial warfare has been characterized as technologically advanced hostage-holding, where the captor shoots some of the hostages (Gorry 2000:182). Further, ideological warfare has experienced a resurgence in recent times, and *in bello* discrimination is less influential during ideological wars (1999).

### Gender as the Root of the Immunity Principle's Ineffectiveness

The immunity principle in the just war tradition is both vague and subject to substantial manipulation for political purposes. Those problems alone might be enough to cause the principle's current lack of effectiveness, but, as Carpenter's research suggests, there is more to the ineffectiveness of the immunity principle than vagueness and intentional subversion. The immunity principle's apparent vagueness masks very gendered traditional narratives about roles and expectations in warfare, and the gendered narratives serve as a proxy for the immunity principle's actual existence and effectiveness. The gendered story of the immunity principle *requires* men to be combatants and women to be passive victims to lend moral legitimacy to the practice of making war. While the immunity principle appears to *protect women*, it actually risks women's lives and perpetuates gender subordination at the same time. Judith Gardam explains:

Although in practice noncombatant immunity is the rule most relevant to the protection of women, it would be a mistake to assume that the origins of the rule and its theoretical underpinnings are consistent with feminist concerns. Non-combatant immunity is a means of containing or limiting violence. Although it can be regarded as based on principles of humanity, in reality it serves the purposes of the patriarchal State by keeping society stable and allowing the fighter to return to the hearth once the battle is finished. Its derivations are all gendered: from the chivalric tradition, based on the patronizing of women, to the canonical doctrine which primarily protected the Church's own to the exclusion of women (Gardam 1993b:355).

Inherited and constructed expectations of gender roles permeate social relations; gender words prescribe certain natural and social characteristics. These constructions are what Carpenter (2005) is talking about when she alludes to "pre-existing notions of gender" influencing the salience of gender-essentialized images of civilians. These notions of gender, however, are deeper than stereotypes that influence people's emotional reactions. They are embedded in the immunity principle; war as an institution depends on gendered images of combatants and noncombatants. Jean Elshtain (1992a, 1987b) argues that the immunity principle constitutes and is constituted by the cultural images of males and females that are predominant in the contemporary world. Elshtain understands that "cultural images of male and female [are] rooted, at least in part, in just war discourse," with the constructions of male just warriors and female beautiful souls (1992b:266). In many conceptions of just war, men are seen as "just Christian warriors, fighters, and defenders of righteous causes," while women are "beautiful souls" who are "frugal, self-sacrificing, and, at times delicate" and work to "preserve the purity of the heart" by fleeing "from contact with the actual world" (Elshtain 1992b:266; Peach 1994:152). Men fight wars *for* women, whose consent to those wars is irrelevant. Expectations that men and women will conform to certain roles inherent in the immunity principle show gender bias in *ius in bello* theories.

#### *Just Warriors*

The immunity principle defines masculinity in terms of war and war in terms of masculinity. Because men fight wars to protect innocent women and children, those wars are necessarily humane and justified, regardless of their brutality. Men who fight in just wars are heroes who fulfill their expected gender roles. War-capacity defines men's masculinity, and "the social construct of what it is to be male in our society is represented by the male warrior, the defender of the security of the state. Those who do not take up arms are equated with female" (Gardam 1993b:348). In historical stories, women's need for protection causes wars, and men are expected



to fight those wars as women's protectors and heroes. These stereotypes legitimate both the social dominance of masculinity and the institution of war. The image of the just warrior as the idealized masculinity moralizes collective violence in a way that "continues to exert a powerful fascination and inspire respect" (Elshtain 1992b:266). The role men play in just war stories is the *just warrior*. The just warrior stereotype makes the civilian man a contradiction in terms: a man who is not fighting in a war lacks masculinity, because good men fight wars, and they do so to protect women. The ability to fight is an essential part of idealized masculine identity (Elshtain 1992b). The just war tradition awards masculine just warriors cultural and political privilege over other masculinities and over femininities.

Charli Carpenter's observation about the omission of civilian men from the just war narrative is well taken. The civilian man is a paradox in the just war tradition because the masculine gender of the warrior-hero does not only cover those men who fight. Masculinity is celebrated at least in part because it is tied to combatant status; femininity is marginalized at least in part because it is alien to combatant identity. The gendering of the immunity principle is hybrid, then: it at once valorizes men and endangers them, and marginalizes women in a discourse of honor and protection. Civilian men exist, but the gendered just war narrative denies their masculinity and value. It is through this devaluation that just war legitimates war and inspires fighters. While gender tropes appear simple, they are actually both complex and key to the production of war. As Connell explains, "the image of masculine heroism is not *culturally* irrelevant. Something has to glue the army together and keep the men in line, or at least enough in line for the organization to produce its violent effects" (1995:214).

In studying gender tropes in the immunity principle, it is crucial to understand that masculinity is not a fact but a social process; manhood is earned, not bestowed (Goldstein 2001:64). Men make their masculinity by fighting in just wars, and society recognizes masculinity through hero discourses (Halberstam 1998:2; Peterson and Runyan 1999:119). Both men and women use stereotypes of masculine heroism and protection to encourage men to fight, and to shame them when they are unwilling (Goldstein 2001:272). The just war narrative, which appropriates masculinity to legitimate war, creates a paradox of the idea of civilian men. If civilian men are impossible, they cannot be protected by an immunity principle more about gendered valor than actual protection of those who are not responsible for the making of wars.

### *Beautiful Souls*

The prototypical figure of a woman peacemaker is, ironically, the product of a man's imagination. The Athenian playwright Aristophanes wrote a political comedy, *Lysistrata*, critical of the costly and unpopular Peloponnesian War. In the play, a young woman named Lysistrata organizes the Athenian and Spartan women to withhold sex from the men until the men stop the war (Goldstein 2001:44).

While men play the heroes in just war discourses, women are defined by their relationships with those heroes (Barker 1998:187). Heroic men are just warriors while the women they save are beautiful souls (Elshtain 1988). Women require the protection that men take up arms to provide. Hegel (1977:399) inspires Elshtain's concept of a beautiful soul. Hegel describes a beautiful soul as a woman who is fragile, removed from reality, and whose protector receives substantial honor for success. In their roles as beautiful souls in just war narratives, women are supposed to oppose war and violence, but to refrain from interfering in wars that are necessary to protect their political innocence and virginity. Even though women are expected to be pacifist, their pacifism is seen as irrelevant to the real world, where

men fight wars to protect women's pacifist illusions. Just war narratives explain women's passivity as a gendered social contract, where "in the long history of struggle around questions of war and peace, beautiful souls who 'pre-judged all war as immoral' have asked for and received 'the protection of government in exchange for political passivity'" (Elshtain 1983:342).

The expectation of women's political passivity is almost always translated into an understanding that women are irrelevant to the making and fighting of wars. Elshtain's observations, however, tell a more complicated story. Women's agency is irrelevant to the making and fighting wars, but their presence is essential. Women and feminine values matter to just war narratives; they are on the front of the civilian protection network's brochures and at the center of the military's prisoners of war (POW) rescue plan. Women matter; they matter in ways that narrow their identities, deny their agency, and marginalize their citizenship.

First, women's most critical role in war is as mothers, raising good men to become just warriors. Women are measured by their capability to fulfill roles "bearing and rearing children on the homefront" (Peterson and Runyan 1999:116). The pictures of women and children that dominate the discourses of the civilian protection network reflect the institutionalization of this gendered role. A number of scholars have documented that noncombatant immunity campaigns emphasize mothering as a proxy for women, and women as a proxy for noncombatants (Goonsekere 1992; Beigbeder 2002). The just war narrative bases the rights of women and children to be protected from the fighting on motherhood relationships; the rights of women and children are often the rights of women *with* children. This image is part of a symbolic dimension of war that perpetuates gender dichotomies; it supports the image that men take lives as soldiers while women give lives as mothers (Hooper 2000: 81). It thus discursively eliminates the possibility that women's lives can be taken or that men are uninvolved in the fighting. Women are seen as "bearers of the collective" who serve as biological and cultural reproductive agents—peaceful, but producing war (Yuval-Davis 1997:22–23, 26). This construction narrows women's identities and uses this narrow approach to femininity as a foundation for war-fighting.

Second, women serve "symbolically and literally, as that which requires protection," a construction that denies agency (Peterson and Runyan 1999:116–117). Third, women are cast as pacifists who are wrong and ought to be ignored (Elshtain 1987b:4). Conover and Sapiro document, "for centuries the dominant gender images of war have been limited and relatively stable. Men are the militarists and perpetrators; women are the pacifists and victims. Men start the wars; women try to stop them" (1993:1079). Women are stereotyped as less competitive and thus more interested in peace (Welch and Hibbing 1992; Gidengil 1995; Miller 1999). This interest in peace is linked to emotion, not rationality; women are not more peaceful because it is in their strategic interest, but because it is in their [flawed] nature. This construction marginalizes women's citizenship.

These images of femaleness simultaneously enable war and subordinate women. It is men's masculine duty to protect women; this duty fuels men's desire and ability to fight in wars. Nancy Huston explains that men will fight for virtuous, defenseless women, even if they have no other reason:

But there always remains at least *one* good reason to make the supreme sacrifice, at least *one* transcendental value that justified rushing headlong into as insane an undertaking as war; very often it is Woman; the virtue she represents for the warrior, the love she bears him, the tears she will shed when he is slain (Huston 1983:279).

This stereotype initially appears to benefit women; after all, they are to be protected while they are not expected to make or fight wars. This appearance is only skin-deep,

however, and the image of women as “the protected” actually subordinates. Elsh-tain explains that “certain social divisions got sealed as historical preliminaries to bourgeois beautiful souldom: between home life and public life; peace and war; family and state; the immediacy of desire and the self-conscious power of universal life” (1987a:142). Being without choice might be acceptable, if women were really protected by the making and fighting of war. The illusion of protection, however, is just that, as women’s lives are detrimentally affected by war on almost every level. Not only are women not protected by the gendered immunity principle, just war’s gender stereotypes affect the meaning of gender outside of wartime (Elsh-tain 1987b:4). According to just war narratives, women are a liability to be protected, which decreases the respect they merit during wartime and after.

The stylized story of the rescue of Jessica Lynch demonstrates that the centuries-old stereotypes of the beautiful soul has evolved, but not disappeared. The 2003 war in Iraq was only a few days old when it found its beautiful soul. The first American prisoner of war was a pretty, blonde teenager who desperately needed rescue, lest Iraqi men violate her. Private Jessica Lynch starred in every newspaper and television news show. The 19-year-old girl (not woman) was allegedly injured and captured in battle and tortured in captivity. Attention centered around Lynch even though four other prisoners were taken by the Iraqi military during the same confrontation. In the days that followed, the military and the media told a story of a young, helpless girl who had joined the military in a time of war to see the world. According to these accounts, Lynch had never imagined she would be involved in actual fighting. The drama of this story was matched by the drama of the military’s rescue narrative. The U. S. military started a battle as a diversion. During the staged battle, a covert mission of troops was sent into the hospital where Lynch was being held captive. Because of the soldiers’ heroism, Lynch was rescued unharmed. The soldiers who rescued Lynch were brave, just warriors; Lynch was an innocent girl who had been saved by good men from bad men (*Time*, 17 November 2003).

Lynch’s fame came in part because she was characterized as brave beyond her femininity, and in part because she was described as limited by her femininity and therefore in need of an elaborate rescue. The enormous publicity that the story of Jessica Lynch received appeared to be gender liberation, as the world paid attention to a woman in a nontraditional role. This attention, however, was not gender emancipation but gender subordination in disguise. It was not attention to a woman in a nontraditional role, but to a woman in a nontraditional role’s *femininity*, and how that femininity made her different. It is true that the stories of Lynch differed substantially from the traditional just war narrative of women as nonparticipants who need protection. Jessica Lynch had military training, was wearing a uniform, and was said to have fired a gun in a battle. By most accounts, that would make her a combatant. She went down fighting, was brave through interrogation, and endured torture and rape, the story says. By most accounts, that would make her a warrior.

Still, a closer comparison of the Jessica Lynch story and traditional gendered narratives about beautiful souls reveals substantial similarities. Even though it is an expectation of military officials that soldiers fight in wars, Jessica Lynch’s fighting was noteworthy. Women soldiers wear makeup, nail polish, and heels in military recruitment ads; women soldiers do not fight (Brown 2006). Lynch was described as a tourist in the military rather than a soldier in most news stories (Bragg 2003). Her decision to enroll in the military in a time of war, then, was not to be a soldier or a just warrior but to see the world. This story was maintained even though the part of the world she was touring was the desert in Iraq. Lynch was no warrior; instead, she wanted some adventure and found herself in an army supply tank with a gun in Iraq. In most of the story about Lynch, she was not a fighter but the reason for the fighting. A whole battle was created on her behalf, as a distraction to make sure her life was saved. Lynch needed the male soldiers’ help so desperately that

there was a battle just for her, and she was rescued before the four other prisoners captured with her. The rescue of Jessica Lynch was the most public and publicized rescue in U.S. military history *because* Lynch was a beautiful soul and wars are fought to protect innocent women. Wars are fought to protect innocent women, and more than Jessica Lynch's life was at stake. It was necessary to rescue her not only because she could be killed but also because her being an attractive *woman* meant there was a risk of her vulnerability to sexual violence. Americans could not risk Iraqis perpetrating sexual violence on American *women* (a privilege reserved for American men). Even as a war hero, Jessica Lynch was a woman who needed protection—a beautiful soul who could not escape the mold, even with a gun and a uniform.

The most gendered characteristic of the Jessica Lynch story, however, was not a specific description of either Lynch or her rescuers. It was that the story was largely contrived by the U.S. military to inspire emotional identification with idealized gender roles. The Jessica Lynch story has been described as a feat of news management by the Pentagon (Kampfner 2003:A1). Lynch was not injured in battle, but in an automobile accident before the Americans' confrontation with Iraqi troops (Bragg 2003). The already-injured Lynch had not fought in the confrontation between her unit and Iraqi troops because her gun had malfunctioned (Bragg 2003). She had surrendered to Iraqi troops willingly (Bragg 2003). While those captured with Lynch were taken to an Iraqi POW prison despite their gunshot wounds, the Iraqi military took Jessica Lynch to a hospital and treated her injuries (Kampfner 2003). In an understaffed hospital during a war, Lynch was given the constant attention of one of only two nurses in the facility (Kampfner 2003). Lynch tells a story of being very badly hurt, but taken care of by her captors (Kampfner 2003). When the Iraqi military abandoned the hospital, rather than keep Lynch as a prisoner, they left her in the hospital with the medical staff (Bragg 2003). Lynch's stories are not about rape or physical abuse; instead, a nurse sang to her and talked about her boyfriend (Kampfner 2003). In addition to caring for Lynch's injuries, the medical staff at the hospital tried to return her to the United States. Hospital workers loaded Lynch into an ambulance and sent it to a U.S. checkpoint (Kampfner 2003). Unaware that the Iraqi ambulance contained an American soldier, the U. S. military fired on it. The ambulance, with Lynch, returned to the hospital. The next day, U. S. troops entered an unguarded hospital and found no resistance to their attempts to recover Lynch (Bragg 2003).

Jessica Lynch has spoken out about the military's stylized portrayals of her captivity and rescue. She characterizes herself as just another soldier and then just another POW, expressing her disappointment at the military's extraordinary treatment of her situation (Bragg 2003). Lynch is unhappy about being used as a symbol of American gender roles, and laments the lives lost in the large and unnecessary rescue mission (Bragg 2003). Stories about Lynch's bravery, her innocence, and her sexual victimization were all constructed to promote an idealized image of the militarized woman, who *still* relies on just warriors for her protection, even as a member of the armed forces.

In the just war narrative, women and children are seen as the weak and vulnerable, and men fight wars to protect them. When men fail to protect them, they have violated the immunity principle, which claims to protect civilians but really limits women's agency and defines men by their ability to protect. The pictures on the front of the brochures of the civilian advocacy network are salient because they resonate with the just war narrative. They depict helpless women; these depictions attract attention because they play on the emasculating accusation that real men (and real states) would be able to protect those women. They link femininity to helplessness, and masculinity to saving women from their helplessness. These understandings of the beautiful soul woman both rely on and perpetuate gender-oppressive social relations. Feminist approaches see that the problem is not with

noncombatant immunity's neglect of civilian men, but rather with the gendered assumptions behind both just war theory generally and noncombatant immunity specifically.

### Just Warriors, Beautiful Souls, and Gender Essentialisms

Carpenter describes gender essentialisms as “tropes associating men and women with mutually exclusive and oppositional attributes” (2005:296). She points out that international advocacy around the immunity principle stereotypes women and children as innocent (and, conversely, men as violent). This is exactly Elshtain's point, however, in her discussion of the gender tropes of just warrior and beautiful souls. What Carpenter characterizes as a “rhetorical inconsistency” (2005:296), Elshtain (1992a:266) realizes is a representation of images of male and female inspired by the just war tradition. Where Carpenter sees “frame distortion,” feminists recognize a discourse reflective of the gendered realities of global politics generally and the just war narrative specifically (2005:312). The problematic assumption in Carpenter's argument is that the immunity principle is what it appears to be on its face. This is an assumption that a feminist perspective corrects by analyzing the gender roles implicit in just war narratives.

Carpenter's nonfeminist perspective asks *the wrong questions*. She asks the question of why human rights advocates would perpetuate such stereotypes (2005:296). Her analysis comes up with a [likely correct] answer to that question: because they believe that it resonates, and they believe that the resonance of the stereotype gets them access to the civilians that they want to protect. Still, she is puzzled that these gender stereotypes undermine the moral logic of the immunity principle. Here, she touches on *the right question* for the first time. The right question is: do these gendered stereotypes contradict the moral logic of the immunity principle, or are they inherent in it?

Carpenter makes the assumption that “the goal of civilian protection advocates is, as stated, to promote the protection of *all* civilians” (2005:310). This can be true, and the norm that it relies on can be plagued by gender subordination at the same time. The just war narrative holds a gendered understanding of the meaning of the word “civilian,” which is manifested in actors' interpretations of the immunity principle, both in battle and in civilian protection advocacy.

Carpenter (2005:297) highlights the role of transnational advocacy networks in generating and amplifying intersubjective understandings. While transnational advocates may play a substantial role in some linguistic constructions, there is evidence that the immunity principle's gendered roots are both deeper and more entrenched in global politics. Carpenter's study of the civilian protection network demonstrates the perpetration of gendered stereotypes in just war discourse, but her analysis only reaches the symptoms, not the causes. While “the gendered civilian” is a “strategic social construction” in advocacy networks (Carpenter 2005:301), the gendered history of the immunity principle reveals the warrant both for that construction and for the feminist claim that women are the main victims of the gendering of the immunity principle.

Where Carpenter sees that it is “far more likely that women and children will be *interpreted* as civilians by belligerents,” gendered roles in war are in actuality more complicated (2005:302). Carpenter contends that this recognition *protects* women, when really it puts them in harm's way. While she recognizes Helen Kinsella's observation that women's “presumed noncombatant status” can be traced to “evolving gender hierarchies in the Enlightenment that positioned women as subordinate to men” and is “a site for the articulation of modern gender hierarchies,” she fails to grasp its implications (Kinsella 2003; Carpenter 2005:303). Women's presumed noncombatant status hurts women in two ways: it creates the illusion of

protection while failing to provide it in reality, and it serves to legitimate war-making.

### **The Gendered Illusion of Protection**

The experiences that men and women have in war differ substantially; observational data document these disparate impacts. The genders' experiences of war are different because war is a gendered phenomenon. Whether it is overdetermined or not, the majority of women experience war as civilians. In fact, "women may play a variety of roles during wartime—as guerillas, terrorists, soldiers, doctors, nurses, and volunteer workers. But most prevalently, it is as civilians that women experience war" (Schott 1996:22). Sometimes, war barely affects civilian women's lives, and sometimes it permeates their lives. Whether the effects of war are slight or terrible, however, they are often clearly gendered.

The first gendered experience in a war is often the decision making involved in entering a war situation. Governments often, intentionally or incidentally, leave women out of decisions about war. Often, "it is men who plan, prepare for, conduct, conclude, describe, and define war. Women are affected by war but mostly they react to rather than manage it" (Stiehm 1983:245). Governments rarely offer women military training; when they do, they rarely allow women full participation in the fighting of wars. Women who can fight in wars do so in militaries that value men and masculinity more than women and femininity (Enloe 2000).

Although most women do not fight in wars, most women in a war zone experience wars in gendered ways. Women are an overwhelming majority of wars' refugees, and experience the lion's share of sexual and physical abuse at refugee camps. When there is a food shortage, camp managers often prioritize feeding battle-capable men. The same administrators allow those men substantial leeway when it comes to sexual misconduct (Karam 2001). Women, both at home and in refugee camps, are responsible for protecting their families from unexpected and uncontrollable dangers.

Women's physical security is also threatened by sexual violence in war. Rates of sexual abuse and domestic violence go up during times of war (MacKinnon 1993). Contrary to popular perception, the wartime rape rate is increasing, as is the brutality of wartime rape (Gottschall 2004). Wartime rape is steeped in gender oppression, whether it is recreational, security-driven, or genocidal (Schott 1996:23; Peterson and Runyan 1999:127). Its impact is both very gendered and very personal, as a rape victim in the Bosnian war recounts:

They liked to punish us. They would ask women if they had male relatives in the city. I saw them ask this of one woman, and they brought her 14-year-old son and forced him to rape her. . . . On another occasion, I was raped with a gun by one of the three men already in the room . . . Others stood watching. Some spat on us. They were raping me, the mother and her daughter at the same time. Sometimes you had to accept ten men, sometimes three. . . . I felt I wanted to die. The Serbs said to us, "why aren't you pregnant?" . . . I think they wanted to know who was pregnant in case anyone was hiding it. They wanted women to have children and stigmatize us forever. The child is a reminder of what happened. (Anonymous, Bosnia, published by the Center for Reproductive Law and Policy).

Wartime rape has been characterized by gender analysts as terrorism (Card 1996:6), aggression (Goldstein 2001:364), dominance (Card 1996:7), genetic imperialism (Card 1996:7), strategy (Hansen 2001:59), torture (Schott 1996:23), and gender oppression (Gardam 1993b:363; MacKinnon 1993:38).

In addition to women's gendered vulnerability to sexual violence during war, women are a disproportionate percentage of civilian casualties in war; they are easy

targets for violence because direct retaliation is unlikely (Enloe 1993). Belligerents often communicate messages of domination by killing or abusing women (Card 1996:11). As a result, women were overrepresented in civilian deaths in the First Gulf War, the war in Afghanistan, and the Second Gulf War (Sjoberg 2006).

Even women who are not direct physical victims of wartime violence feel the gendered impacts of war. Women must operate households under severe economic constraint. Infrastructural attacks challenge women who try to feed and clothe their children and access common resources. States' health care systems suffer during wartime, and women's health initiatives often receive the least attention (Vickers 1993).

All of this gendered suffering takes place in an international political atmosphere that Carpenter (correctly) observes emphasizes the protection of women and children. The immunity principle "protects" noncombatants by giving them "immunity" from the violence of war-fighting. Most women are noncombatants. Still, their experiences in war are far from "protected."

The illusion of protection is created and reinforced by the gendered narratives of just war. Just warriors, who are by definition righteous, protect women, who are by definition innocent. Charli Carpenter documents that the immunity principle reifies expected gender roles in conflict situations while failing to protect civilians adequately. Carpenter points out that "a discourse that [unrepresentatively] promotes the use of 'woman' as proxy for 'civilian' encourages belligerents to act contrary to the immunity norm itself" (Carpenter 2003b:3).

Carpenter (2002) is on to something here, but the explanation she is looking for is down the path she refuses to follow: feminism. Carpenter (2003a) is arguing that gender essentialism in the immunity principle fails to protect civilian men and thus fails to accomplish the goals of the norm. As I pointed out earlier, Carpenter correctly points out that there are important exceptions to the gendered assumptions of the *jus in bello* standards in the theory, law, and practice of international conflict. It is not unreasonable for scholars to recognize that "the juxtaposition of men as fighters and women as civilians, both in text and photos, fails to recognize the danger to which male members of the civilian population are exposed" (Lindsey 2001:64). Still, Carpenter's work reifies, rather than interrogating, the illusion of protection of women.

Carpenter's observation about the acceptability of killing men is only part of a larger story. She misses a much more indirect path to the acceptability of killing women. Women are disproportionately affected by both short-term and long-term effects of wars, despite their lack of participation in the fighting (Ghobarah, Huth, and Russett 2003; Karam 2001). This is true even when the civilian immunity network emphasizes women and children. It is true even when *belligerents* emphasize the protection of women and children.

The representation that Carpenter finds protection networks making, of women as victims of men's wars, has some truth to it but is necessarily incomplete. There are some women who participate in the fighting of wars, and some men who abstain from wars. Still, as Elshtain (1987a) has pointed out, women's exclusion from war has been the result of structural gender subordination, while men's has been a product of individual choice or circumstance. If we are to understand the gendered impacts of war, it is crucial that we recognize women's conceptual and structural exclusion from war's values, decisions, and execution (Stiehm 1999, 1983). In order to study gender in war, gender representations must be understood in the context of the political world's complicity in material gender subordination (Joachim 2003).

A look at the gendered nature of warfare demonstrates that the gendered narratives around the immunity principle *harm women* rather than *favoring* them. Immunity advocates make claims about protecting women because women are seen as incapable of defending themselves, and because dignity between men is assumed (Gardam 1993b). Women are not protected by the current assumptions of civilian

immunity norms and laws; instead, women are generally oppressed by both their substance and their execution.

This oppression is visible on a number of levels. First, in the discourse about the immunity principle, it appears that women either are or could be protected from the horrors of war. As we discussed above, however, no one is immune from war-fighting when the battleground is their homeland. While the United States boasts about protecting women and children everywhere (Bush 2002), tens of thousands of Iraqi civilians (mostly women) die from direct fire in wartime. Second, the just war narrative does not even cover most of the wartime causes of women's suffering. While many women civilians die *during* the fighting, many more suffer from its effects after the fighting is over. These include infrastructural damage that limits their access to food, water, medical care, and transportation; loss of the family's source of income; loss of educational and social opportunities due to political instability; and loss of freedoms from martial law-like situations (Vickers 1993). Third, the immunity principle presents this illusion of protection without fundamentally changing any of the rules of war-fighting. Belligerents are permitted to choose where they fight, make strategic plans, and use weapons in the same ways that they would if they did not care who they affected. The difference, with the immunity principle, is not how belligerents conceptualize war, but who they mean to hurt the most when they fight. Women, although given "immunity," become symbolic stand-ins for the morality and justice of war-fighting, which is no less brutal to them because they are immune. The immunity principle legitimates war-making, while failing to provide protection to civilians, gendered male or female.

### Gender and the Moral Legitimacy of War-Making

In describing the role of just warriors above, we discussed the phenomena that men will fight wars *for* women, even when they have no other reason. Wars are often couched in terms of their protection of women, even when that is not their primary purpose or primary goal. In his 2002 State of the Union address, U.S. President George W. Bush defended the war in Afghanistan by arguing that "violence against women is always and everywhere wrong" and pointing out the Afghan government's systematic pattern of encouraging or ignoring abuse of women (2002). The National Organization for Women (NOW), a women's rights organization in the United States, agreed. In international political discourse about the sanctions on Iraq in the 1990s, the U.S. government and the Iraqi government took turns blaming each other for the "suffering of Iraqi women and children." Americans justified broadening the war on terrorism by talking about the "American way of life" and "soccer moms' ability to drive their kids to soccer practice" (Sjoberg 2002). In the just war narrative, the legitimate reason for fighting a war is *defense*. The concept of defense, however, is less obvious than it may at first appear.

What just warriors have defended, throughout history, is their women and children. Wars are humanized by their function of protecting women, because just warriors make the world safe for their women and protect other women who are being abused. Just warriors, although they do brutal things, are not mean or violent men; instead, their masculinity is defined by the protection and assistance that they offer to women. If the alternative is the destruction of women (and by proxy, homes, and families), real men go to war to stop that from happening. The "innocent women" proxy for civilian is reliant on the "just warrior man" proxy for fighter; both of these proxies are a product of a just war tradition so gendered that just war stories could not exist without gender essentialism. Without just warriors and beautiful souls, the hero stories of war would have no protagonists; without protagonists, war narratives would not be rhetorically strong enough to produce people willing to fight wars (Huston 1983). Just war is a moral framework, but it is



also a system of moral hero-stories that justify and legitimate wars that have been fought and wars that are yet to be fought.

Carpenter (2005:324) makes the allegation that the discourses of feminist security theorists and the civilian protection network neglect the particular vulnerabilities of civilian men. It is not “reframing civilian protection” that will solve the problems that Carpenter observes. It is critically interrogating the gendered just war narrative and retelling the gendered immunity principle. The problem with the immunity principle is not about “willingness to relinquish the advantages of using gender to maintain access to belligerents” or enlisting “global media in publicizing complex emergencies” (Carpenter 2005:326). Instead, it is about understanding the salience of a distorted immunity principle, its gendered effects, and its role in legitimating war.

### Empathetic War-Fighting: A New Immunity Principle?

The gendered just war narrative is about moral superiority through heroic protection; it serves as a legitimating force for both masculinity and war. In order to bring the just war narrative more in line with its stated purpose (serving as a moral framework for making decisions about war), a new story needs to be told. This new story needs to move away from describing the heroism of just warriors protecting beautiful souls from evil attackers. It is this gendered soul version of the just war narrative that causes both the gender essentialism that Carpenter recognizes and its resonance. A new just war narrative should be based on a concept that deconstructs gender subordination rather than reifying it; it should have a theme that focuses on people rather than on abstractions that can be ignored by belligerents with other priorities.

I propose a feminist rewriting of the just war narrative that focuses on empathy rather than moral victory. Empathy is the willingness to enter into the feeling or spirit of something and appreciate it fully – “to hear others’ stories and be transformed by our appreciation of their experiences” (Bystudzienski 1992; Sylvester, 1994:96). Empathy is neither experiencing others’ lives nor feeling sorry for them; it is, through emotional identification, *feeling their pain*. Feminists recognize both the global prevalence of gender subordination and the diversity of its manifestations. Each woman does not experience others’ subordination, but they hear of it and they talk about it. They can find common ground to understand gender subordination, both generally and in the context of their individual experience.

Empathy can be, at least in part, understood as solidarity: supportive interaction in an interdependent world (Arendt 1970; Ruddick 1989:239; Sylvester 2002). Sylvester provides a definition of empathetic cooperation and expands on the political implications of this understanding:

To be empathetically cooperative is to become relationally rather than reactively autonomous with those we have defined as unmistakably other, with those who are not inside “our” community, our value system. . . . One does not take up permanent domicile in the other when one has empathy; one does not universalize her experience as something “I” can know absolutely, thus cannibalizing her. Rather, one appreciates the similarities that are echoes of one’s independent experience. . . . Empathy enables respectful negotiations with contentious others because we can recognize involuntary similarities across difference as well as differences that mark independent identity. There is no arrogance of uniqueness. Precious little committed defensiveness (Sylvester 2002:119–120).

Feminists’ understandings of human connectedness inspire their commitment to empathetic cooperation. Connectedness comes from related experiences; feminists understand that the collective experience of social life in a constructed world is a

related experience. Therefore, they realize that communication and cooperation are sources of power even where a social group is marginalized or subjugated (Allen 1998).

The concept of empathy has been critiqued fairly heavily on account of its potential to support, rather than deconstruct, power structures in global politics by reifying self/other dichotomies that alienate one party from collective pain or collective responsibility (Shuman 2005). There are certainly situations where this critique is justified. For example, where noncommunicative attempts at emotional identification silence the available voices of the “other,” empathy has no place.

War decision making is not such an area, however. War decision makers are entirely alienated from foreign civilians’ pain. They are so alienated that decision makers are often unaware of the pain that they cause. War decision makers do not feel the personal harms of war discussed above, nor do they hear the voices of foreign civilians. The otherization of and partisanship against “enemy” civilians is complete, with or without empathy as a tool.

Empathy, however, just might build a bridge between unwitting (or unfeeling) decision makers and their victims hundreds or thousands of miles away, by reviving the emotional and personal dimensions of war. Empathetic cooperation can connect the immunity principle to real people’s experiences. The immunity principle is depersonalized such that it talks about states, their weapons, and their military choices, but it often omits discussion of the people affected by war, individually or collectively. Robin Schott worries that, in the immunity principle, “concerns and feelings that express emotional awareness of human reality behind the sanitized abstractions of death and destruction become marked as feminine, and thus are difficult both to speak and hear” (1996:24). The emotional experience of war is left out of the just war tradition. Feminists insist on highlighting the suffering that war causes, the people who endure that suffering, and the emotional and physical pain involved with war. Empathetic cooperation moves away from reactive combativeness and focuses on intersubjective connections between persons.

A feminist revision of the noncombatant immunity principle must humanize and revitalize the just war tradition’s understandings of targeting. I propose a feminist reformulation called empathetic war-fighting. Empathetic war-fighting uses a responsibility-for approach to help determine appropriate targeting strategies (Steans 1998). The responsibility-for approach asks who will be affected, and how, by any *ad bellum* or *in bello* decision. It holds the belligerent party responsible not only for its intent but for any reasonably foreseeable impact of its war-fighting tactics. The immunity principle asks who the party intends to shoot at; empathetic war-fighting asks who the party might hit. Although the distinction sounds trivial, it is crucial. Double effect allows civilian damage so long as it is unintended. In fact, unless the bad effects severely outweigh the good effects, double effect does not disapprove of war-fighting tactics predicted to affect civilians. The responsibility-for reformulation is inspired by care for people; people die when civilians are hit in war, regardless of intent.

This approach deconstructs the artificial barrier between intent and reasonable foreseeability in the principle of double effect. If decision X leads belligerent A to winning a minor but not inconsequential battle, and it also cuts off the water supply to a small village, both effects would have to be considered as primary. Belligerent A would be morally accountable for both (and any other) impacts of its targeting decision. It also deconstructs the gendered tropes of just warriors and beautiful souls in favor of a communicative ethic of war-making and war-fighting that emphasizes *understanding* people’s real needs over fitting into stories of morality and its corresponding glory.

Empathetic war-fighting also presents a new moral rubric for understanding belligerent’s mistakes. A mistake is when a belligerent aims at a morally justified target, but misses and hits an unjustified target instead. Mistakes happen when a

belligerent meant to follow the immunity principle, but a technical glitch, a missed calculation, or a soldier's error meant that the belligerent did not hit the intended target. A belligerent intends to hit an air traffic control tower, but a pilot dropping the bomb just seconds off schedule means it hits a nearby bus station instead. Even when belligerent militaries take every precaution technology allows, mistakes happen in wartime. Mistakes often cause civilian "collateral" damage. Just war theorists like Walzer contend that minimizing misses and errant targeting fulfills the moral obligation of the immunity principle. In just war theorists' descriptions, the immunity principle is about a belligerent's intent not to target civilians and not to hit them; it is never about actually sparing civilians. Even when civilians are not being targeted, they die when belligerents miss. Mistakes are not *targeting*, but people's deaths cannot be left out of the moral calculus when evaluating war-fighting. Empathetic war-fighting suggests that mistakes are an inevitable part of war, and should be a part of a party's calculus when deciding whether or not to go to war.

In this way, empathetic war-fighting reverses the logic of the immunity principle. The immunity principle instructs belligerents that they should fight a war against those people who give them just cause, to the extent possible. Empathetic war-fighting limits belligerents, instructing them that they should not choose to fight a war that will substantially impact people who did not give them just cause. This approach is not about intending to spare as many innocent people as possible, but about only fighting wars against those morally responsible for the war's existence. The lives of those uninvolved in the making or fighting of the war should be a policy-level, strategic, and tactical consideration. Empathetic war-fighting requires belligerents to make an *ad bellum* commitment that the war be against those whose human security is threatened by the fighting. An immunity principle should not look to avoid civilians after choosing to engage in a war with a high number of potential collateral casualties. Instead, human security and interhuman empathy should be the basis of war decision making, from choices about just cause to decisions about weaponry.

Empathetic war-fighting refuses to allow abstracting humanitarian damage in war. Instead, it instructs belligerents to take responsibility for all of the effects of war-fighting, immediate or long-term, traditionally considered or invisible. Empathetic war-fighting is about the impacts of war on real people's lives. A feminist approach pays special attention to those impacts marginalized in traditional just war analyses, including the health effects on the state's poorest citizens, effects on family structure, problems with literacy, reactive gender conservatism, and the like.

In response to Charli Carpenter's concerns, empathetic war-fighting abandons gender essentialism, but does so without ignoring the real gendered impacts of war-fighting. It dispenses the illusion that people formally uninvolved in a conflict could hope to escape the effects of the war, while trying to moderate and modify belligerent behavior. Empathetic war-fighting is an ethical and practical improvement for the noncombatant immunity principle.

### Contributions of a Feminist Standpoint

Current formulations of the immunity principle provide civilians inadequate protection from the harmful effects of war, both in the case of the immediate harm of collateral damage and in the inevitable long-term suffering from infrastructural damage. During a war, people's immediate security is threatened. Should they survive the war, however, they often are greeted with long-term threats to their health, economic well-being, education, environment, and stability. Feminist interest in political marginality sheds light on these threats to human security.

Human security is a priority feminist reformulation of an immunity principle that has proven woefully inadequate to deal with the damages that structural and physical violence cause social and political life in war-torn areas. Empathetic cooperation

offers a new standard based on care and human security, which may offer societies involved in war true protection by turning the immunity principle on its head. Empathetic war-fighting, instead of minimizing civilian damage in each targeting decision, considers the civilian damage that will be incurred as a question of whether or not to pursue a war. It focuses not on who is innocent, but on the question of whether the people who will be affected by the physical and structural violence of war are those who the war is against.

Empathetic war-fighting could revitalize *jus in bello* as an ethical instructive for decisions about going to and fighting in war. It cannot save the tens of thousands of civilians who have already died, despite their “immunity” from twenty-first century wars. It can, however, provide a new way of looking at and thinking about war-making and targeting decisions that focus on the security and welfare of individual lives. A focus on individual human security will strengthen just war’s effectiveness, increase its relevance to modern warfare, and decrease its insidious abstraction and gender bias.

There are those who may agree that the approach of empathetic war-fighting is beneficial to the immunity principle’s effectiveness, but argue that we can reach that understanding without the contribution of a feminist theory of global politics. I argue that a feminist perspective is crucial in two major places. In the non-combatant immunity puzzle, feminism adds explanatory power where nonfeminist theories lack deep enough insight, and it provides a moral basis for theoretical reformulations that answer the puzzle’s most perplexing questions. A nonfeminist analysis recognizes the empirical phenomena of gender essentialism in the immunity principle, but fails to explore adequately either its causes or effects. A feminist analysis, with its political interest in gender emancipation, looks at the history of gender subordination in order to understand the gender essentialism in the civilian protection network. It finds that, contrary to the assumed result, explicit discourses of women’s protection actually subjugate women and risk their lives. The ineffectiveness of the immunity principle is not *caused by* gender essentialism; instead, both ineffectiveness and gender essentialism are embedded in the gendered just war narrative. A feminist approach to researching civilian protection can recognize the empirical phenomena of gender essentialism in advocacy groups *and* see the roots of that essentialism in gendered just war narratives.

The second contribution of a feminist perspective is insight into the ways that the gender essentialism Carpenter recognizes might be corrected. Feminist theory suggests that tackling the problem at the level of the civilian protection network would not be fruitful, because it neither starts nor ends there. It is only considering gender subordination in the analysis of gender essentialism in the civilian immunity norm that makes it possible to reformulate the immunity principle to focus on real people instead of contrived, gendered hero stories.

In a world where gendered hero stories of just war had less resonance, a stylized tale of Jessica Lynch’s capture and rescue may not have trumped the lives of those who died staging the battle for her rescue, on either side of the fight. In a world where men did not have to prove their masculinity by fighting wars to protect women, the global political arena might look increasingly peaceful rather than increasingly bellicose. In a world where war was not *about* gendered competition, perhaps George H. W. Bush and Saddam Hussein’s arguments about who was a bigger man would not have escalated to war.

These macro-political fantasies are probably just that: a critical theorist imagining what the world would be if it could be radically detached from what it is. A world without gender subordination at the highest levels of politics is almost unfathomable. As Catherine MacKinnon documented, at our current rate of progress, the U.S. Congress will not be gender-equal for another 500 years.

Even in a world where gender emancipation is slow and gender equality is a distant goal, perhaps empathetic war-fighting can play a role both in deconstructing

gender dichotomies and in making war more humane. One could envision the importance of a single war decision being changed by empathy. For example, would George H. W. Bush and Bill Clinton have continued the sanctions on Iraq if they had somehow been able to identify emotionally with Iraqi women who ate an average of 500 calories per day over a decade (Mueller and Mueller 1999). Would Saddam Hussein have put children in front of military targets during the Gulf Wars if he could have somehow felt a young boy's fear in his last minutes as a U.S. fighter jet approached?

Emotional identification will not end war. Empathy will not end gender subordination or radical othering in world politics. It will likely not even end the targeting of civilians. It will, however, slowly peel away the layers of artificiality and ineffectiveness of the immunity principle and its illusion of protection. It will make clear that vague, gendered stories that appear to protect civilians while really putting them in danger simply will not do. It is only by focusing just war narratives away from gendered stories of just warrior men protecting beautiful soul women, and toward empathy, that we can hope to revive the immunity principle's effectiveness and eliminate its many gendered effects.

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### References

- ALLEN, AMY. (1998) Rethinking Power. *Hypatia* 13:21–40.
- ARENDET, HANNAH. (1970) *On Violence*. New York: Harvest Books.
- BARKER, DRUCILLA K. (1998) Dualisms, Discourse, and Development. *Hypatia* 13:83–94.
- BEIGBEDER, YVES. (2002) *New Challenges for UNICEF: Children, Women, and Human Rights*. New York: Palgrave MacMillan.
- BRAGG, RICHARD. (2003) *I Am a Soldier Too: The Jessica Lynch Story*. New York: Alfred P. Knopf.
- BROWN, MELISSA. (2006) A Woman in the Army is Still a Woman: Recruitment of Women into an All-Volunteer Force. Paper presented at the Annual Meeting of the International Studies Association, San Diego.
- BUSH, GEORGE W. (2002) State of the Union Address, *Los Angeles Times*, 29 January.
- BYSTUDZIENSKI, JILL M., ED. (1992) *Women Transforming Politics: Worldwide Strategies for Empowerment*. Bloomington: Indiana University Press.
- CARD, CLAUDIA. (1996) Rape as a Weapon of War. *Hypatia* 11:5–17.
- CARPENTER, R. CHARLI. (2002) Gender Theory in World Politics: Contributions of a Non-Feminist Standpoint. *International Studies Review* 4 (3):153–165.
- CARPENTER, R. CHARLI. (2003a) Women and Children First: Gender, Norms, and Humanitarian Evacuation in the Balkans 1991–95. *International Organization* 57:428–477.
- CARPENTER, R. CHARLI. (2003b) 'Women, Children, and Other Vulnerable Groups': Gender, Strategic Frames, and the Protection of Civilians as a Transnational Issue. Paper Presented at the International Studies Association-West Conference, Las Vegas, October 1.
- CARPENTER, R. CHARLI. (2005) Women, Children, and Other Vulnerable Groups: Gender, Strategic Frames, and the Protection of Civilians as a Transnational Issue. *International Studies Quarterly* 49(2):295–335.
- CENTER FOR REPRODUCTIVE LAW AND POLICY. (1996) *Rape and Forced Pregnancy in War and Conflict Situations*. Washington, DC: Center for Reproductive Law and Policy.
- CHESTERMAN, SIMON. (2001) *Civilians at War*. Boulder: Lynne Rienner Publishers.

- CONNELL, R. W. (1995) *Masculinities*. Berkeley: University of California Press.
- CONOVER, PAMELA JOHNSTON, AND VIRGINIA SAPIRO. (1993) Gender, Feminist Consciousness, and War. *American Journal of Political Science* 37:1079–1099.
- ELSHTAIN, JEAN. (1983) On Beautiful Souls, Just Warriors, and Feminist Consciousness. In *Women and Men's Wars*, edited by Judith Steihm. Oxford: Pergamon Press.
- ELSHTAIN, JEAN. (1987a) Against Androgeny. In *Feminism and Equality*, edited by Anne Phillips. New York: New York University Press.
- ELSHTAIN, JEAN. (1987b) *Women and War*. Washington Square: New York University Press.
- ELSHTAIN, JEAN. (1988) The Problem with Peace. *Millennium: Journal of International Studies* 17: 441–449.
- ELSHTAIN, JEAN. (1992a) Just War as Politics: What the Gulf War Told Us About Contemporary American Life. In *But Was It Just? Reflections on the Morality of the Persian Gulf War*, edited by David E. Decosse. New York: Doubleday.
- ELSHTAIN, JEAN., ED. (1992b) *Just War Theory*. New York: New York University Press.
- ENLOE, CYNTHIA. (1993) *The Morning After: Sexual Politics at the End of the Cold War*. Berkeley, CA: University of California Press.
- ENLOE, CYNTHIA. (2000) *Maneuvers: The International Politics of Militarizing Women's Lives*. Berkeley: University of California Press.
- GARDAM, JUDITH. (1993a) Proportionality and Force in International Law. *The American Journal of International Law* 87:391–413.
- GARDAM, JUDITH. (1993b) Gender and Non-combatant Immunity. *Transnational Law and Contemporary Problems* 3:345–370.
- GHOBARAH, HAZEM, PAUL HUTH, AND BRUCE RUSSETT. (2003) Civil Wars Kill and Maim People Long After the Shooting Stops. *American Political Science Review* 97:189–202.
- GIDENGIL, ELISABETH. (1995) Economic Man–Social Woman? The Case of the Gender Gap in Support for the Canada–US Free Trade Agreement. *Comparative Political Studies* 28:384–408.
- GIOSSI, SYLVIE. (2001) *Strengthening Protection in War: A Search for Professional Standards*. Geneva: International Committee of the Red Cross.
- GOLDSTEIN, JOSHUA S. (2001) *War and Gender: How Gender Shapes the War System and Vice Versa*. Cambridge: Cambridge University Press.
- GOONSEKERE, SAVITRI. (1992) *Women's Rights and Children's Rights: The U.N. Conventions as Compatible and Complementary International Treaties*. Florence: UNICEF Innocenti Centre.
- GORRY, JON. (2000) Just War or Just War? The Future(s) of a Tradition. *Politics* 20:177–183.
- GOTTSCHALL, JONATHAN. (2004) Explaining Wartime Rape. *Journal of Sex Research* 41:129–136.
- GREENWOOD, CHRISTOPHER. (1993) Customary International Law and the First Geneva Protocol of 1977 in the Gulf Conflict. In *The Gulf War 1990–1 in International and English Law*, edited by Peter Rowe. London: Routledge.
- HALBERSTAM, JUDITH. (1998) *Female Masculinity*. Durham and London: Duke University Press.
- HANSEN, LENE. (2001) Gender, Nation, Rape: Bosnia and the Construction of Security. *International Feminist Journal of Politics* 3:55–75.
- HARE, JOHN, AND CAREY JOYNT. (1982) *Ethics and International Affairs*. London: MacMillan.
- HARTIGAN, RICHARD SHELLY. (1982) *The Forgotten Victim: A History of the Civilian*. Chicago: Precedent Publishing.
- HEGEL, G. W. (1977) *The Phenomenology of Spirit*, translated by Miller A. V. Oxford: Clarendon Press.
- HOOPER, CHARLOTTE. (2000) *Manly States: Masculinities, International Relations, and Gender Politics*. New York: Columbia University Press.
- HUSTON, NANCY. (1983) Tales of War and Tears of Women. In *Women and Men's Wars*, edited by Judith Steihm. Oxford: Pergamon Press.
- JOACHIM, JUTTA. (2003) Framing Issues and Seizing Opportunities: The U.N., NGOs, and Women's Rights. *International Studies Quarterly* 47:247–274.
- KALSHOVEN, FRITZ. (1973) *The Law of Warfare: A Summary of Its Recent History and Trends in Development*. Leiden: A. W. Sijthoff.
- KAMPFNER, J. (2003) The Truth about Jessica, *The Guardian*, 15 May.
- KARAM, AZZA. (2001) Women in War and Peacebuilding: The Roads Traversed, the Challenges Ahead. *International Feminist Journal of Politics* 3:2–25.
- KINSELLA, HELEN. (2003) Securing the Civilian: Gendering Grotius. *Power and Global Governance*, edited by M. Barnett and R. Duvall. Cambridge: Cambridge University Press.
- LINDSEY, CHARLOTTE. (2001) *Women Facing War*. Geneva: International Committee of the Red Cross.
- MACKINNON, CATHERINE. (1993) *Only Words*. Cambridge, MA: Harvard University Press.
- MAVRODES, GEORGE R. (1975) Conventions and the Morality of War. *Philosophy and Public Affairs* 4:117–131.

- MILLER, ALICE M. (1999) Realizing Women's Human Rights: Nongovernmental Organizations and United Nations Treaty Bodies. In *Gender Politics in Global Governance*, edited by Mary K. Meyer and Elisabeth Prugl. Lanham: Rowman and Littlefield Publishers.
- MUELLER, JOHN AND KARL MUELLER. (1999) Sanctions of Mass Destruction. *Foreign Affairs* 78(3):43–53.
- O'BRIEN, WILLIAM V. (1969) *War and/or Survival*. Garden City: Doubleday.
- PEACH, LUCINDA J. (1994) An Alternative to Pacifism? *Hypatia* 9:152–171.
- PETERSON, V. SPIKE AND ANNE SISSON RUNYAN. (1999) *Global Gender Issues*. Boulder: Westview Press.
- REGAN, RICHARD J. (1996) *Just War: Principles and Cases*. Washington, DC: The Catholic University of America Press.
- RUDDICK, SARA. (1989) *Maternal Thinking: Towards a Politics of Peace*. New York: Houghton-Mifflin.
- SCHOTT, ROBIN MAY. (1996) Gender and 'Postmodern War.' *Hypatia* 11:19–29.
- SHUMAN, AMY. (2005) *Other People's Stories: Entitlement Claims and the Critique of Empathy*. Urbana: University of Illinois Press.
- SJOBERG, LAURA. (2002) Women's Lives as a Call to Arms. University of Southern California.
- SJOBERG, LAURA. (2006) *Gender, Justice, and the Wars In Iraq*. Lanham: Lexington Books.
- STEANS, JILL. (1998) *Gender and International Relations: An Introduction*, Rutgers University Press.
- STIEHM, JUDITH., ED. (1983) *Women and Men's Wars*. Oxford: Pergamon Press.
- STIEHM, JUDITH. (1999) United Nations Peacekeeping: Men's Work and Women's Work. In *Gender Politics in Global Governance*, edited by Mary Meyer and Elisabeth Prugl. Lanham: Rowman and Littlefield Publishers.
- SYLVESTER, CHRISTINE. (1994) *Feminist Theory and International Relations in a Postmodern Era*. Cambridge, UK: Cambridge University Press.
- SYLVESTER, CHRISTINE. (2002) *Feminist International Relations: An Unfinished Journey*. Cambridge: Cambridge University Press.
- TEICHMAN, JENNY. (1986) *Pacifism and the Just War: A Study in Applied Philosophy*. Oxford: Basil Blackwell.
- TIME MAGAZINE. (2003) The Real Story of Jessica Lynch, November 17.
- VAUX, KENNETH L. (1992) *Ethics and the Gulf War*. Boulder: Westview Press.
- VICKERS, JEANNE. (1993) *Women and War*. London: Zed Books.
- WALZER, MICHAEL. (1977) *Just and Unjust Wars*. New York: Basic Books.
- WELCH, SUSAN AND JOHN HIBBING. (1992) Financial Conditions, Gender, and Voting in American National Elections. *Journal of Politics* 54:191–213.
- WELLS, DONALD A. (1969) How Much Can 'the Just War' Justify? *The Journal of Philosophy* 66:819–829.
- YODER, JOHN HOWARD. (1996) *When War is Unjust: Being Honest in Just-War Thinking*. Maryknoll: Orbis Books.
- YUVAL-DAVIS, NIRA. (1997) *Gender & Nation*. London: Sage.