Military Intervention in Two Registers

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1.

In "Military Intervention and the Ethics of Care," Virginia Held presents a case for both (a) the usefulness of international law as a guide for forward-looking moral decisions about and backward-looking moral evaluations of military interventions, and (b) the usefulness of an ethics of care as a ground for the demand to (i) respect, develop, and implement the rule of law in the international arena in the short run, and (ii) attend to the social and economic problems that undermine the protection that law is supposed to extend and result in its application primarily as the (forward- or backward-looking) justification of violent punitive action, the very antithesis of care. Making the case she does, Held refrains from ideal theory and accepts the presence of violence in human affairs and the success of some of its deployments for political ends and specifically in the form of military interventions in the international arena. At the same time that she tries to find criteria for distinguishing between morally acceptable and morally unacceptable kinds of military interventions, because she does not take success alone as a satisfactory moral basis for such distinctions, she does not give up on her commitment to the containment and reduction of instances of military interventions, even forms that can be morally justified. Grounding herself in the ethics of care, she is repelled by and resists any attempt to think of today's morally justifiable military interventions outside of the global context within which they take place because the global context is not neutral with respect to the deployment of violence in human relations, and she argues for the importance of restructuring social and economic relations at the global level as a means of global pacification.

I happen to agree with Held about almost everything she argues for. I too accept the presence of violence in human affairs and do not doubt the success of some of its deployments, including use as a means to political ends like those of humanitarian military interventions. For me like for Held, success alone cannot justify an endorsement of a particular deployment of violence and so I too believe that it is important to have some
other grounds for distinguishing between deployments of violence that I can endorse and recommend to others to endorse and deployments of violence that I think no one should endorse. Again, for me as for Held, the rule of law is indispensable in the international arena and I too find it to offer carefully worked out criteria that, while always in need of critical elaboration, nonetheless, are quite useful for thinking about some specific deployments of violence in the relations of states as well as with other organized political groups, with military interventions more generally and humanitarian military interventions more specifically constituting versions of such deployments. Also like Held, I think that the context of violence is a condition of its possibility and so believe that interventions in the global structuring of social, economic, and political relations are of the essence for the containment and reduction of the temptation of violence and its deployments, including the most justifiable.

However, I have some deep disagreements with Held. Held is a champion of the ethics of care and of its broad reach, though she intentionally avoids reductionism, especially with respect to justice. While she has addressed the relation of care and justice in several of her writings (see for example Held 2001), her most comprehensive treatment of this relation can be found in her 2006 book *The Ethics of Care: Personal, Political, and Global*, where Held claims that the ethics of care is fundamental and “caring relations should form the wider moral framework into which justice is fitted” (71). For Held, this does not mean jettisoning alternative moral theories that consider other values, such as a value like justice, as fundamental but, rather, understanding their limitations and situating them in relation to care in such a way that care is always a horizon of better possibilities and a kind of connective tissue that helps hold a moral tapestry together. As she points out in “Military Intervention and the Ethics of Care,” “[t]raditional and dominant moral theories ... are still suitable ... for many issues within the realm of the legal or political when these are seen as embedded within a wider network of relations between human beings, though they are less satisfactory than usually thought when expanded into comprehensive moral theories” (this volume, 1). Violence is for Held one such issue. It can be morally dealt with within the narrower confines of traditional moral theories but only up to a point. The ethics of care is, for Held, the more promising approach. Thus she claims that the ethics of care is better than other ethical theories “for longer-term evaluations of political institutions and practices, of groups and the violence they often now employ, and of how these domains should be configured within wider societies including potentially a global one” (1).

In a very general kind of way I concur with Held and other care ethicists like Joan Tronto (1993), Eva Feder Kittay (1999),
or Fiona Robinson (1999) about the importance of care. I think that care is indeed crucial for human flourishing and believe that a caring disposition and comportment make a difference in all relations, be these human relations or relations between humans and animals, as well as humans with the environment. But I am not a care ethicist. My disagreement with Held, though, is not about whether what she terms traditional moral theories, be their form classical, updated, and even feminist, can do more than what she believes they can do. I am not suggesting the superiority of any moral theory over care ethics. I do not champion the use of any moral theory for the evaluation of political institutions, practices, and actions, including deployments of violence in the political realm and for political ends, including military interventions that Held believes they can be used for. And I am extremely concerned about positioning ethics with respect to politics in such a way as to expect moral theory to ground the normativity of politics.

2.

Having said the above, I want to note that I am not a political realist who believes that it makes no sense to evaluate politics through normative lenses and that values do not matter in politics. To the contrary, what I believe is that by and large the norms of politics are themselves political and in part what this means for me is that they are not independent of political power. My position is inspired by Hannah Arendt (1958b) and resembles that of John Rawls in *Political Liberalism* (2005) with regards to a freestanding conceptualization of the political. Unlike Rawls, though, I am not concerned about comprehensive theories since I believe that the origins of any value that becomes a political norm, be these origins religious, moral, or political understandings, for example, do not matter in politics. Whatever its origins, the value that becomes a political norm, say a value like justice, or freedom, or equality, to name a few of the values that have become historically associated with liberal and social democracies, becomes so through political contestation and its meanings are never fixed once and for all but remain multiple and competing. They are necessarily compromised and betrayed with every attempt at realization in laws, policies, practices, and institutions. If care were to be a political value rather than, as Held claims, a fundamental moral value, it would be mixed with power through and through, have multiple unstable and changing meanings and at least as a liberal or social democratic value, it would be one among others that would be considered in any evaluation (backward or forward looking). It would not and could not stand alone and have the comprehensive reach as a connective tissue and a horizon that Held claims for the moral value of care.
Held does not draw the distinction that I am drawing between the moral and the political and that I try to draw without insisting on impenetrable boundaries but rather in order to foreground a political take and perspective that usually tends to disappear when normativity in politics is in question. What Held does is draw distinctions between moral theories, all of which reach in one way or another into the political realm in an authoritative way. While she aims to restrict the wide reach of alternative moral theories, permitting them to function in relation to law or politics, she does not limit the wide reach of the ethics of care as a connective tissue and horizon. Because of how she sees the relationship between moral theory and politics, she remains within a model of thinking about politics that construes it as lacking in values and norms that in quite a strong sense could be said to be its own.3

Either because she thinks of the relationship of moral theory and politics as she does or as part of constituting the relationship of moral theory and ethics in this particular way, Held turns to truth-yielding procedures that she believes can be used analogically in the case of moral theories in order to determine their validity and which is the better moral theory (Held 1983). She uses a variety of comparisons, as a kind of experiential testing, in this manner. For example, she compares the social ontologies of liberalism and the ethics of care and claims, rightly, I believe, that the feminist social ontology that conceives of people in nonatomistic ways is the better social ontology. This is so, Held suggests, because it better represents the irreducible and irradicable human experience of sociality, which is not only lived daily but also essential to the recurrent constitution of the self. A better representation of the facts is, for Held, a better basis for a moral theory, and a moral theory that incorporates and builds on a such a basis is, according to her, a better moral theory. Since the ethics of care is the one that incorporates and builds on the better social ontology, it is, Held claims, the better moral theory.

Held, though, is not committed to something like a moral version of a correspondence theory of truth for the purpose of adjudicating between moral theories. Her take seems to be more coherentist in nature. “Normative inquiry,” she says in her 2002 presidential address to the American Philosophical Association, “can adopt Neurathian processes” and therefore proceed without a-priori but not without some mutable presuppositions that serve as fundamental norms that are used to guide moral experience, which in turn can be used to assess which norms “to consider valid, on rational and emotional grounds, as we bring our particular judgments and general principles into compatibility” (Held 2002, 8). It is the use of a Neurathian kind of normative inquiry that involves experiential testing, Held believes, that shows that care is a fundamental moral norm. While other
values might be, at the outset, good candidates for this role, they do not measure up.

A Neurathian coherentism in normative inquiry avoids foundationalism in moral theory and, for Held, because of experiential testing, offers a way to establish in a strong enough way which values are more basic than others. All of this is supposed to happen outside of politics and secures the outside status of a moral theory with respect to politics since the Neurathian procedure can be deployed independently of power and it is power that is at the core of politics. In politics, power determines the validity of political values or political norms. When the validity of some value or norm is appealed to in political contexts, it is an attempt to bring people together to support some specific values or norms; that is, it is an attempt to generate the kind of power that is needed in politics for values or norms, independently of their origin to become politically normative or normatively efficacious for some polity.

As everyone familiar with Plato's Republic suspects, I am affirming here with Thrasymachus that in politics right is always mixed up with power and in a certain sense determined by it. But I am not doing so along the lines set by Thrasymachus' ideas about the relation of might and justice since I am using both the term "power" and the term "politics" with an Arendtian inflection. This means that unlike Thrasymachus and following Arendt, I think of power and democratic politics as linked with each other as a way to make sense of popular sovereignty and ultimately of the reproduction of the political freedom of individuals, which Arendt attempts to at least thematize, if not also theorize, in such a way as to exclude not only violence but also nonviolent forms of domination, say via the transformation of wealth into a political force, from politics (Arendt 1969).

My turn to Arendt, like Held's turn to care, is partially a function of my sense that Arendt has the better social ontology when it comes to conceptualizing politics because she stands with other thinkers who see politics not merely as conflictual but take conflict to be one of the unchangeable ontological features of politics, though, at the same time, they believe that the form that conflict takes can be changed. Indeed, a change of this kind, a change from an antagonistic to an agonal form of conflict, namely, from a form that harbors the possibility of violence within itself to one that marginalizes violence and centers speech, is, for Arendt, exemplary for thinking about the conditions of possibility of politics proper.

I also turn to Arendt because she distinguishes between Plato and Socrates and reads the Republic as a Platonic rather than a Socratic dialogue (Arendt [1951]2007). Arendt's Socrates, who may or may not be the historical Socrates, is a model or an ideal type of Athenian citizen who enters the public sphere appreciating the agonal nature of its politics and cultivating the
multiplicity of opinions present in the political public sphere while simultaneously persuading his fellow interlocutors to think toward their own integrity, accepting in the final analysis even their failures at being people of integrity and the personally thoughtless and harsh consequences of those failures. It is Plato, according to Arendt, who undertakes to eliminate the plurality of opinions from politics and does so by proposing the rule of philosophers committed to a unitary truth in an attempt to respond not merely to Thrasymachus but to eliminate the terrible risks of agonal politics.

Arendt is, of course, not blind to these terrible risks and their sometimes absolutely vile consequences. Not only has she thought about propaganda very carefully given its role in totalitarianism (Arendt 1958a), she has also thought very carefully about lying in politics and what today falls under "political spin," the intentionally ambiguating speech of politicians, their advisors, and their handlers (Arendt 1972). For Arendt, the pervasiveness of lying in politics and political spin, let alone the level of secrecy about the administrative branch's policy decisions and their implementations in operations that are intentionally kept out of public scrutiny, constitute "dark times" (Arendt 1968). In such times there is an important place for truth in politics since it exposes and reconstructs the actual reality that is otherwise being masked and obscured. Still, when it enters politics, truth gets entangled with power since it mobilizes people around a shared reality that is the condition of possibility of the kind of agonal politics that one can envision given Arendt's suggestions.

3.

Thinking with Arendt has some important benefits for thinking about military intervention from a political perspective. Held mentions Iris Young's turn to Arendt when Young tries to think about violence because she was trying to make sense of NATO's intervention in Kosovo in 1999, though from a moral point of view. Held rejects Young's Arendtian approach to this military intervention, reading her as having adopted a "thoroughgoing consequentialism" (this volume, 9). However, neither Young nor Arendt are thoroughgoing consequentialists, not even about violence. Yes, for both of them consequences are centered when considering violence. However, these consequences are plural and contextualized. At issue for both Young and Arendt when they attend to consequences is a fitness between means and ends and this because Young accepts Arendt's claims that violence can only be justified but cannot be legitimated and the justification has to be carried out "on a case by case basis" (Young 2007, 95).

There are guidelines to be followed in this case-by-case approach to the justification of some specific deployment of
violence. Held turns for hers to international law claiming that "[I]n a world dominated by states striving to promote their own interests and threatened periodically by terrorism and war, the rule of law and thus international law ought to be promoted" (this volume, 13). To a point, the guidelines of international law are not very different from those that Arendt, and with her Young, uses, since they form a fairly standard set of criteria. But Arendt, and with her Young, shifts some of the meanings of these criteria. There is first the scope of the violence and the limitations of its goals to a confrontation with violence deployed by others that, for both Arendt and Young, must be intended to subdue the opposing side only enough to make it possible for some kind of conversation to begin to take place. Second are the immediacy and containment of violence that, for both Arendt and Young, means that violence cannot be deployed long term and must be carefully targeted. Third is the balance of harms and their remediation, which is what most people, and unfortunately Young too when she departs from what she learns from Arendt, focus much of their attention on and what leads to narrow consequentialist constructions of the justification of violence or their critique. Here Held is totally right to intervene and bring out as she does positive consequences of NATO's intervention in Kosovo that Young did not even consider, such as the 1999 indictment of Slobodan Milosevic for crimes against humanity in Kosovo.

This is a particularly interesting consequence in light of a criterion of Arendt that is foregrounded through Young's insightful reading of Arendt. What Young finds in Arendt's analysis of violence and the distinctions that she draws between power and violence that is different from the set of standard criteria is a sense that before one even moves to applying these criteria, one ought to examine whether there are alternatives to violence that may generate, renew, augment, or institutionally stabilize power and, thereby, reduce the need to resort to violence. It is, of course, part of the standard package of criteria used in the assessment of violence to consider the availability of alternatives to violence. In the case of self-defense, for example, before one examines the appropriateness of the specific use of violence and thus looks at the scope, immediacy, and extent of effects and balance of harms involved, one asks about the availability of alternatives to the deployment of violence. Whether the defender could, for example, escape without the use of violence is a very standard question in the case of self-defense. The same kind of question arises in the case of war where the question is whether diplomatic efforts have been exhausted before a war is engaged in. The Arendtian twist on this criterion that Young so insightfully calls attention to and relies on herself is the political interpretation of the alternatives and therefore the question about the possibility that
they serve to generate, renew, augment, or institutionally stabilize power.

Using the question of alternatives in her assessment of NATO's intervention in Kosovo, Young identifies what I call a "power deficit" in the current international order. Power as Arendt understands it, Young believes, is capable of containing violence. Though Young does not explain how power can control violence, since she uses the term power in an Arendtian inflection rather than a realist one, it seems that one possible and productive suggestion here may be that power contains violence normatively. That is, if power is the condition of possibility of political normativity, then by assessing how politically efficacious a value is, namely, the extent to which it is enacted in policies, practices, and institutions, one assesses at once both the power that sustains it and how politically normative it actually is. So in the case of the current international order, the Serbian engagement in "ethnic cleansing" in Kosovo and before that in Bosnia Herzegovina, NATO's military intervention in Kosovo, the failure of diplomacy, and the failure of the United Nations' peaceful initiatives all point at a "power deficit" in the international order and at the same time at a "normative deficit." The combined message regarding normativity in this case is that the Conventions on the Prevention and Punishment of the Crime of Genocide is not yet normatively strong enough to prevent genocidal acts without some form of interventionist counter-violence.

The resulting problem is, of course, that where there is a power deficit and the normativity of treaties such the Conventions on the Prevention and Punishment of the Crime of Genocide is weak, how is one to justify military intervention even in a situation like Kosovo where a humanitarian crisis was unfolding quite rapidly. Jürgen Habermas's response is that under the current conditions in which one has "to act as though there were already a fully institutionalized global civil society, the very promotion of which is the intention of the action," one is not forced "to accept the maxim that victims are to be left at the mercy of thugs" (Habermas 1999, 270-71). According to Habermas, at least neighboring democracies have the right, if not the duty, to militarily intervene and protect a victimized population like the Albanian Kosovars, since even under current international law state sovereignty does not protect the territorial integrity of any country whose government breaks international law as Serbia did in Kosovo.

By suggesting that a right or obligation to intervene militarily can be exercised by democracies, Habermas allows a partial power and normativity to trump other partial powers and normativities thus recreating the Roussouean solution to the gap between the aggregated will of all and the right, though instead of a general will Habermas offers an appeal to morality via his
centering of the suffering of the victims as a suffering that calls for an immediate response. I believe that Habermas's position is well complemented by Held who brings even the conduct of democracies under international law. Where action must be quick and cannot await full authorization under international law, Held allows for retroactive justification. Though she does not find a retroactive justification fully satisfying, its value is that it still sets reasonable limits on resorts to military interventions because "It allows us to say that only those interventions capable of receiving at least retroactive justification in international law if not prior Security Council authorization should even be considered candidates for morally justifiable intervention" (this volume, 13).

4.

Held construes her offer of a retroactive justification that connects all military interventions to international law as an offer of a moral guideline. While I am critical of her turn to moral theory to validate a political norm, I think such a turn makes sense, given the current historical conjuncture. Wendy Brown has argued in several of her works (1995, 2001) that late capitalist modernity (which includes the change from the United States-USSR bipolarity as the primary axis of international relations to a United States hegemony, financialized globalization, the rise of neoliberalism, and a fragmentation of the Left) is confusing for the Left since it can neither proceed politically along known patterns of political criticism and action nor is it willing to abandon them. In particular the Left is finding it difficult to abandon two totalizing projects, that of a total critique, though such a critique commits it to an ontology and epistemology it cannot sustain, and its utopian hopes for a revolution that radically transforms everything, though these hopes commit it to an unsustainable belief in the possibility of progress. According to Brown, the result is reliance on morality and moralization, which Brown takes as symptoms that she uses in her diagnosis of the Left.

I find Brown's analysis useful for thinking about the attraction of morality when considering issues such as military intervention. I believe that it can be enriched by recalling that the atomized individual of Western modernity has been positioned apart from society and political life and, ever since Rousseau, acts as their moral judge. With respect to both the social and the political spheres, the individual is a moral observer who registers moral preferences in various ways when participating socially or politically. The philosopher might be even more prone to a moral stance with respect to society and politics, at least if Arendt is right about the following. Arendt suggests that philosophizing has been historically construed as an activity that is to
be pursued in solitude exactly in order to be distinguished from the activities of the citizen who necessarily has to act in complex relations with others in the political arena. Morality, thus, seems to come more naturally when philosophizing.

Notes

I want to thank Lisa Tessman and the participants at the 2007 Spindel Conference for their comments.

1 Held does not use the terms "connective tissue" and "horizon." I am offering them in an attempt to pull together some of Held's own metaphors.

2 I model on democratic politics. However, but for perhaps the case of fully articulated totalitarian regimes, the description seems valid enough even in the case of regimes that are not liberal democracies.

3 This model was disrupted by Machiavelli in The Prince. On this and the evolution of the concept of politics see Viroli 1992.

4 What I refer to here as a standard set is a set of criteria that are used in one version in the definition of "self-defense" and in another that is closely related to the first in the definition of "just war."

References


