Rosemary Kellison
Expanding Responsibility for the Just War: A Feminist Critique
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Reviewed by Pauline Shanks Kaurin, 2019

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Quote:

"Kellison shows how the core ideas within just war thinking--such as military necessity, just intention, and the doctrine of double effect--enable and excuse harm to noncombatants."

Overview

In her must-read book, Rosemary Kellison focuses on harm to noncombatants in war, interweaving feminist ethics with just war thinking, with particular attention to: 1) power relationships and how those condition obligations and responses to harm; and 2) the relational nature of ethical concepts including care, obligation, and intention related to harm to noncombatants in the course of waging war (*jus in bello*). She writes, "I will argue that to practice just war reasoning from the perspective of feminist ethics results in an expansion of this responsibility" (3). She is interested in exposing and mapping practices in warfare, which "helps us to see who is made more vulnerable and who more powerful by these practices, and offers resources for normative projects aimed at distributing vulnerability to harm more equitably--in other words, at lessening the gaps between Americans' stated norms and their practices of war" (38).

Discussions of the ethics of war are typically oriented around just war thinking, which is a kind of discourse that exists in a variety of cultural and historical traditions, but Kellison's focus here is just war thinking in the Western philosophical and theological contexts beginning in the fifth century CE with St. Augustine and continuing to the present day with the work of Michael Walzer and revisionists like Jeff McMahan and Helen Frowe. There are typically three important categories: *jus ad bellum* (justice of the war, resort to force), *jus in bello* (just conduct in the war), and *jus post bellum* (justice after war, restoring the peace.)

Kellison shows how the core ideas within just war thinking--such as military necessity, just intention, and the doctrine of double effect--enable and excuse harm to noncombatants. She demonstrates how military necessity has come to override the *jus in bello* requirements of proportionality (of means) and discrimination, and that the idea of "necessity" effectively functions as a legal excuse, enabling the parties to avoid any responsibility for the harms involved (54-55). She applies similar analysis to the classic doctrine of double effect, which she thinks in practice excuses harms to noncombatants and undermines good-faith efforts to take due care to avoid such harms.

A large part of her account involves a focus on intention (historically important as part of the doctrine of double effect governing permissible collateral damage to noncombatants), shifting from intention as an individual mental state preceding action to a social understanding of intention as rooted and reflected in our actions, enabling others to judge and discern our intentions outside of what we say they are (109). She draws on ideas from John Dewey and a

range of recent feminist authors viewing moral character as a narrative that others can observe and discern based upon one's actions, and where intention is manifested in these actions (118).

On Kellison's account, intention is no longer something that can be applied only to individuals (such as members of the military or a specific leader), but also to collective agents such as political communities, militaries, or paramilitary/nonstate actors. She provides a more social idea of intention to force an examination of what the evidence is that one does not intend harm to noncombatants. Drawing on Dewey, responsibility involves learning from past behavior and modifying future actions accordingly, which are part of social--not just individual--practices of responsibility and the relational context of developing character (145, 155). Kellison notes, "Cultivation of responsibility involves the development of reliable habits of taking due care for others and being accountable to others for one's acts and their effects" (155).

In rethinking intention and, in particular, the criterion of just intention in just war thinking, she wants to bring in relational concerns, especially asymmetrical power relations and effects on noncombatants; these effects go beyond just physical harms and death, including moral injury, damage to social and cultural practices as embodied, and humans as social creatures in community--all of which are important to and constitutive of human personhood. "Violence is not only about the violation of rights, however those are conceptualized, because rights do not exhaust human personhood" (75).

Kellison uses cases and applications from the forever wars (Iraq, Afghanistan), with particular attention to the drone warfare used extensively by several administrations. Her account, using

testimony of victims and as well as official accounts, highlights the harms noncombatants experience habitually and the ways in which behaviors and harms have not changed despite claims to care about noncombatant harm. In widening the conception of responsibility relative to noncombatant harms, she is seeking to move the conversation beyond usual just war thinking's concern with rights violations, to obligations of care, the asymmetrical power relations that enable repetitions of these harms, and the concepts within just war (like military necessity) that enable harms to be justified and excused, without substantial changes to future behavior.

Contributions to Feminist Ethics and Just War

This book represents an in-depth and much-needed contribution to the overall dialogue and intersections between feminist ethics and just war thinking, and is especially valuable for scholars because it builds implicitly on the work done in the 1990s by authors like Virginia Held and Joan Tronto, but also brings in the revisionist developments in just war thinking by authors like Jeff McMahan and Helen Frowe. The focus on noncombatant harm might seem at first blush to be fairly narrow, but through that lens Kellison is able to engage many of the core issues in contemporary just war thinking and bring those into explicit conversation with important concepts in feminist ethics, such as power, embodiment, care, and a relational focus on ethical questions and concerns. There is a fair amount of theory, but it is informed and vetted against the lived experiences of noncombatants (especially women and their families) who are adversely affected by war over and over again.

I see three main contributions of this book to feminist ethics and feminist philosophy more generally. First, and most critically, is Kellison's focus on a social account of intention, as

opposed to the classical view that holds intention as a mental state of an individual that is often unclear to anyone but the individual, and is required in order to establish voluntary action, and therefore moral and legal responsibility and accountability. Seeing intention as socially oriented and constructed is an important shift, but even more important is her claim that others can access intention by looking at the prior actions of the individual(s) in question, especially in regard to taking due care to avoid and change practices that harm noncombatants in war.

Second, the contribution to just war thinking is important--especially in regard to the doctrine of double effect that governs unintentional harms to noncombatants--because the just war community has been weak in providing real and serious responsibility and accountability (beyond statements of regret to the press) for harm to noncombatants; this weakness is especially apparent at the collective (as opposed to individual soldier) agent level. Her contribution here opens a much-needed discussion about avoiding harm to noncombatants and not just taking it as a regrettable fact of war that must be endured.

Third, bringing the relational approach of feminist ethics (via ethics of care) to discussions of just war is important and brings together disparate discussions begun in the 1990s by figures like Virginia Held and Joan Tronto, who were thinking about these connections in terms of humanitarian interventions. Focusing on noncombatant harms broadens the conversation to include both *jus ad bellum* and *jus in bello* discussions and provides fertile ground for future discussions and work by feminists and just war thinkers alike. Bringing feminist ethics into explicit dialogue with just war thinkers with a clear focus on the forever wars and noncombatant harms is critical in moving these discussions forward; it is necessary to challenge conventional

military and philosophical thinking that views these harms as regrettable but acceptable as the cost of waging war, and merely focuses on whether the individual or state is responsible. This book asks us to rethink this basic assumption and how the debate between Walzer and the revisionists has been framed to this point. I highly recommend this volume for scholars of ethics and war and feminist ethics, but it would also be good for teaching ethics of war and harm to graduate and advanced undergraduate students interested in those topics.

Critical Analysis

There is much to discuss in the book, but I want to center on what struck me as a just war thinker interested in military ethics and ethics of care, and particularly their intersections and tensions. First, Kellison is clear that she wants the map of practices relative to noncombatants to illuminate vulnerabilities and powers, which will be contextual and relational, but this raises the question of how we can then generalize and set norms that will guide action for the future (38). Power relations and vulnerabilities, especially in war, shift, and the perpetrator can become the victim. How do the reduction-of-harm strategies that she suggests in the book account for this fact? Or does she reject this fact, since she is thinking about the particular dynamics of the US versus other, less powerful nations?

Second, throughout the book she seems to employ some flexibility in the use of "just," both in discussing just war thinking and in critiquing its effects. However, within just war thinking, "just" has a very particular meaning: justified as in permissible, not morally wrong but not necessarily morally right in any intrinsic sense. I think she regards the infliction of harm on noncombatants as "unjust," but it is really problematic on other moral grounds, especially those related to care ethics.

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The evasion of responsibility that she critiques implies intent to evade, but historically, the doctrine of double effect and noncombatant immunity were concerned with limiting (not eliminating) noncombatant harm. These views also assumed a historical context of decisive wars with limited interactions with and impact on noncombatants tied to historical limitations on waging wars. Given that the character of contemporary war does not necessarily fit this picture -- especially where noncombatants are part of the battlefield--fighting in cities or other mixed areas, no definitive battlefield as opposed to nonbattlefield spaces, and intentional strategies are used to take advantage of the presence of noncombatants (as shields for combatant forces or where judgments of discrimination are difficult), it is necessary to reassess what it means to take due care since noncombatant harm is much more likely and has a broader impact on communities. I take it her arguments are grounded not in just war logic, but in an appeal to ethics of care that sees "just" in different ways.

Third, she makes the point that agents are responsible for tragedy even when things happen beyond their control (161), but there is a question of who the agents in question are. If the agents are only individuals (as in the revisionist accounts she discusses), then we have the same problems as in the revisionists' account by enabling collective agents to avoid or offload moral responsibility to individual agents. Michael Robillard discusses the moral exploitation of the 1% who serve: we are asking them to take our moral burdens. I do not think this is the intent in her account, since she wants to hold collective agents responsible as well, but in expanding responsibility for noncombatant harm, how do we ensure that we are not morally exploiting individual agents? Who is the agent for whom we are expanding responsibility? How do we

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apportion who is responsible for what and in what proportion to avoid the moral exploitation problem?

Finally, and related to the prior point, many of the harms to noncombatants that Kellison effectively catalogues are the result of systematic behaviors of US and other professional militaries, rather than individual military members as such (169). What about civilian authorities and citizens for whom the US military acts as an agent? What are their responsibilities? She raises an interesting policy proposal that we ought to see US citizens engaged in mourning rituals for enemy noncombatants as they do for US military members, as a way of recognizing the moral value of those harmed and killed (190). Of course, we should consider that US citizens really do not engage in these rituals for their *own* military in the public way Kellison seeks. There are obituaries, funerals, and collective observances on Memorial Day and other national holidays, but the mourning tends to be by those related to the military member (family, friends, other members of the military community) rather than public mourning as such. This points to a larger problem with the ways that citizens fail to acknowledge--as a matter of moral attention and value--the cost of war on individual lives, but also moral injury (which Kellison importantly takes time to address in discussing harm to noncombatants) and harm to communities of all kinds.

Many of the steps she suggests in policy terms are being taken in some form (except for public mourning of noncombatant deaths by US citizens), but what is missing is just intention. Therefore, the shift that Kellison seeks is really a shift required in relational ethics and seeing noncombatants as worthy of moral concern and attention. This might be the most important

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criticism of just war thinking and current military approaches to noncombatant harm: we need to seriously rethink who or what is the object of moral concern and value, and most important, why. Historically, just war thinkers have been concerned with states and conventional political communities (as opposed to nonstate actors), and only secondarily with individual soldiers as objects of moral concern and intrinsic value. Given this fact, noncombatants, material objects, and the environment have been at best a peripheral focus of moral attention and consideration. Kellison is entirely correct in arguing that this situation must change, particularly in light of the moral orientation of ethics of care and feminist ethics. (7-8)