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Just War Theory Requires A New Federation of Democratic Nations

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Abstract

I have two goals in these remarks: to support Elshtain's Augustinian argument in her lecture that there can be no true peace with tyrannical regimes, and to critique the U.N. versus U.S. dichotomy that she employs in her most recent book, *Just War Against Terror*. This book was finished after September 11, 2001 and the war against the Taliban, but before the current U.S. administration began advocating a war to overthrow Hussein's dictatorship in Iraq. Yet the questions that her book raises have become even more relevant since the breakdown of our old alliances over the Iraq war.

JUST WAR THEORY REQUIRES A NEW FEDERATION OF DEMOCRATIC NATIONS*

*John J. Davenport***

I. DEMOCRACY → EQUAL REGARD → HUMANITARIAN INTERVENTION

In an important new article, James T. Johnson has argued that Catholic moral theology “needs to reestablish a connection with the broader and deeper just war tradition,” especially in its classical forms, in order to revive the idea of “force as a tool to be employed in the proper exercise of government to combat evil . . . in the service of the public goods of justice, order, and peace.”¹ No one has done more to restore this idea to its proper place in Catholic theology and political discourse than Jean Bethke Elshtain.² Elshtain and I are in broad agreement that natural laws concerning just war not only set strict limits on the circumstances in which war may be declared and the methods by which it may be fought, but also — contrary to many in the just war tradition — that just cause for war extends beyond self-defense and sometimes arises from the general duty to protect innocent human beings everywhere from tyranny and crimes against humanity. I differ from Elshtain in holding that this duty applies primarily to the *collective* of all democratic peoples, and that it can only be pursued effectively — whether through armed humanitarian interventions or other means short of war — by a legitimate union of democratic Nations. This third way is so obviously superior both to the outdated U.N. Security Council system *and* to current U.S. unilateralism that one wonders how

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1. James Turner Johnson, *Just War as it Was and Is*, 149 *FIRST THINGS* 14, 15 (2005) [hereinafter Johnson, *Just War as it Was*].

2. See Jean Bethke Elshtain Biography, available at <http://ethicscenter.nd.edu/about/elshtain.shtml> (last visited Feb. 1, 2005) (noting that Elshtain, a political philosopher and theologian, has shown the connections between our political and our ethical convictions).

either of these approaches could still seriously be defended — unless one wishes either to rationalize collective inaction in the face of horrendous evils on the one hand, or to misuse natural law as a justification for American hegemony on the other. Or perhaps both sides in this debate simply suffer from a stunning lack of political imagination and will.

Thus I have two goals in these remarks: to support Elshtain's Augustinian argument in her lecture³ that there can be no true peace with tyrannical regimes, and to critique the U.N. versus U.S. dichotomy that she employs in her most recent book, *Just War Against Terror*.⁴ This book was finished after September 11, 2001 and the war against the Taliban, but before the current U.S. administration began advocating a war to overthrow Hussein's dictatorship in Iraq.⁵ Yet the questions that her book raises have become even more relevant since the breakdown of our old alliances over the Iraq war.⁶

Elshtain's conception of natural law is based on the idea that a shared human nature gives us "a responsibility to and for one another to serve and love our neighbors."⁷ Contra pacifist interpretations of agape, Elshtain emphasizes that loving our neighbor sometimes requires the use of force to protect her from slaughter or ongoing oppression.⁸ The central idea in this argument is that justice, understood as including the defense of universal human rights (by force when necessary) is an essential part of "*caritas* or neighbor love."⁹ This explains why an agapic conception of just war extends to the protection of third parties beyond one's own borders, in contrast to the Hobbesian view that limits just war to self-defense and the restoration of the *sta-*

3. See Jean Bethke Elshtain, *The Just War Tradition and Natural Law*, 28 *FORDHAM INT'L L.J.* 742 (2005).

4. See generally JEAN BETHKE ELSHTAIN, *JUST WAR AGAINST TERROR: THE BURDEN OF AMERICAN POWER IN A VIOLENT WORLD* (2003).

5. See *id.*; see also Michael R. Gordon, *A Nation at War: Military Analysis; Slower Pace, Not a Pause*, *N.Y. TIMES*, Mar. 31, 2003, at A1.

6. See Christopher Adams & Danial Dombey, *Iran and China Top Rice's Europe Agenda*, *FIN. TIMES (U.K.)*, Feb. 4, 2005, at 7 (noting that U.S. foreign policy will be rebuilding ties frayed by the Iraq war).

7. See Elshtain, *supra* note 3, at 749.

8. See ELSHTAIN, *supra* note 4, at 126 ("For the pacifist, peace is the highest good and if injustice prevails, it must be contested with nonviolent weapons").

9. See *id.* at 150 ("governments and citizens of one country may be called upon to protect citizens of another country . . . who are not in a position to defend themselves from harm."); see also Elshtain, *supra* note 3, at 751.

tus quo ante, because it conceives the rules of war as a merely a minimal contract for mutual benefit between self-interested States.¹⁰ On this Hobbesian view, any Nation could legitimately withdraw from treaties limiting allowable causes and modes of warfare if it became so powerful that it no longer needed their protection.

This stands in sharp contrast to any natural law approach that begins from a conception of inviolable human dignity.¹¹ Elshtain's version adds the specifically Christian idea that the extreme violence suffered by so many innocent persons at the hands of repressive regimes and warlords around the globe is a symptom of the bondage of sin, which we have a duty to oppose in the name of the savior who rescues from sin.¹² But normative conceptions of democracy that purport to be independent of revealed truths also take the natural capacity for moral motivation and the ability of rational choosing beings to arrive at insight about the common good through deliberation to be the reason why popular sovereignty is justified.¹³ Abraham Lincoln also seems to have believed that a commonly accessible natural morality recognizing the dignity of persons underlies the legitimacy of democratic government (which is why no people or their legislature can make any legitimate law violating such basic dignity).¹⁴ Thus it is not only because the principle of "equal re-

10. See ELSHTAIN, *supra* note 4, at 47-48 (discussing Thomas Hobbes's theory of the state of nature as a war of all against all).

11. See *id.* at 48 (contrasting the concept of human dignity by describing "the life of man, solitary, poore, nasty, brutish, and short."); see also THOMAS HOBBS, *LEVIATHAN* 183, 186 (1983).

12. See ELSHTAIN, *supra* note 4, at 41 (stating that "some sins are most assuredly crimes and rightfully fall under the censure and punishment of civil authority.").

13. See *id.* at 168 (arguing that "true international justice is defined as the equal claim of all persons, whatever their political location or condition"). For example, consider the theory of democratic legitimacy developed by Jürgen Habermas in *Between Facts and Norms*. See JÜRGEN HABERMAS, *BETWEEN FACTS AND NORMS* (William Rehg trans., 1996).

14. See ELSHTAIN, *supra* note 4, at 168 (stating that the principle of equal regard lies at the heart of Lincoln's Gettysburg Address); see also ABRAHAM LINCOLN, *LINCOLN ON DEMOCRACY* (Harold Holzer & Mario Cuomo eds., 2004); HARRY V. JAFFA, *CRISIS OF THE HOUSE DIVIDED* (1959). I do not agree with Elshtain's view that American fundamentalists are no serious threat to democracy, because they embrace the separation of church and State. See ELSHTAIN, *supra* note 4, at 147. On the contrary, many of our own fundamentalists reject this distinction, although they hardly advocate religious laws as severe as the *sharia*. And as Elshtain is well aware, there are plenty of political philosophers today who defend the idea that *any* religious conviction based on revelation or clerical authority is a legitimate basis for voting and political advocacy, thus threatening to elim-

gard” has become increasingly recognized in international law that its implications for humanitarian intervention should be accepted in the global order.¹⁵ The very idea that democratic government can be legitimate, or can be more than a mere tyranny of the majority, requires the principle of equal regard (along with related assumptions about rational powers and educability for citizenship).¹⁶ It follows that if democratic law is legitimate in any Nation-State, then no human being can legitimately be left in what Elshain calls the “violent state of nature outside the boundaries of moral concern.”¹⁷ And like the thousands being butchered and exiled by Islamic fundamentalist militias in southern Sudan today, the people of Iraq were certainly not living in peace under Hussein.¹⁸ This must be recognized whatever one thinks of the current administration’s approach to foreign policy.

II. *CENTRAL ARTICLES OF A JUST WAR DOCTRINE BASED ON NATURAL LAW*

Whether based on the respect required by common human dignity, or based on the universal charity required by the *imago dei* in all human beings, or on the moral presuppositions of legitimate popular sovereignty, then, just war theory must be part of a broader conception of natural justice that both limits what can be done to persons for the sake of any other end, and makes positive demands on us not to stand idly by the blood of our neighbor. Although she does not spell out the complete conception of justice of which it is a part, Jean Elshain develops the just war doctrine that follows from any of these natural law approaches in *Just War Against Terror*.¹⁹ Here are some of its central points and corollaries:

inate the normative and epistemic distinction between democracy and popular theocracy.

15. See ELSHTAIN, *supra* note 4, at 168 (arguing that “equal regard is an ideal of international justice whose time has come.”); see also Elshain, *supra* note 3, at 753.

16. See ELSHTAIN, *supra* note 4, at 168.

17. Elshain, *supra* note 3, at 751. See ELSHTAIN, *supra* note 4, at 151 (stating that the United States, as a democracy has a role of preventing or interdicting violence in other countries).

18. See ELSHTAIN, *supra* note 4, at 88 (noting that it is a gross distortion to suggest that Iraqi suffering is caused by the United States, while neglecting the direct responsibility of Saddam Hussein for such suffering); see also Elshain, *supra* note 3, at 711.

19. See generally ELSHTAIN, *supra* note 4.

1. There can be just wars when the injustice to be rectified or prevented is sufficiently serious and not otherwise correctable by diplomacy or other means short of war;²⁰
2. Terrorism is morally distinct from warfare, and by definition employs means that violate the most basic norms of just war (such as indiscriminately targeting non-combatants);²¹
3. War against terrorist groups operating within and beyond the boundaries of individual States can be just, when it is prosecuted by just means proportional to the evil and discriminating between combatants and civilians, and respecting fundamental rights of prisoners²² (a limitation that the infamous White House memorandum on torture to our new Attorney General²³ did not recognize as binding on the U.S. President, unfortunately);
4. If fundamentalist Islamic movements are radically opposed to the most basic moral principles foundational to western democracies, and cannot be reasoned with, easily appeased, or brought into negotiation and compromise via ordinary diplomacy, then leaders of such movements become legitimate targets of pre-emptory self-defense on our part.²⁴ I agree with Elshtain on the facts here, and would add that despite the liberation of Afghanistan from the horrendous Taliban regime, an "Iron Veil" has descended across much of southern Asia, from Saudi Arabia to Pakistan to Indonesia. Its *madrasas* teaching religious hatred, conspiracy theories, and extreme versions of the *sharia* represent a threat to democracy and human rights as severe as the fallen Iron Curtain of Europe's recent past.
5. States with regimes that actively support and encourage such fundamentalist movements and associated terrorist groups, or that are too weak to stop them, lose their legitimacy within the international order, and may justly be overthrown if legitimate means to this end are practically available, and democratic governments can probably be es-

20. *See id.* at 46-58.

21. *See id.* at 59-70.

22. *See id.* at 69-70.

23. *See* Memorandum from Jay S. Bybee, Assistant Att'y Gen., Office of Legal Counsel, Dep't of Justice, to Alberto R. Gonzales, Counsel to the President, and William J. Haynes II, Gen. Counsel of the DOD, Application of Treaties and Laws to al Qaeda and Taliban Detainees (Jan. 22, 2002), available at <http://washingtonpost.com/wp-srv/nation/documents/012202bybee.pdf>.

24. *See generally* ELSHTAIN, *supra* note 4, at 139-49.

tablished in their place.²⁵ It is an important implication of this point, in my view, that the politically feasible remedies for a Nation run by a tyrant, rival warlords, or terrorist groups not be worse than the current evil.

6. Finally, wars morally may (and sometimes even ought to be) waged not in self-defense, but for purely humanitarian purposes, i.e., defending innocent third parties from genocide, ethnic cleansing, and other atrocities.²⁶

This last point needs to be emphasized, given a resolution adopted in 2003 by the Eastern Division of the American Philosophical Association (“APA”) in protest against the Bush Administration’s plans to invade Iraq.²⁷ The APA resolution reads, in part: “Both just war theory and international law say that [S]tates may resort to war only in self-defense.”²⁸ Now to reject this APA doctrine is not necessarily to hold that the current administration ever justified unilateral war against Hussein, either by reference to any dangers he posed to us, or for the sake of the Iraqi people. But the 82% of Eastern APA philosophers who voted for such a naively worded resolution against that war need to be reminded, as Elshtain writes, that

An additional feature of the just war tradition, less emphasized than self-defense, holds that the governments and citizens of one country may be called upon to protect citizens of another country, or a minority within that country, who are not in a position to defend themselves from harm.²⁹

Thus the equal regard principle implies “the equal claim of all persons . . . to having coercive force deployed in their behalf if they are victims of one of the many horrors attendant upon radical political instability.”³⁰ And equal regard for all humanity also implies a shared responsibility to prevent catastrophes that take innocent lives (e.g., by establishing warning systems to alert coastal populations when tsunamis are coming).

Given that the defense of innocent third parties, undertaken without any direct or even indirect connection to national

25. *See id.* at 140-45.

26. *See generally* ELSHTAIN, *supra* note 4, at 150-60.

27. *See* American Philosophical Association, Eastern Division APA: The Resolution Against War With Iraq Passed, 1,202 to 263, at <http://www.apa.udel.edu/apa/divisions/eastern/> (last visited Feb. 3, 2005).

28. *Id.*

29. ELSHTAIN, *supra* note 4, at 150.

30. *Id.* at 168.

self-interest, is central to just war theory, one must wonder why the U.N. Charter seems to forbid such humanitarian just wars³¹ — as Professor Lee points out in his response to Elshtain.³² The Charter's limitation of U.N. Security Council authorizations of force to missions aiming to maintain or restore prior *de facto* national boundaries arises from *realpolitik*, not from natural law or any defensible conception of ideal justice. When the United Nations was created out of the defunct League of Nations following World War II, military power in the world was almost evenly balanced between free democratic Nations and communist dictatorships, and the best that could be attained was a treaty organization formally authorized to "keep the peace" in the Hobbesian sense of maintaining the *status quo* in the global system of Nation-States, while letting each regime do whatever it liked in its internal affairs. Although the U.N. Universal Declaration of Human Rights seems to impose substantial requirements on how sovereign States govern their own people,³³ in practice the U.N. Charter's guarantee of unlimited national sovereignty over internal affairs³⁴ has governed most of the Security Council's actions through at least the 1980s.³⁵ Moreover, although the Declaration says that everyone is entitled to democratic government,³⁶ and that "[e]veryone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized,"³⁷ in fact the only entity empowered by the U.N. Charter that could conceivably organize such an international order or enforce human rights (namely the Security Council) was constituted with two tyrannies among its five permanent members, and many dictatorships, monarchies, and theocracies among its rotating members.

Today the strategic reasons that were valid in the late 1940s for accepting such a grossly suboptimal arrangement no longer exist, since collectively, democratic Nations now hold a prepon-

31. See U.N. CHARTER chs. 6-7.

32. See generally Thomas H. Lee, *The Augustinian Just-War Tradition and the Problem of Pretext in Humanitarian Intervention*, 28 FORDHAM INT'L L.J. 756 (2005).

33. See Universal Declaration of Human Rights, G.A. Res. 217 A(III), U.N. GAOR, 3d Sess., U.N. Doc. A/810 (1948) [hereinafter UDHR].

34. See U.N. CHARTER art. 2(7).

35. See Eric Rosand, *The Security Council as "Global Legislator: Ultra Vires or Ultra Innovative*, 28 FORDHAM INT'L L. J. 542, 554 (2005).

36. See UDHR, *supra* note 33, art. 21(3).

37. See *id.* art. 28.

derance of the world's economic, military, and political power. There is no longer any need to remain content with a system in which dictatorships like China can exercise a veto over humanitarian interventions aimed at defending basic rights or replacing rogue regimes with legitimate democracies. Given this fact, we ought to re-examine the current global system headed by the Security Council in light of the ideal implications of Elshtain's principle of equal regard. As Johnson says, the principle of State sovereignty in the natural law tradition requires that sovereign power be aimed at the common good, in contrast with the "Westphalian concept of sovereignty" as *de facto* monopoly on power in a region, which remains the basis for the U.N. system.³⁸ What the principle of equal regard implies, in 2005, is that we ought to establish a new global order in which the Universal Declaration of Human Rights is really enforced by the community of democratic Nations on this planet. This time has come when this is now possible.

III. *YET ELSHTAIN DEFENDS AMERICAN UNILATERALISM AND LETS EUROPE OFF THE HOOK*

Given these broad areas of agreement between us, I will now focus on my disagreement with Elshtain's argument that the United States must bear the main burden of the just war against Islamic fundamentalist terrorism³⁹ (and apparently all other efforts to stabilize free Nation-States), since "it is undeniably the case that American political, diplomatic, economic, and military power now structures and anchors the international system."⁴⁰ Rather than asking if this alleged fact of *realpolitik* should continue or what morally superior alternatives might be available, Elshtain defends what looks (in hindsight) uncannily like an early version of the "go-it-alone" doctrine that has made our current Administration infamous throughout the world. But my concern is with Elshtain's presentation of the popular yet false dichotomy between taking the Security Council in its present form as the final authority on Earth, or accepting U.S. unilateralism. Without explaining what is really wrong with the U.N. system, or why the problems could not be fixed, Elshtain simply

38. See Johnson, *Just War as it Was*, *supra* note 1, at 23.

39. See ELSHTAIN, *supra* note 4, at 161-73.

40. *Id.* at 151.

tells us that the current network of international organizations and courts is “not prepared” to meet the challenge of enforcing basic human rights, repairing failed States, and defeating international terrorist movements.⁴¹ So, she says, this job falls to us: “There is no [S]tate except the United States with the power and (we hope) the will to play this role”.⁴² At times her tone reminds one of past pronouncements that it is our *manifest destiny* to lead the whole world:

At this point in time the possibility of international peace and stability premised on equal regard for all rests largely, though not exclusively, on American power. Many persons and powers do not like this fact, but it is inescapable. . . .

. . . .

. . . As the world’s superpower, America bears the responsibility to help guarantee that international stability, whether much of the world wants it or not.⁴³

Indeed, at a couple heady points, Elshtain even compares the current role of the United States to that of the Roman Empire in the ancient world⁴⁴ and considers Michael Ignatieff’s suggestion that we should engage in a new, benevolent kind of “imperialism” (though she rejects this term).⁴⁵ Her position in these parts of the book is closely related to the “Statement of Principles” of the Project for the New American Century.⁴⁶

41. *See id.* at 167.

42. *See id.*

43. *Id.* at 169.

44. *See id.* at 151.

45. *See id.* at 177-78.

46. *See* Statement of Principles (June 3, 1997), available at <http://www.newamericancentury.org/statementofprinciples.htm>. The Statement of Principles proclaims: “We aim to make the case and rally support for American global leadership. As the 20th century draws to a close, the United States stands as the world’s preeminent power.” *Id.* We need a “national leadership that accepts the United States’ global responsibilities.” *Id.* The Statement listed as two of four consequences: “we need to promote the cause of political and economic freedom abroad; we need to accept responsibility for America’s unique role in preserving and extending an international order friendly to our security, our prosperity, and our principles.” *Id.* The Statement was signed by Elliott Abrams, Gary Bauer, William J. Bennett, Jeb Bush, Richard Cheney, Francis Fukuyama, Donald Kagan, Dan Quayle, Donald Rumsfeld, and Paul Wolfowitz, among others. *See id.* Although there is wisdom in its counsel against isolationism, this Statement’s unilateralist position now appears highly problematic. Moreover, it assumes a tight connection between democratic rights and capitalism, to which soft despotist regimes with high economic growth rates are glaring counterexamples. The New American Century editorialists continually take for granted that American uni-

This approach to the problem of defending human rights is nothing short of disastrous, especially given the fact that under every Republican administration from Eisenhower to Reagan, the United States intervened around the world in ways utterly inconsistent with Elshtain's laudable vision of just war: funding tyrants like Saddam Hussein and the Shah in Iran,⁴⁷ supporting far-right regimes with their death squads to oppose socialism throughout Latin America,⁴⁸ having democratically elected leaders in Chile and Bangladesh murdered,⁴⁹ and so on. Given this bad track record, which has really changed only since the beginning of the 1990s, it remains *very* easy for both our enemies and our Cold-War allies to see the United States as meglomaniacally bent on a quest for world dominance and wealth. Only an equal partnership with the world's other major democracies, including our commitment to live by cooperative decisions about political crises and atrocities, can assure that our well-intentioned efforts to fight terrorism and uphold basic rights through the world cannot be misconstrued as an arrogant and self-interested campaign for total hegemony. The price for U.S. unilateralism is that we become the lightning rod for Islamic fundamentalist hatred around the globe, and the focus is taken off the crimes of dictators and warlords and fundamentalist militias everywhere.⁵⁰

lateralism and the current U.N. system are the *only* possible alternatives. See, e.g., Robert Kagan, *Multilateralism, American Style*, WASH. POST, Sept. 13, 2002, at A30.

47. See, e.g., William Ray, *U.S. Leadership? No Thanks*, DAILY YOMIURI, Aug. 30, 1993, at 8 (alluding to the United States' policy of funding Saddam Hussein); Peter Reddaway & Dmitri Gliniski, *Diplomacy; To Really Bail Out Russia, West Must Deny the Loans*, L.A. TIMES, July 19, 1998, at M1 (noting that the United States armed and funded the Shah of Iran).

48. See, e.g., Gregory L. Smith, *Immune to Truth? Latin American Truth Commissions and U.S. Support for Abusive Regimes*, 33 COLUM. HUM. RTS. L. REV. 241, 248 (2001); Mark Gibney, *United States' Responsibility for Gross Levels of Human Rights Violations in Guatemala From 1954 to 1996*, 7 TRANSNAT'L L. & POL'Y 77 (1997); Diana Jean Schemo, *Latin Death Squads and U.S.: A New Disclosure*, N.Y. TIMES, Oct. 23, 2002, at A6.

49. See, e.g., U.S. Senate Select Comm. to Study Governmental Operations, *Alleged Assassination Plots Involving Foreign Leaders*, S. REP. NO. 94-465, at 225 (1975), available at <http://www.history-matters.com/archive/church/reports/ir/contents.htm> (last visited Apr. 18, 2005); Alexander Cockburn, *Killer Elite; U.S. Bombing of Baghdad, Iraq*, NEW STATESMAN & SOCIETY, July 2, 1993, at 14 (commenting that inferential evidence exists that the order for assassination of Chile's newly elected president, Salvador Allende, came out of White House of Nixon and his security adviser Henry Kissinger); *CIA said to be Implicated in Ziaur Rahman's Death*, BBC Summary of World Broadcasts, June 16, 1981, at SU/6750/A3/2.

50. See, e.g., John Quigley, *Identifying the Origins of Anti-American Terrorism*, 56 FLA. L. REV. 1003, 1010 (2004) (quoting a New York Times comment by a French scholar who

Thus, even when our interventions are justified, they are plagued by hatreds fanned by fear of American *libido domini*.⁵¹ As a result, our volunteer army, reserves, and national guard are exhausted. By contrast, imagine that somehow, the army that liberated Iraq had been composed entirely of Asian and European forces, without any significant American presence. The guerilla war against these troops and the fledgling Iraqi democracy would surely never have developed with the same virulence. Just as the police cannot operate effectively in communities in which they are systematically distrusted by the people they are supposed to defend, the United States cannot effectively operate as the world's policemen when even oppressed peoples have developed an immune reaction to our presence.

Elshtain does not address this problem, nor the obvious fact that American military power and resources are finite and now stretched to their limit, while a fast-growing U.S.\$7.7 trillion national debt fueled by avaricious tax cuts poses an increasingly serious threat to our national security.⁵² Elshtain approves the current administration's ideas about "great power and great responsibility,"⁵³ but forgets entirely the lesson of Paul Kennedy's *The Rise and Fall of Great Powers*, which warned that such an approach has historically led to the collapse of empires.⁵⁴ Instead, Elshtain plays right into foreign suspicions that American intentions are simply imperialist.⁵⁵ As a result, she provides perfect cover for Asian, European, and South American democracies to

wrote that "bin Laden had 'Islamized the traditional discourse of Western anti-imperialism. So a lot of Muslims support him, not because they see him as true warrior for Islam, but because they hate America, and he's the only man in the Islamic world that they see fighting the Americans'").

51. See Quigley, *supra* note 50, at 1013 ("Even when an action enjoys some popular support in the region, such as the removal from power of the Ba'ath Party, the overall reaction to the United States may be negative. Bombings that cause high civilian casualties and the torture of Iraqi detainees confirmed for many Iraqis their view that the United States does not respect the people of the region Our actions often assist those who recruit for terrorist organizations.")

52. Recent research shows that the U.S. national debt is U.S.\$7.7 trillion. See Byron August & Mark Strama, *The Biggest Tax is Debt*, BOSTON GLOBE, Nov. 3, 2003, at A15 (noting that the national debt was U.S.\$6.6 trillion in 2003).

53. ELSHTAIN, *supra* note 4, at 158.

54. See generally PAUL KENNEDY, *THE RISE AND FALL OF THE GREAT POWERS* (1987).

55. See Roger Cohen, *The World: The Ends of Empire; Strange Bedfellows: "Imperial America" Retreats From Iraq*, N.Y. TIMES, July 4, 2004, at 46 (noting that "Europeans . . . have come to a view of Bush's America as imperialist").

continue passing off their total inaction in humanitarian crises as principled resistance to American hubris. Elshtain's European opponents appreciate the dichotomy she sets up, because it allows them to portray their allegiance to the U.N. system as the moral high road. Yet for fifteen years, France, Germany, and other continental European Nations have stood idly by the blood of their neighbors in Afghanistan, Bosnia, Burma/Myanmar, East Timor, Kosovo, Liberia, Rwanda, Somalia, and now Sudan (to say nothing of ignoring long-running tyrannies in Kenya, Nigeria, Zimbabwe, and elsewhere).⁵⁶ All these episodes of ethnic cleansing, genocide, scorched earth warfare, warlord atrocities, and kleptocratic repression have occurred in *their* former colonies, in *their* primary spheres of influence, *not* in ours — yet in each case, *they have refused to commit any ground troops to real combat to save the innocent victims*. Even Britain, under John Major and the diplomatic leadership of Lord Owen, refused to fight the Serbian fascists raping Bosnia, and thus undermined President Clinton while he was trying to organize a large multinational NATO ground force to stop these atrocities.⁵⁷ How could he possibly send an American army into combat to halt a European crisis when the European Union itself refused to reciprocate?

Yet, in addition to reinforcing the false U.S. versus U.N. dichotomy, Elshtain ignores these European sins of omission. She criticizes Bill Clinton for failure to send troops in to protect the Tutsis in Rwanda,⁵⁸ but says nothing about Europe's failure to aid its own former colony. In Bosnia, she says:

56. See ELSHTAIN, *supra* note 4, at 155-58; see also SAMANTHA POWER, A PROBLEM FROM HELL 503 (2002); R. Bruce Hitchner, *Lessons Learned in Nation-Building: Rethinking International Community Priorities*, 39 NEW ENG. L. REV. 25, 26-27 (2004) (stating that "[t]here is no lack of plans and contingencies for dealing with the crisis in Darfur. Yet, as with Rwanda, what is lacking is the will to act. And that will does not exist because the international community has other priorities.").

57. See, e.g. Jim Hoagland, *To Holbrooke, It's Goodbye for Now*, WASH. POST, Feb. 25, 1996, at C11; Warren Hoge, *Crisis in the Balkans: The British: Blair's Anger Fuled Support for Strikes*, N.Y. TIMES, Mar. 31, 1999, at A12; Warren Bass, *The Triage of Dayton*, 77 FOREIGN AFF., Sept./Oct., at 95 (1998).

58. See ELSHTAIN, *supra* note 4, at 155-56. During a Larry King interview (in early August 2004), President Clinton said that he regarded his not acting quickly to save 800,000 Tutsis from genocide in Rwanda as one of one his gravest mistakes, and he expressed apparently sincere remorse for not sending in an American army. To my knowledge, neither Gerhard Schröder nor Jacques Chirac has ever expressed similar remorse.

safe havens were declared and the people who fled to them for safety were often shot to pieces as the [United Nations] stood by and the United States kept promising action and doing nothing. President Clinton's "strong words" coupled with inaction have been criticized subsequently for giving the Bosnia Muslims false hope, "which [they] paid for with blood."⁵⁹

This accusation is scandalously misdirected. It was the fault of John Major, Helmut Kohl, François Mitterand, and their European peers that Bosnian Serbs could attack Sarajevo with virtual impunity for so long, before the United States brokered the Dayton Accords backed by our air power.⁶⁰ The spectacular failure of the European Union to form any common policy or take any serious initiative to stop the Serbian death squads has disgraced an entire generation of European politicians.⁶¹ It was the fault of the Dutch army, not the American President, that thousands of innocent Bosnians were slaughtered at the Srebrenica refugee camp in 1995.⁶² While I agree with Elshtain's harsh words for NATO's long delay in sending in ground troops to halt the raping and burning of Kosovo,⁶³ this also was primarily the fault of *Europe*, not Clinton or the U.S. Congress (as Elshtain alleges).⁶⁴ Moreover, when NATO ground troops did enter Kosovo, they were primarily American.⁶⁵

59. See *id.* at 157.

60. See, e.g., Frank J. Murray, *Clinton Warns of "Higher Price" for Serb Attacks; Wants to Use Sarajevo Model*, WASH. TIMES, Apr. 21, 1994, at A1; *supra* note 57 and accompanying text.

61. Elshtain tells one story about a friend from the Czech Republic who complained that U.S. inaction in Bosnia "signaled to the small peoples of Eastern Europe that they could not count on the United States when the chips were down." ELSHTAIN, *supra* note 4, at 178. But why is it the United States, an ocean away, on whom they should be counting, rather than on the union of stable, wealthy, and powerful democracies on their own continent?

62. See, e.g., Gregory Crouch, *Dutch Send 1,100 Troops to Iraq, Relieving as Many U.S. Marines*, N.Y. TIMES, Aug. 2, 2003, at A8 (noting that "Dutch peacekeepers failed to prevent the slaughter of thousands of Muslim men and boys in the Bosnian town of Srebrenica in 1995"); Nicholas Wood, *Bosnian Serbs Apologize for Srebrenica Massacre*, N.Y. TIMES, Nov. 11, 2004, at A4 ("Srebrenica, officially designated a United Nations-protected zone, was defended by lightly armed Dutch peacekeepers. Thousands took refuge in the Dutch camp but were handed over to [Serbian] General Mladic's forces, which separated men and boys from their families, took them to other locations and shot them").

63. See ELSHTAIN, *supra* note 4, at 157.

64. See *id.*

65. See, e.g., Walter F. Mondale, *Reflections on Fifty Years of Progress in Civil Rights, Liberties, and Participation*, 89 MINN. L. REV. 1, 5 (2004) (stating that "one of the great

This trend has continued ever since 1989 and the end of the Cold War.⁶⁶ Now, while the United States and Britain have been bogged down in Iraq, France and Germany have not seriously considered sending any forces into Sudan to stop the murder and displacement of thousands of Sudanese refugees at the hands of Islamic fundamentalist death squads in Darfur.⁶⁷ Their leaders, as well as many of their ordinary citizens, prefer instead to decry American imperialism, while seeking diplomatic solutions to on-going atrocities (and making lucrative business deals with the regimes committing the atrocities)!⁶⁸ Whether or not to engage major armies in humanitarian interventions isn't even seen as an option worthy of serious consideration in continental Europe. It is also taken for granted that any such initiative, if even conceivable, would certainly require China's approval on the U.N. Security Council.⁶⁹ Much of continental Europe seems now to assume that any armed intervention anywhere, for any reason is automatically "colonialist," and that the only alternative to the evils of colonialism is the most simplistic form of pacifism.

During the same fifteen-year period that European democracies have abdicated almost all responsibility for the rest of the world – and even for halting fascist genocide on their own continent — the United States eventually stopped Serbian aggression in Bosnia and Kosovo,⁷⁰ rescued Kuwait from Saddam Hussein,⁷¹ captured Noriega and freed Panama,⁷² forced the dictators and

ironies of the modern era is that American troops have been put in harm's way more often in the years following the conclusion of the Cold War than during its long, forty-year span. First came the Persian Gulf War in 1991 . . . and Kosovo in 1999.”)

66. See, e.g., William B. Wood, *Post-Conflict Intervention Revisited: Relief, Reconstruction, Rehabilitation, and Reform*, 29-WTR FLETCHER F. WORLD AFF. 119, 120 (2005) (stating that “[a] half-century later, after such disparate crises in Somalia, Bosnia, Haiti, Kosovo, and East Timor, a well-thumbed set of post-Cold War intervention blueprints now sits on the shelves of United Nations and donor-assistance offices”).

67. See, e.g., Hitchner, *supra* note 56, at 26-27

68. See ELSHTAIN, *supra* note 4, at 166; see also Maggie Farley, *All Players Gained From “Oil-for-Food”*; *On the U.N. Security Council, Competing National Interests, and Economic Stakes in Iraq Chilled Willingness to Scrutinize the Program*, L.A. TIMES, Feb. 3, 2005, at A1.

69. See U.N. CHARTER art. 23(1).

70. See *id.* at 157.

71. See, e.g., Caroline Faraj & Kianne Sadeq, *Source: Terror Cell Held in Kuwait* (Jan. 31, 2005), available at <http://www.cnn.com/2005/WORLD/meast/01/31/kuwait.unrest/index.html>.

72. See, e.g., Susan Levine, *Military Honored for Its Sacrifices, From Pearl Harbor to Iraq*, WASH. POST, Jan. 20, 2005, at A39.

their Tonton Macoute death squads out of Haiti,⁷³ and freed Afghan women from the unmitigated brutality of the Taliban.⁷⁴ The United States also tried unsuccessfully to save starving Somali people from the vicious thugs who terrorize that pseudo-State and even rob non-political aid agencies.⁷⁵ The United States also intervened weakly to help force warlord Charles Taylor out of Liberia.⁷⁶ Meanwhile, the people of the United States continue to provide much of the defense for Japan, South Korea, and Taiwan (hardly weak Nations).⁷⁷ This contrast between the United States and other strong democracies is clear, quite *apart from any judgment one makes about the 2003-04 Iraq war*.

Elshtain says nothing about the absence of Belgian, Dutch, French, German, Italian, or Spanish troops, etc., from these initiatives, bought with American money and lives. However, at least she criticizes European scholars for preferring appeasement of Islamic terrorist groups,⁷⁸ and for their perverse assumption that respect for cultural diversity requires non-intervention when people are being butchered and tyrannized.⁷⁹ As Elshtain rightly says, “[t]his strategy of abandonment, often justified as a way to respect a culture’s ‘difference,’ is actually a counsel of indifference. To abandon a beleaguered people is to give them less regard than they deserve as human beings.”⁸⁰ Aung San Suu Kyi, the rightfully elected leader of Burma, concurs: “It is often in the name of cultural integrity and national security that democratic reforms based on human rights are resisted by authoritarian governments.”⁸¹ But it is our Asian and European allies, not

73. See, e.g., Stephen Johnson, *An Enlightened Intervention in Haiti*, BALT. SUN, Mar. 3, 2004, at 13A.

74. See ELSHTAIN, *supra* note 4, at 38-41.

75. See *id.* at 54.

76. See, e.g., William Powers, *Seeing the Forest for the Peace; Liberating Liberia*, INT’L HERALD TRIB., Jan. 11, 2005, at 6.

77. See, e.g., Kathrin Hille et al., *North Asian Nuclear Tinderbox Hots Up in Aftermath of South Korean Admission: The News Has Heightened Arms Race Concerns in Taipei and Tokyo*, FIN. TIMES (London), Sept. 4, 2004, at 8.

78. See ELSHTAIN, *supra* note 4, at 147 (stating that the “[m]ost telling was the response by the German journalists when they were asked how Germany would have reacted if it had been the target of an attack equivalent to the September 11 attacks on America. The answer was unanimous: appeasement. Not pacifism, but appeasement.”).

79. See *id.*

80. *Id.* at 155.

81. Aung San Suu Kyi, *Freedom, Development, and Human Worth*, 6(2) J. DEMOCRACY 11, 14 (1995). Ms. Suu Kyi has been kept under house arrest by the military *junta* in Burma off and on since her election for years.

post-1989 U.S. policy-makers,⁸² who are guilty of encouraging third-world leaders to use this perverse rationalization for refusing to democratize.⁸³

IV. *THE RIGHT SOLUTION: A NEW FEDERATION OF DEMOCRATIC NATIONS*

In sum, the United States cannot play the role that Elshstain wants: becoming “the leading guarantor of a structure of stability and order in a violent world,”⁸⁴ while European and other strong democracies refuse to do their share under the guise of respect for international law. The result of American unilateralism will be a bankrupt Nation plagued by terrorism, forced to return to the draft, and irretrievably alienated from allies who see themselves as morally superior, while the Iron Veil grows — and no one rescues victims of atrocities in other Nations around the world.⁸⁵ If we want to bring justice and peace to this planet, and stop fundamentalist theocracy in the process, then we have to jettison Elshstain’s myth of our “unparalleled supremacy”⁸⁶ and start working to create a completely new institutional framework to play the role that the Security Council never could play, because it began as a mere treaty organization that includes tyrannies among its permanent and rotating members.

What is needed is a new framework in which every major democratic State pledges ground troops and resources commen-

82. That is, the United States since the end of the Cold War and the demise is Kissingerian support for anti-communist regimes at any and all costs to human rights.

83. One might think in this regard of the outcry among many European and some American intellectuals against Habermas’s claim that human rights are a condition of legitimate government everywhere, rather than a norm valid only in Western cultures. See Bill Martin, *Eurocentrically Distorted Communication*, in *PERSPECTIVES ON HABERMAS* 411-22 (Lewis Edwin Hahn ed., 2000).

84. ELSHTAIN, *supra* note 4, at 173.

85. Consider the Spanish electorate changing its preferences following the Madrid train bombings and electing an administration pledged to disengage from joint military operations with the United States in order to avoid more punishment from al Qaeda. See, e.g., Isambard Wildinson, *Voter Anger and Grief Give Anti-War Parties Win in Spain: Socialist Party Promises to Withdraw 1,300 Troops From Iraq*, VANCOUVER SUN (CAN.), Mar. 15, 2004, at A1; Enda O’Doherty, *Views from the European Press*, IR. TIMES, Mar. 22, 2004, at 8. Did the new Spanish administration then pledge any troops to protect the Korean demilitarized zone, or to act as peacekeepers in Darfur, or to a coalition to free Liberia of warlords or to rescue Zimbabwe from the tyrannical oppression of Robert Mugabe? Of course intervention in these cases for the sake of human rights was not even considered.

86. ELSHTAIN, *supra* note 4, at 178.

surate with its size to a *permanent alliance* that does not need to reorganize every time a crisis starts. This alliance would oppose tyranny, theocracy, and terrorism everywhere, and uphold fundamental human rights by force when necessary. To be legitimate, this alliance would have to become an actual Federation of Democratic Nations, whose ultimate decision-making body would be *directly elected* by the peoples of the member States, rather than merely being appointed as proxies for national governments. To be sufficiently powerful, it would also have to function as an *equal partnership* between Europe, the United States, and other major democracies around the world. Its decisions would also have to *bind* all the member States.

The need for such a Democratic Federation follows from Elshtain's own theory for two reasons. First, because it would represent all free peoples who recognize natural human dignity, the Democratic Federation could wage just wars with far greater *perceived legitimacy and impartiality* than any single Nation or small group of Nations. Whenever any Nation X would be justified, according to Elshtain's principles, in waging war against another Nation Y, then the Democratic Federation would always be *more justified* in waging this war on behalf of all democratic peoples against Y. This is exactly analogous to the way in which, when any single individual may justly use force to defend himself or to defend other innocent third parties against aggressors, it is usually better for the State to do this for him — and indeed the bulk of the State's police powers are derived from this point.⁸⁷

Second, only such a Democratic Federation would really have sufficient power and resources to promote democracy and human rights around the globe, fight a global war against terrorism, and respond pre-emptively to stop atrocities before they become mass murder. It would rescue any single Nation or people

87. For example, courts have used the idea of collective self-defense to justify the State's police power to confine individuals against their will under certain circumstances, such as individuals with highly contagious disease and mentally ill patients who pose threats to others or to themselves. See *Jacobson v. Mass.*, 197 U.S. 11, 29 (1905) ("[I]n every well-ordered society charged with the duty of conserving the safety of its members the rights of the individual in respect of his liberty may at times, under the pressure of great dangers, be subjected to such restraint . . . as the safety of the general public may demand."); see also *O'Connor v. Donaldson*, 422 U.S. 563, 582-83 (1975) (Burger, C.J., concurring) ("There can be little doubt that in the exercise of its police power a State may confine individuals solely to protect society from the dangers of significant antisocial acts or communicable disease.").

from having to fight a just war by themselves, or with whatever small band of allies they are able to cobble together at the eleventh hour—usually at considerable delay. Any natural law conception of just wars has to regard this as a major improvement. Other things being equal, it would always be better for all free Nations to back up any one Nation that has to engage in a just war.

Elshtain only briefly considers and dismisses this line of thought without seriously exploring possibilities outside her basic dichotomy:

If the claim to justice as equal regard applies to all persons without distinction, shouldn't an international body be its guarantor and enforcer? Perhaps. But in our less-than-ideal world, the one candidate to guarantee this principle is the United States, for two reasons: Equal regard is the foundation of our own polity, and we are the only superpower.⁸⁸

This is a poor argument, because its second (empirical) premise is simply false: the United States is *not* the only democratic Nation capable of building significant armed forces or of funding Nation-building operations, like the Marshall Plan following World War II.⁸⁹ Together, the NATO Nations or the European Union have a military capacity and economic strength that approaches our own; if one adds in Russia, their capability easily equals or exceeds ours. The European Union does not rank as a “superpower” in Elshtain’s analysis only because it has worked to avoid the responsibility that would go with that status, and sadly, Elshtain seems happy to help the European Union continue doing just that, since it will promote American ascendance.

My proposal also avoids the error that Elshtain (somewhat misleadingly) calls “liberal internationalism.”⁹⁰ By this term, she means naive faith that entities like the United Nations, the International Criminal Court (“ICC”), the Hague War Crimes tribunal, the World Bank, the World Trade Organization, and non-governmental organizations like Amnesty International can somehow between them secure the stable Nation-States and perform the Nation-building that we need to prevent terrorist breeding grounds in failed States and warlord dictatorships prey-

88. ELSHTAIN, *supra* note 4, at 168.

89. *See id.* at 154.

90. *See id.* at 171.

ing on their own people. These courts, treaty-based financial organizations, private lobbies, and charities should not really be lumped together this way just because they operate at the transnational level. Some of these institutions, like the ICC, are certainly meant to promote Elshtain's own conception of universal human dignity,⁹¹ and her scorn for them seems to be a kneejerk reaction against any limits to the absolute sovereignty of the United States. But this position is obviously incompatible with a natural law conception of global justice that limits the sovereignty of individual Nation-States, as we have seen. Elshtain's own hero, Václav Havel, argues forcefully that rejecting "The idol of [S]tate sovereignty" should pave the way to overcoming "the idea of non-intervention" built into the U.N. system.⁹² Havel calls for "a world of ever closer cooperation on a footing of equality among larger and mostly transnational bodies"

91. See ELSHTAIN, *supra* note 4, at 164. I find Elshtain's critique of the International Criminal Court ("ICC") particularly inapposite, even though I agree that the ICC ought to be accountable to a higher authority, such as the new Democratic Federation that I propose here. I am especially disturbed by her quote from George Will, who claims that the ICC is nothing but a European strategy for diluting national sovereignty. See *id.* at 164. Why would any just war theorist who believes that national sovereignty is limited by the obligation to uphold basic rights want to associate herself with partisans who reject any possibility of primary sovereignty for transnational institutions of any kind? This is especially disturbing since Elshtain was finishing this book a few months after Secretary of State Rumsfeld and President George W. Bush declared that the ICC could have no jurisdiction over U.S. armed forces — so that, for instance, if American soldiers acting under U.N. color committed some massacre, they could not be prosecuted in the ICC for crimes against humanity. It is now clear that that decision anticipated the more recent Bush doctrine that even the Geneva Convention and other bodies of international law concerning just war and just treatment of prisoners of war do not bind the U.S. government or its agents. See Lt. Col. Paul E. Kantwill & Maj. Sean Watts, *Hostile Protected Persons or "Extra-Conventional Persons": How Unlawful Combatants in the War on Terrorism Posed Extraordinary Challenges for Military Attorneys and Commanders*, 28 *FORDHAM INT'L L.J.* 681, 700-728 (2005). Any defender of just wars in the natural law tradition must surely dissociate herself from such a doctrine. How can we possibly expect international law concerning war crimes and crimes against humanity to bind every Nation *except the United States*?! This is precisely the kind of claim that has alienated Europeans who ought to be first partners in fighting for global justice. I would also call on Elshtain to disassociate herself from George Will's great teacher, Henry Kissinger, a quote from whom appears on the back cover of her book. For as Christopher Hitchens has proven beyond any reasonable doubt, this is a man who should himself be under prosecution at the ICC. See CHRISTOPHER HITCHENS, *THE TRIAL OF HENRY KISSINGER* (2001). It is a shame to see Elshtain's enlightened theory of global justice held hostage to the most cynical Chicago School *realpolitik*.

92. Václav Havel, *Beyond the Nation-State*, 3 *RESPONSIVE COMMUNITY* 26, 26-27 (1999).

in order to replace the current Security Council.⁹³ Havel recognizes that building such a just global order cannot succeed without “the systematic creation of a universal civil society” rooted in democratic values.⁹⁴

So I agree with Elshtain that international courts alone cannot enforce fundamental human rights and uphold fraud-free States. That power should only vest in an institution that exercises legitimate primary sovereignty over the basic structure of our global system, making and enforcing fundamental Terran Law for the whole world.⁹⁵ Since this responsibility is shared equally by all peoples, any people who are represented by a legitimate democratic government should have a proportionate voice in making such law. Thus legitimate authority for keeping authentic peace and assuring fundamental human dignity ought to be vested in a federation of democratic Nations. This new Democratic Federation ought to have a short but absolutely vital list of enumerated functions, including first and foremost

1. swift intervention when necessary to prevent genocide, ethnic cleaning, and other atrocities;
2. the general enforcement of human rights, including (when possible) the removal and prosecution of tyrants and warlords, and the punishment of crimes against humanity;
3. the defeat of international terrorist organizations and international crime rings;
4. the commonly undertaken and collectively funded defense of all free and just member States from hostile incursion or attack by outlaw States or terrorists;
5. the exertion of unified diplomatic pressure on non-democratic governments everywhere to democratize.
6. the Nation-building activities necessary to assure all peo-

93. *See id.* at 29-30.

94. Václav Havel, *Democracy, the State, and Civil Society*, 33 *RELIGIOUS HUMANISM* 46, 55 (2001). This article derives from a speech that Havel delivered at Macalester College in Minnesota on April 26, 1999.

95. I do not say “international law” here because that term implies that all primary sovereignty is vested in national governments, and hence that all institutions performing legal functions above the national level derive all their sovereignty from treaties among Nation-States, and only exercise whatever authority is continually granted to them by Nation-States, any of which can veto determinations judged counter to their national interests. This is exactly the assumption that I am challenging by proposing a Federation of Democratic Nations, whose constitution and legislative acts would constitute not “international law” but rather *transnational* or Terran Law.

ples on Earth a stable democratic Nation-State of their own, with a working legal system free from corruption of the authorities, a liberal educational system free from fundamentalist indoctrination, and a decent standard of living in whatever economic system they choose.⁹⁶

This, as Elstain and I agree, is the birthright of every child. I hold that this birthright can only be assured by such a league of democratic Nations, with standing armed forces sufficient to intervene in crises on short-notice and to exercise an effective deterrence over rogue regimes. On Elstain's approach, Europe can continue to free-ride on increasingly ineffective U.S. efforts to stop terrorism and bring down tyrants and protect innocents from atrocities, which they will see as merely a continuation of our aggressive, self-interested, and often highly unjust interventions in the Cold War era.

If an American president proposed the kind of federation I've outlined here, then major Asian, European, and South American democracies would no longer be able to pretend that this was just more American imperialism. For the Democratic Federation would be an equal partnership binding on all its members, including the United States. Americans would limit our claimed right to act however we see fit, in order to bring about a much stronger federation in which we no longer have to bear almost all the burden and be the lightning rod of fundamentalist hatred. We would also be rid of the corrupt Security Council and no longer be humiliated by having to sit as equals with its dictators, theocracies, monarchies, and other illegitimate members. In turn, other major democracies would gain the assurance of United States compliance with this just regime of transnational law, in exchange for which they should pledge their money and lives. How could our erstwhile allies refuse, when the point of this new Democratic Federation would be finally to

96. I would add other enumerated powers to this list, including preservation of the world's environments, management of a global financial system and global currency, setting world interest rates, eliminating tax havens and setting minimum individual, and corporate taxes world-wide, leveling the playing field between Nations with free-trade agreements involving parity in worker safety and environmental laws, taking over management of the World Bank and World Health Organization, and conducting anti-trust activities to prevent the formation of overly large multinational corporations capable of exerting undue influence on small Nations. But these functions are all secondary to replacing the Security Council's present overly limited "peacekeeping" role, which is my concern here.

provide a real foundation and enforcement mechanism for global law concerning basic human rights? If they refused to join us as equal partners in this venture, they would be revealed either as hypocrites or cowards, and then they would also face the certain prospect of a unilateral U.S. withdrawal both from the Security Council and from NATO.

Thus, I flatly reject the objection that this proposal is just too utopian to be worth attention. The charge of "utopianism" is often the Hobbit-hole of small minds and weak wills. The Federation I propose is not a "world government" representing every Nation on earth, and it recognizes that we have to start where we are. A single persuasive, smart, and truly *just* American president who went to our former allies with open hands could begin to build the Democratic Federation out of NATO. He or she could present our allies with a clear choice between isolation or equal participation, without any comforting myths about American desires for world dominance, or illusions about American willingness to act unilaterally. Such an American president would also explain to the American people the benefits of this new Federation, given serious participation by other powerful democracies around the world. The United States, like every member, would reserve the right to resort to force of arms unilaterally to protect its citizens when under direct attack at home. But outside of such emergencies, every member would bind itself to adhere to the joint policy of the whole. Starting from the NATO Nations along with Australia, Japan, Mexico, and the Russian Federation, the founding members would establish common criteria for admitting new members, including hopefully India, Israel, Taiwan, the Philippines, South American democracies, and South Korea. Even prior to this principled expansion, such a Federation of Democratic Nations would obviously be the ultimate power on Earth, and in addition to attracting new members, would dictate terms to rogue regimes and exercise diplomatic pressure towards democratization everywhere. After a few successful joint operations, force would rarely need to be used, because the threat of its swift deployment in any crisis would be highly credible (in contrast to the paper-tiger U.N. system), and tyrants everywhere on this planet would realize that their days were numbered. Once such an institution gained recognition as the legitimate representative of the common will and wisdom of democratic peoples everywhere, the possibilities are too great

even to dream about. All this could be accomplished in the next twenty years, given serious political will and skillful statesmanship.

CONCLUSION

As she is the best articulator and defender of the just war tradition writing today, Jean Bethke Elshtain ought to be the very first theologian and philosopher to advocate such a Federation of Democratic Nations to take the place of the international entities that she finds so inadequate, and to perform the tasks that she so rightly defines as the central moral imperatives for the global order in the 21st Century. For the kind of Democratic Federation I have proposed is implied by her own theory of just war and embodies the natural principles that define justice between Nations. International vigilantism should and can be replaced with a legitimate global police power. Both as a matter of pragmatic strategy and moral principle, then, Elshtain should retract her endorsement of American unilitarialism and affirm a new Democratic Federation as the solution for which we should all start working. For unless such a Federation is established within the next few decades, neither America nor the rest of the world may have any future worth living in.