THE MORALITY OF SANCTIONS

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I. Introduction

Although there has been a move away from the comprehensive, multilateral economic sanctions of the sort that devastated Iraq, states still engage in unilateral or bilateral broad sanctions (e.g., the ongoing US embargo on Cuba) and multilateral, ‘targeted’ sanctions. The latter, sometimes called ‘smart sanctions,’ have been developed since the 1990s and include measures such as asset freezes, travel bans, and smart trade sanctions. Economic sanctions are also widely seen as a tool to implement the responsibility to protect (R2P) doctrine. They are included in the report by the International Commission on Intervention and State Sovereignty as a measure to realize the ‘responsibility to react.’¹ As the R2P has evolved, sanctions have continued to be seen as an important measure to realize the goals of the tackling and prevention of mass atrocities. For instance, the UN Secretary-General’s report in 2012 on R2P sees sanctions as a central element of the toolbox to implement ‘pillar three.’²

Yet, in the literature on economic sanctions, they have been subject to extensive criticism. Their use has been widely criticized for failing to realize any change in policy in the political community subject to the sanctions.³ They are also often criticized for being indiscriminate and for leading to widespread suffering, as well as for being disastrous for civil and political rights in the target state.⁴ The comprehensive sanctions regime against Saddam Hussein’s Iraq, in particular, was widely seen as morally reprehensible, given the reported deaths of 500,000 children under the age of five.⁵ Such is the degree of criticism that it is often suggested that war may be morally preferable to sanctions. The point is often made in the context of the discussion of the principle of last resort in Just War Theory (JWT). It is claimed that we should avoid a literal understanding of last resort, since war may be better than the alternatives and, in particular, economic sanctions.⁶

On what I will call the ‘Prevailing View’ on the morality of economic sanctions, which can be found in much of (relatively small) body of literature on the ethics of sanctions, broader sanctions (and potentially smart sanctions) are highly objectionable.⁷ For proponents of the Prevailing View, this is largely because sanctions are seen as (i) indiscriminate, (ii) intending the harms that they inflict, and/or (iii) using the suffering of the innocent as a means to enact policy change. For some, sanctions are morally impermissible or highly problematic, regardless of the merits and demerits of the alternatives (and sometimes even if there are exceptions in the sanctions regime for the provision of humanitarian necessities).⁸ Indeed, proponents of the Prevailing View sometimes reject outright the permissibility of broader sanctions.⁹ Others argue that it is conceivable that sanctions may be permissible if they meet certain conditions (particularly when they take the form of smart sanctions), but generally hold that they tend to be objectionable because of their alleged indiscriminateness, wrongful intentions, and/or use of innocents as a means.¹⁰

By contrast, in this article, I (partially) defend the case for economic sanctions. I argue that sanctions are *not necessarily* morally problematic and, in doing so, argue that sanctions are *less* morally problematic than is often claimed by proponents of the Prevailing View. This is because several of the noninstrumental objections to sanctions are largely unpersuasive. Thus, I argue that, although sanctions may still sometimes be morally impermissible, this is less likely to be the case than depicted by the Prevailing View. I go on to argue that, on the contrary,

sanctions may sometimes be morally preferable to the leading alternatives and, in particular, to war and doing nothing.

More specifically, the article will proceed as follows. In the first part of the article, I will reply to (i) what I call the ‘Liability Objection,’ which asserts that sanctions are impermissible because of their apparent indiscriminateness. I will then consider and largely repudiate the claims that sanctions are highly problematic because they (ii) involve means that intend harms—the ‘Intending-the-Harm Objection’—and (iii) wrongly use the suffering of innocents as a means—the ‘Instrumentalization Objection.’ In the second part of the article, I will argue that sanctions are more likely to distribute fairly the currently inevitable harms to innocents of tackling aggression and mass atrocities. In doing so, I will argue, more broadly, that we should often favor a ‘Harm-Distribution Approach’ when considering issues, such as sanctions, in the ethics of war and peace.

Before beginning, some clarifications are necessary. First, as already noted, my focus will be on the noninstrumental reasons for and against sanctions. Instrumental considerations concern how efficacious sanctions are in tackling aggression and mass atrocities (measured by their effects on the promotion of the enjoyment of basic human rights) and the costs that they impose when doing so. Such considerations are likely to carry significant moral weight in an overall assessment of the case for sanctions, compared to the leading alternatives.¹¹ However, there is little grounding for making strong conclusions in this regard. There is significant contestation about how effective sanctions are, often mired in methodological debates about measures of effectiveness, case selection, and time comparison. There is therefore little consensus on whether sanctions tend to address effectively aggression and mass atrocities. The empirical literature on the efficacy of sanctions also tends not to be *comparative* (or at least not comparative with robust supporting evidence).¹² As such, there is currently little empirical evidence on which to base comparative moral claims about the efficacy of sanctions and the leading alternatives, such as war. The lack of robust comparative evidence also affects the strength of my noninstrumental, comparative claims in defense of sanctions to the extent that these draw on contingent features of sanctions and war. These will therefore be tentative: I will present only presumptive, rather than definite, reasons in favor of sanctions, based on what we can reasonably expect of sanctions given their features and the nature of the international system.

Second, my account of the noninstrumental case for and against sanctions will be only partial. This is because a full account of the noninstrumental case for and against sanctions would need to consider in detail the various noninstrumental features of all of the alternatives as well, such as wars, international criminal prosecutions, peace operations, nonviolent resistance, and diplomatic criticism. There may be noninstrumental reasons particular to these alternatives to oppose or favor them; for reasons of space, I simply focus on the considerations relevant to sanctions and compare them to war and doing nothing—perhaps the leading alternatives. Similarly, I cannot consider the symbolic arguments for the importance of sanctions, which may also have noninstrumental import.¹³ Space also precludes considering the potential for sanctions to be a form of punishment.

Third, I define economic sanctions as “coercive economic measures by one state or several states in order to realize political change in the target”. This definition coheres with the widely held view in the literature that sanctions are authorized by states and statist organizations, such as by the United Nations Security Council, but not by nonstate actors. Of course, nonstate actors may also instigate economic harms, such as by boycotting the produce of various regimes, but these should not be viewed as economic sanctions. It is also worth noting that, on this definition, the target of the sanctions regime need not be states; for instance,

smart sanctions may target particular individuals through asset freezes, travel bans, and smart trade sanctions.

II. Objections to Sanctions

(i) The Liability Objection

The central objection to sanctions by those who endorse the Prevailing View is what I will call the ‘Liability Objection.’¹⁴ In short, this holds that sanctions are impermissible because they are indiscriminate in that they impose significant harms on those who are not liable. Accordingly, on this objection, sanctions are morally problematic because, as Joy Gordon argues, they “are inconsistent with the principle of discrimination from just war doctrine.”¹⁵ More specifically, they appear to violate the principle of noncombatant immunity, which asserts that civilians should not be intentionally targeted in war. This is most obvious for comprehensive, multilateral sanctions, such as those against Iraq, where many of those who bore the brunt of the sanctions regime were children and the vulnerable. In fact, such is the apparent lack of discrimination in sanctions that various scholars claim that they are similar or analogous to sieges, since they undermine the economy of a society and, in doing so, prevent the production or importation of necessities.¹⁶

In what follows, I will not completely reject the Liability Objection. Rather, I will argue that, although it may sometimes give us reason to oppose sanctions, it does not establish that sanctions are necessarily impermissible. This is because any of the potential responses to aggression and mass atrocities, even doing nothing, may involve harms to those who are not liable. In the case of doing nothing, innocents who are currently subject to the threat of aggression and mass atrocities will have to continue to bear harms for which they are not liable. Similarly, war also almost always involves the imposition of harms on those who are not liable to them. To start with, combatants may not be liable to attack. On ‘revisionist’ JWT, a combatant’s liability is not determined by their status as a combatant, but rather by their individual moral responsibility and the justifiability of the war in which they participate.¹⁷ Accordingly, many combatants fighting on the *just* side may be morally innocent, since in helping in the pursuit of a just cause, they have done nothing morally wrong that abrogates their right not to be subject to potentially lethal force. Moreover, combatants fighting on the *unjust* side may also not be liable to attack. This is because they may not be morally responsible for their being combatants (e.g., because they are conscripted) or because they are pursuing just causes within an all-things-considered unjust war and, in doing so, are not contributing to the overall unjust war. In addition, war also typically harms many noncombatants, who may also not be liable to attack. To that extent, even if one rejects revisionist JWT, war would still typically be subject to the Liability Objection. This is because almost all accounts of JWT hold that noncombatants are generally not liable to the harms of war. Furthermore, there are huge practical difficulties in determining who is liable to attack and, even when this can be reliably determined, there are problems in ensuring that only liable agents are harmed.

It might be thought that smart sanctions avoid the Liability Objection since they target only those liable. But smart sanctions can also impose harms on those who are innocent.¹⁸ First, travel bans and asset freezes can be mistakenly imposed on those who are innocent. Second, as Gordon argues, aviation bans “can undermine a major component of a nation’s transportation sector, adversely affecting the civilian population generally.”¹⁹ An example was the ban on aviation on Gaddafi’s Libya, which Gordon argues reduced the availability of food since it jeopardized crop dusting and the importation of agricultural and veterinary supplies.²⁰ Third, arms embargoes may prevent the victims of aggression from being able to defend

themselves. For instance, the arms embargo on the former Yugoslavia in 1991 denied Bosnia the means to defend itself against much better equipped forces.²¹ Fourth, smart trade sanctions on particular industries, such as on timber or oil (which are often viewed as benefiting political elites), can damage an important sector of the economy and undermine the exports of the state and, as a result, weaken its ability to fulfill basic governmental functions.²² Moreover, smart sanctions are widely held to be even more ineffective than broader sanctions. They may therefore be little better than doing nothing; innocents currently facing the threat of aggression or mass atrocities will still have to continue to face this threat.

The problem, then, is that, when responding to aggression and mass atrocities, all the various options, such as war, sanctions, and doing nothing, will typically lead to harm to innocents, either directly if the agent harms innocents when responding to the situation or indirectly if there is an insufficient response to the situation which means that those currently bearing the harms still have to bear them. As such, all options are subject to the Liability Objection. It follows that there may be a lesser-evil justification for sanctions: given that no option can avoid the Liability Objection, we need to look to the option that will impose the least harm on innocents, and sanctions may sometimes impose less harm than the alternatives. This depends, of course, on sanctions being sometimes the lesser evil, that is, on whether sanctions are in fact sometimes likely to impose less harm on innocents. This will depend in turn on the efficacy of sanctions at addressing the situation, compared to all the alternatives, including doing nothing, and the incidental harms that sanctions will cause. I have already indicated that there is little consensus in the empirical literature on such matters. Notwithstanding, both broader and smart sanctions seem at least *sometimes* likely to be better than the alternatives in reducing the *overall* amount of harm that innocents face. To reiterate, this is not to deny that the Liability Objection may still apply to economic sanctions or to hold that sanctions are often *likely* to be justified as a lesser evil. The point, rather, is that the Liability Objection does not provide an indefeasible objection to economic sanctions; it depends on the efficacy of sanctions.

In fact, there is reason to hold that sanctions are likely to be *preferable* on the Liability Objection. My reasoning is as follows. First, numerous individuals are culpable for performing small wrongs that *in part* cause aggression and mass atrocities.²³ For instance, they recklessly or negligently contribute to a foreseeable harm, such as by negligently participating in a manufacturing sector that helps to uphold an aggressive regime or to an economy that foreseeably upholds the unjust global economic order. They may therefore be liable to *small* amounts of harm to address aggression and mass atrocities, in proportion to their small degree of wrongdoing. Second, broader sanctions seem likely to be preferable since they are more likely to involve the imposition of *small* harms on a large number of people (even if the *overall* amount of harm is the same or currently unknowable). By contrast, war and doing nothing seem more likely to involve a significant *concentration* of harms whereby few individuals (such as soldiers and those currently suffering in the face of mass atrocities) bear larger harms that are disproportionate to their wrongdoing. To help see this, suppose that the UK is trying to prevent Indonesia from obtaining nuclear weapons. Suppose further that British citizens generally make it politically impossible for the UK government to disarm *their own* nuclear weapons. The British possession of nuclear weapons foreseeably increases the desire of other states, such as Indonesia, to possess nuclear weapons. British citizens generally act with reckless disregard for the interests of those affected by their strong support for maintaining British nuclear weapons. Suppose further that Indonesians widely support both materially and politically their government's attempt to obtain nuclear weapons, again with reckless disregard for those affected. Both many of those in Britain and in Indonesia are liable to *some* harm, given their reckless but minor contribution to an unjust nuclear threat (let us assume that

nuclear threats are unjust). If the options chosen in response to this threat are to go to war or to do nothing, there will be a significant concentration of harms. In the case of war, this will be on British and Indonesian combatants and noncombatants. In the case of doing nothing, it will be on those threatened, such as the citizens in the Indonesia's neighboring states that are threatened by its nuclear weapons. With these two options, it seems very likely that *some* individuals will have to bear disproportionate costs—much greater costs than for which they are liable. By contrast, if economic sanctions are chosen, the costs on the sanctioning state (the UK) and the sanctioned state (Indonesia) in terms of loss of trade and material wealth might still be proportionate to the degree to which many British and Indonesians are liable. Thus, the overall amount of harm may be the same, but sanctions more likely to impose smaller, proportionate harms on a much greater number of individuals.²⁴

This is, of course, not to adopt a collectivized view of responsibility. Nor is it to deny outright the Liability Objection. Certain sanctions regimes, such as the sanctions on Iraq, impose disproportionate costs on a large number of individuals. Even less egregious sanctions are still likely to impose costs on those who are not liable for any harm (e.g., young children). My point, then, is not that sanctions are exempt from the Liability Objection because they always impose smaller costs on a larger number of individuals. Rather, it is that there is a reason to hold that, other things being equal, sanctions are likely to be preferable to the alternatives of war and doing nothing because they seem *more likely* (but not certainly) to impose smaller, proportionate costs on a larger number of individuals.

(ii) The Intending-the-Harm Objection

A second major objection to sanctions is that, as a means, they intentionally target innocents. I will call this the 'Intending-the-Harm Objection.' That is, it is alleged by critics of sanctions that sanctions intentionally target innocents so that their suffering will persuade the target state to change its policy.²⁵ This may appear to contravene a central premise of the Doctrine of Double Effect that, when promoting a good end, any bad effects must be incidental side effects rather than intended. For instance, in Michael Walzer's formulation, it is a condition that "[t]he intention of the actor is good, that is, he aims only at the acceptable effect; the evil effect is not one of his ends, nor is it a means to his ends."²⁶

This objection is mistaken. To start with, it should be noted that most sanctions regimes do not rely on the suffering of innocents in the target state to push the government to change its policy (as proponents of this objection may well admit). For example, some instead involve bans of transfers of weapons (i.e., the arms embargo on the Democratic Republic of Congo) or material used for the production of nuclear weapons (e.g., sanctions on Iran). The objection, at best, then applies only to certain types of sanctions regimes; most sanctions regimes do not follow this logic.

Furthermore, the objection also applies to both wars and doing nothing. Wars may use the suffering of innocent soldiers or of civilians in cases such as those involving terror bombing, where innocents soldiers or civilians are targeted in order to demoralize the opposing forces and to persuade the opposing side to cease its efforts. Perhaps less obvious is that doing nothing may also use the suffering of innocents as a means. States may make the calculation that letting innocent civilians in another state suffer will lead to a rebellion or to severe international opprobrium of the aggressor, and so be the means by which the aggressor changes its policy.

Moreover, the objection does not have any purchase against even sanctions regimes that *do* rely on the suffering of innocents in the target state to push the government to change its policy. The central issue with it is that the suffering of the innocents should not be viewed as wrong *because it is intended*. In other words, I am skeptical of the DDE on the issue of means (the

ensuing discussion will, in effect, briefly present an objection to the DDE in the context of sanctions).²⁷ Consider the following cases:

Angola 1: Angola has been sending its troops into the civil war in the Democratic Republic of Congo (DRC) in order to gain favorable access to natural resources. The US imposes sanctions on Angola, knowing that the harm inflicted will cause a certain amount of suffering of innocent Angolans. But it also knows that the pressure of this suffering will (e.g., by internal uprisings) lead to the Angolan government ceasing its interference in the DRC, which is the US's central objective. Overall, much more good will be achieved.

Angola 2: Again, the US imposes sanctions on Angola, knowing that the harm inflicted will cause a certain amount of suffering on innocent Angolans. This time it knows that the embarrassment of being sanctioned will mean that the Angolan government ceases its interference in the DRC (again, the main reason for the US's action). The policy will be as effective and lead to the same amount of suffering as in *Angola 1*.

It seems that both cases are equally permissible. It would be odd to hold that *Angola 2* is permissible, but *Angola 1* is not because the harm in *Angola 1* is *intentional*. To see this, it helps to consider the objection in terms of motives and intentions. An agent's intentions are their objectives or purposes of their more immediate action, whereas their motives are their underlying reasons for acting (or their ultimate goal). Although I cannot argue for this fully here, it is an agent's *motives*, and not their *intentions*, that seem to matter noninstrumentally.²⁸ This is because what seems morally important is an agent's ultimate goals; as far as is possible, these are what should be assessed noninstrumentally, given that they ultimately determine the agent's actions, rather than their intentions, which are simply the objectives or purposes of an agent's immediate action, designed to bring about their motives. In the case of sanctions, agents need to be motivated, for instance, by concern to reduce the suffering of innocents (such as in a humanitarian crisis); the sanctioning agent should be assessed according to whether they have this concern. If the agents possess such motives, it is unclear why it matters that some of their intentions are nefarious *when considered in isolation* (such as when they intentionally target innocents so that their suffering will persuade the target state to change its policy), but ultimately are formed in order to realize their rightful motives (such as tackling the crisis).²⁹ For instance, in *Angola 1*, the motive is good: to help those in the DRC. The central intent is designed to achieve this motive: a sanctions regime to help those in the DRC. The imposition of the harms on the innocent is a subsidiary intent in that it is used in order to achieve the main intent and ultimately to fulfill the motive. But why should this subsidiary intent mean that the overall policy is impermissible? This becomes even clearer if we add that there is no other reasonable option to achieve this end. If this objective could be reasonably achieved without such harms, it might well be. When this is the case, *Angola 1* seems permissible.

We may think differently when there is a variety of means and an agent chooses a suboptimal means. For instance, suppose that the US's imposition of sanctions in *Angola 1* leads to a much higher number of deaths than other feasible means. Even then, it still is odd to object that it is wrong since it *intends* to harm those affected by its choice. Rather, it would be acting wrongly because it acts *recklessly* by failing to adopt a reasonable option that would have reduced the harm.³⁰ (Another way of framing this point is to argue that the agent's action would fail to meet the requirement of necessity, that is, it would fail to avoid inflicting harms that are not necessary to achieve the proportionate end.) What seems wrong with the reckless failure to adopt a reasonable option is not the *desire* or *will* to inflict harm on innocent others, but rather the failure to be sufficiently motivated to give proper weight to the interests of others

in one's deliberations by avoiding unnecessary harm.

This is not to deny that sanctions may be wrong because of the recklessness or negligence of decision-makers. On the contrary, I suspect that this will often be the case. Yet, war and doing nothing also often involve reckless or negligent decision-making, when leaders fail to be sufficiently motivated by the interests of those beyond their borders (or within their borders). Thus, although sanctions sometimes might be wrong since they are often reckless or negligent, this is not unique to sanctions, and, contra the Intending-the-Harm Objection, they are not wrong *because* they intend the harm that they inflict. Not only does it seem unlikely that sanctions would intend harm, even if they did sanctions should be not objected to for this reason.

(iii) *The Instrumentalization Objection*

The third, related major objection to sanctions on the Prevailing View is what I will call the 'Instrumentalization Objection': they involve the instrumental use of the suffering of nonliable agents to achieve the greater good.³¹ For instance, Gordon claims that "sanctions reduce individuals to nothing more than means to an end by using the suffering of innocents as a means of persuasion, thereby violating the Kantian principle that human beings are 'ends in themselves'."³² The Instrumentalization Objection is separate to (or in addition to) the concern that the sanctioning agent *intends* harm to the sanctioned party. It applies even when the sanctioning agent foreseeably harms the sanctioned party, using them as a means to an end, *regardless of the intent of the sanctioning agent*.

This objection is subject to notable limitations. First, as for the Intending-the-Harm Objection, it will apply, at most, to only certain types of sanctions regimes—where the suffering of innocents in the target state is used to push the government to change its policy. For instance, the harms of the measures of smart sanctions such as asset freezes and travel bans are often unintended side-effects of the coercive use of force against liable agents (with the aim of affecting the agents' actions), rather than the harms being a *means* to affect the agents' actions. The objection may also often not apply to broader sanctions. The broader sanctions policy may clearly not use the suffering imposed as a means. For instance, the sanctioning agent may launch sanctions because it does not want to be complicit in the target state's behavior.

Second, as for the Intending-the-Harm Objection, it will also apply to war and doing nothing. These options may involve the unintentional but foreseeable uses of the harms of the suffering as a means, such as when doing nothing will harm innocents that will foreseeably lead to an insurrection and a subsequent shift in an aggressive state's policy.

Third, the instrumental use of the suffering of nonliable agents to achieve the greater good *per se* does not appear to be wrong. This is because what appears to be wrong when agents are used instrumentally is that they are shown disrespect. They are not viewed in the agent's deliberations as separate persons worthy of respect. In other words, they are treated as a *mere* means, since their interests do not figure sufficiently in agent's deliberations. But the instrumental use of the suffering of innocents may not always treat innocents as a *mere* means. For this, there needs to be a denial of respect. And sanctions may often not involve such a denial of respect; that is, they will not use innocents as a *mere* means. To start with, the sanctioning agent may be concerned by the interests of the agent *and* with the interests of others; the import of the agent's interests—although figuring in the agent's deliberations—may be outweighed by the greater weight it gives to the interests of the others (e.g., it is motivated to save the greater number who will be saved by a sanctions regime). Indeed, the sanctioning agent may lament that there is not a way of avoiding having to impose the costs on the innocent

party in order to help others. In other words, the sanctions policy may not be reckless or negligent, since there is not a reasonable alternative that would achieve the same end without causing such harm. Moreover, it is also conceivable—and perhaps sometimes likely—that a sanctions regime uses the suffering of those used as a means in order to assist *these same individuals*. For example, a state may inflict some suffering on the people of an authoritarian state in order to pressure the government to change its policy towards these people. In such cases, it may be that the sanctions policy that uses the citizens as a means is in fact motivated by respect for these citizens.

This is not to deny that states *do* sometimes use innocents as a mere means. They sometimes use the suffering of innocents recklessly or negligently by failing to put in place an option that reduces the suffering on innocents because, for instance, sanctions are more politically convenient for the government of the state and they use the suffering of the sanctions regime in order to attempt to achieve policy change in the target. In such cases, the state's reckless or negligent, instrumental imposition of harm shows insufficient attention to the interests of those affected. The Instrumentalization Objection may therefore still *sometimes* apply. My point is that (1) sanctions will not always instrumentalize others; (2) the Instrumentalization Objection will also apply to other options; and (3) using someone as a means *per se* is not wrong—what is wrong is using someone as a *mere* means—and sanctions may not involve the use of others as a mere means. As such, the force of the Instrumentalization Objection to economic sanctions is heavily circumscribed.

III. In Favor of Sanctions

Thus far, I have largely rejected three potential objections to sanctions and so much of the case for the Prevailing View. In this section, I will present a reason to favor sanctions. This is that they are likely to distribute harms more fairly. This is compared to both war and doing nothing.

But, before doing so, it is worth replying to an immediate worry: considering fairness in detail is redundant in the ethics of war and peace since liable agents should bear all the costs. More precisely, one might think that what is a fair distribution of the costs is that those who are liable bear all of the costs. Their wrongful action means that they should bear the costs. In reply (and as argued above), with all of the various options, there are likely to be some who have to bear the costs for which they are not liable. Thus, although an option that places all the burdens on liable agents should be chosen first, this is not currently feasible. With all the options, there will still be some currently unavoidable harm to those not liable. How should we distribute these harms—the remainder?

I have already suggested that we should look at the option that will be the lesser evil. I have also suggested that, even when not the lesser evil and the overall amount of harm may be the same (or unknowable), sanctions are preferable to the alternatives since they are more likely to involve the imposition of smaller, proportionate costs on several individuals, rather than the disproportionate costs on the few. I will now present a further consideration in favor of sanctions: *fairness* in the distribution of costs to innocents. That is to say, fairness in the distribution of costs to innocents should also influence, in addition to concerns about minimizing overall harm and the infliction of proportionate harms, which policy is favored.

In what follows, I will consider three leading ways of distributing fairly the remainder, that is, of the unavoidable harms to innocents of aggression and mass atrocities. My aim is not to defend one of these ways over the others in general; I think that all are plausible (all are widely cited in the relevant literatures as ways of distributing costs to innocents). My focus is on the relevance of these ways of assigning the harms of tackling mass atrocities and unjust

aggression and their relevance for the case for and against sanctions vis-à-vis the alternatives. I will suggest that some—but not all—favor economic sanctions.

a. Consent

The first way of distributing costs is to assign them to those innocents who consent to them. Indeed, consent is sometimes held to be relevant in the context of the permissibility of placing the burdens of sanctions on individuals. For instance, Lori Damrosch argues that, when the objective is the empowerment of the civilian population, the international community should defer to the views of authentic judgments of leaders about the degree of hardship that the population is willing to suffer in a sanctions policy.³³ If the leaders judge that the population is willing to suffer the burdens of sanctions, they can be permissibly assigned these burdens.

Consent to burdens is relevant *in general*. It matters that, for instance, in the choice of whether to distribute unavoidable costs to Anna (who gives her informed, express, and free consent) or to Brenda (who does not), we should distribute the costs to Anna. Anna's preference to take on the costs should be respected by others. However, consent of the innocent is not typically relevant *in the context of economic sanctions*. This is because, in practice, those in the sanctioned state do not typically give their informed, express, and free consent to the sanctions regime.³⁴

George Lopez replies that there need not be express consent: there would be hypothetical consent, he argues, since we can reasonably expect that repressed populations would consent to take on the burdens of sanctions.³⁵ In his words, “[w]e can morally argue for sanctions on some countries because history supports the contention that repressed people will consent to such.”³⁶ However, this reply falters. Even if there were *express* consent to the policy, it is doubtful whether innocents who consent should be distributed the burdens. It is important here to consider to what it is that individuals are (or would be) consenting. In the case of sanctions, it is consent to the sanctions regime, compared to not having the sanctions regime and continuing in the prevailing situation (e.g., state aggression). Yet, given the sorts of situations that sanctions typically address—such as state repression—the consent of individuals is not fully free. They are faced with a Hobson's choice: (1) a potentially very burdensome sanctions regime or (2) the suffering of the status quo. As such, their express or hypothetical consent lacks a reasonable alternative. It therefore does not provide a strong enough reason to burden them. Although when in the position of having to choose between two egregious harms, they may choose the lesser harm (or can be expected to), this does not mean that they should be the ones to bear the burdens of the situation. There may be further options or policies which would not burden them at all (or burden them far less), such as a peace operation, and to which they would be likely to give their express, tacit, or hypothetical consent, instead of the two much more burdensome alternatives.

On the contrary, it may appear that the import of distributing harms to innocents who consent to them provides a major reason *in favor of war* over economic sanctions. This is because when they sign up soldiers consent to the burdens of tackling aggression and mass atrocities as part of their military-covenant whereby they agree to take on risks. Yet, there are three worries with this suggestion. First, and most obvious, many soldiers are conscripted and so do *not* sign up to take on these burdens. Second, even if they do consent, it is questionable whether this consent meets the standards required for free consent. Volunteer soldiers may have been subjected to significant socio-economic pressures that mean that their consent has been coerced. Moreover, it is unclear that informed consent is given by soldiers; recruitment officers can manipulate and mislead potential recruits. For example, the US Army has allegedly targeted children in a way that resembles ‘predatory grooming’ and lied to student

recruits.³⁷ Third, noncombatants (who do not clearly consent to burdens) typically make up the majority of casualties in wars and so war is still likely to impose significant costs on those who do not consent to them. Consent therefore does not seem to provide a reason to favor war either.

b. Benefiting

A second way of distributing costs is to look to those who are seemingly benefited by the action. Jeff McMahan defends a form of this principle when considering the just distribution of harms between combatants and noncombatants in cases of humanitarian intervention. He argues that, other things being equal, those who are the subject of humanitarian intervention should bear greater costs than bystanders or just intervening soldiers, since they benefit from intervention.³⁸ Similarly, it might seem that this provides a reason to favor sanctions since those in the sanctioned political community will be benefited by the removal of their authoritarian leader or the halting of the mass atrocities. By contrast, the costs of war will also be significant for those who do not clearly benefit (i.e., the intervener). The costs of doing nothing will be borne by those facing the current situation (e.g., those facing mass atrocities) rather than those who benefit from doing nothing (e.g., bystander states not fulfilling their duties to assist).

Of course, it is questionable whether sanctions do in fact improve the situation of most of those in the political community. Yet, even if they do, being benefited in this way is not typically morally relevant, at least in the context of economic sanctions. The problem is that those being ‘benefited’ might still be significantly disadvantaged. The sanctioned party is often in a very bad situation to start with, such as being under an authoritarian leader or the threat of aggression by another state. Although their situation may improve, it will have often started at a very low level. Those who have not been ‘benefited’ by the sanctions regime may often be far better off. Consider, for instance, the case of those who have in fact had treatment to tackle a genetic disorder. They may seem to have been benefited by the treatment, but they would have been in a much worse situation to start with. Their treatment only brings them back up to the level of equality. They should not be the ones to pay for all of their treatment. In fact, the converse may be true: if the treatment is itself burdensome (e.g., requires chemotherapy), it may be that others should bear the burdens of paying for the treatment since those ‘benefited’ have already had the significant misfortune of having to bear the costs of having a genetic disorder. Similarly, if we hold that many of those who have to bear the burdens of mass atrocities or an authoritarian leader are not morally responsible for this situation, then, given that these individuals have already had to bear the costs of the mass atrocities or their authoritarian leader, others should bear the costs of tackling the situation.

To be sure, being benefited by a potential policy is morally relevant to the distribution of costs when the starting point is equality of opportunity or when those who are benefited are those who are already in an unequal, better position. In such cases, when those who are benefited bear the costs, this may decrease the unequal effects of their being benefited. However, it does not seem that benefiting will generally be relevant to the context of economic sanctions since the sanctioned party will typically be relatively badly off, compared to other states. For instance, at the time of writing, states subject to financial sanctions by the UK include Belarus, the Democratic Republic of Congo, Egypt, Eritrea, Guinea, Guinea-Bissau, Iran, Ivory Coast, Liberia, North Korea, Somalia, Sudan, Syria, Tunisia, and Zimbabwe.

That said, although being benefited generally does not seem to be relevant to sanctions, there are some instances when it may be. First, being benefited may be morally relevant when considering the internal costs to the economies of rich sanctioning states that benefit from, for

instance, the removal of an aggressive regime in a neighboring state. Second, benefitting may also be relevant for smart sanctions. As noted above, measures such as asset freezes and restrictions on travel potentially harm innocents, since those directly targeted may be in fact innocent and, even if not, their families will be affected. Nevertheless, smart sanctions may still be preferable because those burdened, even if innocent, are typically those (i.e., the elite) who do very well out of the current system. This is providing that the measures are efficacious and proportionate to the amount which the affected individuals are benefited by their elite position.

c. Sharing the Costs

A third way of distributing the remainder is the equal sharing of reasonable and unreasonable the costs amongst nonliable agents (by costs, I mean the currently inevitable harms of the situation). Why should reasonable costs be *shared equally* between nonliable agents?³⁹ Most obviously, costs should be shared so that no one has to bear *unreasonable* costs, that is, costs for which they are not duty-bound to bear (nor liable to bear). By sharing costs, the amount that each has to bear will be lowered and so potentially each will have to bear only the amount of costs that they can be reasonably asked to bear in their general duty to tackle aggression and mass atrocities. In addition, by sharing even otherwise *reasonable* costs (i.e., the costs that they are not liable to bear because of their previous wrongdoing but can be reasonably asked to bear in the fulfillment of their duties), the overall burden that one individual has to bear will be lower. This may mean that their lives are much less likely to be affected by taking on the currently inevitable (but reasonable) costs of the situation. If one individual is required to bear *all* of the (otherwise reasonable) costs of the situation, they will be potentially disadvantaged compared to others, who do not have to pay these costs. To see this, suppose that, in order to save a child drowning in a pond, it would cost an individual \$1,000, which would be within the parameters of a reasonable cost for the individual to bear. If others cannot share in these costs, the individual can be reasonably asked to pay the entire amount. But now suppose that it is possible to share the costs between 1,000 agents so that each pays \$1. The costs should be shared, even though it would be otherwise reasonable to require of the one individual to pay \$1,000. This is because, by sharing in the costs, the effect on one particular agent is massively reduced. They are not disadvantaged relative to others by, for instance, their random proximity to the pond. Their brute bad luck of being in this situation is, in effect, shared across all parties, so that the agent is not unluckily \$1,000 worse off. For instance, assume that bearing the \$1,000 means that the agent would have to go to a less prestigious university compared to the others, with the result that their future opportunities, although still good, are not as good as those who do not have to pay. By everyone paying \$1, everyone's future opportunities, relative to each other, are unaffected.

There may be cases where the overall burden of the situation is such that some innocents will inevitably have to bear *unreasonable* costs (i.e., the costs that they are not liable to bear because of previous wrongdoing and cannot be reasonably asked to bear in the fulfillment of their duties). Like reasonable costs, unreasonable costs should also be shared in order to reduce the burdens on particular individuals. For instance, suppose that, to defeat an aggressor, it is necessary to resort to the compulsory acquisition of private property. It is better that the unreasonable burdens of the compulsory acquisition (such as the amount seized) be shared, as far as possible (such as by increasing the number of those who are subject to the compulsory acquisition of private property and by reducing the amount seized from each individual). The reasoning is the same: spreading the costs will mean that their lives are less negatively affected by taking on the currently inevitable costs of the awful situation. If one individual is required to bear *all* of the unreasonable costs of the situation, they will potentially

be disadvantaged compared to others.

Sanctions are likely to be preferable to both war and intervention and doing nothing since they better spread harm, other things being equal (i.e., the aggregate harm being of equal magnitude). More precisely, sanctions are more likely to spread the costs of the policy so that no one is asked to bear more than reasonable costs or the degree of unreasonable costs that nonliable individuals have to bear is lower.

First, broader sanctions are preferable partly because they seem to share the *internal* costs of the response to the situation, that is, the costs that the party responding to the situation bears.⁴⁰ In the cases of military intervention and war, these costs are often borne almost *fully* by soldiers. By contrast, as far as the sanctioning state goes, the harm of banning trade in certain goods with another state, for instance, would often not seem to be unreasonable for those in the sanctioning state. And if the burdens do seem to be unreasonable for a particular sector of society (e.g., those who work in the arms industry), they could be compensated, and the costs of compensation shared amongst those in the society. This is obviously much harder for soldiers who will suffer significant injury or even death tackling the situation.⁴¹

Broader sanctions are also likely to better spread costs externally, that is, amongst those in the target state and those in third parties. (It is important to reiterate that this is other things being equal: when the overall amount of harm of war or sanctions is the same (i.e., not when wars will be less costly aggregately than sanctions).) As noted above, wars often involve the concentration of harms, with particular individuals and groups having to bear much greater costs (often physical injury or death) than others do. Similarly, doing nothing will typically lead to a concentration of harms, such as the persecution of those from certain ethnic, religious or socio-economic groups. By contrast, again as noted above, the more diffuse nature of sanctions, particularly broader sanctions—given that they involve general economic burdens—means that they are more likely to (although will not always) spread the costs amongst the whole society. Of course, those working in particular parts in the economy (e.g., in the extraction of natural resources) may be more affected but, again, compensation may also be more easily realizable than wars or doing nothing in such scenarios, and the costs of such compensation spread.

It is worth linking this argument to the related argument in section II. I argued above that sanctions should be favored because they are likely to impose more but smaller costs that are proportionate to the liability of many. My point here is that, even when these costs will be imposed on those who are *not* liable, or these costs will be *disproportionate* to amount to which the burdened are liable, the fact that sanctions seem likely to impose *more but smaller* costs on innocents provides reason to favor them.

IV. The Liability Objection Revisited and the Harm-Distribution Approach

Against my defense of the import of sanctions for reasons of fairness, it might be argued that we should not redistribute harms to those who are not liable to these harms since this involves *doing* harm. The standard response to cases in mass atrocities and aggression should therefore be to fail to react, since at least then the state is not *doing* the harm itself, even if it *allows* a much greater harm.

This view implies that the distinction between doing and allowing has overwhelming weight, which seems counterintuitive and out of kilter with the mainstream view in moral philosophy that the doing and allowing distinction is not of absolute moral import. That is, it can still sometimes be permissible to *do* harm, in particular when countervailing considerations in favor of doing harm (e.g., achieving very beneficial consequences) outweigh the import of the distinction. Notwithstanding, a less extreme version of the objection runs as follows: it is

permissible to do harm to nonliable agents only in exceptional cases, where there are *hugely* beneficial consequences at stake (e.g., the tackling of 100,000 impending deaths by *doing* harm to 10 innocents). In other cases, where doing harm will be likely to achieve only *very* beneficial consequences (e.g., the tackling of 1,000 impending deaths by *doing* harm to 10 innocents), it is better to *allow* harm.

This less extreme version of the objection is also implausible. This is because, first, the distinction between doing and allowing does, I think, matter, but it can be outweighed not simply by hugely beneficial consequences, but also by very beneficial consequences, other things being equal. In other words, a significant *decrease* (and not only by huge degrees) in the *overall* amount of harm can mean that considerations of doing harm are outweighed. In the case above, it seems more important to tackle the 1,000 impending deaths, even if this involves *doing* harm to 10 innocents, other things being equal. This is simply because achieving very beneficial consequences in terms of the overall reduction in unjust harm is of huge moral significance.⁴²

Second, in addition to decreasing the overall amount of harm, securing a *fairer* distribution of harm may also outweigh the import of the difference between doing and allowing. That is to say, on occasion it may be justifiable for an agent to bring about a fairer distribution of harms even if, when doing so, it *does* some harm itself (but still achieves the same overall amount of harm). For instance, suppose that 10,000 nonliable citizens in the south of Gabon are being repressed by the Gabonese government. France launches a successful sanctions policy that halts this repression but, in doing so, harms 10,000 nonliable citizens in the north of Gabon. Unlike those in the south, those in the north clearly and freely consent to such harms.⁴³ Such a redistribution—the *doing* of harm to those in the north—is permissible because it is a fairer distribution, even though the overall amount of harm to nonliable agents is the same in both cases.

This is relevant for thinking more broadly about the ethics of war and peace, and in particular lesser-evil justifications. Most admit that lesser-evil justifications can play a role in the justification of the imposition of harms on those who are not liable in certain cases. Nevertheless, the bar for lesser-evil justifications is typically held to be very high, largely because they involve *doing* harm.⁴⁴ They are often implied (1) to involve only a straightforward consequentialist judgment (e.g., the minimization of overall harm) and (2) to apply only when there is an alternative, terrible catastrophe at stake (e.g., supreme emergency).⁴⁵ By contrast, it seems to me that the bar for lesser-evil justifications to apply should be lowered. This is because, first, reducing overall harm is, I think, intuitively more weighty than often thought and so reduces some of the concern about *doing* harm and, second, the worry about *doing* harm is reduced further by countervailing considerations of fairness. That is to say, if lesser-evil justifications consider not only the *amount* of harm, but also the fairness in the *distribution* of harm of the various options, they may be much more likely to be relevant, since there need not be extreme bads that will be achieved for lesser-evil justifications to apply. There need be only a significant decrease in unjust harm and a better distribution of harm.

In fact, rather than focusing on whether it is permissible to launch a response to mass atrocities and aggression that will *do* harm to nonliable agents, I think it often would be preferable to focus on matters of fairness in distribution much more (as well as decreasing the overall aggregate harm). That is, when there is bound to be a remainder to be distributed, we should focus much more on how to distribute this harm as fairly as possible (and to decrease its overall size), rather than the fact that the agent will impose harms on those who are not liable. To that extent, we should adopt what I will call a ‘Harm-Distribution Approach’.

The Harm-Distribution Approach holds that rather than viewing cases, such as the

imposition of sanctions, as primarily about the *permissibility* of launching a particular action, we should instead see them more as matters of *distribution* and, in particular, the distribution of currently inevitable burdens. On this approach, the central issue is this: how should the currently inevitable burdens of the situation (for instance, state repression or mass atrocities) be distributed to be fair and to minimize the overall harm? And which policy best enacts this distribution? Would sanctions be best or would an alternative be better? This differs from the framing of such issues in terms of the permissibility of launching a response (e.g., “Is it permissible to undertake sanctions in order to avoid the likely harms of the current situation?”). Such framings are widely used in the discussions of the ethics of war, humanitarian intervention, and self-defense. For instance, one of the most frequently discussed issues in the literature on the ethics of humanitarian intervention is whether it is permissible to undertake military intervention in order to tackle mass atrocities.

What the Harm-Distribution Approach takes seriously, then, is the current inevitability of someone facing burdens for which they are not liable and the need to distribute the remainder as fairly as possible (and to decrease the overall amount of harm). As we have seen, even doing nothing will mean that the burdens will necessarily be distributed to a certain group or individual. To that extent, the Harm-Distribution Approach can be seen as often appropriate for matters of Nonideal Theory since it is concerned with the distribution of the burdens of noncompliance with moral principles on the part of other agents. (It may also be relevant for Ideal Theory, where there is an unavoidable harm (e.g., a natural disaster or an accident such as an innocent fat man falling on someone).) Given mass atrocities, state aggression, and so on, which involve certain actors creating burdens that someone has to bear, who should bear them?⁴⁶

Many discussions in the morality of self-defense at least implicitly consider the distribution of unavoidable harms (e.g., trolley problems where it is impossible not to do or allow harm to some innocents). My point is that we should adopt this distributive approach more widely and more explicitly. This is in order to emphasize the issue of fairness in the distribution of harms and in order not to overemphasize the import of avoiding *doing* harm. Adopting the Harm-Distribution Approach would bring the ethics of war and peace more in line with other fields in international political philosophy, such as the ethics of climate change. For instance, on the literature on the burdens of responding to climate change (adapting or mitigating), there is much less of a concern that those deciding how to allocate the costs of climate change might *do* harm in that they will impose some costs on nonliable agents. The focus is much more on the fact that (1) there are bound to be costs that some nonliable agents will have to bear (because the huge costs of tackling climate change are greater than that which could be borne by liable agents since, for instance, the previous polluters have died or were reasonably unaware of climate change) and, given (1), we need (2) to distribute the remainder—the costs of tackling climate change—as fairly as possible. In response to this issue, there is a vibrant debate on how the costs should be distributed.⁴⁷ The issue is not framed as “Is it permissible for State A to take on the burdens of tackling climate change and, if so, why?”, but rather “How should the inevitable burdens of tackling climate change be distributed?”

Similarly, in cases of aggression and mass atrocities—the sorts of situations that war and sanctions respond to—we should be concerned more with how to deal with the remainder by focusing on how to minimize and to distribute fairly the overall harms of aggression and mass atrocities, rather than on whether it is permissible to launch a policy that may do harm to nonliable agents. These burdens are currently unavoidable or inevitable, to the extent that these issues are likely to continue to arise for the foreseeable future whilst there is widespread noncompliance with the demands of Ideal Theory.

Could the import of fairness in the distribution of harms to nonliable agents be captured by the standard permissibility frameworks? In short, yes. One could simply add a condition of fair distribution to the standard list of Just War conditions.⁴⁸ Or, one could reject a narrow account of discrimination, that is, an account that is too focused on (individual) responsibility. One could instead have an account of discrimination that does not appeal simply to responsibility, but rather includes a variety of considerations, including distributive ones. Indeed, in its most fundamental sense, discrimination requires us to discriminate between those to whom the costs should be distributed and those to whom they should not.

The worry, though, with these solutions is that the import of fairness will be missed, as the additional distributive condition is overlooked or a standard account of discrimination is adopted. This is because this concern can involve complex moral judgments, requiring a detailed account of distributive considerations. The assessment of the permissibility of launching a response would, then, become much more involved, and the issue of distribution often overlooked. By contrast, the concerns of this principle will be taken into account if the Harm-Distribution Approach is adopted, given its focus on how we should distribute costs (such as between civilians and soldiers) in response to currently inevitable harms. Thus, the Harm-Distribution Approach is preferable since it highlights an important consideration not easily captured and potentially missed by standard framings.

V. Conclusion

I have argued in defense of sanctions and, in doing so, rejected much of the Prevailing View. First, I argued (i), against the Liability Objection, that sanctions may still sometimes be permissible as a lesser evil and that there is reason to view them as likely to be preferable in this regard, (ii) that the Intending-the-Harm Objection is implausible, and (iii) that the apparent instrumentalization of sanctions is of little moral concern. Second, I argued that sanctions are potentially better than the alternatives because they more fairly distribute costs. In doing so, I have suggested that the Harm-Distribution Approach is a useful approach when thinking about responses to currently inevitable harms. It is worth reiterating that my defense of sanctions is contingent since some of the objections may apply on occasion and tentative since I have not considered the instrumental case for and against sanctions, which is important for an overall assessment. Indeed, nothing that I have said is meant to offer a blanket defense of sanctions; sometimes they may be impermissible. Notwithstanding, sanctions may be less morally bad than is often claimed.

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¹ International Commission on Intervention and State Sovereignty, *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty* (Ottawa: International Development Research Centre, 2001).

² Ban Ki-moon, *Responsibility to Protect: Timely and Decisive Response*, UN doc A/66/874 (2012).

³ See, for instance, Robert Pape, "Why Economic Sanctions Do Not Work," *International Security* 22, no. 2 (1997): 90–136.

⁴ See, for instance, Dursun Pusken, "Better or Worse? The Effect of Economic Sanctions on Human Rights," *Journal of Peace Research* 46, no. 1 (2009): 59–77.

⁵ Joy Gordon, *Invisible War: The United States and the Iraq Sanctions* (Cambridge, MS: Harvard University Press, 2010), 87.

⁶ See, for instance, David Fisher, *Morality and War: Can War be Just in the Twenty-First Century?* (Oxford: Oxford University Press, 2011), 73.

⁷ The main discussions of the morality of sanctions include Lori Fisler Damrosch, "The Collective Enforcement of International Norms Through Economic Sanctions," *Ethics & International Affairs* 8, no. 1 (1994): 59–75; Joy Gordon, "A Peaceful, Silent, Deadly Remedy: The Ethics of Economic Sanctions," *Ethics & International Affairs* 13, no. 1 (1999): 123–142; Joy Gordon, "Economic Sanctions, Just War Doctrine, and the 'Fearful Spectacle of the Civilian Dead'," *Crosscurrents* 49, no. 3 (1999): 387–400; Joy Gordon, "Smart Sanctions Revisited," *Ethics & International Affairs* 25, no. 3 (2011): 315–335; George A. Lopez, "More Ethical than Not: Sanctions as Surgical Tools: Response to 'A Peaceful, Silent, Deadly Remedy'," *Ethics & International Affairs* 13, no. 1 (1999): 143–148; Albert Pierce, "Just War Principles and Economic Sanctions," *Ethics & International Affairs* 10, no. 1 (1996): 99–113; and Adam Winkler, "Just Sanctions," *Human Rights Quarterly* 21, no. 1 (1999): 133–155.

⁸ See, for example, Gordon, "A Peaceful, Silent, Deadly Remedy"; Gordon "Economic Sanctions, Just War Doctrine"; Robert W. McGee, "The Ethics of Economic Sanctions," *Economic Affairs* 23, no. 4 (2003): 41–45.

⁹ See, for instance, Jovan Babic and Aleksandar Jokic, "The Ethics of International Sanctions: The Case of Yugoslavia," *Fletcher Forum of World Affairs* 24, no. 1 (2000): 87–101; Gordon, "A Peaceful, Silent, Deadly Remedy."

¹⁰ See, for instance, Gordon, "Smart Sanctions Revisited"; Pierce, "Just War Principles"; Winkler, "Just Sanctions."

¹¹ This is particularly the case if one holds a form of moderate instrumentalism for assessing the justifiability of responses to the mass violation of human rights, according to which consequences carry great moral weight in such circumstances. I defend such moderate instrumentalism in James Pattison, *Humanitarian Intervention and the Responsibility to Protect: Who Should Intervene?* (Oxford: Oxford University Press, 2010).

¹² See David A. Baldwin, "The Sanctions Debate and the Logic of Choice," *International Security* 24, no. 3 (1999): 80–107.

¹³ Those who consider some of the moral case for the symbolic import of sanctions include Eric H. Beversluis, "On Shunning Undesirable Regimes: Ethics and Economic Sanctions," *Public Affairs Quarterly* 3, no. 2 (1989): 15–25 and Damrosch, "The Collective Enforcement."

¹⁴ See, for instance, Gordon, "A Peaceful, Silent, Deadly Remedy"; Gordon "Economic Sanctions, Just War Doctrine"; Joy Gordon, "Reply to George A. Lopez's 'More Ethical Than Not'," *Ethics & International Affairs* 13, no. 1 (1999): 149–150; McGee, "The Ethics of Economic Sanctions."

¹⁵ Gordon, "A Peaceful, Silent, Deadly Remedy," 124.

¹⁶ See Babic and Jokic, “The Ethics of International Sanctions”; Gordon, “A Peaceful, Silent, Deadly Remedy,” 126; Tamar Miesels, “Economic Warfare: The Case of Gaza,” *Journal of Military Ethics* 10, no. 2 (2011): 94–109, at 103. On the wrongness of sieges and blockades, see, for instance, Michael Walzer, *Just and Unjust Wars*, Fourth Edition (New York: BasicBooks, 2006), 160–175.

¹⁷ See, most notably, Jeff McMahan, *Killing in War* (Oxford: Clarendon Press, 2009).

¹⁸ Gordon, “Smart Sanctions Revisited”; Peter Rudolf, “Power without Principle: Ethical Problems of International Economic Sanctions,” *Law and State* 57 (1998): 9–21, at 17.

¹⁹ Gordon, “Smart Sanctions Revisited,” 332.

²⁰ *Ibid.*, 325.

²¹ Damrosch, “The Collective Enforcement,” 69.

²² Gordon, “Smart Sanctions Revisited,” 326. For instance, the sanctions on the Gaddafi regime after the Lockerbie Bombing were estimated to cost Libya \$18 billion in lost revenue. Vessilin Popovoski, “Fighting the Colonel: Sanctions and the Use of Force,” *Jindal Journal of International Affairs* 1, no. 1 (2011): 148–161, at 152.

²³ I make this point in more detail than is possible here in James Pattison, “*Justa Piratica*: The Ethics of Piracy,” *Review of International Studies*, forthcoming. Also see Gerhard Øverland, “602 and One Dead: On Contribution to Global Poverty and Liability to Defensive Force,” *European Journal of Philosophy* 21, no. 2 (2013): 279–299.

²⁴ In a similar vein, McMahan notes, in a brief remark on economic sanctions in *Killing in War*, that there can be forms of liability that “fall well short of liability to military attack” and that many adult civilians may have had enough of a role in injustice to have no valid complaint about being subject to the hardship of economic sanctions, 218.

²⁵ See, for instance, Gordon “Economic Sanctions, Just War Doctrine,” as well as Claire Thomas, “Civilian Starvation: A Just Tactic of War?,” *Journal of Military Ethics* 4, no. 2 (2005): 108–118, at 111.

²⁶ Walzer, *Just and Unjust Wars*, 153.

²⁷ For more in-depth critiques than possible here, see Jonathan Bennett, *The Act Itself* (Oxford: Clarendon Press, 1995), 195–224 and Alison McIntyre, “Doing Away with Double Effect,” *Ethics* 111, no. 2 (2001): 219–255.

²⁸ See, instead, Pattison, *Humanitarian Intervention*, 154–68. James Pattison, *The Morality of Private War: The Challenge of Private Military and Security Companies* (Oxford: Oxford University Press, 2014), 38–41, 58.

²⁹ To be sure, I accept that intentions may be instrumentally important. *Ibid.*, 58, 103–6.

³⁰ A similar point is made by McIntyre, “Doing Away,” 226.

³¹ See, for example, Gordon, “A Peaceful, Silent, Deadly Remedy”; Pierce, “Just War Principles,” 110.

³² Gordon, “A Peaceful, Silent, Deadly Remedy,” 124. To be clear, Gordon thinks that this objection has a limited scope, not applying when the objective is the prevention of the deaths of innocents. This caveat takes almost all of the force out of her objection. In cases when the deaths of innocents are not at stake the action would already typically be ruled out by proportionality—the need to do more harm than good (it would be hard to achieve this when harming innocents without helping another set of innocents).

³³ Damrosch, “The Collective Enforcement,” 73.

³⁴ Gordon, “A Peaceful, Silent, Deadly Remedy,” 130. The consent to the sanctions imposed on South Africa during apartheid is sometimes claimed to be an exception, although it would clearly fall short of more demanding notions of consent.

³⁵ Lopez, “More Ethical than Not,” 147.

³⁶ Ibid., 147. Emphasis in original.

³⁷ Amy Hagopian and Kathy Barker, “Should We End Military Recruiting in High Schools as a Matter of Child Protection and Public Health?”, *American Journal of Public Health* 101, no. 1 (2011): 19–23; Lawrence Korb and Sean Duggan, “An All-Volunteer Army? Recruitment and its Problems,” *Political Science & Politics* 40, no. 3 (2007): 467–471.

³⁸ Jeff McMahan, “The Just Distribution of Harm Between Combatants and Noncombatants” *Philosophy & Public Affairs* 38, no. 4 (2010): 342–379. I consider (and respond to) McMahan’s arguments in more detail in James Pattison, “Bombing the Beneficiaries: The Distribution of the Costs of the Responsibility to Protect and Humanitarian Intervention,” in Don Scheid, ed., *The Ethics of Armed Humanitarian Intervention* (Cambridge: Cambridge University Press, 2014), 113–130.

³⁹ For reasons of space, this section cannot consider alternative distributions, such as a prioritarian or sufficientarian distribution.

⁴⁰ The internal costs of sanctions are detailed in Margaret P. Doxey, *International Sanctions in Contemporary Perspective*, Second Edition (London: MacMillan, 1996), 66–70.

⁴¹ Of course, in the case of doing nothing, there are no direct internal costs, but there may be indirect costs, such as a loss of international reputation.

⁴² I defend this point further in Pattison, *Humanitarian Intervention*.

⁴³ My rejection of consent above was largely that it is not likely to be free in the context of sanctions; for the sake of making the point clearly, I assume that it is in this example.

⁴⁴ McMahan holds that “a lesser-evil infliction for the infliction of harm requires that the harm inflicted be *substantially* less than that which is prevented”, Jeff McMahan, “What Rights May be Defended by Means of War?”, in Cecile Fabre and Seth Lazar, eds, *The Morality of Defensive War* (Oxford: Oxford University Press, 2014), 115–156, at 138, emphasis in original. Elsewhere, he argues that the lesser-evil justification for killing innocents is restricted to cases to avoid an outcome that would be “very significantly worse”, “The Morality and the Law of War”, in David Rodin and Henry Shue, *Just and Unjust Warriors: The Moral and Legal Status of Soldiers* (Oxford: Clarendon Press, 2008), 19–43, at 23. David Rodin holds that the bar for lesser-evil justifications to apply for both intended *and* unintended harms is extremely high; he holds that intended harms are “never or almost never permitted” and that the prohibition on collateral killing should be much closer to the prohibition on intentional killing, “Justifying Harm,” *Ethics* 122, no. 1 (2011): 74–110, at 108.

⁴⁵ Rodin’s account of lesser-evil justifications (in “Justifying Harm”) is a notable exception; he holds that lesser-evil justifications can involve more than simply act-utilitarian calculations; they can be concerned with maximizing various states of affairs. He does not, however, include distributive concerns in his list of relevant factors.

⁴⁶ The Harm-Distribution Approach can leave room for some agent-relative considerations. For instance, one can accept this approach whilst maintaining that the difference between doing and allowing still matters *to some extent*. That is, it is better not to *redistribute* harms in more marginal cases, since one will be *doing* harm when redistributing.

⁴⁷ See, for instance, Simon Caney, “Cosmopolitan Justice, Responsibility and Climate Change,” *Leiden Journal of International Law* 18, no. 4 (2005): 747–775; Edward Page, “Distributing the Burdens of Climate Change,” *Environmental Politics* 17, no. 4 (2008): 556–575; Henry Shue, “Global Environment and International Inequality,” *International Affairs* 75, no. 3 (1999): 531–545.

⁴⁸ This is McMahan’s favored option. He argues that we need a new principle “governing the just distribution of harm between combatants and noncombatants”, “The Just Distribution of Harm,” 379.