

Chapter 17

The Meaning of War: An Ethical Analysis of Sanctions and Humanitarian Intervention

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There are a variety of ethical approaches to the use of force. For the most part, ethical debates about war do not revolve around attempts to define when war begins and ends. Ethicists are mostly just interested observers of the lawyers' attempts to define the meaning of "armed attack" in the UN Charter or the political scientists' debate about how many battle deaths constitute a "war". Distinctions between inter-state and intra-state war have less meaning for ethicists than they do for international lawyers. The implications of these distinctions for *jus in bello* norms are much less developed in ethics than in international law. That is not to say, however, that such distinctions do not matter in ethical analysis. Especially since the end of the Cold War, ethicists have been confronted with a number of issues that arise somewhere between the categories of war and peace. Do traditional approaches to the ethics of war provide an adequate framework for evaluating coercive measures that fall short of war? Were the UN sanctions against Iraq, for example, an alternative to war or an alternate form of war? What kind of moral reasoning is appropriate for analyzing forms of humanitarian intervention that are more like policing than war, such as the highly-restricted uses of force to protect aid convoys and safe havens?

In this essay, I will consider how the just war tradition can provide an ethical framework for evaluating economic sanctions and humanitarian intervention. I will focus especially on the approaches of those who adopt a restrictive, as opposed to a permissive, approach to the just war tradition.¹ I will show that

1 A restrictive approach begins with a strong presumption against the use of force; just war criteria, strictly construed, provide a basis for determining when this presumption may be overridden. A permissive approach begins with a presumption not against force but for justice. The resort to military force, in this view, is not inherently problematic but is, according to James Turner Johnson, "a tool to be employed in the proper exercise of government to combat evil and other forms of injustice in the service of the public goods of justice, order, and peace." Johnson, J.T. (2005, January). *Just War As It Was and Is. First Things*, 149, 14. These different starting points reflect different perspectives on the role of military force in international affairs. Those who begin with a presumption against the use of force assume

even those advocates of the just war tradition who are least prone to justify the use of military force, have found a just war style of reasoning to be helpful in evaluating a wide range of coercive measures that do not involve inter-state conflict and do not rise to the level of force associated with war. In exceptional cases, a restrictive just war analysis can justify humanitarian intervention in internal conflicts as legitimate acts of defense, but the clear moral obligation is to find effective forms of humanitarian intervention that involve nonviolent political and juridical measures, coercion short of force, and military deployments that are more akin to policing than war-fighting. Finally, I will argue that a just war analyst is generally more willing than an international lawyer to override norms of procedural justice (e.g., the requirement of UN Security Council authorization) when they conflict with norms of substantive justice (e.g., defending the innocent against aggression).

Sanctions: Alternative to war or an alternate form of war?²

The proliferation of UN-authorized economic sanctions, especially those imposed on Iraq from 1990 to 2003, led to a new debate over the ethics of sanctions. Central to this debate was the question: Are such sanctions an alternative to war, as envisioned by article 41 of the UN Charter, or an alternate form of war, a *casus belli* akin to sieges and blockades?³ If sanctions are an alternate form of warfare, they should be governed by standard just war ethical analysis. But if they are an alternative to war, then the moral issues posed by sanctions should

a sharp break between war and politics, while those who begin with a presumption for justice would emphasize the continuity between the use of force and international politics. While their mode of reasoning is quite different, the strict and permissive approaches in ethics have their analogues in debates over narrow and broad interpretations of art. 51 of the UN Charter, which allows force in response to an “armed attack.” A permissive ethic is more likely than a restrictive one to be at odds with art. 51, narrowly construed. That raises interesting questions of the relationship between law and ethics, such as how preemptive war, which clearly violates a narrow construction of art. 51, could promote justice, in a moral sense, while violating justice, in a legal sense. On the two main legal interpretations of art. 51, see Gray, C. (2008). *International Law and the Use of Force* (3rd ed.). Oxford: Oxford University Press, 117–119.

- 2 The analysis in this section is taken from a longer article by Christiansen, D., S.J., & Powers, G. (1995). Economic Sanctions and the Just-War Doctrine. In Cortright, D. & Lopez, G. (Eds.), *Economic Sanctions: Panacea or Peacebuilding in a Post-Cold War World?* pp. 97–117. Boulder: Westview Press.
- 3 In addition to article 41, this same distinction between sanctions and the use of military force is found in international law’s treatment of countermeasures. See O’Connell, M.E. (2008). *The Power and Purpose of International Law*. Oxford: Oxford University Press, 229–294.