# TDI – AFF/NEG – Philosophy

# AFF

## 1AC

### 1AC – Kant

#### The standard is consistency with Kantian just war theory.

#### Human beings are, by nature, rational agents, and as such, can act in accordance with the principles of practical reason – the categorical imperative is an unconditional command on our practical reason, and adherence to it is necessary for our actions to possess moral value.

* Practical reason = reasoning about what we *ought to* do
	+ C.f., theoretical reason = reasoning that is concerned with fact and matters of explanation (e.g., reasoning deployed in natural and social sciences)

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Kant's foundational proposition is that human beings, while composites of both animal instinctuality and free rationality, nevertheless find their deepest sense of personal identity and interest in their rational natures. Reason is thus the foremost source of orientation and direction in our lives. The function or purpose of reason is to seek a unified and coherent web of concepts which: 1) provides us with orientation and direction in our lives (both in the theoretical and practical spheres); and 2) does not overstep its bounds and is therefore self-limiting or critical. For Kant, reason itself actively provides us with ends or goals proper to our nature as rational beings, and it provides us with an ordered set of rules, directives, and imperatives which are to guide us towards the realization of such ends. The most general of these goals or ends of human reason are: 1) formally, to enhance its own coherence and unity; and 2) materially, to promote its own realization in the world. The most general of the means-providing, action-guiding directives towards these ends is, of course, the categorical imperative.'

As rational agents, human beings are negatively free from utter determination by instinctual inclinations. We can, if we desire, be moved by considerations other than those of raw impulse. So, we are capable of making choices between alternative principles, and courses, of action, and of being held responsible for the quality of these choices. Furthermore, human beings are positively free to act in accord with the dictates of their own reason. In short, we can employ our indigenous negative freedom (in the executive aspect of our will) so that it accords with the imperatives and principles of our own practical reason (in the legislative aspect of our will). When we do so, we act from a self-directing or autonomous will because we act from our own motivation on our own principles. Our reason mandates that we undertake this move from negative to positive freedom--that we undertake this process of enlightenment and emancipation--in order to realize itself, and thereby our deepest selves, in the world. Freedom is thus "the keystone" of the entire structure of Kant's political philosophy.'~

The deepest practical aspect of our rational natures is composed of the categorical imperative (or CI). The CI is an unconditional command of our own practical reason and forms the foremost source of normative orientation regarding the practical sphere of our lives. It specifies what, above all, we ought to do. Especially relevant in the various formulations of the CI':~ is the formal emphasis on the need for universality, consistency and systematicity in a moral system, on the one hand, and the material emphasis on respecting humanity and dignity, on the other. Most centrally, the CI mandates that all of us act in such a way that: 1) all rational agents could (also) act on the exact same principle of action as our own; and 2) we pay full respect to the rational agency which is the hallmark of our humanity. Kant stresses the idea that morality forms one rational, universal and coherent system of imperatives or duties, as detailed by the CI. Violation of the CI thus constitutes a contradiction in the system of practical rationality. It is only when a person wills a principle or maxim of action which is in accord with the CI (i.e., it does not conflict with any of the CI formulations) and when that person performs the corresponding action for the sake of adhering to the CI, that the person acts morally, which is to say from a good will.14

It is crucial to note that, for Kant, the only thing in the universe possessed of intrinsic value is a good will; he even suggests, in a famous and charming metaphor, that a good will is like a jewel which shines by its own light. Indeed, Kant goes so far as to say that the development and maturation of good will-- acting from our own motivation on our own deepest principles--is what justities and gives sense and purpose not only to our lives but to the very existence of the world itself. "Without man [and his potential for moral progress]," he intones, "the whole of creation would be a mere wilderness, a thing in vain, and have no final end."15

Many have contended, quite plausibly, that Kant's general moral outlook, thus characterized, is deontological, as opposed to consequentialist, in structure. 16 It is deontological, or anti-consequentialist, in at least three senses: 1) because duty is the central concept in Kant's moral philosophy; 2) because Kant deems it at least permissible (indeed, perhaps even obligatory) for an agent not to intend, and/or to act so as, to maximize overall best consequences; and 3) because he stipulates firm side-constraints on the promotion of ends, such as maximizing overall best consequences.'7 These properties of his anti-consequentialist conception shall become, so to speak, of consequence when we consider the substance of his just war theory. In the meantime, one clear and illustrative anti-consequentialist quote from Kant is his insistence that "(w)hat is essentially good in the action consists in the mental disposition, let the consequences be what they may."8 The actual consequences of an action do not exhaust, or perhaps even affect, its moral calibre. What matters morally is having a good will, which is to say: 1) intending to do one's duty (as disclosed by the CI) for its own sake; and 2) conscientiously making serious efforts to realize that intention.19

#### And, the good will is the only thing that is both intrinsically and unconditionally good. Other goods, like pleasure, may have intrinsic value but they are not unconditionally good because there are times when we do not approve of them, e.g., sadistic pleasures.

#### Adherence to the categorical imperative implies a commitment to the universal principle of justice (UPJ), according to which, one can act only on those maxims that are compatible with the freedom of everyone – coercion is justifiable only if it is required to protect against interference by others.

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The CI, as applied to the sphere of "external," interpersonal interaction between rational agents, is called the universal principle of right or justice (UPJ): "Act externally in such a way that the free exercise of your will is compatible with the freedom of everyone, according to a universal law."'~~ The UPJ, most centrally, mandates respecting, protecting and enhancing human agency--which is our purposive capacity to make our own choices in life-- wherever and whenever we encounter it. In fact, this is a mandate which can, and ought, to be backed by coercive force where necessary: the UPJ specifies rights and duties which can, and ought, to be enforced. Why may coercion be employed in the "external" sphere of action? The answer, in Kant's words, is that it may be used if it "hinders a hindrance to freedom. TM Coercion may be employed because such is sometimes required to protect our free rational agency from (coercive) interference by others. We have seen that the only thing of intrinsic value for Kant--the ultimate source of value--is a good will. But only a free and rational will can become good. Thus, should rational agency need coercive protection from such standard threats to it as force and fraud (which it does), then such is mandated by the structure of practical reason itself. We may employ force in the sphere of justice in order, as it were, to make the world safe for the growth and development of the sphere of morality.

A careful analysis of the uPJ reveals, following the seminal work of Thomas Pogge, that it actually contains three component principles: 1) the formal principle of justice (FPJ), which mandates the creation and rule of a determinate system, or state, of coercive positive law and order; 2) the first material principle of justice (MPJ I), which stipulates the securing of human rights for all; and 3) the second material principle of justice (MPJ 2), which in general commands the development of the political pre-conditions for a rise in enlightenment, culture and, in the end, moral autonomy and good will. FPJMPJ 2 thus inform us of our rights and duties of justice, enforceable with coercion, with regard to the protection and advance of rational human agency and freedom. ~

#### The universal principle of justice also provides the framework by which we are to exit the state of nature – we are obligated to construct socio-economic and legal-political institutions so that they conform to the UPJ

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The uPJ forms Kant's most important "test for legislation." Just as individuals are to evaluate their maxims of action vis-a-vis the CI, so we are also, collectively, to evaluate proposed legislation vis-a-vis the UPJ. Only that legislation which is in accord with the UPJ is permitted by Kant's theory of justice. Furthermore, because the UPJ (qua CI as applied "externally" to the realm of politics) is a command of practical reason, it follows that all rational beings must consent to its stipulations. So Kant is, as frequently noted, a kind of social contract theorist: we all, qua rational beings, consent to the demands of the uPJ, and thereby collectively form a "general will" dedicated to the realization of its component principles. The deepest import of the UPJ is that, for Kant, we are to order our conduct and to reform basic socio-economic and legal-political institutions so that they conform to the requirements of the uPJ. This means, notably, that: 1 ) we are to move from the "wild, lawless freedom" of the pre-political state of nature (if we happen to find ourselves in that state) to a lawful state of ordered freedom wherein citizens are simultaneously colegislators and subjects; and 2) we are to structure civil society (once we have established it) so that it respects human rights, which are those universal just claims, or entitlements, justified on the basis of humanity and dignity, that we all have regarding how we ought, and ought not, to be treated by each other and by the state. Human rights, in short, are high-priority, justified claims that we all have on each other and, above all, on the way in which socio-political institutions ought to be shaped. Kant's conception of what human rights we have is limited to traditional civil and political rights: to freedom, property, equality, and various due process and participatory rights.~3

From these schematic remarks, we can discern in broad outlines Kant's conception of the just state or republic. Kant's quite austere and minimalistic political ideal seems to be a kind of pro-rights proto-libertarianism, calling only for that exact amount of government necessary to provide for the rule of law and order, and to secure all our human rights. The watchwords of Kantian governance are: law and order; equal human rights to freedom and property; socio-economic opportunity; trade, development and commerce; and selfdriven effort, industry, and enlightenment.~4

#### Moreover, inter-state interactions are subject to the state-level universal principle of justice (SUPJ) – states are so obligated because they are rational agents who are free to make choices, and thus, can be held responsible for these choices

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The first premise of Kant's international theory of justice, as a direct outgrowth from his domestic conception, is that the subjects of this theory are states, and that states exist as moral persons. By this Kant means two things. The first is that the state is worthy of our moral attention and respect to the extent to which it protects and serves the individuals, moral persons proper, who live under its auspices. The second is that we are, via the domestic analogy,'~5 to conceive of states as negatively free rational agents, undetermined by raw inclination or mechanism, who are free to make choices between alternative courses of action and can, as a result, be held responsible for the substance of those choices.

As rational agents, states also find their deepest sense of identity and interest in adhering to the norms of reason. It follows from previous argumentation that, politically, states must be subject to a principle of practical reason analogous to the UPJ, call it SUPJ (for "the state-level version of the universal principle of justice'). The foremost duty of international justice is for states to adhere to the SUPJ, which seems, in light of prior reasoning, to be composed of the following component principles: 1) the SFPJ, which commands that all states ought to coexist under a coherent, ordered, and determinate international system of positive laws; 2) the SMPJ 1, which stipulates that the content of such a system of positive international law must be aimed, first and foremost, at respecting and realizing the rights of every state; and 3) SMPJ 2, which mandates that the positive system of interstate laws is to provide the general framework within which practical reason and good will can be promoted and mature to their fullest development.

The deepest import of the SUPJ, analogous to the domestic UPJ, is that we are, through our state mechanisms, to order our conduct and to reform global institutions and practices such that they satisfy SFPJ-SMPJ 2. This means, notably, that: 1) we are to move from the anarchy of the international state of nature to some kind of cosmopolitan civil society; and 2) we are to structure the global juridical condition so that it satisfies the rights of states qua moral persons. Why do states have rights vis-d-vis one another? States have rights because: 1) their citizens, as individuals, have human rights; and 2) in order to secure the objects of these human rights from possible deprivation by outsiders, a collective agency, like the state, needs to be authorized, or entitled, to certain objects and actions in its own right, vis-a-vis these nonmembers and the collective agencies which act on their behalf. And what rights do states have vis-a-vis one another? There is extensive textual evidence 26 that Kant affirms the following state rights (SR) and correlative state duties (SD):

State Rights: SR x. The right of negative freedom from force and fraud in the state of nature. SR 2. The right of positive freedom to self-governance (i.e., political sovereignty) within a global juridical condition. SR 3. The right to employ and dispose of one's natural resources as one sees fit, provided such use does not materially violate the rights of other states. SR 4. The right of property in one's territory (i.e., territorial integrity). SR 5. The right to enter into contractual relations with other states at one's will. State Duties: SD z. Do not employ force and fraud in one's relations with other states. SD 2. Do not interfere in the internal matters or self-governance of another state. SD 3. Do not trespass onto or steal (i.e., invade or capture) the rightful property/territory of another state. SD 4. Do not break lawful contractual agreements one has freely made with other states. SD 5. Allow for basic contact and relations ("hospitality") ~7 between citizens of other nations and one's own.

State rights and duties, much like individual rights and duties, map out a set of firm commands and prohibitions, or side-constraints, on how the state in question should, and should not, be treated by other states. They are just claims which all other states are bound to respect. Again, the core emphasis in Kant is on deontology: we are to treat rational and moral persons (whether individuals or states) in particular ways which respect their dignity, and to avoid treating them in other ways which injure them as moral persons. These rights and duties may not be overridden or ignored for the sake of such other social goals as public welfare or human happiness in general. Perhaps two aspects of this issue require further comment. The first is that, in the final analysis, SRs l- 5 do not seem to contain substantially more than is contained in the two most traditional and widely acknowledged rights of states: political sovereignty and territorial integrity. The second is that this system of state rights and duties, SRs 1- 5 and SDs 1- 5, essentially constitutes Kant's ideal conception of international law and order. An international system wherein SRs l- 5 were respected and SDs 1- 5 were adhered to would essentially constitute a just global order.

The central problematic in international justice is thus the move from a lawless international state of nature to a law-governed international civil society wherein SRs l- 5 and SDs 1- 5 are realized. There is no doubt that, for Kant, the current international situation is a state of nature, in that no relevant subject (i.e., no state) enjoys secure possession of the objects of its rights. ~s And this has the important, and damning, consequence that individual persons must themselves lack secure possession of the objects of their human rights, which form the entire material focus of Kant's conception of justice. The absence of central coercive authority on the global level gives rise to a fundamental lack of assurance, which renders states fearful, selfish and prone to violence in the case of conflict over rights-claims, with all the deleterious effects that has upon domestic rights-fulfilment. This situation amounts to being governed by might rather than right and, as such, it violates all the requirements of the SUPJ (and the UPJ) and offends against our deepest rational selves. But what exactly is the nature of the global civil society towards which states are to orientate themselves?

Of decisive significance is the fact that, for Kant, the global juridical condition is not to be modelled directly after a domestic national government, with its coercive power and decisive sovereign authority. Kant does not believe in a world government. He offers a variety of reasons why world government does not form the end of international justice. The most potent of these are the claims that: 1) no world government could be reasonably effective, given the sheer size of its domain and the incredible diversity of its people; and 2) provided that a state reasonably fulfils the domestic criterion of justice, the UPJ, then it ought not to be coerced into joining another political association. It would be impermissible to coerce a just state. Thus, in Kant's words: "(T)he positive idea of a world republic cannot be realized. If all is not to be lost, this can at best find a negative substitute in the shape of an enduring and gradually expanding federation likely to prevent war [his italics]." Cosmopolitan federalism, and not a world republic, is the solution to the problem of war and the guarantor of perpetual peace.~9

But this Kantian federation is not like various federations familiar to us from history and politics. Kant does not imagine an actual, enforceable division of powers between the global and national (and perhaps sub-national) levels of government. "This federation," in his words, "does not aim to acquire any power like that of a state but merely to preserve and secure the freedom of each state in itself, along with that of the other confederated states, although this does not mean that they need to submit to public laws and to a coercive power which enforces them..." [his italics]SO It seems, then, that Kant's idea is of a voluntary or renewable contract among like-minded nation-states to renounce war between themselves, and to perform their state duties, SDs 1-5, and to have their state rights, SRs 1-5, respected. In short, states are to act as if there were a real, effective federal system operative at the global level. The result will be the same in either case: a stable, secure condition of peace-with rights, the ultimate end of the theory of international justice. Indeed, Kant intones that perpetual peace is "the entire ultimate purpose of the theory of right." Perpetual peace is "the highest political good," truly "the ultimate purpose of law within the bounds of pure reason."3'

So much for the background required to grasp the principles animating Kant's just war theory. We can now turn towards the principal task of reconstructing this theory, which is an important and rewarding contribution to reflection on the ethics of war and peace.

#### In order to uphold the SUPJ, states must comply with the principles of just war theory – these principles regulate the use of force within the context of warfare

* Jus ad bellum are just war principles which concern the justice of fighting a war in the first place
* Jus in bello are just war principles which concern the justice of conduct deployed in war

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7" t. Jus ad Bellum It seems to me that we can distinguish profitably between jus ad bellum and jus in bello within Kant's thoughts surrounding just war theory. We can also credit Kant for really being the first great thinker to stress, in a way the Just War Tradition had failed to do, the topic of justice after war, jus post bellum. In terms of jus ad bellum, Kant seems to stipulate the following criteria:

KJWT (Kant's Just War Theory) KJWT I. Just cause. A state may resort to armed force if, and only if, its rights (especially those of political sovereignty and territorial integrity) have been violated and/or are materially about to be violated. The key principle here is the defense, protection, and vindication of the fundamental rights of political communities and their citizens. Kant says that a state can resort to war either in response to "actively inflicted injury" (particularly an invasion or attack) or to "threats" (presumably the credible and imminent threat of such an invasion or attack). So, the right to go to war is, for Kant, not purely or literally defensive; provided there is a serious enough threat, "the right of anticipatory attack" can also be legitimate.49

KJWT 2, Right intention. A state may go to war only with the intention of upholding its just cause, as specified in KJWT 1.

KJWT 3. Proper authority and public declaration. This is a very important jus ad bellum criterion for Kant. He stresses time and again that the head of state does not have the right to declare war with impunity; rather, the people must be consulted on each and every declaration of war. "For a citizen," Kant intones, "must always be regarded as a co-legislative member of the state (i.e., not just as means, but also as an end in himself), and he must therefore give his free consent through his representatives not only to the waging of war in general, but also to every particular declaration of war. Only under this limiting condition may the state put him to service in dangerous enterprises.'5o The war in question must be justifiable to the people qua rational colegislators; which is to say, it must be consistent with the CI-UPJ-SUPJ, as contended above. Furthermore, the resort to armed force must be publicly proclaimed to the enemy state so that duplicity and deceit do not mar the process.

KJWT 4. Last resort. Kant appears to have something like this in mind when he says that "an act of retribution.., without any attempt to gain compensation from the other state by peaceful means is similar in form to starting a war without a prior declaration [his italics].'5' Granted, there is no mention here of war being strictly the last resort (such an assertion does not appear to make much sense) but it ought not to be, according to Kant, the very first. Some serious attempt at a reasonable non-violent solution, perhaps through diplomatic negotiation, is to be made before resorting to war.

There does not seem to be anything in Kant which parallels the traditional criteria of probability of success and (macro-) proportionality. This is not that surprising since they make explicit appeals to consequentialist considerations, determining probabilities, and weighing costs and benefits, and so on. And we have seen that there is a strong anti-consequentialist streak in Kant's moral and political thinking. And although I have mentioned how such prudential concerns need not be utterly alien to Kant's views on these matters, there are simply no passages in the relevant works which even hint at his endorsement of these two just war criteria, which were common currency during his time. It would thus strain textual credibility to attribute them to him.

Whether there exists a criterion of comparative justice in Kant is more difficult to say. On the one hand, he does make some Hobbesian comments to the effect that the anarchy of the international arena rules out any determinate conception of morality and justice. He denounces what he calls "one-sided maxims backed by force."5~ On the other, appeal to the CI-UPJ-SUPJ, and the criterion of just cause resulting from it, would seem to question whether both sides can always have some justice in their cause. If one state S attacks another T (in the absence of any "alarming increase" in the power of T which might justify an anticipatory attack), what is the comparative justice of S's cause?

I am inclined to think that, on balance, there is something like comparative justice in Kant's just war theory. For, the lack of central authority, and thus of a fully determinate positive system of juridical state rights and duties, does leave room for interpretative conflict between states regarding the justice of their respective causes. Of course, Kant is not here advocating some kind of thoroughgoing subjectivism with regard to the application and interpretation ofjus ad bellumcriteria; he does believe that the CI-UPJ-SUPJ clearly rules out some actions and clearly justifies others. However, there is enough residual indeterminacy regarding the international rules for it to be a requirement of reason to selfcritically acknowledge some kind of limit to the justice of one's cause.53 Thus:

KJWT 5. Comparative Justice. Although the CI-UPJ-SUPJ is sufficiently determinate for us to make accurate and authoritative judgments regarding the justice of (and in) war, the lack of total determinacy makes it reasonable to require that all states self-critically acknowledge limits to the justice of their own cause and thus the imperative of fighting only limited wars, circumscribed by the criteria of jus in hello.

KJWT 6. Consistency with the ideal of perpetual peace. This suggestive yet imprecise criterion seems to serve two functions. The first is to underline the fact that a state may resort to warfare only for the purpose of vindicating and upholding the universal system of law and order which Kant constructs. The second, and arguably more important, function is to force a state resorting to armed force to consider in advance whether it can do so while adhering to the norms of jus in hello and even to those of jus post bellum. In other words, KJWT 6 seeks to run a normative thread through all three just war categories: a state considering resorting to war must not only fulfil all the jus ad bellum criteria but to commit itself in advance to avoiding, as far as possible, any breach of the norms of jus in bello and jus post bellum as the war unfolds. This forward-looking commitment to just conduct and appropriate war-termination is needed, Kant suggests, if the idea of perpetual peace following warfare is ever to have a chance of becoming practical reality.

7" 2 Jus in Bello The principal aspect to note about Kant's account of jus in bello is that it is quite weak and diffuse, at least relative to that of the Just War Tradition and to his own concerns with jus ad bellum and jus post bellum. In terms of the first standard criterion of jus in bello, Kant makes no mention of any consequentialist criterion of (micro-) proportionality. He does, however, appear to make one mention of discrimination: "(T)o force individual persons [in a conquered state] to part with their belongings.., would be robbery, since it was not the conquered people who waged the war, but the state of which they were subjects which waged it through them."54 Unfortunately, this is not a terribly precise account of the discrimination familiar from the Just War Tradition. The glaring omission in Kant is any kind of explicit mention and endorsement of noncombatant immunity. This is indeed disappointing, given the importance of the principle, but it seems to me that we can safely infer that Kant must have some such principle in mind because: 1) the quote just mentioned does enumerate an immunity of a kind upon the non-combatant civilian population; and 2) nowhere does Kant mention a right to kill innocent people (even in self-defense), which noncombatant civilians are presumed by traditional just war theory to be. Indeed, in the shipwreck/plank case cited earlier, he denied the existence of such a right. It is only rational actors (whether states or individuals) who either actually attack, or are imminently about to attack, that may be responded to with lethal armed force. So:

KJWT 7" Discrimination between combatants and non-combatants. Noncombatants are not to be made direct targets of armed force.

KJWT 8. No intrinsically heinous means. This seems to be the only truly explicit jus in bello category for Kant. For him, this rather vague and sweeping criterion rules out any wars of "extermination," "subjugation," and "annihilation." Civilian populations cannot be massacred or enslaved. It also means that states cannot employ "assassins or poisoners," or even spies.55 In short, "(t)he attacked state is allowed to use any means of defence except those whose use would render its subjects unfit to be citizens. For if it did not observe this condition, it would render itself unfit in the eyes of international right to function as a person in relation to other states and to share equal rights with them.'56 Such a state would, in effect, be an outlaw and unjust state. So, it is clear that, for Kant the anti-consequentialist, the end or cause does not justify the use of any means to attain it. Kant asserts this quite clearly when he says that "(t)he rights of a state against an unjust enemy [i.e., one who violates state rights, SRs 1-5, and state duties, SDs 1- 5] are unlimited in quantity or degree, although they do have limits in relation to quality. In other words, while the threatened state may not employ every means to assert its own rights, it may employ any intrinsically permissible means to whatever degree its own strength allows." (his italics)57

#### **I contend that economic sanctions on the Islamic Republic of Iran, Democratic People’s Republic of Korea, and/or the Bolivarian Republic of Venezuela violate the principles of Kantian just war theory.**

#### First, economic sanctions violate the categorical imperative by treating citizens as a mere means

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In addition to viewing sanctions within the ethical framework offered by the just war doctrine, we should also examine them from a deontological perspective. I refer here to Kant’s ethical theory, which holds that all rational beings are character- ized by “dignity,” the inherent worth of a person that makes him or her irre- placeable and that stands in contrast to those material things with a price, which can be exchanged for other things of equal or greater price without loss. This is the basis for Kant’s claim that all rational beings have autonomy, the right and the capacity to rule themselves. In Grounding for the Metaphysics of Morals, Kant says that it is a categorical imperative, an unconditional moral mandate binding on all rational beings, to “act in such a way that you treat humanity, whether in your own person or in the person of another, always as an end and never simply as a means.”8

This ethical framework would arguably have had little to offer in the debate over sanctions at the time that Article 16 of the Covenant of the League of Nations was being set forth as a mechanism of enforcement. The articulated purpose of sanctions was quite narrow: it was to stop military aggression. In that context, there were two innocent populations involved—the nonpolitical/non- military population of the aggressor nation and the entire population of the nation under attack. Because deontological ethics enjoins us to treat all human beings as ends in themselves and not solely as means, it would not offer much guidance in the situation where some innocent population (or at least a sector of the population) will be harmed, and where the issue is whether the innocents who are harmed will be the civilian population of the aggressor nation upon whom sanctions are imposed, or the civilian population of the attacked nations who are the objects of military aggression. In this case, either one population is the means to the military victory of the aggressor, or the other population is the means to interdict the aggressor.

But deontological arguments do offer guidance in situations where mil- itary aggression is not at issue, and where the choice therefore is not which innocent population suffers harm, but whether an innocent population may be harmed in the service of the political interests of a foreign state, or for the interest of the international community in enforcing norms. Where sanctions impose suffering on innocent sectors of the target country population for an objective other than preventing the deaths of other innocent persons, this is clearly incompatible with deontological ethics, since in these situations, to use Kantian language, human beings are reduced to nothing more than a means to an end, where that end is something less than the lives of other human beings.

#### **Second, economic sanctions violate the principle of nondiscrimination and constitute an intrinsically heinous means of force, thus contravening the requirements of Kantian jus in bello**

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In many regards, sanctions are the modern version of siege warfare: each involves the systematic deprivation of a whole city or nation of economic resources. Although in siege warfare this is accomplished by surrounding the city with an army, the same effect can be achieved by using international institutions and international pressure to prevent the sale or purchase of goods, as well as to stop migration. It is sometimes argued that an embargoed nation can still engage in marginal trade, despite sanctions; but in a siege as well there may be marginal ways of getting goods through gaps in the blockade. In both cases, however, the unit under embargo or siege is a mixed population rather than a military installation, or is entirely civilian. In both cases, the net effect is the same: the disruption or strangulation of the economy as a whole.

As Michael Walzer notes, siege is the oldest form of total war; in siege, noncombatants are not only exposed, but in fact are more likely to be killed than combatants, given that the goal of siege “is surrender, not by defeat of the enemy army, but by the fearful spectacle of the civilian dead. ”3The principle of discrimination in just war doctrine requires the attacker to distinguish between combatants and noncombatants; between combatants who are injured and those who are uninjured; between combatants who are armed and those who have surrendered and are defenseless; and so forth.4 There has never been a strict prohibition against killing civilians, or killing injured or unarmed combatants, when it is required by “military necessity” or as an unavoidable consequence of an attack on a legitimate military target. A common example is that an ammunition factory is a legitimate military target in wartime; if during the bombing of the factory civilians who live nearby are also killed, no war crime has been committed. What is prohibited is to target civilians, or injured or defenseless combatants, directly, or to bomb indiscriminately where the deaths of civilians are foreseeable. Siege warfare reverses these priorities: civilian suffering is not “collateral” damage, but rather is the primary objective of the siege strategy, or at least the foreseeable and direct result of siege.

Siege operates by restricting the economy of the entire community, creating shortages of food, water, and fuel. Those who are least able to survive the ensuing hunger, illness, and cold are the very young, the elderly, and those who are sick or injured. Thus the direct consequence of siege is that harm is done to those who are least able to defend themselves, who present the least military threat, who have the least input into policy or military decisions, and who are the most vulnerable. The harm done by the enemy’s deprivation is exacerbated by domestic policy, which typically shifts whatever resources there are to the military and to the political leadership. This is sometimes done for security reasons, in the belief that defending against military attack is the highest priority, more immedi- ately urgent than the slower damage of hunger and illness to which the civilian population is subjected. It may also happen because the leadership is corrupt, or because the desperation creates conditions for black marketeering. Both of these consequences —the suffering of the innocent and helpless, and the shifting of resources to the military and the privileged—are as old as siege itself.

Thus, the argument can be made that siege is a form of warfare that itself constitutes a war crime. In just war doctrine we could demand a justification for a military strategy in terms of the obligation to minimize harm to civilians: the ammunition factory was a legitimate target, and there was no way to bomb it without collateral damage to nearby residential areas. But siege is peculiar in that it resists such an analysis: the immediate goal is precisely to cause suffering to civilians. In the case of the ammunitions factory, we can answer the question, how is this act consistent with the moral requirement to discriminate? In the case of siege, we cannot.

Sanctions are subject to many of the same moral objections as siege. They intentionally, or at least predictably, harm the most vulnerable and the least polit- ical, and this is something the party imposing sanctions either knows or should know. To the extent that economic sanctions seek to undermine the economy of a society and thereby prevent the production or importation of necessities, they are functioning as the modern equivalent of siege. To the extent that sanctions deprive the most vulnerable and least political sectors of society of the food, potable water, medical care, and fuel necessary for survival and basic human needs, sanctions should be subject to the same moral objections as siege warfare.

Drew Christiansen and Gerard Powers argue that the just war doctrine does not apply to peacetime sanctions in the same way that this doctrine applies to sieges and blockades imposed as part of a war effort. The fundamental difference, they hold, is that the use of economic sanctions is rooted in the intention to avoid the use of armed force, as opposed to the intent to multiply the effects of wars The distinction between sanctions-as-war and sanctions-as-nonviolent-alternative-to-war goes back to the fundamental question, what kind of “things” are economic sanctions? Are sanctions “a stern but peaceful act”-a punishment that inconve- niences or embarrasses, but does no damage of the sort that raises moral issues? Or are they a form of slow-acting but lethal warfare, which targets the innocent and helpless in a way that would constitute a war crime in a military context? The implications of this ontological issue are enormous: in one view, economic sanc- tions are attractive and can be ethically justified easily and often; in the other view, sanctions do gratuitous, direct human damage that is ethically indefensible. Christiansen and Powers suggest that warfare is akin to the death penalty, whereas sanctions are more like attaching someone’s assets in a civil proceeding. In this analogy, the economic domain is seen as fully separate, and of a different nature altogether, from the domain of power and violence. But economic harm, while it is not directly physical, can also be a form of violence. The sanctions-as- mere-seizure-of-assets theory, whether on the level of the individual or an entire economy, implicitly assumes a starting point of relative abundance. Whether the seizure of someone’s assets is inconvenient or devastating depends entirely on what those assets are and how much is left after the seizure. “Economic depriva- tion” is not a uniform phenomenon; the loss of conveniences constitutes a differ- ent experience from the loss of the means to meet basic needs.

I do not deny that the contexts in which sanctions and sieges occur maybe dif- ferent. The intent of each may differ, the nature of the demands maybe different, and the options of the besieged or sanctioned states may be different. But the moral objection to sanctions does not rest on the analogy; sanctions do not have to be identical to siege warfare in order to be subject to condemnation under just war principles. Indeed, if the intent of sanctions is peaceful rather than belligerent, then the usual justifications in warfare are unavailable. I am morally permitted to kill where my survival is at stake, and in war, I am morally permitted to kill even innocents, in some circumstances. But if one’s goal is to see that international law is enforced or that human rights are respect- ed, then the stakes and the justificatory context are quite different.

Lori Fisler Damrosch has argued that sanctions warrant a particularly high degree of tolerance because of the importance of the international norms they are intended to protect: Especially in the case of norms such as the prohibitions against aggression and genocide, which are themselves devoted to the preservation of human life, it may be necessary to tolerate a high level of civilian hardship in order to prevent or at least discourage future violations.7

Yet it is hard to make sense of the claim that “collateral damage” can be justified in the name of protecting human rights; or that international law might be enforced by means that stand in violation of international laws, including the just war principle of discrimination. Thus, if sanctions are analogous to siege war- principle of discrimination. But if sanctions are not analogous to siege, then they are even more difficult to justify. If the goals of sanctions are the enforcement of humanitarian standards or compliance with legal and ethical norms, then exten- sive and predictable harm to civilians cannot be justified even by reference to sur- vival or military advantage. Insofar as this is the case, sanctions are simply a device of cruelty garbed in self-righteousness.

#### Third, economic sanctions are politically and economically ineffectual – history proves that sanctions do not alter state conduct, but rather exacerbate nationalism

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Since the formation of the League of Nations, those defending sanctions have jus- tified them in part on the basis of utilitarian reasons: the argument is that the eco- nomic hardship of the civilian population of the target country entails less human harm overall, and less harm to the sanctioned population, than the military aggres- sion or human rights violations the sanctions seek to prevent. Yet if this is so, then—as an ethical matter—we must look at the effectiveness of sanctions. If they do not in fact stop military aggression or human rights violations, then a procedure that harms innocent sectors of the population loses its utilitarian justification.

We might begin by distinguishing between economic effectiveness and political effectiveness. A common view is that the “generally accepted goal” of sanctions is “to influence the conduct of political actors in another country who refuse to conform to the accepted norms of international conduct. “2° Economic effectiveness concerns “the volume of pecuniary damage or disruption inflicted, while political effectiveness refers to the degree that desired changes, if any, are undertaken by the target state. “21

Johan Galtung points out that the economic damage done by sanctions in fact tends to have little likelihood of actually achieving the stated goal of forcing the target nation to change its conduct or policies. Instead, he argues, what emerges is an ethos of “conspicuous sacrifice. “22Far from undermining the political legitima- cy of the target state, sanctions often trigger the opposite response:

Galtung used the term “rally-around-the-flag effect” to argue that leaders in tar- get nations could use the economic pain caused by foreign nations to rally their populations around their cause. Rather than creating disintegration in the target state, sanctions would invoke nationalism and political integration.2j

The relation between economic effectiveness and political effectiveness is not at all clear; indeed, it may be an inverse relation. Many economists and his-torians hold that, generally, sanctions are politically ineffectual. In the twentieth century, this assessment dates back at least to the first time the League of Nations sought to impose sanctions on a major military power—Italy under Mussolini— and failed quite spectacularly.24 Rather than impeding Mussolini, the sanctions were reported to increase patriotic fervor and support for his military project.zs Sanctions were denounced as ineffectual in stopping aggression,zd and the League of Nations did not survive.

Losman’s study of long-term boycotts against Israel, Cuba, and Rhodesia notes that even where there was considerable economic damage, the only apparent political effect was increased political integration.27 The common (though not uni- versal) result is that “the morale-killing effects of economic sanctions often operate in the opposite fashion, stimulating xenophobia and strengthening the determination of the target country to maintain its stance. “28 The scholarship on sanctions has to a large extent documented this phenomenon, though it has also described exceptions.

In the first large empirical study of the success of sanctions in the twentieth century, published in 1985, Hufbauer, Schott, and Elliott held that sanctions had in fact been effective in about one-third of the situations in which they were imposed.29 Theirs is one of the most optimistic estimates. Others question whether sanctions have been effective even one-third of the time.JO It is not surprising to see historians, political scientists, and economists echoing the observation that target nations can- not generally be expected to change their acts or policies in response to sanctions.

Thus, when we work out the utilitarian calculus of sanctions, we see on one side that there is not a high likelihood that sanctions will succeed in stopping military aggression or human rights violations. On the other side of the calculus, we see the high probability, if not inevitability, that sanctions will harm the most vulnerable population.

## 1AR

### 1AR – AT: NC Contention

#### Sanctions cannot be justified via consent – citizens of sanctioned countries are not liable to the harms imposed on them

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Within the history of sanctions, it is quite rare to find actual consent by those most affected by siege or by the sanctions. The sanctions against South Africa, and arguably Haiti, were perhaps the only instances in the twentieth century that could be defensible on deontological grounds. In the case of South Africa, a number of sectors of the black population, which was directly harmed far more than the white minority leadership, actively supported sanctions, although that view was not unanimous.10 Similarly, Jean-Bertrand Aristide, who had strong popular support for his leadership, supported sanctions against Haiti, although, consistent. According to one observer, there were “three distinct moments. ” The first came with the original sanctions; there was great enthusiasm for them among the Haitian people, who were themselves defenseless and thought sanc- tions would hasten the departure of coup leaders. In the second moment, the sanctions, though not welcomed with enthusiasm, were nevertheless accepted by most of the population because coup leaders opposed them, and because the sanctions were perceived as an act of solidarity by the international community. In the third phase, it became clear to the Haitian people that not only had the embargo failed to achieve its stated goals, but new financial gains were being made precisely by those whom sanctions were supposed to target. 11

Damrosch and others have noted the importance of obtaining support for sanctions from “authentic leaders” within the population that bears the brunt of the economic deprivation. 12But even that is quite different from actual con- sent—and from actual authorization. The leader of any movement may well decide that certain sacrifices can be borne by some for the sake of the movement; but that does not mean that those to be sacrificed have consented. By contrast, in Anglo-American law the notion of autonomy is reflected in the requirements that must be met in order for an individual to consent to be harmed. Whether it is authorization for surgery, a waiver of liability for injury, or consent to be a subject in medical experimentation, not only must every particular individual sign an explicit statement of consent, but consent is not valid unless the signator has been informed of the nature and likelihood of the harm; and like every con- tract, such an agreement is not valid in circumstances of duress or coercion. With sanctions, the risks include malnutrition, lack of emergency medical care, lack of fuel, and deprivation of the necessities of survival, as well as the less visible harms of psychological trauma, lost education, lost job opportunities, and social disintegration. Given the stakes, it would seem that a commitment to autonomy and the integrity of the person would require that those who would be most vul- nerable to these injuries must provide actual, explicit, and informed consent. Where that is not the case—which is to say, in almost every case of sanctions in the twentieth century and before-then sanctions are simply the imposition of suffering upon the innocent, against their will.

Damrosch frames the question of imputed consent as: “Do we assume that peo- ple of the target state are innocent and passive bystanders, victims of their own rules and of sanctions? Or that they have the capacity to exercise free choice? “13 The question seems to invite the response that, of course, all persons have free will and are therefore accountable for their choices. But we know from the his- tory of sanctions that this is not a realistic depiction of a nation under sanctions. Under sanctions, state control over the media is likely to increase, while nonstate parties have less access to equipment and materials needed to disseminate infor- mation.14 As families are forced to go to the black market for necessities, their savings are eroded and their energies are directed primarily toward meeting their immediate needs. The economic hardship to the middle class and the poor means that they will not have enough resources to consider emigrating. Even in a demo- cratic society, the civilian population has no direct input into particular military and political decisions; and in an authoritarian society, this is even more true. Thus, the answer to Damrosch’s question is no, we should not assume that the civilian population freely chooses the decisions made by the military and political leaders; it may not have even freely chosen the leaders themselves. Neither should we assume that it freely chooses to stay, given the burden and cost of emigration. It is not even clear that we can say that a population freely choos- es to support national military and political decisions, in a context of limited and distorted information and enormous social and political pressure.

### 1AR – AT: Kant=/=JWT

#### Just war theory and lethal use of force is compatible with Kant’s moral theory

**Orend 99** [(Brian, Director of International Studies and a Professor of Philosophy at the University of Waterloo, Ph.D. from Columbia University, has taught at Columbia, Waterloo, and the University of Lund, has published 6 books and written for New York Newsday and The Los Angeles Times) “Kant's Just War Theory,” Journal of the History of Philosophy, 4/1999] TDI

In this section, I have offered two substantive reasons or explanations as to how Kant can possibly be a just war theorist, given that he is neither a realist nor a pacifist about the ethics of war and peace. The first is that, since rational agents are entitled to use lethal force to defend themselves against violent attacks on their lives, and since states, qua moral persons, are rational actors, it seems to follow straightforwardly that they, too, must have such a right of armed self-defense. Secondly, and more profoundly, it was contended that the resort to war in Kant can be justified by appealing to his very core principles: the cI-uPJ-SUPJ. When war is reasonably deemed a necessary element for the security and integrity of a just system of international law and order, then it may be resorted to. When the system designed to achieve a just and perpetual peace can only be upheld and vindicated with the use of armed force and the launching of a war, then such a war is just.

#### Just war theory distinguishes between jus ad bellum and jus in bello – jus ad bellum concerns the justice of fighting a war in the first place, and jus in bello concerns the justice of conduct deployed in war

**Orend 99** [(Brian, Director of International Studies and a Professor of Philosophy at the University of Waterloo, Ph.D. from Columbia University, has taught at Columbia, Waterloo, and the University of Lund, has published 6 books and written for New York Newsday and The Los Angeles Times) “Kant's Just War Theory,” Journal of the History of Philosophy, 4/1999] TDI

Just war theory, at least in terms of what we might call the Just War Tradition (composed of thinkers like Augustine, Aquinas, and especially Grotius), typically makes a fundamental distinction between jus ad bellum and jus in bello. Jus ad bellum concerns the justice of fighting a war in the first place. It sets the normative criteria which must be met by any state considering the resort to armed force. Most typically, the traditional jus ad bellum criteria (JWT, for '~just war tradition") include the following:

JWT 1.Just cause. A state must have a just cause in launching a war. The causes most frequently mentioned by the just war tradition include: self defence by a state from external attack; the protection of innocents within its borders; punishment for wrongdoing; and, in general, vindication for any violation of the two core state rights: political sovereignty and territorial integrity. JWT 5. Right intention. A state must intend to fight the war only for the sake of those just causes listed in JWT 1. It cannot legitimately employ the cloak of a just cause to advance other intentions it might have, such as ethnic hatred or national glory. JWT 3. Proper authority and public declaration. A state may go to war only if the decision has been made by the appropriate authorities, according to the proper process, and made public, notably to its own citizens and to the enemy state(s). JWT 4. Last resort. A state may resort to war only if it has exhausted all plausible, peaceful alternatives to the resolution of the conflict in question, in particular diplomatic negotiation. JWT 5. Probability of success. A state may not resort to war if it can reasonably foresee that doing so will have no measurable impact on the situation. The aim here is to block violence, killing and destruction which is going to be futile. JWT 6. (Macro-) Proportionality. A state must, prior to initiating a war, weigh the expected (universal) good to accrue from prosecuting the war against the expected (universal) evils which will result. Only if the benefits seem reasonably proportional to the costs may the war proceed. JWT 7. Comparative justice. This final criterion is hotly disputed, even within the just war tradition. Grotius, for instance, vehemently denounced it as incoherent whereas Vattel insisted upon it as being essential to moderation within war. The idea here is that every state must acknowledge that each side to the war may well have some justice to its cause. Thus, all states are to acknowledge that there are limits to the justice of their own cause, thus forcing them to fight only limited wars. Only ifJWT 1-6 (and perhaps 7, depending on the theorist) can be, and are, jointly satisfied is a state justified in going to wary

Jus in bello, by contrast, sets out the normative criteria for determining the justice of particular actions undertaken once war has begun. So, jus ad bellum considers the justice of going to war in the first place (the reasons for fighting, the ends for which states may fight) whereas jus in bello considers the justice of the fighting itself (the means employed in the pursuit of the end). There are two traditional jus in bello criteria: JWT 8. (Micro-) Proportionality. Similar to JWT 6, states are to weigh the expected (universal) goods/benefits against the expected (universal) evils/costs not only in terms of the war as a whole but also in terms of each significant military tactic and manoeuvre within the war. Only if the goods/benefits of the proposed tactic or action seem reasonably proportional to the evils/costs may a state (or its armed forces) employ it. JWT 9. Discrimination. It is sometimes wryly noted that just war theory is the one area in political philosophy in which discrimination is acceptable. The key distinction to be made here is between combatants and non-combatants. Non-combatant civilians, unlike combatant soldiers, may not be directly targeted by any military tactics or manoeuvres; non-combatants (thought to be "innocent" of the war) must have their human rights respected. Here too, it is only when a state (through its armed forces) fulfils bothJWT 8 and 9 that it can be said to be fighting a war justly. Two further comments are relevant here. The first is that most just war theorists insist thatjus ad beUum andjus in bello are separate (though this is more clouded with those theorists who accept comparative justice). The idea here is that a war can be begun for just reasons, yet prosecuted in an unjust fashion. Similarly, though perhaps less commonly, a war begun for unjust reasons might be fought with strict adherence to jus in bello. The categories are at least logically or conceptually distinct. The second comment is that the jus ad beUum criteria are thought to be the preserve and responsibility of political leaders whereas the jus in bello criteria are thought to be the province and responsibility of military commanders, officers and soldiers.48

### 1AR – AT: Util

#### Utilitarianism entails a morally unacceptable form of agential alienation – util generates demands that require agents to give up their personal projects and commitments

**Williams 88** [(Bernard, an English moral philosopher) "Consequentialism and Integrity," pp. 48-50, from S.Scheffler, ed., Consequentialism and its Critics (Oxford, 1988)]

The decision so determined is, for utilitarianism, the right decision. But what if it conflicts with some project of mine? This, the utilitarian will say, has already been dealt with: the satisfaction to you of fulfilling your project, and any satisfactions to others of your so doing, have already been through the calculating device and have been found inadequate. Now in the case of many sorts of projects, that is a perfectly reasonable sort of answer. But in the case of projects of the sort I have called 'commitments', those with which one is more deeply and extensively involved and identified, this cannot just by itself be an adequate answer, and there may be no adequate answer at all. For, to take the extreme sort of case, how can a man, a utilitarian agent, come to regard as one satisfaction among others, and a dispensable one, a project or attitude round which he has built his life, just because someone else's projects have so structured the causal scene that that is how the utilitarian sum comes out?

The point here is not, as utilitarians may hasten to say, that if the project or attitude is that central to his life, then to abandon it will be very disagreeable to him and great loss of utility will be involved. I have already argued in Section 3 that it is not like that; on the contrary, once he is prepared to look at it like that, the argument in any serious case is over anyway. The point is that he is identified with his actions as flowing from projects and attitudes which in some cases he takes seriously at the deepest level, as what his life is about (or, in some cases, this section of his life—seriousness is not necessarily the same as persistence). It is absurd to demand of such a man, when the sums come in from the utility network which the projects of others have in part determined, that he should just step aside from his own project and decision and acknowledge the decision which utilitarian calculation requires. It is to alienate him in a real sense from his actions and the source of his action in his own convictions. It is to make him into a channel between the input of everyone's projects, including his own, and an output of optimific decision; but this is to neglect the extent to which his actions and his decisions have to been as the actions and decisions which flow from the projects and attitudes with which he is most closely identified. It is thus, in the most literal sense, an attack on his integrity.'

# NEG

## 1NC

### 1NC – Human Rights NC

#### The standard is consistency with international norms of human rights protection.

#### **In order for a state to have a claim to sovereignty, it must succeed in fulfilling its function, or moral purpose, which is the protection of individuals’ basic human rights — if a state fails to fulfill its function, its sovereignty can be revoked**

**Pietschmann 21** [(Joost Hendrik, PhD Candidate and Graduate Teaching Assistant in International Relations at University of St Andrews) "Filling the Gap: The Moral Purpose of the State and the Duty to Intervene," International Relations, 6/6/21, https://www.e-ir.info/2021/06/06/filling-the-gap-the-moral-purpose-of-the-state-and-the-duty-to-intervene/] TDI

Constructivists perceive of international norms as “shared understandings as to the permissible limits of state action, and an acceptance that conduct should be justified and appraised in terms of that norm” (Wheeler 2002: 30).[9] In this regard, they are viewed as having a social ontological character meaning that they are social rather than natural facts. Accordingly, the application of international norms is regarded as a social construction co-constituted by the members of international society (Kuo 2014: 79). Viewing international politics according to this dynamic is helpful for understanding the development of human rights. Similar to social life, the international realm is constituted by a variety of contending sets of expectations as to how actors ought to behave (Dunne & Hanson 2016: 64). Adopting a terminology created by John Rawls the rules of conduct that are reached despite this disunity can be referred to as an ‘overlapping consensus’. What is meant by this with regard to human rights is that people of different faiths or secular traditions (what Rawls refers to as ‘comprehensive doctrines’) can still and do converge on some common moral values. They thus reach an ‘overlapping consensus’ on a set of human rights even though they disagree on as to which moral theory is the most plausible to ground these rights (Caney 2005: 29; Donnelly 2007). Such consensus then is political rather than moral or religious which means that it is socially constructed rather than “by nature” of human rights itself. Understanding human rights in this sense, constructivists then argue that the inter-state order can be transformed by the social construction of norms (as their acceptance establishes that conduct should be justified and appraised in terms of these norms) and has in fact been transformed in this way by the emergence of a consensus on universal human rights in the form of the UDHR (this will become apparent in the next section) (Dunne & Hanson 2016: 64). Thus, constructivism acknowledges both the fact that human rights are an integral part of international relations and the fact that these rights are, first and foremost, political insofar that they fulfil a function, that is, to define standards of conduct applicable to political arrangements. Having established the political reality of human rights in this way, it is now time to take an in-depth look at sovereignty in order to examine how it relates to the former.

(ii) The co-dependency of human rights and sovereignty

Recall the fact that the political reality of human rights is one of a social construct that is fulfilling a specific function which is defining standards of conduct applicable to political arrangements. Continuing to adopt a constructivist perspective, one can think of sovereignty in the same way.

Although sovereignty and especially anarchy were once taken as enduring facts of the international realm, a number of authors has now shown that they are better understood as ‘social facts’ (Searle 1995) or ‘social kinds’ (Bhaskar 1979; Wendt 1999), that is, social constructs that are produced and reproduced through the practices of states (Lake 2003: 308). Accordingly, sovereignty has to be understood as nothing exogenous to the system but as a principle of historical contingences meaning that “the division of sovereignty by territory (internal or external) and by identity (similar or different) is neither natural nor necessary but the result of several historical developments” (Kuo 2014: 79).[10] In this regard, then, sovereignty is to be seen as also fulfilling a function. This has been illustrated most powerfully by Reus-Smit (1997; 1999; 2001) who links sovereignty to the ‘moral purpose of the state’ which is to be regarded as the embodiment of the constitutive values defining legitimate statehood and rightful action. Reus-Smit explains that “the idea of sovereignty did not emerge in a moral vacuum but had to be justified, and that justification has always taken the form of an appeal to higher-order values that define the identity or raison d’être of the state” (Reus-Smit 2001: 527). What is meant by this is that sovereignty has always been tied to a conviction on what the state’s purpose (i.e. its function) is as well as to its ability of fulfilling this purpose (Reus-Smit 1997: 566-571). Accordingly, sovereignty is to be understood as being contingent on fulfilling its function – that is guarding the ‘moral purpose of the state’. Obviously, what is associated with this purpose and thus what is considered as the threshold to be reached for an actor to be granted legitimate statehood has changed over time.[11] However, as evidenced by the UDHR consensus, the moral purpose of the state has come to be most commonly linked to the cultivation of an environment in which individuals can freely pursue their interests protected by a particular set of state-sanctioned ‘rights’ (Reus-Smit 1997: 571). These rights, then, are at minimum the basic civil and political rights agreed upon in the UDHR and thus a subset of the account of human rights on which there is an overlapping consensus in international society. It follows that, under the consensus of the UDHR (which resembles the contemporary agreement on the set of rights that constitute the moral purpose of the state), sovereignty and human rights are co- dependent as the latter enables and legitimizes the former while the former enables recognition and protection of the latter.

Identifying and being aware of this relationship, then, provides the necessary justification for why sovereignty as control should be replaced by sovereignty as responsibility. This is the case, because framing sovereignty in this way acknowledges political reality which means that it is sensitive towards the fact that there is a consensus on the moral purpose of the state (i.e. the gateway for sovereignty) being the guardian of human rights. The sovereignty that is granted to a state by international society under the current consensus, thus, can be regarded as being dependent on this state fulfilling its responsibility towards its citizens. Failure, in this regard, will certainly result in this state being publicly condemned and its sovereignty being partially or fully revoked due to it losing its legitimacy. Examples for this include, first and foremost, the passage of resolutions in the UN (i) to publicly denounce the failure of a state to uphold its moral purpose (e.g. UNGA Resolution A/RES/74/246 condemning human rights abuses against Myanmar’s Rohingya Muslims), (ii) to impose sanctions on such state (e.g. UNSC Resolution 181 imposing an arms embargo on South Africa in response to its Apartheid policies) or (iii) to authorize military intervention (e.g. UNSC Resolution 1973 authorizing the intervention in Libya).

#### The very nature of human rights gives agents the standing, or authority, to demand that their state protect human rights – thus, states have a positive duty to protect against human rights violations of its citizens

**Pietschmann 21** [(Joost Hendrik, PhD Candidate and Graduate Teaching Assistant in International Relations at University of St Andrews) "Filling the Gap: The Moral Purpose of the State and the Duty to Intervene," International Relations, 6/6/21, https://www.e-ir.info/2021/06/06/filling-the-gap-the-moral-purpose-of-the-state-and-the-duty-to-intervene/] TDI

After having provided a rationale for why sovereignty should be framed as responsibility in the previous section, what remains to be done is to prove that the co-dependency of human rights and sovereignty indeed yields a positive duty for states to intervene in the affairs of other states in order to defend human rights.

Human rights (such as the right to life and freedom from violence and injury) are what is called Hohfeldian claim rights, that is, duties that are owed to other individuals (Hohfeld 1917). In this sense, as Valentini points out, they follow a particular logical structure: “For an agent A to have a right to X against another agent B is for A to have the standing, or authority, to demand X from B” (Feinberg 1970; Valentini 2016: 53). It follows, that the notion of a right is to be understood as combining a duty (a moral ‘ought’) with a structure of interpersonal accountability for the duty’s fulfilment (Valentini 2016: 53). The political reality of this structure was revealed by the constructivist perspective which has shown that sovereignty is granted by the state discharging its duty to provide protection of human rights which has become regarded as fulfilling its moral purpose. Here, the structure of interpersonal accountability for the duty’s performance is given by the relationship between sovereignty and human rights where the latter enables and legitimizes the former while the former enables recognition and protection of the latter. Thus, individuals have a standing, or authority, to demand X from B where B is the state. However, what remains unclear is how this would create a positive duty on the side of other states to intervene when B fails to discharge its duty.

#### In turn, all international actors have a positive duty to intervene when a state fails to protect the human rights of its citizens – because human rights are an ordering principle of international society, they are universally accepted, and thus constitute a claim that is held against every international actor

**Pietschmann 21** [(Joost Hendrik, PhD Candidate and Graduate Teaching Assistant in International Relations at University of St Andrews) "Filling the Gap: The Moral Purpose of the State and the Duty to Intervene," International Relations, 6/6/21, https://www.e-ir.info/2021/06/06/filling-the-gap-the-moral-purpose-of-the-state-and-the-duty-to-intervene/] TDI

In order to shed some light on this recall the fact that the overlapping consensus on the moral purpose of the state (that is illustrated by the UDHR and the acceptance of the R2P doctrine’s idea to replace sovereignty as control with sovereignty as responsibility) is used as a means to determine which states can justify their sovereignty and thus their legitimacy to international society by fulfilling their function of protecting individuals’ rights. Beyond that, as was shown in the previous section, what this consensus constitutes is that these rights are regarded to be universally agreed upon (even though the underlying comprehensive doctrines differ) what in turn establishes them as what is called a norm on the constructivist perspective (i.e. a shared understanding as to the permissible limits of state action, and an acceptance that conduct should be justified and appraised in terms of that norm) (Wheeler 2002: 30).

The norm of human rights protection understood as the ‘moral purpose of the state’ is thus to be seen as one of the ordering principles of international society (a shared understanding which binds together it members) meaning that it is universal in scope with respect to the actors of international society. Then, if these rights are universal in scope and universally accepted as an international norm, they constitute a claim that is held against every agent and/or agency that is part of international society. It follows that in so far as these human rights are universal, they will have primary and secondary addressees in the sense that they yield a special positive perfect duty[12] in the domestic environment of the state and a general imperfect duty[13] in international society. What is meant by this is that their ‘claim against’ is directed at a particular agent (the state) in the domestic environment whereas such claim does not have a particular addressee in international society that could be held accountable.

To illustrate this further, consider the addressees of the right to freedom from torture. Based on the moral purpose of the state, each government has the duty to safeguard people within its borders from torture and to take the necessary steps to prevent, deter, and stop torturing (Nickel 1993: 80-81). The states sovereignty being contingent on its ability to discharge such duty then highlights why it cannot refrain from doing so and why human rights protection constitutes a special positive perfect duty in the domestic nexus for which the state can be held accountable by its citizens. However, such an explicit structure of interpersonal accountability for the duty’s performance cannot be found in international society as citizens of some state A do not have a claim against any particular agent i of international society S in so far that they have not opted into a constitutional structure with i.

However, the fact that human rights protection thus constitutes a general and imperfect duty with respect to international society does not revoke its validity. Being a shared understanding which binds together international society, the norm still acknowledges that human rights are to be protected. This means that it does not deny that someone ought to act but expounds that there simply is no identifiable agent who can be called upon to act (Tan 2006: 102). What is important is that the issue of agency here is thus not conceptual but strategic. Hence, even if it is not directed at any agent in particular, the duty of human rights protection still demands full coverage. As Shue explains, “universal rights, then, entail not universal duties but full coverage” (Shue 1988: 690). This means that, even though human rights (being understood as universal under the UDHR consensus) do not compel everyone in the same way to act to aid their protection as they compel everyone not to violate them, it is still the case that they compel action in general. This means that all international actors do have an obligation to cooperate and coordinate so that the duty of human rights protection can be effectively discharged. In this sense, that is contributing towards the protection of human rights, intervention in the affairs of other states is a positive duty that falls on every state of international society respectively. Full coverage, then, is to be provided by a division of labour amongst duty-bearers (Shue 1988: 690). Here, there are a number of actions that outside actors can undertake to comply with this default duty. They might publicly condemn the human rights violations, apply diplomatic pressure, or impose sanctions (both military and economic).

#### I contend that the imposition of economic sanctions is morally necessary for the United States to uphold its duty to protect the human rights of the citizens of **the Islamic Republic of Iran, Democratic People’s Republic of Korea, and/or the Bolivarian Republic of Venezuela.**

#### Economic sanctions are the ideal method by which states can uphold their positive duty to protect against human rights abuses – they distribute costs most equally to nonliable agents

**Pattison 15** [(James, Professor of Politics at the University of Manchester) "The Morality of Sanctions," Social Philosophy and Policy, https://www.cambridge.org/core/journals/social-philosophy-and-policy/article/abs/morality-of-sanctions/AD00A170D096EDBB5948056EE45B5126] TDI

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 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.

### 1NC – AT: Kantianism

**Kant’s radical freedom thesis is false – intentions correspond with brain states which follow causal chains**

**Horne** **1912** [(Herman Harrel, professor of philosophy and education at a number of prominent American universities, and published numerous books and articles. His best-known work, The Democratic Philosophy of Education (1932), was a critical analysis of John Dewey's educational theories.) “The Arguments for Determinism,” Macmillan Publishing Co. republished by California State University Long Beach, https://web.csulb.edu/~cwallis/100/articles/arguments\_for\_determinism.html] TDI

The typical subjective science is psychology. The last fifty years of the, wonderful nineteenth century saw psychology, hitherto rational and introspective, invaded by the scientific methods of observation, experimentation, and explanation. Since the methods of science exclude freedom of the will, it is natural that most scientific psychologists today are, as psychologists at least, determinists. The lamented Professor James is a noted exception, but his psychology has been most criticized by his fellows just on the ground of his "unscientific" retention of freedom of the will. As illustrating the contemporary attitude toward freedom, the following somewhat contemptuous and evasive reference may be cited: "We may prate as much as we please about the freedom of the will, no one of us is wholly free from the effects of these two great influences [heredity and environment]. Meantime, each of us has all the freedom any brave, moral nature can wish, i.e., the freedom to do the best he can, firm in the belief that however puny his actual accomplishment there is no better than one's best."1 The question is **not whether we are "wholly free" from these influences, but whether we are at all free**. The psychological defenders of determinism refer to "the working hypothesis of psychology," viz., there is no mental state without a corresponding brain-state; that the brain-state is to be regarded as the explanation of the mental state since successive mental states have no quantitative measurable relations; that the brain-state is itself to be explained not by reference in turn to the mental state **but** by reference to the preceding brain-state. Thus the chain of **physical causation is unbroken**; it is **self-explanatory**; it also explains the mental series; but the mental series in turn explains nothing on the physical side. This working hypothesis does effectually exclude the conscious will from all efficaciousness. In favor of this hypothesis as a working basis for psychology, it is to be remarked that our modern knowledge of localization of brain functions, of the aphasias, of the insanities, is largely dependent upon it. Psychology also emphasizes our ignorance respecting the real relations of mind and brain, and emphasizes our inability to imagine just how attention could change a brain-state, though just such an effect is attributed to attention in some theories of free will. Psychology as a science of mind also has its presuppositions respecting law. If the mental region is to be understood, it also must have its laws. These laws must be without any exception, such as free will would imply. It is the business of psychology, as a science, to deny exceptions and dis cover laws. . . . One of these laws affects our present question intimately. It is the law of motive. It asserts there is no action of will without a motive and that the strongest motive determines the will. Action is always in accord with the strongest motive, and the motives are provided by the heredity or the environment, or both. How could one choose to follow the weaker of two motives? Psychologists are better aware than others of the sense of freedom revealed to introspection. Men often feel they are free to decide in either of two ways. Such a feeling, however, the **psychologists do not consider as proof of** the fact of **freedom.** The **mind** often **cherishes false opinions** concerning matters of fact; **delusions** are among the commonest mental phenomena. Schopenhauer, particularly, admitted that men felt at times they were free, while he denied they were really free. A straight staff appears bent, in a clear pool, and cannot be made to appear otherwise, despite the fact of its straightness and despite our knowledge of the fact. If we had never seen it out of the pool we should probably affirm it was crooked. So most people, judging by appearances, believe in freedom because they feel they are free. There is thus a possibility of general deception respecting this belief in freedom. This possibility is appreciated if we recall some hypnotic phenomena. A man may, though awake, under the influence of post-hypnotic suggestion, give away some of his property; he may then sign a statement saying he did it of his own free will and accord; spectators know otherwise. . . .

### 1NC – AT: Just War Theory

#### Reject applications of just war theory to economic sanctions – there are significant differences between war and economic sanctions

**Ellis 20** [(Elizabeth, associate professor of history at Princeton University) "The Ethics of Economic Sanctions: Why Just War Theory is Not the Answer," https://link.springer.com/article/10.1007/s11158-020-09483-z, 10/22/2020] TDI

In the case of preventive economic sanctions, however, the appropriate analogy is not shooting someone before she shoots you, it is refusing to sell her the gun she plans to shoot you with—at least in the case of arms sanctions. For other sanction types the analogy might be: (1) refusing to lend her the money to buy the gun (financial sanctions—direct mechanism), (2) preventing her withdrawing the money she needs to buy the gun (asset freezes—direct mechanism), (3) refusing to trade some or all goods/services with her and her friends/family until she agrees to stop threatening you (indirect economic sanctions—including comprehensive sanctions). Intuitively, it seems to me that at least some of these actions are clearly unproblematic—even in cases where the attack is not imminent. Preventive sanctions might be morally permissible even where preventive war is not. To clarify, this is not to say that preventive sanctions are always morally permissible, my claim here is only that there is no reason to think that orthodox just war theory draws the right line between permissible and impermissible preventive sanctions: ‘not trading’ is very different to shooting, bombing, stabbing etc., and this needs to be taken into account when drawing any line.

At this point it might be tempting to think that we could just make some additional amendments to the just war principles to account for these three examples. We could alter the ‘just cause’ condition to allow for preventive economic sanctions in certain circumstances. We could remove or alter the ‘legitimate authority’ condition. We could also remove the ‘presumption against economic sanctions’ and say that the just war principles are not actually necessary and sufficient conditions for just economic sanctions but something more like guidelines. I do not think that this is the best way to proceed. First, the three examples here are only the tip of the iceberg. There are many more relevant differences between economic sanctions and war. Second, such an ad hoc approach could miss important issues.

Further, one might argue that I have not shown that the just war principles are inappropriate, I have only shown that an orthodox interpretation of the just war principles are inappropriate. It could be that there is some revisionist theory of just war—with an alternative interpretation of the principles—that does give us the ‘right answers’ for economic sanctions. Of course this is possible. However, if some set of revisionist just war principles gave ‘the right answers’ (in the sense they matched our intuitions about cases) then it would do so purely by chance. Revisionist just war principles—like orthodox principles—are supported by arguments about when it is morally permissible to bomb, shoot and stab people. If revisionist principles nevertheless somehow give the ‘right answer’ for sanctions, this would be due to luck rather than those principles being grounded in any facts about sanctions and their effects.

Conclusion

As I have shown, there are significant differences between war and economic sanctions. It is because of these differences that the just war principles do not provide a suitable moral framework for their analysis. I stress, however, that this does not mean economic sanctions are always morally permissible. This is obviously not true. Whether economic sanctions are morally permissible in any given case will depend on the circumstances. There are alternative moral frameworks and alternative moral theories that can be—and are—brought to bear here. That is where theorists ought to direct their attention going forward. The just war approach to economic sanctions ought to be abandoned.

#### Just war theory is unfit to assess the morality of sanctions – sanctions are an alternative to war and impose less harm

**Ellis 20 summarizes Christiansen and Powers**  [(Elizabeth, associate professor of history at Princeton University) "The Ethics of Economic Sanctions: Why Just War Theory is Not the Answer," https://link.springer.com/article/10.1007/s11158-020-09483-z, 10/22/2020] TDI

1. Economic sanctions are imposed as an alternative to war, not as a form of war (sieges during war being a form of war). Their intent is to avoid war and its horrors, rather than add to them. (Later in their paper they appear to acknowledge that, as a matter of fact, comprehensive economic sanctions can be imposed without the intent to avoid war. However, they make the intent to avoid war a necessary condition for just sanctions.)

2. Economic sanctions—if carefully designed and monitored—cause less harm than war.Footnote29

For Christiansen and Powers, the intention to avoid war is laudable and any restraining principles we adopt should allow the imposition of comprehensive economic sanctions where their intent is to avoid war (and other conditions are met). In support they argue:

Another model for thinking about sanctions may be found in the distinction between basic rights and lesser rights and enjoyments. This may prove more useful than the just war principle of [discrimination] as a paradigm for economic sanctions. As long as the survival of the population is not put at risk and its health is not severely impaired, aspects of daily life might temporarily be degraded for the sake of restoring the [more basic] rights of others.Footnote30

### 1NC – AT: AC Contention 1

#### Sanctions do not intend the suffering of innocents, and the motive, not the intent, of sanctions is what’s ethically relevant

**Pattison 15** [(James, Professor of Politics at the University of Manchester) "The Morality of Sanctions," Social Philosophy and Policy, https://www.cambridge.org/core/journals/social-philosophy-and-policy/article/abs/morality-of-sanctions/AD00A170D096EDBB5948056EE45B5126] TDI

(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.

#### Alternatives to sanctions also intend harm to non-combatants, and sanctions do not involve the use of innocents as a *mere* means

**Pattison 15** [(James, Professor of Politics at the University of Manchester) "The Morality of Sanctions," Social Philosophy and Policy, https://www.cambridge.org/core/journals/social-philosophy-and-policy/article/abs/morality-of-sanctions/AD00A170D096EDBB5948056EE45B5126] TDI

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.

### 1NC – AT: AC Contention 2

#### Alternatives to sanctions also violate the nondiscrimination requirement of jus in bello and inflict a greater degree of harm to noncombatants

**Pattison 15** [(James, Professor of Politics at the University of Manchester) "The Morality of Sanctions," Social Philosophy and Policy, https://www.cambridge.org/core/journals/social-philosophy-and-policy/article/abs/morality-of-sanctions/AD00A170D096EDBB5948056EE45B5126] TDI

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 4 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 5 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

### 1NC – Util NC

#### Awareness of pain and pleasure occurs via phenomenal introspection – phenomenal introspection is reliable a process of belief formation; those who did not experience pain as bad died off and their genes were removed from the gene pool

* Phenomenology=study of consciousness from a first person POV, lived experience

Nelson 20 [(Joe, PhD in philosophy from Duke University) “A Defense of Basic Prudential Hedonism,” Duke University, 2020. <https://philarchive.org/archive/NELADO-7>] TDI

In summary, the explanandum says that in at least some cases, feeling things is part of the process by which you become aware of being in a state of pleasure or pain. It does not say that feeling things is always part of this process. Nor does it say that having a feeling is ever a necessary part of this process. Nor does it say that any specific feeling must be involved. It only says that some feeling is part of the process on some occasions.

I believe that this explanandum is an obvious fact. But even so, I will say two more things on its behalf.

In support of the point that we sometimes know that we are in a state of pleasure or pain, I will note that to deny this is to give up on theorizing about hedonic states altogether. If we do not ever know when we are in a state of pleasure or pain, then we have no way of telling whether our theories of pleasure and pain in any way match the phenomena they purport to be about. Hence this dissertation must presuppose that part of the explanandum, and indeed all the criticisms of BPH that I will discuss below must presuppose it as well. Consider also that to justify rejecting this part of the explanandum, we would need a rationally convincing argument implying (for example) that when a cognitively competent adult burns himself with a branding iron, attends to the subsequent feeling, and classifies it as painful, he does not actually know that he is in pain. I suspect that no such argument exists or is forthcoming.

In support of the point that knowledge of our hedonic states is at least sometimes conscious, and gained at least in part through phenomenology, I invite the reader to perform an experiment. Pinch yourself on the arm, increasing the pressure until you are aware of being in a state of mild pain. How did you become aware of when the pain began? I would wager that you did so at least in part through phenomenology. During the experiment, you underwent changes in what it was like to be you at the moment— you felt things—and this was at least part of how you became aware of the onset of a pain. This shows that awareness of pain does sometimes occur at least partly via phenomenology.

Unfortunately, it’s generally easier to gradually induce pain in ourselves than pleasure. But if you can, try to repeat the experiment by giving yourself a gentle scalp massage, starting with pressure light enough as to be nearly imperceptible, and gradually applying more until it feels pleasant. If that does not work, feel free to substitute any suitable pleasure-inducing activity. In any case, I expect you will find that detecting the onset of pleasure involved feeling something. This shows that awareness of pleasure, too, sometimes occurs at least partly via phenomenology.

If we suppose that the phenomenological thesis is true, these facts are easy to explain. We can become aware of our pleasures and pains through phenomenology because pleasures and pains are phenomenological states. Phenomenology provides the most direct path to awareness (conscious knowledge) of the properties that make our pleasures and pains what they are; the situation is analogous to using vision to become aware of visual qualia or hearing to become aware of auditory qualia. It’s simply the right tool for the job.

So, the phenomenological thesis explains the explanandum. But this is not enough. For the phenomenological thesis to provide single best explanation, there must be adequate reason to favor this explanation over the alternatives. I cannot do the whole job of giving such reason here; demonstration of some virtues of the phenomenological thesis—its resilience to standard objections, and its simplicity compared to certain rivals— will have to wait for later parts of the dissertation. But I will build a presumptive case for the phenomenological thesis by attempting to show that every non-phenomenological alternative is seriously flawed. I will also consider different sort of phenomenological view, and argue that it enjoys no distinct advantage over BPH’s phenomenological theiss.

#### Pain and pleasure are intrinsically valuable – they are reasons for actions in and of themselves

Nagel 86 - Thomas Nagel, The View From Nowhere, HUP, 1986: 156-168.

I shall defend the unsurprising claim that sensory [P]leasure is good and pain bad, no matter whose they are. The point of the exercise is to see how the pressures of objectification operate in a simple case. Physical pleasure and pain do not usually depend on activities or desires which themselves raise questions of justification and value. They are just sensory experiences in relation to which we are fairly passive, but toward which we feel involuntary desire or aversion. Almost everyone takes the avoidance of his own pain and the promotion of his own pleasure as subjective reasons for action in a fairly simple way; they are not back[ed] up by any further reasons. On the other hand if someone pursues pain or avoids pleasure [it is a means to their end], either it as a means to some end or it is backed up by dark reasons like guilt or sexual masochism. What sort of general value, if any, ought to be assigned to pleasure and pain when we consider these facts from an objective standpoint? What kind of judgment can we reasonably make about these things when we view them in abstraction from who we are? We can begin by asking why there is no plausibility in the zero position, that pleasure and pain have no value of any kind that can be objectively recognized. That would mean that I have no reason to take aspirin for a severe headache, however I may in fact be motivated; and that looking at it from outside, you couldn't even say that someone had a reason not to put his [her] hand on a hot stove, just because of the pain. Try looking at it from the outside and see whether you can manage to withhold that judgment. If the idea of objective practical reason makes any sense at all, so that there is some judgment to withhold, it does not seem possible. If the general arguments against the reality of objective reasons are no good, then it is at least possible that I have a reason, and not just an inclination, to refrain from putting my hand on a hot stove. But given the possibility, it seems meaningless to deny that this is so. Oddly enough, however, we can think of a story that would go with such a denial. It might be suggested that the aversion to pain is a useful phobia—having nothing to do with the intrinsic undesirability of pain itself—which helps us avoid or escape the injuries that are signaled by pain. (The same type of purely instrumental value might be ascribed to sensory pleasure: the pleasures of food, drink, and sex might be regarded as having no value in themselves, though our natural attraction to them assists survival and reproduction.) There would then be nothing wrong with pain in itself, and someone who was never motivated deliberately to do anything just because he knew it would reduce or avoid pain would have nothing the matter with him. He would still have involuntary avoidance reactions, otherwise it would be hard to say that he felt pain at all. And he would be motivated to reduce pain for other reasons—because it was an effective way to avoid the danger being signaled, or because interfered with some physical or mental activity that was important to him. He just wouldn't regard the pain as itself something he had any reason to avoid, even though he hated the feeling just as much as the rest of us. (And of course he wouldn't be able to justify the avoidance of pain in the way that we customarily justify avoiding what we hate without reason—that is, on the ground that even an irrational hatred makes its object very unpleasant!) There is nothing self-contradictory in this proposal, but it seems nevertheless insane. Without some positive reason to think there is nothing in itself good or bad about having an experience you intensely like or dislike, we can't seriously regard the common impression to the contrary as a collective illusion. Such things are at least good or bad for us, if anything is. What seems to be going on here is that we cannot from an objective standpoint withhold a certain kind of endorsement of the most direct and immediate subjective value judgments we make concerning the contents of our own consciousness. We regard ourselves as too close to those things to be mistaken in our immediate, nonideological evaluative impressions. No objective view we can attain could possibly overrule our subjective authority in such cases. There can be no reason to reject the appearances here.

#### Experience is the only sound justification for ethics

Schwartz No date- “A Defense of Naïve Empiricism: It is Neither Self-Refuting Nor Dogmatic.” Stephen P. Schwartz. Ithaca College. pp.1-14. No date Cited”

The empirical support for the fundamental principle of empiricism is diffuse but salient. Our common empirical experience and experimental psychology offer evidence that humans do not have any capacity to garner knowledge except by empirical sources. The fact is that we believe that there is no source of knowledge, information, or evidence apart from observation, empirical scientific investigations, and our sensory experience of the world, and we believe this on the basis of our empirical a posteriori experiences and our general empirical view of how things work. For example, we believe on empirical evidence that humans are continuous with the rest of nature and that we rely like other animals on our senses to tell us how things are. If humans are more successful than other animals, it is not because we possess special non-experiential ways of knowing, but because we are better at cooperating, collating, and inferring. In particular we do not have any capacity for substantive a priori knowledge. There is no known mechanism by which such knowledge would be made possible.

#### Extinction outweighs under any framework – moral uncertainty and future generations

Pummer 15 — (Theron Pummer, Junior Research Fellow in Philosophy at St. Anne's College, University of Oxford, “Moral Agreement on Saving the World“, Practical Ethics University of Oxford, 5-18-2015, Available Online at http://blog.practicalethics.ox.ac.uk/2015/05/moral-agreement-on-saving-the-world/, accessed 7-2-2018, HKR-AM) \*\*we do not endorse ableist language=

There appears to be lot of disagreement in moral philosophy. Whether these many apparent disagreements are deep and irresolvable, I believe there is at least one thing it is reasonable to agree on right now, whatever general moral view we adopt: that it is very important to reduce the risk that all intelligent beings on this planet are eliminated by an enormous catastrophe, such as a nuclear war. How we might in fact try to reduce such existential risks is discussed elsewhere. My claim here is only that we – whether we’re consequentialists, deontologists, or virtue ethicists – should all agree that we should try to save the world. According to consequentialism, we should maximize the good, where this is taken to be the goodness, from an impartial perspective, of outcomes. Clearly one thing that makes an outcome good is that the people in it are doing well. There is little disagreement here. If the happiness or well-being of possible future people is just as important as that of people who already exist, and if they would have good lives, it is not hard to see how reducing existential risk is easily the most important thing in the whole world. This is for the familiar reason that there are so many people who could exist in the future – there are trillions upon trillions… upon trillions. There are so many possible future people that reducing existential risk is arguably the most important thing in the world, even if the well-being of these possible people were given only 0.001% as much weight as that of existing people. Even on a wholly person-affecting view – according to which there’s nothing (apart from effects on existing people) to be said in favor of creating happy people – the case for reducing existential risk is very strong. As noted in this seminal paper, this case is strengthened by the fact that there’s a good chance that many existing people will, with the aid of life-extension technology, live very long and very high quality lives. You might think what I have just argued applies to consequentialists only. There is a tendency to assume that, if an argument appeals to consequentialist considerations (the goodness of outcomes), it is irrelevant to non-consequentialists. But that is a huge mistake. Non-consequentialism is the view that there’s more that determines rightness than the goodness of consequences or outcomes; it is not the view that the latter don’t matter. Even John Rawls wrote, “All ethical doctrines worth our attention take consequences into account in judging rightness. One which did not would simply be irrational, crazy.” Minimally plausible versions of deontology and virtue ethics must be concerned in part with promoting the good, from an impartial point of view. They’d thus imply very strong reasons to reduce existential risk, at least when this doesn’t significantly involve doing harm to others or damaging one’s character. What’s even more surprising, perhaps, is that even if our own good (or that of those near and dear to us) has much greater weight than goodness from the impartial “point of view of the universe,” indeed even if the latter is entirely morally irrelevant, we may nonetheless have very strong reasons to reduce existential risk. Even egoism, the view that each agent should maximize her own good, might imply strong reasons to reduce existential risk. It will depend, among other things, on what one’s own good consists in. If well-being consisted in pleasure only, it is somewhat harder to argue that egoism would imply strong reasons to reduce existential risk – perhaps we could argue that one would maximize her expected hedonic well-being by funding life extension technology or by having herself cryogenically frozen at the time of her bodily death as well as giving money to reduce existential risk (so that there is a world for her to live in!). I am not sure, however, how strong the reasons to do this would be. But views which imply that, if I don’t care about other people, I have no or very little reason to help them are not even minimally plausible views (in addition to hedonistic egoism, I here have in mind views that imply that one has no reason to perform an act unless one actually desires to do that act). To be minimally plausible, egoism will need to be paired with a more sophisticated account of well-being. To see this, it is enough to consider, as Plato did, the possibility of a ring of invisibility – suppose that, while wearing it, Ayn could derive some pleasure by helping the poor, but instead could derive just a bit more by severely harming them. Hedonistic egoism would absurdly imply she should do the latter. To avoid this implication, egoists would need to build something like the meaningfulness of a life into well-being, in some robust way, where this would to a significant extent be a function of other-regarding concerns (see chapter 12 of this classic intro to ethics). But once these elements are included, we can (roughly, as above) argue that this sort of egoism will imply strong reasons to reduce existential risk. Add to all of this Samuel Scheffler’s recent intriguing arguments (quick podcast version available here) that most of what makes our lives go well would be undermined if there were no future generations of intelligent persons. On his view, my life would contain vastly less well-being if (say) a year after my death the world came to an end. So obviously if Scheffler were right I’d have very strong reason to reduce existential risk. We should also take into account moral uncertainty. What is it reasonable for one to do, when one is uncertain not (only) about the empirical facts, but also about the moral facts? I’ve just argued that there’s agreement among minimally plausible ethical views that we have strong reason to reduce existential risk – not only consequentialists, but also deontologists, virtue ethicists, and sophisticated egoists should agree. But even those (hedonistic egoists) who disagree should have a significant level of confidence that they are mistaken, and that one of the above views is correct. Even if they were 90% sure that their view is the correct one (and 10% sure that one of these other ones is correct), they would have pretty strong reason, from the standpoint of moral uncertainty, to reduce existential risk. Perhaps most disturbingly still, even if we are only 1% sure that the well-being of possible future people matters, it is at least arguable that, from the standpoint of moral uncertainty, reducing existential risk is the most important thing in the world. Again, this is largely for the reason that there are so many people who could exist in the future – there are trillions upon trillions… upon trillions. (For more on this and other related issues, see this excellent dissertation). Of course, it is uncertain whether these untold trillions would, in general, have good lives. It’s possible they’ll be miserable. It is enough for my claim that there is moral agreement in the relevant sense if, at least given certain empirical claims about what future lives would most likely be like, all minimally plausible moral views would converge on the conclusion that we should try to save the world. While there are some non-crazy views that place significantly greater moral weight on avoiding suffering than on promoting happiness, for reasons others have offered (and for independent reasons I won’t get into here unless requested to), they nonetheless seem to be fairly implausible views. And even if things did not go well for our ancestors, I am optimistic that they will overall go fantastically well for our descendants, if we allow them to. I suspect that most of us alive today – at least those of us not suffering from extreme illness or poverty – have lives that are well worth living, and that things will continue to improve. Derek Parfit, whose work has emphasized future generations as well as agreement in ethics, described our situation clearly and accurately: “We live during the hinge of history. Given the scientific and technological discoveries of the last two centuries, the world has never changed as fast. We shall soon have even greater powers to transform, not only our surroundings, but ourselves and our successors. If we act wisely in the next few centuries, humanity will survive its most dangerous and decisive period. Our descendants could, if necessary, go elsewhere, spreading through this galaxy…. Our descendants might, I believe, make the further future very good. But that good future may also depend in part on us. If our selfish recklessness ends human history, we would be acting very wrongly.” (From chapter 36 of On What Matters)

#### No intent-foresight distinction for states

Enoch 07 Enoch, D [The Faculty of Law, The Hebrew Unviersity, Mount Scopus Campus, Jersusalem]. (2007). INTENDING, FORESEEING, AND THE STATE. Legal Theory, 13(02). doi:10.1017/s1352325207070048 https://www.cambridge.org/core/journals/legal-theory/article/intending-foreseeing-and-the-state/76B18896B94D5490ED0512D8E8DC54B2

The general difficulty of the intending-foreseeing distinction here stemmed, you will recall, from the feeling that attempting to pick and choose among the foreseen consequences of one’s actions those one is more and those one is less responsible for looks more like the preparation of a defense than like a genuine attempt to determine what is to be done. Hiding behind the intending-foreseeing distinction seems like an attempt to evade responsibility, and so thinking about the distinction in terms of responsibility serves 39. Anderson & Pildes, supra note 38. I will use this text as my example of an expressive theory here. 40. See id. at 1554, 1564. 41. For a general critique, see Mathew D. Adler, Expressive Theories of Law: A Skeptical Overview, 148 U. PA. L. REV. 1363 (1999–2000). 42. As Adler repeatedly notes, the understanding of expression Anderson & Pildes work with is amazingly broad, so that “To express an attitude through action is to act on the reasons the attitude gives us”; Anderson & Pildes, supra note 38, at 1510. If this is so, it seems that expression drops out of the picture and everything done with it can be done directly in terms of reasons. 43. This may be true of what Anderson and Pildes have in mind when they say that “expressive norms regulate actions by regulating the acceptable justifications for doing them”; id. at 1511. http://journals.cambridge.org Downloaded: 03 Aug 2014 IP address: 134.153.184.170 Intending, Foreseeing, and the State 91 to reduce even further the plausibility of attributing to it intrinsic moral significance. This consideration—however weighty in general—seems to me very weighty when applied to state action and to the decisions of state officials. For perhaps it may be argued that individuals are not required to undertake a global perspective, one that equally takes into account all foreseen consequences of their actions. Perhaps, in other words, individuals are entitled to (roughly) settle for having a good will, and beyond that let chips fall where they may. But this is precisely what stateswomen and statesmen—and certainly states—are not entitled to settle for.44 In making policy decisions, it is precisely the global (or at least statewide, or nationwide, or something of this sort) perspective that must be undertaken. Perhaps, for instance, an individual doctor is entitled to give her patient a scarce drug without thinking about tomorrow’s patients (I say “perhaps” because I am genuinely not sure about this), but surely when a state committee tries to formulate rules for the allocation of scarce medical drugs and treatments, it cannot hide behind the intending-foreseeing distinction, arguing that if it allows45 the doctor to give the drug to today’s patient, the dxeath of tomorrow’s patient is merely foreseen and not intended. When making a policy-decision, this is clearly unacceptable. Or think about it this way (I follow Daryl Levinson here):46 perhaps restrictions on the responsibility of individuals are justified because individuals are autonomous, because much of the value in their lives comes from personal pursuits and relationships that are possible only if their responsibility for what goes on in the (more impersonal) world is restricted. But none of this is true of states and governments. They have no special relationships and pursuits, no personal interests, no autonomous lives to lead in anything like the sense in which these ideas are plausible when applied to individuals persons. So there is no reason to restrict the responsibility of states in anything like the way the responsibility of individuals is arguably restricted.47 States and state officials have much more comprehensive responsibilities than individuals do. Hiding behind the intending-foreseeing distinction thus more clearly constitutes an evasion of responsibility in the case of the former. So the evading-responsibility worry has much more force against the intending-foreseeing distinction when applied to state action than elsewhere.

## 2NR

### 2NR – Human Rights – AT: Constructivism Fails

#### Realist conceptions of human rights are wrong – they ignore that human rights matter to the study of international relations insofar as they drive and shape state behavior

**Pietschmann 21** [(Joost Hendrik, PhD Candidate and Graduate Teaching Assistant in International Relations at University of St Andrews) "Filling the Gap: The Moral Purpose of the State and the Duty to Intervene," International Relations, 6/6/21, https://www.e-ir.info/2021/06/06/filling-the-gap-the-moral-purpose-of-the-state-and-the-duty-to-intervene/] TDI

Their scepticism thus stems, first and foremost, from a worry that admonitions to obey such legal and institutional norms might be used malevolently by states to hide the pursuit of narrow selfish interests (Dunne and Hanson 2016: 63; Donnelly 1999). In this sense, realists criticise human rights policies for inevitably having a tendency to be selective and biased.[5] For example, states might stress the significance of human rights when dealing with some states but not with others with whom they have certain kinds of links (e.g. close trade relations). This shows, the objection runs, that states are self-interested actors that inevitably take a partial approach to further their own goals illustrating that they are not really ever worried about human rights (Caney 2005: 93-94). Consequently, realists regard human rights and individuals’ interests as largely peripheral to international relations. They perceive of morality as an appropriate standard for judging individual relations, but not the relations of states as the latter remains to be governed by the logic of power and interest. It follows that, from a realist perspective, individuals are objects, rather than subjects, of international politics. Thus, they certainly have no claim, beyond a moral claim, on other states or international society which is why the most that they can hope for is that their own state will act on their behalf (Donnelly 1993: 617).

However, if human rights are secondary to the study of international relations as they do not determine state behaviour but only figure as a veil behind which states can hide their self-interest, why would these states adopt something like R2P which ultimately waves the irrevocability of the principle of non-intervention (which is at the heart of realism), thus forfeiting some of their sovereignty in the name of human rights? Moreover, if states are pursuing their interests in anarchic conditions, why would they be concerned with their legitimacy from a human rights perspectives as evidenced by jointly establishing human rights bodies at the international and regional level, and endowing these bodies with rights to enforcement?[6] In this regard, it appears, human rights have proven to be anything but marginal to international relations as their repeated violation has triggered debates questioning the limit of state rule over society and national sovereignty. Accordingly, human rights issues even pose a particularly potent challenge to the central logic of a system of independent, sovereign states under anarchy and thus to one of the key assumptions of realism whereby such development cannot be explained by a logic of self-interest (Sikkink 1998: 517).

#### Liberal conceptions of human rights are wrong – they ignore that human rights are political-legal constructs that emerged under particular circumstances

**Pietschmann 21** [(Joost Hendrik, PhD Candidate and Graduate Teaching Assistant in International Relations at University of St Andrews) "Filling the Gap: The Moral Purpose of the State and the Duty to Intervene," International Relations, 6/6/21, https://www.e-ir.info/2021/06/06/filling-the-gap-the-moral-purpose-of-the-state-and-the-duty-to-intervene/] TDI

The liberal conception of human rights, however, suffers from a serious weakness: namely the fact that it is insensitive towards the function of human rights. As Valentini explains, “human rights are a political-legal construct that emerged under particular circumstances and which places constraints primarily on the conduct of states and their officials, rather than on that of individuals” (Valentini 2012a: 576). However, on the liberal perspective this functional reality gets lost as it assumes human rights to be something that exists independently of the relationship between states and individuals. Thus, the liberal perspective regards the implementation of these rights as a moral obligation rather than an illustration of a particular consensus that exists among actors and institutions in international society and which has some function: that is, to define standards of conduct applicable to political arrangements. That the latter instead of the former is the political reality was probably illustrated best by Hannah Arendt’s reflections on the refugees and rejects that have been expelled from their political communities as a consequence of World War II:

The conception of human rights based upon the assumed existence of a human being as such broke down at the very moment when those who professed to believe in it were for the first time confronted with people who had indeed lost all other qualities and specific relationships – except that they were still human. The world found nothing sacred in the abstract nakedness of being human.

– Hannah Arendt (1951: 299)[8]

Thus, it seems that human rights matter only in the context of political arrangements (such as states) and that individuals are deprived of them once they are failed by these arrangements. This, again, highlights the political reality of human rights (i.e. serving a function) as these rights predominantly matter for the conduct of the state towards its citizens or in the case when a state breaks down or is threatened by civil war. A further illustration of this reality can be provided by the fact that many of the rights postulated by the UDHR have a limited scope that only applies to the territory of the state to which the right holder belongs or in which she resides. The idea of a human right to free elementary education (§26.1 UDHR) or the right to equal access to public service (§21.2 UDHR), for example, only make sense when there exists a state-supported school system and public service. Beyond that, these rights are generally understood as not imposing duties upon foreigners. For example, the right to equal pay for equal work (§23.2 UDHR) does not impose any duty on foreigners to help maintain such equality within some country X or internationally (Pogge 2000: 47-48). Consequently, it is safe to say that the liberal perspective is also an insufficient starting point for considering if states should intervene in the affairs of other states in order to protect human rights as it ignores the reality of human rights in international relations. What is needed is a theory that is sensitive towards this reality and which does not disregard human rights as marginal or insignificant the way realism does. This theory, as I will argue, is constructivism.