

Economic Statecraft: Human Rights, Sanctions, and Conditionality, by Cécile Fabre. Cambridge, MA: Harvard University Press, 2019. Pp. 214.

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States and other collective agents exercise influence in the international arena in a range of ways. One is by using military force or by threatening its use. That topic has been the subject of a great deal of philosophical debate over the past few decades. More frequently, however, influence is exercised in other ways, for example through the use of economic sanctions or by conditions that are attached to offers of material help or debt relief. These means of exercising influence, which Cécile Fabre refers to collectively as ‘economic statecraft’, have received comparatively little scrutiny by philosophers. Fabre’s exceptional new book goes a considerable way towards remedying this neglect. In it, Fabre develops a detailed and nuanced account of the ethics of economic statecraft. Her account offers a practical framework for assessing when measures like economic sanctions, conditional aid or debt relief are permissible or obligatory, and when they are seriously wrong. The central thesis of the book is that political actors are sometimes, but only sometimes, morally justified in resorting to these measures. More specifically, they can be justified in employing them as a means of enforcing human rights (p. 8), so long as these measures are necessary, proportionate, and relatively effective. The key question, obviously, is how to determine when sanctions and conditional offers of material help fulfil these requirements. Throughout this book Fabre develops her answer to this question, though she is at pains to emphasize that deciding whether any particular measure—say a targeted sanction or condition on aid, or sovereign debt relief for a particular country—is justified will require careful examination of the details of the case.

In what follows I will summarize the main features of Fabre’s account (due to limitations of space I will focus narrowly on her discussion of sanctions and aid conditionality, setting aside her treatment of sovereign lending and debt relief and a freestanding chapter on the force of *tu quoque* arguments in international politics), and raise some challenges for it. Before proceeding I should emphasize that there is nothing currently available that covers the ground that Fabre’s book does. It is ambitious, rigorous, wide-ranging, admirably clear, and deserves the careful attention not only of philosophers but of scholars in international relations and those with interest in international politics more generally – a model of practically engaged moral philosophy.

1. Human rights

Human rights lie at the core of Fabre's account of the ethics of economic statecraft, and she begins the book by explaining how she understands this contested notion. On Fabre's understanding, human rights are rights to the freedoms and resources that we need in order to lead a flourishing life. More precisely, these rights 'protect our interests in enjoying the freedoms to dispose of our body, develop our mind, articulate our thoughts, and form relationships with one another' (p. 9). Given this understanding, it is relatively clear that familiar rights—such as those not to be killed or tortured, to freedom of speech, and to movement and association—belong on the list of genuine human rights. Fabre also affirms that we have a human right to material resources that are necessary for our well-being and without which we would not enjoy those freedoms. Importantly, rights to material resources are, on her account, not simply rights to receive resources—that would be compatible with remaining dependent on others indefinitely—but to receive the material help required to live as independently as possible (pp. 10–13).

Such rights also include rights to borrow resources. Indeed, it is a notable feature of Fabre's account that she emphasizes that we can have rights that people lend us resources that they lack a duty to provide to us without promise of repayment—something that is typically overlooked in discussions of distributive justice and duties to assist others. We also have human rights to property, though such property rights need not be privately held. Property rights are grounded in our very strong interest in 'exercising some degree of control over the resources we need in order to lead a flourishing life' (p. 15). Finally, flowing from our rights to property and to engage in free exchange, we have presumptive rights to trade with one another, including across national borders (p. 17).

While human rights are quite stringent, according to Fabre, they are not absolute. If we have a human right to something, our interests in that thing warrants special protection, and entails a range of potentially demanding duties. But we can do things to forfeit rights, and in some cases rights can be defeated by weightier considerations—including considerations of the protection of other human rights (p. 10).

As foreshadowed, human rights have correlative duties, and we can only clarify the precise content of an account of human rights by specifying the content of these duties. For Fabre, these correlative duties include both negative duties not to deprive people of the objects of their human rights and not to facilitate or otherwise contribute to their deprivation, as well as positive duties to help protect others from being deprived of their rights by third parties. Such positive correlative duties require not only that agents be willing to take on cost to rescue people whose rights are at risk, but to accept that costs may need to be imposed on them in the course of rescuing those in need (p. 18).

Duties correlative of human rights are limited in important respects. Your positive duty to protect human rights, for example, does not require you to lead a less than flourishing life. We are only required to take on moderate costs to help protect the rights of others, so these duties are covered by a ‘no undue sacrifice’ proviso (p. 53). And though the negative duties correlative to human rights violations may be more stringent, there are limits to the costs an agent must take on to refrain from relatively minor contributions to human rights violations, and, in consequence, how much cost can be imposed on them as a means of preventing such violations.

2. Economic sanctions

What then, does Fabre’s framework imply for the practice of economic sanctions? Note, first, that economic sanctions involve interference in economic relationships between consenting parties. Such interference can take various forms, including trade restrictions or tariffs on imports and exports, and financial restrictions such as banning investment or freezing assets. Given that there is, on Fabre’s account, a presumptive right to free trade, any such interference requires justification. In particular, we need to know how and why the parties in such transactions can justifiably be deprived of their rights to so transact (pp. 35, 78). Moreover, such interference can carry quite significant costs not only for the parties involved, but also for third parties. When a country is locked out of markets in energy, for example, this can limit its citizens’ access to goods that are of critical importance to them. The same can be true (though perhaps to a lesser extent) of more narrowly targeted or so-called ‘smart’ sanctions.

What, then, could make interference with rights to trade permissible or even required? In the first instance, according to Fabre, it can flow from our duties not to wrongfully contribute to violating human rights (p. 40). If you use resources acquired through trade to violate rights, you can forfeit your rights against interference in the exercise of those rights. So if a regime uses resources to violate the human rights of its people, it typically lacks a valid complaint that others not interfere in its economic transactions. And if you are an agent that provides such resources to this regime through trade, you too can lack a valid complaint against such interference. Recall that on Fabre’s account negative duties that correlate with human rights include duties not to facilitate or otherwise contribute to rights violations. Those who, for example, sell oil or munitions to a regime that is violating the rights of its citizenry are doing precisely this. Things are somewhat more complicated with respect to trade in goods that are not directly relevant to the violation of human rights (for example, luxury goods, or perhaps access to financial markets, where the goods and services provided are not used in any

straightforward sense to violate human rights). Those involved in that sort of exchange may not directly facilitate rights violations, but they may considerably lessen the costs for the leaders within such a regime of continuing such conduct. At the very least, agents who provide access to such goods and services will have failed to provide an incentive to these leaders to stop committing human rights violations. (One might also add that access to such goods may incentivize the wrong sorts of people to seek power in the first place.) Consequently, such agents will be benefiting from the injustices inflicted by the regime, which can trigger a reparative duty towards the victims of the wrongdoing from which they benefit (pp. 20, 61).

This then, is Fabre's basic case for the use of sanctions. And it can also be applied to so-called secondary sanctions, where a state seeks to restrict the economic activities of agents, none of whom is subject to its territorial or personal jurisdiction, on the grounds that their trade or investments facilitate the rights violations of some regime (pp. 76–91). But while human rights violations may give others just cause to interfere in economic transactions and even morally require them to do so, some interventions may nevertheless be impermissible. They will be impermissible if the costs they impose are disproportionate, or if they are unlikely to succeed in their aims (including their longer-term aims of deterring human rights violations in the future.) Fabre stresses that to avoid the charge that some sanction is disproportionate, we need to show that the costs it imposes on *all* the parties that are harmed by them are warranted, given what is at stake. That is, even if some rights-violating regime has no claim against the imposition of a sanction, this measure may carry such significant costs for its citizenry (or the citizenry of a country that wishes to be linked with it through commercial transactions) that it would be disproportionate (p. 63).

Indeed, critics of sanctions—particularly comprehensive sanction regimes such as that imposed on Iraq in the aftermath of the Gulf War—typically draw attention to precisely these sorts of costs. Moreover, even those agents who are not wholly free from involvement in some regime's rights violations may make such small contributions to them (for example, the menial employees of arms-producing firms, or citizens who voted or voiced support for the rights-violating regime), that imposing very large costs on them through sanctions could turn out to be disproportionate. That is not to say that some costs may not be imposed upon even those wholly innocent of any such involvement. This follows straightforwardly from Fabre's understanding of the nature of positive duties to assist those in severe need, irrespective of our involvement in their plight.

Now, the moral assessment of any particular sanction that is proposed will clearly depend on the details of the case. And, as Fabre points out, various empirical matters that are directly relevant to

such an assessment may be quite murky. Often those considering the use of sanctions ‘simply do not have the kind of evidence that would enable them to form justified beliefs about the degree to which a sanctions policy is a proportionate response’ (p. 44). How, then, should agents considering whether to impose sanctions in the face of such uncertainty deliberate? We need, essentially, to consider and balance two types of moral risk. One risk is that employing the sanction will end up being disproportionate. In that case we will end up wrongfully harming some. The other is that failing to impose some sanction will mean that we end up wrongfully allowing harm to happen that we could have prevented.

Fabre maintains that, other things being equal, we have more stringent reasons to avoid doing wrongful harm to others than to wrongfully allowing harm to occur. This creates a presumption of erring on the side of caution to avoid wrongfully doing harm—which will mean not imposing sanctions (p. 45). To be sure, this presumption could be overridden—it may be that the risks of doing harm are relatively slight, while the risks of allowing harm are large—but it should be clear that applying Fabre’s framework would deem many existing sanctions regimes, particularly comprehensive regimes that interfere in trade in so-called dual-purpose goods such as oil, unjustified. It is hard to deny that there will be considerable uncertainty about the broader effects of such sanctions, and this militates strongly against their use. Her position is that, generally speaking, ‘we should favor very limited, highly targeted sanctions against agents whom we have strong evidence to believe are making a significant contribution to human rights violations’ (p. 75). This would likely call for a rethinking of many contemporary policies.

3. Conditionality

Whereas the practice of imposing economic sanctions is in tension with presumptive rights to trade freely, placing conditions on offers of material assistance is in tension with our unconditional obligations to help others in severe need. Conditionality can be negative—withdrawing aid that one has already provided on the grounds that certain conditions have not been fulfilled—or positive— withholding aid in the first instance for the same reason (p. 97). If we have duties to help those in severe need, on what grounds can we make provision of aid to them conditional? Here Fabre notes that, when conditions are placed on the provision of aid, the aid is typically provided to a government which is charged with using those resources to fulfil the human rights of its citizenry. It acts as fiduciary, and is responsible for ensuring that citizens’ duties of material aid to each other are fulfilled. Since it is the citizens themselves who have a direct claim to assistance (from their government, and

from third parties in case their government lacks the necessary resources), there is no inconsistency in placing conditions on their government regarding the use of such resources. Their government, after all, might not otherwise use the resources to fulfil human rights and may even use them in ways that are corrosive of this goal. Indeed, we may be morally required to make aid conditional, since doing so may be the only means by which those who provide resources to governments can ensure that they avoid facilitating rights violations. (Recall that on Fabre's account we have a negative duty not to provide resources to agents who would use them to violate rights (p. 101).) And it may behoove us to respond to the rights to material assistance of a community by getting resources to them in ways that bypass their state, should their state fail to act responsibly. Interestingly, Fabre argues that the requirement to condition aid in these ways is even more stringent for states that owe reparative duties to provide aid to a recipient state, for example as a result of having once exercised colonial power over it (p. 114).

So Fabre's human rights framework for economic statecraft can justify aid conditionality of various kinds. As she notes, aid conditionality is often objected to on the grounds that it fails to show adequate respect to the beneficiaries of aid and that it is ineffective in bringing about its stated aims (p. 94). The first objection emphasizes the degree to which a donor interferes with a recipient community's right to exercise political self-determination. Such measures seem paternalistic, since they suggest that outsiders know what is best for the recipient community, and evince mistrust of and a lack of respect for the members of the recipient community (p. 115). While Fabre acknowledges the force of these objections, she argues that they do not provide a decisive reason for a wholesale rejection of aid conditionality. For one thing, she points out, not all political communities are at one with themselves, so it may be misleading to say that such conditionality runs contrary to the wishes of the political community; such conditions and the claims to resources that they confer may simply be rejected by some of its more powerful vested interests who claim—falsely—to be speaking on behalf of the community. This seems especially likely when there are grievous abuses taking place within that community. In that case, conditionality may be a means by which we empower vulnerable groups within a recipient state while undermining elites that are hostile to them, rather than a paternalistic intervention in their affairs (p. 116).

Fabre acknowledges, however, that the lack of respect objection has a point. Aid donors have often shown extraordinary arrogance in developing conditionality arrangements and have been prone to make mistakes, in part because they have failed to regard recipient communities as epistemic peers possessing local know-how and insight into which policies are most likely to bring widespread benefits

to them. To address this worry, she argues that in cases where there are reasonable disagreements about which policies are truly best able to fulfil the human rights of some recipient community, donors should be willing to defer to the communities that would be the beneficiaries of the assistance (p. 121).

4. Challenges

I will close my discussion of Fabre's rich book by raising a few challenges for her account. The questions I raise draw attention to some of its features that might require further specification and defence if they are to be fruitfully applied to evaluating existing practices of economic statecraft.

First, as noted above, Fabre appeals to the distinction between human rights violations which we contribute to or help bring about and those we allow or fail to prevent from occurring. This plays an important role in her argument that we should be extremely cautious in imposing economic sanctions, lest we end up contributing to human rights violations, even though this means that we thereby risk allowing human rights violations to occur that we might otherwise have prevented. I share with Fabre the view that this is a genuine distinction and that it has moral significance. I am not sure, however, that it can be so neatly applied to cases involving the conduct of governments considering whether to impose sanctions.

Suppose that a government does not impose sanctions on a rights-violating regime. Now, if neither it nor any of those under its jurisdiction engage in trade with the regime or offer assistance to that regime, then I think that any human rights violations that regime commits can plausibly be viewed from the perspective of that government as harms that it has allowed to occur (assuming, of course, that it has not played a role in supporting the regime in the past). Things are somewhat different, however, if it or those under its jurisdiction continue to engage in trade with the regime. In that case, it is not obvious that the state can claim to be an innocent bystander with respect to any violations that the regime perpetrates. After all, the state grants legal property rights in various things that economic agents under its jurisdiction come by through exchange with the regime. Suppose that the regime has a robust trade in exporting natural resources. By 'allowing' agents under its jurisdiction to engage in such trade, a state is actively treating the exporting regime as having valid title to the resources exchanged—a point emphasized by Leif Wenar in his work on the so-called resource curse. Such acts serve to prop up and facilitate the activities of the regime. In essence, they protect the rights of the regime, and this may constitute a rather significant contribution to its subsequent activities. Indeed, the promise of rights to engage in such exchange may incentivize venal elites to seize and maintain power in the first place. If this is correct, then the moral risk of not imposing sanctions will

not typically be one of wrongfully allowing harm to occur, but of wrongfully contributing to it as well, albeit in a different way from that eventuating through the imposition of sanctions. This may significantly complicate the argument from moral risk that Fabre employs.

This brings me to a second observation. Agents can contribute to human rights violations in many different ways, and not all kinds of contribution are morally equivalent. This is something Fabre explicitly accepts. Indeed, early in her book she writes, ‘When we go to war, we kill and wound. When we impose economic sanctions, although we might end up killing people, we do so by interfering with contractual economic and financial relationships. Precise philosophical justification for sanctions must be sensitive to that distinction’ (p. 37). However, the book offers little by way of discussion of just how significant this distinction is, or how contributing to deaths or other human rights violations through sanctions compares with other ways of contributing to hardships in target communities, whether through military intervention or practices that help sustain regimes through economic relationships. Getting a stronger purchase on the significance of such distinctions is particularly important, given that sanctions are often viewed as an alternative to war, and can be justified even when war would not be. How should we weigh our reasons to avoid risking contributing to the deaths of people through sanctions relative to the risks of killing them through military intervention? Critics of sanctions like Joy Gordon, for example, often deny that such a distinction should be accorded much moral weight—from the perspective of those affected, after all, it is not clear that sanctions which cause death and other hardships are preferable to military intervention that causes comparable hardship. These critics think that we are far too sanguine about the harms to which sanctions causally contribute, including so-called targeted or ‘smart’ sanctions, the broader effects of which are also not always entirely clear.

Finally, while I fully understand Fabre’s motivation for endorsing the idea of deferring to beneficiary communities in cases of reasonable disagreement, I’m not entirely convinced that it fits comfortably in her overall framework. I do think it is important to regard agents in recipient communities as epistemic peers, and to take very seriously their arguments about how some policy is likely to affect their community. Unless we embrace a *very* strong form of conciliationism, however, we can regard disagreement as reasonable—we can make sense of the fact that other people may reasonably have come to different conclusions about the likely effects of some measure and accept that the evidence concerning this is not conclusive—but still be quite confident on reflection that our view of the matter is correct. In that case, we may be in a position where, were we to defer to a recipient community in the crafting of some policy, we believe that we would thereby be substantially

more likely either to fail in our duties to assist them or, more worryingly, that we will end up contributing to additional human rights violations. Given the stringency of duties not to act in ways that are counterproductive to fulfilling human rights, can we plausibly justify acting against our better judgement simply because our epistemic peers in a target state reasonably disagree with us about the matters in question?

Australian National University

christian.barry@anu.edu.au

CHRISTIAN BARRY