Symposium | Third World Approaches to International Law & Economic Sanctions

Sanctions and “Bio-Necro Collaboration”†
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INTRODUCTION

The origin myth of international law is situated in the transition from the thirty-year war to the peace of Westphalia, from the insecurity of the state of nature to the peace of civil society, from a Europe mired in the deprivations of war to an era of global economic dominance. International law situates its raison d’être in this dichotomy between the logic of war and the logic of peace and the salutary benefits of that progress narrative. The dichotomy is also central to the contemporary story of sanctions and its framing as the humanitarian, peaceful policy option that stands in contrast to the brutality of violent conflict. The most storied dramatization of the brutalities of the thirty-year war was Mother Courage,1 the protagonist of Bertolt Brecht’s play of the same name. Written in the immediate aftermath of World War II but situated in the Thirty Years War, the play has long been read as a pacifist protest against the devastations of war.2 Yet, arguably, the radical thrust of Mother Courage is in challenging the pious dichotomies that fuel the modern framing of economic sanctions – the dichotomy between the domain of war and the domain of peace, between military relations and economic relations. Always hustling for profit in the trenches, Mother Courage treats war and trade as intertwined transactional spheres - weapons and commodities, life and death, fighting and trading.

This article troubles these dichotomies by speaking to and situating sanctions in two related but distinct contexts. Part I looks at sanctions as a routine, if devastating, aspect of economic and military policy. This part of the article unpacks the distributive consequences of “peacetime” sanctions policies and the dichotomies that sustain and legitimize sanctions to the advantage of states imposing sanctions in the name of humanitarian goals. Mother Courage’s irreverence for the pieties that contrast the domain of war from the domains of

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1. BERTOLD BRECHT, MOTHER COURAGE AND HER CHILDREN (1949).
peace or trade resonates with the lessons we can take from many sanction regimes, from Iraq to Russia. As I argue in Part I of this article, sustaining the myth of these dichotomies can exacerbate the precarity of the most vulnerable and is to the profit of the most powerful actors, whether the currency is battlefield victories or economic gain.

Part II situates sanctions in the necropolitical logic of a colonial landscape of devastation, with a particular focus on the war against Gaza, from the economic war that was advanced through sanctions to the military war that took genocidal proportions beginning on October 2023. With the convergence of these campaigns in Gaza, the imperial and colonial dynamics unravel the dichotomies of wartime policies and peacetime policies, of bombs and sieges. The horrors descended on Gaza today may have seemed unimaginable in 2007 when sanctions were imposed; however, with grim hindsight, we can also see these horrors were the ever-present threatening specter haunting those “peacetime” sanctions policies. This article analyzes the historical work of sanctions in Gaza in creating and contributing to what Achille Mbembe has called a “death-world” where the temporalities and geographies of life are saturated with death.3 Looking at the work sanctions can and have performed can illuminate the enduring and ever-changing colonial infrastructures in creating such death-worlds.

The relationship between both parts of this article speaks to the “bio-necro collaboration” (a term I borrow from Jasbir Puar)4 that we elaborate on in the concluding pages of this article. The contrasting tones of the analysis that unfolds in each section is itself a performance of the different registers through which sanctions work and their role in the imperial logics of war and law in our current world system.

I. DISTRIBUTIVE CONSEQUENCES AND THE “WAR OR PEACE” DICHOTOMY: WHO PROFITS FROM SANCTIONS?

Sanctions regimes are often imposed in the name of liberal humanist values by states that claim the authority to determine and distinguish between allies and rogue states—between states that should mete out sanctions and states that should be the targets of such policies. Thus, the UN Security Council describes the 15 sanctions regimes it has imposed in terms it seeks to celebrate: “The Security Council has applied sanctions to support peaceful transitions, deter non-constitutional changes, constrain terrorism, protect human rights and promote


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5 Sanctions are always accompanied by a discourse of legitimation. For instance, the sanctions on Iran have brought devastating costs to civilians, but those costs are shrouded by the veil of legitimacy attached to nuclear non-proliferation, demilitarization, and humanitarian purposes. The universalist key of these liberal humanist goals often obscures the ruinous distributive consequences of economic sanctions. Over the last few decades, the extensive documentation of the wreckage wrought by sanctions regimes has sought to challenge these obfuscations by showing that embargoes on food, medicine, and other essentials have produced consequences equivalent to war.

Indeed, the work of documenting the war-like impact of sanctions has been motivated precisely by an interest in contesting the dichotomies through which sanctions have been legitimated.

Foremost here is the dichotomy between war and peace. As Nicolas Mulder notes, after the establishment of the League of Nations, sanctions were increasingly regarded as a weapon of peace, not requiring a declaration of war and often slipping into a normalized domain of foreign relations. To some extent, the pivot point was the Treaty of Versailles, in which the sanctions imposed on Germany were framed as peacetime punishments for wartime aggression—in effect, sanctions were described as the opposite of war and aggression. This characterization of sanctions as an alternative to war was a policy innovation born of wartime victories. As Mulder observes, these policy moves were especially consequential because sanctions “became an alternative not just by shrinking the definition of war (to self-defense) but also by expanding what was allowed in times of peace.”

Even when sanctions were advanced in the name of post-war peacebuilding, those focused on armed conflict also remained interested in the use of sanctions and other economic measures as an explicit form of military strategy. In Britain, for instance, the use of economic warfare during World War I catalyzed a new field of economic statecraft for military strategists. Referred to

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11. Id. at 112.
as “the fourth fighting service,” the defense establishment tried to develop British expertise in this sphere on the theory that it might be an especially useful complement to combat as British military dominance declined. 13 However, while sanctions have continued to accompany military engagement in some cases (for example, against Russia in the Ukraine war), 14 they have been used much more frequently as an ostensible peacetime policy. The post-Versailles classification of sanctions as a post-war option for the disciplining of rogue states has been to the benefit of those powers who seek to impose sanctions while avoiding the laws of war and the opprobrium of humanitarian critique of military action. International humanitarian law (IHL) purports to regulate combat and military conflict. If sanctions are treated as “peacetime” foreign policy rather than armed conflict, they are not subject to the constraints of IHL. These constraints include the requirement that wars be conducted in ways that take account of the distinctions between militants and civilians and that attacks and counterattacks walk the line between proportionate and disproportionate action. This has particular implications for the permissible scope and intensity of sanctions, which have often been a form of collective punishment on civilians and one that is notoriously disproportionate even within its own terms. The Geneva Conventions have provisions for regulating the instrumentalization of food and medical embargos in conditions of armed conflict but not when such measures are imposed in times of peace. 15 Indeed, sanctions are often celebrated as “tools of military containment.” 16

The framing of sanctions as an instrument for disciplining rebel states has emerged as a favored approach in U.S. foreign policy. As we see in contexts such as the U.S. sanctions against Cuba and Venezuela, this framing allows the United States to achieve policy outcomes (such as fanning the flames of discontent by impoverishing the local population) that are difficult to achieve militarily. 17 The United States may be unable to make a persuasive self-defense argument in going to war with these countries, but sanctions allow the United States to weaken them without firing a weapon. 18 Moreover, framing the sanctions targets as rogue states allows the United States to invoke human rights and democracy

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17. Jessica Whyte’s contribution to the Yale Journal International Law special issue on Third World Approaches to International Law and the political economy of sanctions is especially helpful in illuminating how powerful countries exert economic coercion in ways that are enabled by the dominant legal and political order rather than constrained by it. Jessica Whyte, The Opacity of Economic Coercion, L. & POL. ECON. PROJECT (June 21, 2023), https://lpeproject.org/blog/the-opacity-of-economic-coercion/.
18. Teoman Hagemeyer-Witzble, THE INTERNATIONAL LAW OF ECONOMIC WARFARE 324 (2020) (concluding that “states have the right to resort to economic war (jus ad bellum oeconomicum)” that only prospectively may be challenged.).
as the driving foreign policy objectives of its sanctions policies in these countries while winning further applause for pursuing its foreign policy objectives with a “humane” alternative to war. This framing steers the conversation into a discussion of the effectiveness of sanctions as an instrument of foreign policy rather than the domain of war crimes and crimes against humanity.

A. War v. Peace/War v. Trade

The cases of Cuba and Venezuela also foreground a chain of associations between the dichotomy between war and peace and the dichotomy between war and trade. Contrasting sanctions with the scourge of war has been especially popular with those arguing not only for sanctions but for market economics. While “market economics” or “capitalism” are seldom referenced as the sole policy objective, American policy goals are often articulated in terms inherited from the Cold War, with claims regarding political liberalism and economic liberalization intertwined. Sanctions (and other modes of punishment of countries in the region that resisted American hegemony) traveled alongside the ideological legitimation of capitalism as the path to peace and security. For instance, sanctions against Cuba and Venezuela can be situated as part of a larger policy of economic coercion.

An influential articulation of this chain of associations is what has come to be known as “the capitalist peace theory,” which argues for capitalism as a policy that encourages peaceable international relations. It is a thesis that has a long

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21. Helen Yaffe argues that while Cuba’s socialist path survived against great odds, the cumulative weight of the “longest and most extensive system of unilateral sanctions applied against any country in modern history” has brought it into crisis. Helen Yaffe, If the US Really Cared About Freedom in Cuba, it Would end its Punishing Sanctions, LONDON SCH. ECON. & POL. SCI. (Aug. 6, 2021), https://blogs.lse.ac.uk/latamcaribbean/2021/08/06/if-the-us-really-cared-about-freedom-in-cuba-it-would-end-its-punishing-sanctions/. For an argument about how these sanctions impact economic sovereignty in Venezuela, see Agatha, US sanctions and the chokehold on the Venezuelan people’s right to development, IBON Int’l (July 8, 2021), https://iboninternational.org/2021/07/08/us-sanctions-venezuela/. See also Whyte, supra note18.

22. Interestingly as Nahrstedt and others have noted, there is a disconnect between these stated objectives and the real drivers of sanctions policy. JAN NAHRSTEDT, INST. INT’L POL. ECON., US ECONOMIC SANCTIONS ON CUBA: AN ANALYSIS OF THE REASONS FOR THEIR MAINTENANCE, WORKING PAPER NO. 162/2021 7 (2021) describes the stated rationale for the original imposition of sanctions against Cuba as a classic case of regime change: “Change the target country’s regime: The destabilization of a country for political objectives has been present especially during the Cold War period. It was used by both the US and the Soviet Union to promote their respective ideology abroad. One of the most well-known examples is the subject of this paper, the US embargo on the communist-ruled Cuba.”

23. Whyte, supra note 18.

24. There is an irony in imposing sanctions and blocks on commerce in the name of free trade or of a system where free trade is a stated policy anchor.

lineage from Montesquieu to Adam Smith to Cold War hawks and contemporary liberal internationalists intertwining the pacific and the economic. The nexus between the “war v. peace” and the “war v. trade” dichotomies emerges as central to how the capitalist peace thesis gets expression in the laws of war.

These claims have historical antecedents in early international law arguments for self-defense that defined local resistance to colonial trade as an act of hostility. For instance, from the time of Francisco Vitoria, international law’s imbrication with colonial dispossession has been tied to this notion that trade was an expression of pacific hospitality and its refusal an expression of hostile barbarism. Turning the definitions of aggression and self-defense on their head, Vitoria argued that if indigenous people did not want to trade with Spain, that was, de facto, an act of hostility that justified Spain’s use of military force. That military force advanced Spain’s imperial expansion to devastating effect in the Americas. Hugo Grotius advanced a parallel argument to justify Dutch military aggression in his representation of the Dutch East India Company’s trading interests and Dutch imperial ambitions in the Indian Ocean. The dichotomies of war and peace and war and trade have traveled in symbiosis through the history of the discipline.

B. The War and Sanctions Feedback Loop

In the 21st century, counter-terrorism discourse is the most familiar type of self-defense argument in favor of sanctions. While much of our discussion thus far has been in contexts where sanctions are imposed as an ostensible peacetime policy, counter-terrorism discourse also invokes the notion of a “forever war” that permanently blurs the distinction between war and peace and leans into the notion of preemptive self-defense. In the hands of the Security Council, self-defense arguments are especially consequential because the Security Council classifies the “self” as global humanity. Thus, blockades established as part of counter-terrorism policy have rendered local populations “legitimate targets” of...
economic warfare while also suggesting that they are more endangered by their own governments than by states imposing sanctions in the name of international peace and security.\textsuperscript{32} The work of Neve Gordon and Nicola Perugini on human shields has traced how the prohibition on turning your weapons on civilians has itself become weaponized as powerful armies the world over have characterized civilians as human shields who are unavoidable targets in the battle for humanity.\textsuperscript{33}

The geopolitical dynamic of sanctions is especially significant because they are not only the backdrop to who has the power to impose sanctions, but once imposed, sanctions can contribute to further enhancing the power of those same actors. The most expansive sanctions regimes in the world have been imposed by the most powerful countries, and they have also been its greatest beneficiaries. They have also contributed to shaping an imperial world system to reproduce, legitimize, and even further strengthen the dominant economic and military order. From naval blockades to economic sieges, there is a long history of weaponizing the economic sphere in ways that prepare the ground for military warfare by performing what Mulder refers to as a form of “outcasting” in ways that may create the climate for war.\textsuperscript{34} Classical accounts of the Peloponnesian War often begin with the Megaria Decree, a set of economic sanctions imposed by the Athenians against Megaria.\textsuperscript{35} These sanctions caused enormous suffering and strengthened the winds of war by provoking Sparta while entrenching Athenians into their dominant positions by characterizing Megaria as enemy territory. Thus, rather than being the humanitarian substitute for war, sanctions may prepare the ground for war by interpolating the people targeted for sanctions as military targets.

The history of war and sanctions in Iraq offers a more contemporary example. Sanctions were imposed on Iraq at the same time as the first Iraq war in August 1990.\textsuperscript{36} The U.S. government found it difficult to mobilize continued support for the economic and human costs of war, and it became easier for the American administration to declare Kuwait liberated and end the military campaign. In contrast, the Security Council’s sanctions regime continued functioning. The Center for Economic and Social Rights described the scale of the sanctions as “unprecedented in recent history” and the macroeconomic shock that it imposed on the Iraqi economy as being of “massive proportions.”\textsuperscript{37} The sanctions had many different dimensions, but the provision that had the greatest reach was the oil embargo. Oil revenue was the lifeblood of the Iraqi economy and central to the value of the Iraqi dinar; the embargo wreaked havoc on

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\textsuperscript{34} Mulder, supra note 11.
\textsuperscript{36} Peter Boone, Haris Gazdar, & Athar Hussain, CTR. ECON. & SOC. RTS., SANCTIONS AGAINST IRAQ: COSTS OF FAILURE, 1 (1997).
\textsuperscript{37} Id. Executive Summary.
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virtually every sector of the Iraqi economy, from domestic budgets and public expenditure to imports and exports. The immiseration that it wrought helped normalize the imposition of devastating consequences on the Iraqi people and helped prepare the ground for the next Iraq war in 2003. Thus, in ways that eerily foreshadow developments in the war on Gaza two decades later, long before the U.S.-led 2003 invasion of Iraq, the sanctions regime following the first Gulf war had already branded Iraq as an outcast nation. Long before Iraq’s markets and hospitals were bombed, they were starved of supplies. Sanctions normalized Iraqi suffering and presented its people as a ‘thinkable’ target.

Thus, ostensibly, “peacetime” sanctions worked in low-key, quotidian, and incremental ways to normalize this targeting and help render the Iraqi people dehumanized and available for the devastating military bombardment of 2023. The dehumanizing work of the peacetime policies of sanctions converged with the wartime policies of bombing during the course of the American occupation to produce episodes such as the torture of Iraqis at Abu Ghraib. Like the racial nature of police violence, the causal connections that render a community a target cannot be proven; the evidence inheres in the consequence that some communities and nations are more vulnerable. In her book on how the frames of war render some lives easier to grieve than others, Judith Butler describes frame narratives that determine “whose lives are considered valuable, whose lives are mourned, and whose lives are considered ungrievable.” Discourses such as “countering violent extremism” or “Islamic terrorism” are frame narratives that do this kind of interpolating work. Arguably, the arc of events in Iraq (the sanctions in tandem with the military interventions) helped interpolate not just Iraq but all Muslim-majority countries as less grievable and more available as legitimate targets. Since the bombing of Iraq, Muslim-majority communities have been bombed in at least eight countries: Iraq, Afghanistan, Pakistan, Yemen, Libya, Mali, Somalia, and the Philippines. There are world-shaping frame narratives that divide “the globe into grievable and non-grievable lives from the perspectives of those who wage war in order to defend the lives of certain communities, and to defend them against the lives of others – even if it means taking those latter lives.”

The episteme of counter-terrorism and rogue states put wind in the sails of the West’s interventions in Muslim-majority

38. Id. at 8–9.
42. BUTLER, supra note 41.
countries. Moreover, the unipolar geopolitical backdrop of the post-Cold War era permitted the United States to arrogate to itself not only the material gains of intervention (such as control of Iraq’s oil fields) but also what we might term “global governance capital”—namely, the authority to name “enemies of the people.”

C. Sanctions in the Global Economy

While sanctions are often studied as a bilateral measure, situating sanctions in global governance illuminates how the world system structures a wider circle of distributive consequences. For instance, the sanctions imposed on Russia in the context of the Ukraine war have had ripple effects on global inflation. This inflation has made countries in the Global South more vulnerable to balance of payments crises and sovereign debt defaults. As the New York Times put it, this “bleak situation” confronting these countries “is part of the collateral damage from Russia’s war with Ukraine and the Fed’s fight against inflation, and it highlights the global connections that have left the fate of countries around the world inextricably linked to decisions made in Moscow and Washington.”

The indirect effect of this chain of events is that it has left these countries especially dependent on International Monetary Fund (IMF) assistance for debt restructuring and, therefore, especially deferential to IMF conditionalities and donor countries’ demands. For countries like Sri Lanka, Ghana, and Pakistan, sanctions on Russia have exacerbated economic precarity and thereby weakened their bargaining position with donor countries and international financial institutions. Thus, bargaining in the shadow of sanctions has further entrenched terms of trade and aid to the benefit of the winners of the dominant economic order.

These wider repercussions are sometimes described as the collateral damage of sanctions, but “collateral” is a misleading term to the extent that it obscures how precarity is baked into the world system by suggesting that these damaging consequences were entirely contingent and unpredictable. The background structures of the world order have a structural tilt that makes it more likely that shocks to the system (such as the conflicts in Ukraine) unfold to the benefit of global elites and the detriment of subaltern communities. Indeed, the

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43. In Hendrik Ibsen’s play of the same name, the governance capital was wielded by local rather than global authorities. HENDRIK IBSEN, AN ENEMY OF THE PEOPLE (1882).


46. Id.

47. Id.

48. Using Susan Mark’s terms, we may suggest that this tilt is part of the “planned misery” of the global economic order. See generally Susan Mark, Human Rights and Root Causes, 74 MODERN L. REV. 57 (2001).
impact of the economic sanctions against Russia on relatively powerful economies such as Russia itself offers a telling story. As smaller countries were sent reeling into balance-of-payments crises, the Russian economy proved much more resilient. In fact, as London School of Economics scholar Gubad Ibadoghlu has noted in an analysis of various economic indicators one year after the sanctions, the Russian economy appeared to have been strengthened by the blockade—withstanding ten sanctions packages instituted by the European Union alone. 49 As energy prices shot up, so did Russian oil revenue, which expanded state coffers and military budgets accordingly. 50 Moreover, as various supply chains were cut off, Russia was better positioned than smaller economies to pivot toward self-sufficiency in several sectors where it used to be dependent on the global market. From food production to tourism, this increased investment in national industries had salubrious impacts on the Russian economy. 51 Finally, the forced de-dollarization of Russia also led to the appreciation of the ruble as a powerful global currency. 52 While the sanctions may gradually have more bite, their initial impact underscored that the world economic system already ensures that powerful countries have greater resilience and are better positioned to profit from crises. 53 The devastating impacts that sanctions bring to the global precariat is a form of war on the world’s poor (whether they are part of the direct target or whether they are confronting the exponential “butterfly effects” of sanctions 54 .) It is a war that can be waged without powerful countries having to justify the legitimacy or material costs of armed conflict.

D. Economic Lawfare

The rhetorical challenge of a “war on the poor” takes us to another register of profit and damage that warrants attention – namely, the discursive dimensions of the relationship between sanctions and warfare in relation to the discipline of international law. What do we gain or lose in challenging the war/peace dichotomy, framing sanctions as a form of warfare, and bringing sanctions under the jurisdiction of IHL? 55 When the stakes are highest, even genocidal, law has not prevented or even deterred horrific atrocities. 56 In this sense, recognizing


50. Id.

51. Id.

52. Id.


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Sanctions as a form of warfare would not deter its devastating impacts. However, it would produce a discourse about sanctions-catalyzed crises that would be legible to international law. Historically, it has often been the case that international law’s framing of crisis in terms that are legible to its own disciplinary vocabularies has been to the benefit of international law and international lawyers more than of those who are bearing the material brunt of the crisis. As critical scholars have observed, crisis talk proliferates in international law partly because it profits the discipline by producing a sense of its relevance in managing and mitigating crises. In this sense, framing sanctions as producing crisis conditions that warrant regulation as a weapon of war profits international humanitarian law, but as the current war in Gaza demonstrates, it may not profit the victims of war.

Historically, those trying to mitigate the bleakest consequences of war have appealed to international law to regulate weapons of war, such as nuclear weapons, chemical weapons, land mines, and cluster bombs. Their destructive force was such that these weapons were impossible to use except in violation of basic legal distinctions between militants and civilians and between proportionate and disproportionate action. Sanctions that are directed at whole nations or regions are similar to these weapons in that their impacts are indiscriminate at best and especially acute for the most vulnerable at worst. Yet, from the Italian use of chemical weapons against Ethiopians in the 1930s to the American uses of the atomic bomb in Hiroshima and Nagasaki in the 1940s, what has been equally clear is that the distinctions of international humanitarian law have had limited purchase in curtailing the use of weapons that have this indiscriminate range and disproportionate impact. In these instances, race and coloniality seemed to have much greater predictive value in determining who would be a target and which targets would be permissible. European imperial expansion had a parallel life to the birth and expansion of international humanitarian law, and these entanglements, sometimes already apparent and sometimes yet to be excavated, may tell us much more about how sanctions have become weaponized. It is against this backdrop that we turn in the next Part to how we may situate sanctions in the context of colonialism.

II. SANCTIONS AND THE COLONIAL CONDITION

Economic sanctions have long been a favored weapon of colonial authorities. Colonial administrators across the world expanded imperial authority or crushed rebellions by imposing sanctions and erecting blockades

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58. This article does not look at sanctions targeting individuals.
that cut off trade, closed markets, and squeezed food supplies. In fact, the use of sanctions and blockades as an instrument of colonial governance was such a paradigmatic dimension of European relations with non-European peoples that when the Germans found themselves the target of Versailles Treaty sanctions, they described themselves as being “Ottomanized.” 62 These policies were designed to threaten the colonized into compliance or serve as punitive measures against anti-colonial resistance. At other times, economic warfare was utilized to expand the boundaries of empire by recruiting exploitable labor or clearing the path to the appropriation of land. However, in tracking the instrumental deployment of sanctions policy for a localized goal of land appropriation or the suppression of resistance risks focusing on the trees and missing the forest. In particular, it may fundamentally misunderstand the landscape of colonial governance—namely, a necropolitical terrain that entails, in Achille Mbembe’s words, “the generalized instrumentalization of human existence and the material destruction of human bodies and populations.” 63 Mbembe, in a now-classic essay, describes necropolitics as “the creation of death-worlds, new and unique forms of social existence in which vast populations are subjected to conditions of life conferring upon them the status of the living dead.” 64 If the plantation is one such landscape, the colony is another. Gaza today is the quintessential death-world, and sanctions are one such weapon. 65

The sanctions regime against Gaza has lasted eighteen years with impacts on access to fundamental human rights and in violation of Geneva Convention articles prohibiting depriving populations of basic needs such as food and healthcare. Euro-Med Human Rights Monitor described the sanctions as having “multiplied the crisis indicators in Gaza” from poverty to malnutrition. 66 Long before the current war on Gaza, researchers documented that the impact of Israel’s attacks on “agricultural, water and energy infrastructures” in Gaza and the West Bank have had “dire impacts on human welfare and livelihoods” 67—impacts that they describe as a “slow violence,” using the term that Rob Nixon popularized. 68 Israel’s military and economic warfare have worked in tandem, so the impact of military attacks on bridges and sewer systems have been compounded by sanctions restricting the ability to rebuild and recover even when the guns go silent and the bombs stop falling. 69 The term “slow violence” recurs in discussing the impact of sanctions and prolonged occupations as a way to challenge the dichotomy between war and peace and draw attention to the

63. Mbembe, supra note 4, at 14.
64. Id. at 40.
66. Id.
warlike catastrophic impacts of sanctions. The international human rights (IHR) and IHL worlds often operate in the crisis economy, responding to catastrophic events and the fast-paced devastation wrought by an ever more terrible military arsenal. Due to the work of many activists and researchers, we have seen gradually developing awareness of the grim human rights impacts of sanctions, but historically, the IHR and IHL framework and human rights organizations have been largely focused on “spectacular violence”—i.e., what Nixon describes as “violence that is immediate and explosive, as erupting into instant, concentrated visibility.”

There are well-established institutions and processes that spectacular violence triggers into action. Such processes include assembling commissions, collecting evidence, making demands, developing reports, mobilizing activist networks, releasing statements, and more. In contrast, the routine exercise of biopower in a sanctions regime operates on a different temporal register. Sanctions enact an incremental but relentless attack on access to basic goods for survival, grinding down infrastructural capacity and effecting an inexorable corrosion of the population’s morale.

Today, the slow and spectacular have converged in Gaza; the sanctions have given way to genocidal destruction at a very different pace—nearly 35,000 people killed within six months—alongside the destruction of the power to sustain life (hospitals being one stark example). Sanctions have long been a window into the exercise of biopower in Palestine, namely the control and administration of the population and the political rationalities through which life is ordered and reproduced. The colonial context of this exercise of biopower has been pivotal. It has meant that those political rationalities unfold in death-worlds where the instability of the line between life and death is the defining condition. As Jasbir Puar describes, biopolitics and necropolitics converge and intertwine. Thus, the latter “makes its presence known at the limits and through the excess of the former; [while] the former masks the multiplicity of its relationships to death and killing in order to enable the proliferation of the latter.”

The sanctions regime had been operating for over a decade, taking Gaza to the limit, anticipating death, deferring it, preparing the ground for it. It is (to use Puar’s terminology) a form of “bio-necro collaboration” where people have been let to live so that they can die. Thus, every few years, throughout the 2006 to 2023 period, the Israeli government would inflict an explosion of military violence on

70. Id. at 321.
71. Nixon, supra note 69, at 443. The role of the Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights was created as recently as 2014. Special Rapporteur on Unilateral Coercive Measures, OHCHR, https://www.ohchr.org/en/special-procedures/sr-unilateral-coercive-measures (last visited May 10, 2024). One of the NGOs that was pivotal in drawing attention to the human rights and humanitarian costs of sanctions was the Center for Economic and Social Rights (CESR), formerly the Harvard Study Team; CESR did extensive research on the sanctions against Iraq in the 1990s and published on of their first reports as UNSANCTIONED SUFFERING: A HUMAN RIGHTS ASSESSMENT OF UNITED NATIONS SANCTIONS ON IRAQ (1996).
73. Puar, supra note 5, at 35.
74. Id.
Gaza and then revert to the sanctions regime as if the violence was the exception and not part of the same symbiotic system.\textsuperscript{75} The sanctions performed a key role in fostering the colonial pre-conditions that normalized and enabled military operations, but, as Lori Allen has noted, the aim has been to present the military operation as the anomaly and distract from and disguise this symbiosis.\textsuperscript{76}

In \textit{The Right to Maim}, Puar notes that the Israeli military often shoots to maim, not to kill, and describes how maiming is a way to exercise biopolitical control in an occupied regime.\textsuperscript{77} Maiming exacerbates the precarity of life with direct immediacy, but it also exacerbates its precarity in the long term by curbing its future, having life’s possible curtailment be life’s ongoing co-traveler. Maiming in this register rhymes with the work of sanctions as a corrosive, torturous colonization process; it circles around death, bringing it ever closer, sometimes letting die, sometimes letting live. This is not a recent Netanyahu project but a more extended dimension of Israel’s colonial agenda and Gazan sanctions. When sanctions were first instituted in 2006, an advisor to the Ehud Olmert government described its policy objectives as an ever-present precarity: “The idea is to put the Palestinians on a diet, but not to make them die of hunger.”\textsuperscript{78} This “ever menacing” precarity is the colonial condition; Fanon describes it as a “permanent struggle against an omnipresent death.”\textsuperscript{79} With all aspects of the colonial condition, from food shortages to unemployment, high mortality rates to the loss of futurity, “[a]ll gnawing at the existence of the colonized . . . to make of life something resembling an incomplete death.”\textsuperscript{80} In this regard, the Israeli occupation of Palestine is the synecdoche of the colonial condition.

The ominous proximity of life and death that Gaza has suffered under colonization creates and participates in an economic system shot through with peril as its dominant currency. It turns out that an economy “on brink”\textsuperscript{81} has its own genre of productivity (what one scholar describes as “necro-economics”) that sanctions have contributed to ever since they were established. It involves desperation and donor dependence, remittances and mutual aid, black markets, and alternative routes to access basic needs. Over the last decades, Gaza has had a humanitarian infrastructure that has kept it on life support with the threat of being shut off ever-present. For instance, in 2017, in an ostensibly “peacetime” interlude, the Office of the UN Special Coordinator for the Middle East Peace...
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Process noted that over one million people in Gaza received some form of humanitarian assistance.\(^{82}\) From schools to hospitals, shelter to employment, the imprint of the humanitarian sector only expanded as the sanctions persisted. Significantly, this humanitarian economy feeds off the cycle of destruction and rebuilding, impoverishment, and emergency aid. Thus, even prior to the current war, the humanitarian sector was essential to the normalization of the dynamic of “bio-necro collaboration” that traveled through the life of sanctions in Gaza.\(^{83}\)

CONCLUSION

The Boycott, Divestment, and Sanctions (BDS) movement was founded in 2005 to protest the Israeli occupation and to build a non-violent global social movement of non-cooperation with colonization and apartheid. Modeled partly on the South African anti-Apartheid movement, BDS calls for a boycott “from Israel’s apartheid regime, complicit Israeli sporting, cultural and academic institutions, and from all Israeli and international companies engaged in violations of Palestinian human rights.”\(^{84}\) This, too, is a “sanctions” campaign, but unlike the sanctions regimes that have been the focus of this article, BDS is a people’s movement for sanctions that stand as a counterpoint to the sanction regimes of the most powerful states in the world.\(^{85}\)

In March 1631, in the middle of the Thirty Years War, the army of the Holy Roman Empire laid siege to the city of Magdeburg, then one of the largest cities in Germany.\(^{86}\) The imperial army instituted sanctions that the populace of Magdeburg survived for two months. On May 20, 1631, the army decided to escalate the siege into a military operation to capture the city. For five unrelenting days, imperial troops went on the rampage against the city’s 25,000 Protestant citizens. At the end of the four days, only a fifth had survived this genocidal attack. One of the most memorable scenes in Brecht’s *Mother Courage* is when Mother Courage’s daughter, Kattrin, mute and often forgotten, resolutely climbs a ladder to get to the roof, beats a drum, and warns the inhabitants of Magdeburg of the impending attack from an imperial army—Kattrin’s efforts do not prevent the attack, but like BDS it is a sign of the persistence of life even in death-worlds.

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85. On November 29, 2022, to mark the International Day of Solidarity with the Palestinian People, almost 200 TWAIL scholars from around the world affirmed their commitment to BDS as a collective effort to interrupt the normalization of colonization. TWAIL Scholars & Allies for Palestinian Freedom: Solidarity & Boycott Statement, THIRD WORLD APPROACHES INT’L REV. (Nov. 29, 2022), https://twair.com/twail-scholars-allies-for-palestinian-freedom-solidarity-boycott-statement/.