

Public Ethics Radio

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Episode 15, Joy Gordon on Iraq Sanctions

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MATT PETERSON: This is Public Ethics Radio. I'm Matt Peterson.

In August of 1990, the United Nations Security Council responded to the invasion of Kuwait by imposing stringent sanctions on Iraq. The sanctions imposed a global ban on trading any goods with Iraq, except for "supplies intended strictly for medical purposes, and, in humanitarian circumstances, foodstuffs." The sanctions were originally intended to force Iraq to withdraw from Kuwait. After the Gulf War ended, they were revised and extended to prevent Iraq from rebuilding its military. The sanctions remained in place for twelve years, until the U.S. invasion ended Saddam Hussein's regime.

The sanctions are widely believed to have had a devastating effect the Iraqi people. Increased child mortality resulted in the deaths of some 500,000 Iraqi children. And Iraq's infrastructure, badly damaged in the Gulf War, has still not recovered. Electricity is a notorious problem: Baghdad had only five hours of electricity per day last month.

Our guest today, Joy Gordon, has just published a searching analysis of the sanctions on Iraq titled *Invisible War*. Gordon is Professor of Political Philosophy at Fairfield University, and is currently a colleague of mine in the Global Justice Program at Yale. She spoke to Christian Barry from New Haven.

CHRISTIAN BARRY: Today we're joined by Joy Gordon, author of *Invisible War*, her recent book on the effects of the economic sanctions in Iraq, and the politics surrounding them. We're going to be discussing elements of the Iraq case, and also more broadly the question of sanctions as a tool of coercive diplomacy.

Joy Gordon, welcome to Public Ethics Radio.

JOY GORDON: Thank you so much. It's a pleasure to be here.

CHRISTIAN BARRY: Joy, I recently read your book, and one of the things I was struck by was that you, as a philosopher, have written not so much a treatise on the ethics of sanctions, as an extremely detailed expose and damning critique of a particular set of sanctions that were levied against Iraq by the UN, and in particular the U.S. role in it. How did you end up writing this book, rather than a book one might have expected from a moral philosopher writing about sanctions?

JOY GORDON: Well it actually started as exactly that. I was, I had been doing a lot of work on the ethics of economic sanctions in principle. So, looking at just war doctrine, and utilitarianism, and deontological theories, and how sanctions fit into that. So then I was turning that into a larger book in which the Iraq situation would be a case study. That was probably in the late 90s or something that I was working on that—99 or 2000.

But in the course of doing that, it turned out that the situation involving the sanctions in Iraq was enormously complicated, with an enormous number of actors, huge amounts of money, huge amounts of regulation. It was—you couldn't go through these materials, these documents, this information, without thinking to yourself, "This is something—this is a narrative about the United States and the Security Council, and a particular moment in the Security Council's history, which is right in 1990, the Soviet Union has collapsed, there is no counterweight to the U.S. on the Security Council, and the U.S. sees the Security Council as now a vehicle for moving forward a U.S. agenda in a way that had never been possible since the inception of the United Nations." And essentially the sanctions on Iraq end up being more of a demonstration of what was going on at that juncture within the context of global governance.

CHRISTIAN BARRY: And what were some of the ways that this type of influence got exercised? I mean, officially the sanctions certainly were UN sanctions, and there was a committee with representatives of a number of different countries. How did it actually work and how did this influence get exerted?

JOY GORDON: Well, there was a committee of the Security Council called the 661 Committee, named after Security Council Resolution 661. And it really was the committee that managed the sanctions regime in every way. But the committee met behind closed doors and its minutes were very restricted. For the most part, the members of the committee themselves did not even receive the minutes. So within that process, although what appeared to the public and the world as, the Security Council has decided on this or that policy, and in fact if you saw what was going on in the Council, within this committee itself, things were working very differently.

It operated by consensus, so there wasn't the veto power specifically of the P5 in the way that there is in the Security Council generally, but it sort of didn't matter, because under the consensus rule, everyone had veto power. And in fact what ended up happening is that, in fact, for the most part, the U.S.—to some extent the U.K., but mostly the U.S.—used that veto power. And the other thing that happened that was significant is, once the sanctions were imposed, they were really almost completely comprehensive in terms of the goods that they covered. So the original sanctions allowed medicine, and allowed food, but only conditionally, under, "humanitarian circumstances."

So, given how much was excluded, for anything to be permitted, the committee had to agree on granting an exemption. So that meant that if any single member of the committee objected to the exemption, the exemption could not be approved. So what ended up happening is in effect any single member could block even food from going into Iraq because that required this special permission.

And so, from the beginning you saw very dramatic policies of a very extreme nature. So with this conditional issue with food, what happened is the U.S. took the position—there was then a debate for the first seven or eight months on what constituted “humanitarian circumstances,” such that Iraq would be allowed to import food—remembering that Iraq had imported two thirds of its food up until then and was, and while they could generate greater agricultural production, they couldn’t do that in less than a growing season, so there was immediately a severe emergency.

So then we saw a kind of microcosm of the sanctions play out in the first few months over this question, “What constitutes humanitarian circumstances?” The U.S. position was, “When we have irrefutable evidence of something like an advanced state of famine, that meets that criteria, and that’s when Iraq will be permitted to start importing food.” Other countries on the Council would say, how—the fact that Iraq had been importing two thirds of its food and is now thrown into a crisis, even if we don’t see evidence of famine, clearly when two thirds of the country’s available food has declined, that should at least be a situation that Iraq should be allowed to import food.

And that was really the dynamic that happened throughout the sanctions regime. That the U.S. in private consistently took the position that Iraq should be allowed to import as little as possible, regardless of the humanitarian impact. Once—certainly from the beginning the issue even was as minimal as whether it should be allowed to import food. Later on, when the policies changed somewhat in response to the human impact, then the U.S. position was specifically addressing industrial development and infrastructure and security concerns. And then the U.S. view was Iraq could not import anything with a possible military use.

So the version we hear of that publicly is no dual-use goods, or specifically no goods useable for weapons of mass destruction. And then that sounds very good, it sounds like these are targeted sanctions, it sounds like the military goods are not getting through, you know “Saddam is not going to be allowed to rebuild his army,” and that was the language that was very commonly used in public. In fact what then happened is that the U.S. then defined dual-use in a particular way, so this was another moment when the U.S. view ended up shaping the entire policy of the Security Council.

CHRISTIAN BARRY: I can understand one thing—with respect to dual-use, I mean, at least one can—you can imagine ways of defining it, and I can at least see the plausible rationale for defining it broadly, or that is to say, restrictively, as the U.S. did, insofar as they thought there was a credible threat of a certain type of armaments being developed. But what was their rationale on being so stringent with respect to the importation of goods that didn’t seem to be dual-use?

JOY GORDON: Well, a great deal depended on the interpretation of dual-use. The U.S. defined it as all infrastructure: electricity, water, agriculture, transportation, telecommunications. And the thing is that that is in a literal sense true. It’s absolutely true that the military uses electricity, the military uses trucks, the military uses roads. There’s no question of that. It’s also the case that if that’s what you block is all infrastructure, you cripple the country.

And the only restraint on that ended up being political. When the U.S. blocked certain goods, when the situation was so extreme as to create political damage to the U.S., or political embarrassment, that's when you saw the U.S. relenting a little, or at least publically relenting and changing its position. But outside of that single type of restraint or source of restraint, the U.S. position was simply to block everything possible, regardless of the humanitarian impact, as much as possible, as long as possible.

CHRISTIAN BARRY: We're talking about sanctions and Iraq with Joy Gordon. We're going to take a brief break and we'll be back shortly.

MATT PETERSON: You're listening to Public Ethics Radio.

CHRISTIAN BARRY: So is the lesson, though, then to draw from this that there's something problematic as such about sanctions, or that in this specific instance there was a rare combination of factors that led to the imposition of sanctions, which were restrictive beyond what could plausibly be given any sort of justification?

JOY GORDON: Well, I think that—I think that there's—that the Iraq sanctions were unique for the degree—for their extremeness, certainly. And for the particular vulnerability of Iraq.

None of the sanctions imposed by the Security Council after Iraq were as extreme as those. And the political costs of doing that are high enough that it's hard to imagine exactly that kind of scenario being reproduced. Having said that, I think there's a good argument that, while this was particularly extreme, there are certain things that are—that really are fundamental, or part of the basic logic of sanctions. And I do think that for the most part, there's two things: they're overbroad, and for the most part they tend not to have much efficacy.

So let's take the second one first. The most positive study of sanctions overall is a collection called *Economic Sanctions Reconsidered*. And it's sort of a database. They look at all episodes of sanctions in the twentieth century after World War I. And one of the findings is that, in about a third of the cases, sanctions have some role in getting the target nation to comply with the demands made of it. Robert Pape criticized—revisited the data in the late 90s and says, you know, "That's really an overstatement." That in most of those cases there's something else going on as well, that it's over-determined, that in addition to sanctions there's some other measure as well, and that could have been what really was the causal component in getting the target state to comply. And he says, if we look at the number of cases where we really can tie compliance to the particular factor of sanctions, then it's looking closer to 3 percent. So we have the most optimistic analysis there is saying in a third of the cases sanctions will have some impact, and then we have a serious critic saying, you know, it's really closer to 3 percent, not even 3.

CHRISTIAN BARRY: I wonder, in those assessments, though, if it's the idea of, when we're thinking of sanctions as an available tool, the question is not—so should not narrowly be focused on whether in a particular case in which sanctions are applied that they actually have the effect of changing the behavior of the regime, any more than the only thing that we should appeal to in

evaluating a criminal sanction is, when it's applied, does it actually have the effect that those who are punished don't do the crime afterwards.

But rather, are the types of incentives that different actors have in a system in which sanctions are available such that the outcomes are better than a system without such sanctions? And I would just imagine that those who favor sanctions would say that, in many ways the way that in many ways, the thought that one can be sanctioned, the thought that one may suffer that sort of isolation, change in a myriad of ways the way regimes actually behave, that there may be behavior that is avoided simply because there is the possibility they might be sanctioned or isolated.

I mean, for example, one thing you can even see right now in Iran is the extent to which the thought that the extent to which the existence of Iran's sanctions, and even the thought they might be increased, are even effecting many private companies that are not technically bound to comply with them. That is, this would be an instance in the threat of sanctions, the threat of being associated with a regime that is being sanctioned, would undermine the willingness of corporations to enter into commercial ties, commercial ties which at least arguably are necessary for the upholding of a type of regime. So I wonder how much we should really draw from those types of studies of the effectiveness of sanctions understood in that way.

JOY GORDON: Well, let's look at your analogy of punishment of an individual, punishment of a criminal person. I think, you know, that the reason that there's such a significant issue of justice with sanctions is precisely because the wrongdoer and the one who is punished is not one and the same person. So let's look at two things. One is the logic of compliance. Because it's not just a question of looking at the numbers and saying there rarely is compliance. And the other is, I think, this problem of over-breadth, of over-inclusion. Because even if it's true that by threatening a country with sanctions you can do harm—other companies back off—what that doesn't fix is the problem of being indiscriminate in the impact. That just gets more harm done to the country, and it's not clear that's justifiable. In the case of an individual criminal, it might be. You could say, "This is retribution and there's good reasons for that. This is incapacitation and there's good reasons for that."

But the problem with the sanctions is, those who are affected first and worst are those who are not in positions of power, and those who are most vulnerable in a variety of ways. So if what you do undermines a country's capacity to treat water—to treat potable water, those who are affected first and worst are babies, children, the elderly, the sick, and the very poor. Those who are affected least and last are the political and military leadership and the economic elite. So in general, as resources shrink, those who are in fact the ones responsible for forming the problematic policy, are the ones who are most insulated, and those who are least responsible for that policy are the ones who are harmed most, and most indiscriminately.

CHRISTIAN BARRY: Right.

So that, that really is mostly unavoidable. Smart sanctions can only go so far, because the thing about smart sanctions is, well they address the—

CHRISTIAN BARRY: By smart sanctions you mean, not blanket sanctions, right, but sanctions that are focused on specific elements of the economy?

JOY GORDON: So smart sanctions, or targeted sanctions, includes a number of different kinds of things. So one type of targeted sanction is a travel ban, that restricts those who hold power, or those who are responsible for human rights violations, or the wrongful policy, from travelling to the West, or whatever country is sanctioning them. Another targeted sanction would be seizing the bank accounts or the assets of that particular person or set of persons. And those seem fine. Those don't raise problems of justice, because it certainly seems like the one responsible for the wrongful policy is the one who is directly being harmed.

But it's unclear that something like a travel restriction is going to have, really a significant deterrence effect. On the other hand, let's say that seizing someone's personal assets does. But the problem is, if someone wants to hide their money, they can do it, and seizing assets of a dictator is not that different logistically than tracking down the money of a drug trafficker. If you want to hide it, it can probably be hidden. So with smart sanctions, it addresses the problem of justice, but it raises a problem of logistics that's often insurmountable.

CHRISTIAN BARRY: So this—

JOY GORDON: So they don't provide this fix for the problem of indiscriminateness.

CHRISTIAN BARRY: So you mention the indiscriminateness, and I guess, a couple of—the inadequacy of a strict analogy with the criminal system, but I guess those who are in favor of sanctions would probably want to assert two points. One is that of course we have to be concerned with innocent people, and that's precisely why we need to uphold norms that create disincentives to behave in ways that are damaging to innocent people. So if it turns out that a world without sanctions would be one in which there were even less disincentives for regimes to be tyrannical, to abuse their own populations, to engage in aggression abroad, then it's hardly a friendly policy towards the humanitarian project to forbid or to seriously restrict these sanctions, because although when they are applied of course they'll do harm, a world without them is more harmful to those who are undeserving than a world with them.

And one might, if we wanted to work the criminal analogy, one might say that whenever we set up certain issues of criminal procedure, we recognize that however we design criminal procedure, there is some non-negligible chance that certain innocent people will actually be punished, and while we try to avoid that to some extent, there's a recognition that there's a balancing act to be undergone there. Right? We don't want to make it so difficult to sanction certain behavior, that it won't have the desired disincentive effect. So we recognize there will be certain types of errors, and we try to work in such a way that makes it more difficult, makes it less likely that those errors will occur, but nevertheless we recognize that they will occur. And that doesn't mean that the project of upholding these norms is illegitimate.

JOY GORDON: OK. Well, I think one answer to that is—may simply be—let's say that part of the answer to that is just the numbers. We believe that when we have a criminal process, that the nature of the process and the outcome of the process is generally that the guilty are punished, and

generally that the innocent are recognized as innocent. If you were to change that and to say, nearly all of the time—97 percent of the time—the innocent will be harmed, in the name of upholding a norm against human rights violations, or against tyrannical behavior, that's much messier, because it's much harder to say with any kind of moral credibility, we are going to systematically and almost invariably harm the innocent, in the name of demonstrating the wrongness of—

CHRISTIAN BARRY: Actually, it was to *protect* the innocent. It would be in the name of protecting the innocent.

JOY GORDON: Well, that doesn't help you much—to say we're going to harm the innocent in the name of protecting the innocent.

CHRISTIAN BARRY: Well no, I think it does. It depends, right? At least if the argument is that we better protect the innocent by upholding norms that foreseeably will end up harming some innocent people, because en masse the innocent will be benefited by the existence of this norm.

So the sanctions, the thought, at least the argument that those in favor of sanctions seem to put forward is that, if you actually care about the undeserving—those who are not liable to suffering certain sorts of deprivations—the relevant comparison is, how many people will suffer deprivations without a world in which sanctions are a tool of statecraft, versus how many will suffer deprivations to which they're not liable in a world with sanctions.

JOY GORDON: I think the only way that can work for you is if you can show that they're efficacious. And I think that's where it won't work. You can say—it's almost kind of a scapegoating argument. If we sacrifice the few, then we can ultimately, or on a broader scale, protect the many. Except that I just don't see that in the question of whether they're actually efficacious. I mean, if you look at just this basic question of, how often do target states comply with the demands made of them, the answer is almost never. And it's not just a numbers issue, it's the logic of it.

If anything, what happens is sanctions have the opposite effect on the target nation. The first thing that happens is the population, however much they may dislike the state and its policies, when an outside entity imposes sanctions on their country, imposes hardship and harm, that's seen as a form of aggression. And the result is, there's a greater cohesion, a greater support for the state, because now everyone is responding to this external aggression against the nation. And even if you are one of the citizens who doesn't buy that, who still says, “Whatever harm they are doing to us as a population, I still think this dictator is indefensible”—let's say you take that position. The other thing that happens is there is just much, much less room for dissent. The state ends up controlling resources much more tightly, because as the resources shrink, they become more centralized. Whether out of corruption or out of good management, whether out of cronyism, or whether out of a need to implement a rationing system for food.

CHRISTIAN BARRY: We're talking to Joy Gordon about sanctions in Iraq, and also the ethics of sanctions more generally. We're going to take a short break and we'll be back with more.

MATT PETERSON: This is Public Ethics Radio.

CHRISTIAN BARRY: So one thing that comes up very clearly in the book, and as you mentioned in an interview, is how the intense influence of the U.S. was able to effectively control a global institution. Now subsequently, of course, the U.S. seems to have lost a fair bit of that influence. And at least the Security Council—and you see this playing out in the cases of Iran and North Korea—seems to be a lot more multi-polar. There doesn't seem to be this clear exercise of dominance. Now do you think that this gives us much less cause for concern in the kinds of sanctions that will actually be employed?

JOY GORDON: Certainly, to some degree. Certainly things are not now as they were in 1990, and couldn't be, just because of the presence of other actors. But that doesn't mean that the sanctions don't continue to be problematic in a variety of ways. Those that have no time limit are subject to what came to be known as the reverse veto. So any set of sanctions imposed in an open-ended way requires a new resolution to end it. And in that case, any one of the P5 can block that new resolution. Consequently, the Security Council, which is already a counter-majoritarian institution within the UN, the P5 which are counter-majoritarian within the Security Council, and then we have yet one more degree of the way this kind of minority influence can be exercised, which is that, once sanctions are imposed on any country, regardless of how much compliance there is, however much support erodes, however much humanitarian impact there is, any of the P5 can then keep them in place indefinitely. And so that's something that continues to occur. And that is not something that's going to be resolved by just the general shift in the make-up of the Security Council over time.

CHRISTIAN BARRY: Well one thing, speaking again—and obviously I'm mentioning Iran and North Korea because they're such live issues, in which different policy issues are constantly being discussed, and there's a lot of disagreement about what would be a morally acceptable solution. But in these two cases there are a couple of issues. One is that neither of the countries seems at least as obviously vulnerable to economic embargo. And it's also not quite clear—and this is something that those who are a bit more friendly to sanctions—what can actually be done?

If there's anything that has been demonstrated by the second Gulf War and other military involvements, it's that forms of coercive diplomacy can be extremely costly, however targeted, and however much one may try to distinguish between combatants and non-combatants, it's extremely likely it's going to create a tremendous amount of hardship. Yet on the other hand, it seems to be a real, legitimate concern of the international community of states which show aggressive capability, which show themselves disposed to develop nuclear technology and in fact transfer to others—that a world in which there are an increasing number of the nuclear club, which gives them real effective sovereignty, is a very, very dangerous thing, and it's not quite clear what types of tools are actually available to address it.

JOY GORDON: I don't have any idea what the answer to that is. I don't have any idea of what there is, in a general sense, that's a tool that's both powerful and ethically defensible. In individual situations, there may be avenues for diplomacy to work, as appeared to be the case in Iran's dealings with Turkey and Brazil recently.

But in general I don't think that's really a fair question to put to economic sanctions. It makes us—if you frame the questions as, “Well if you take sanctions out of our toolbox, then what are we supposed to replace them with?” And if we don't have an answer to that, then the implication is, well then you can't take them out of the toolbox until you do have a solution. And I don't think that's the correct way to view it.

It just seems to me that in the end sanctions, if they have any—if they have impact, then the impact is almost invariably, almost structurally indiscriminate. Even when they do have impact, there's so little chance of actually getting a change to happen by the target state. And in that case, I think the thing to say is, “Look, they just don't work.” Either they don't work logistically, or if they do work logistically, they don't work ethically, or if they do work ethically, they don't work in some other way. And I think that's just sort of the bottom line.

The thing that I think has to be grappled with is actually the problem that they remain attractive, even though they're ethically and logistically and politically problematic. They remain so compelling – and they're compelling as a tool, as a device to use mainly because they don't create any costs for the sender, at least not direct concrete costs that are on the books to its own constituency. So if the U.S. imposes sanctions on Cuba, the harm done is not to the U.S. electorate. The cost is not on the U.S. budget. The cost is to businesses. There is not a political or human cost to the sacrifice that is involved in a military intervention. So everything about the sanctions looks good. There's no cost and it seems like it's much more substantial than just saber rattling or diplomacy, while seeming as though it doesn't present any ethical problem or political problem.

So it's an easy thing to reach for, but I think the bottom line is, what it's really good for is posturing to your own constituency, and it's not really good for anything beyond that. So—

CHRISTIAN BARRY: So given that you think that they are going to remain attractive, that this is going to be something that is not, regardless of the arguments of different scholars about the inefficacy of them, do you see the prospects for developing better guidelines, either codified in international law or even a set of norms to govern the use of sanctions that can make it the case that they are more likely to actually have beneficial effects? I think it's certainly the case that many types of sanctions that have been applied have simply been applied probably punitively, or again, as a posturing, but are there ways of changing the ways in which sanctions are used, developing guidelines for their use that would make them more efficacious, or at least much less damaging?

JOY GORDON: Well, there are guidelines. There's lots and lots and lots of guidelines, and they were developed early and often.

CHRISTIAN BARRY: And what are the content of some of these norms, if you think that they're plausible ones?

JOY GORDON: One is that the humanitarian impact should be monitored continuously. One is that there should be advocates, that the humanitarian agencies—so this is in the context of the

UN—but that the humanitarian agencies should be participating in the sanctions, so that they can advocate for the humanitarian impact. Another is that they should be time-limited. Another is that humanitarian exemption should be available. You know, all of the kinds of things you would expect as exactly a response to over-breadth and humanitarian impact. They should be—if they're not efficacious they should be removed. If the target state complies, they should be removed, and so on.

And the issue is really implementation. Who's going to be applying the sanctions, and who's going to be enforcing those restraints on the sanctions? In the case of Iraq, there was this bizarre kind of schizophrenia, where the Security Council—the 661 Committee—was at one and the same time responsible for enforcing the sanction and for granting exemptions to it. And whatever the political dynamic was on the Council at a given moment, determined whether that would, whether the sanctions would, whether goods would get through or whether they wouldn't, whether humanitarian exemptions were granted or not.

And I think we're just stuck with that. It's not for lack of analysis, and not for lack of proposals that the sanctions continue to be indiscriminate and ineffective. It's because they are so very attractive, and so very useful for posturing, and for a kind of punitiveness, although it's punishing the wrong entity, which ends up then being just a sort of posturing as well—we are going to slap Hussein's wrists so that he doesn't—so that we send him a lesson—as though this will impact Saddam instead of the population. But I don't think in the end there is a way of enforcing, of implementing these reform measures, these guidelines for the ethical and effective use of sanctions. Because those guidelines in turn are subject to exactly the same political dynamic as the imposition of the sanctions in the first place.

CHRISTIAN BARRY: Joy Gordon, thanks for joining us on Public Ethics Radio.

JOY GORDON: Thanks for having me.

MATT PETERSON: Thanks for listening to Public Ethics Radio. The show is an independent production, supported by the Carnegie Council for Ethics in International Affairs, the Centre for Applied Philosophy and Public Ethics, an Australian Research Council Special Research Centre, the Australian National University, and Yale University. We'll be back soon with another conversation about public ethics. In the meantime, you can find us on the web at www.publicethicsradio.org.