Article

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A Theory of Fairness in Trade

Abstract: A theory of fairness in international trade should answer at least three questions. What, at the basic level, are we to assess as fair or unfair in the trade context? What sort of fairness issue does this basic subject of assessment raise? And, what moral principles must be fulfilled if trade is to be fair in the relevant sense? This discussion presents answers to these questions that derive from a "constructivist" methodology inspired by John Rawls and the social contract tradition.

Keywords: fairness, trade, practices, Rawls

DOI 10.1515/mopp-2014-0007

A theory of fairness in international trade should answer at least three questions. What, at the basic level, are we to assess as fair or unfair in the trade context? What sort of fairness issue does this basic subject of assessment raise? And, what moral principles must be fulfilled if trade is to be fair in the relevant sense?

In this discussion, I present answers to these questions that derive from a "constructivist" methodology inspired by John Rawls and the social contract tradition. In doing so I review the main lines of a position I have presented in a book-length treatment elsewhere,[1] but also further develop several of its basic assumptions about the global economy, in a way that further shows international trade to be a distinctive subject of moral inquiry. My main proposals are as follows.

1 Aaron James, *Fairness in Practice: A Social Contract for a Global Economy* (New York: Oxford University Press, 2012). Hereafter either "*Fairness in Practice*" or "*FP*."

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The subject of fairness

The basic subject of fairness in trade is an *international social practice of market reliance*, that is to say, a social practice in which countries mutually rely on common markets (in goods, services, or capital) for the sake of augmenting their national incomes – what Adam Smith famously called the "wealth of nations." This general social practice is to be distinguished from particular market transactions between persons and firms, larger flows of goods, services, or capital across borders, and any given country's trade or trade-related policies (tariffs, quotas, safeguards, subsidies, etc.). A chief function of the international market reliance practice is to regulate such policies according to international expectations, in formal trade law (e.g. World Trade Organization rules) or in informal understandings of how the balance between market and state is to be struck (e.g. the post-war "embedded liberalism" compromise).[2] Such substantial market reliance expectations are the specific terms upon which countries participate in the larger market reliance practice. The practice itself, and the basic subject of fairness, is the underlying social fact that most countries do comply, more or less, with some such system of market reliance expectations, for the sake of augmenting the wealth of nations.

The issue of fairness

The international practice of market reliance can be organized in different ways, with varying consequences for the national incomes of different countries and for the socio-economic prospects of their respective social classes. Countries may benefit from trade to very different degrees overall, and specific groups of people may on balance be "losers" from freer trade even if their country gains in the aggregate (e.g. low-skilled workers in import-oriented industries become unemployed and are not "redeployed" in export-oriented industries where their jobs may have moved). The collective choice of organization, through negotiated agreements or trend-setting unilateral action, is therefore subject to basic moral demands of fairness, beyond mere considerations of national interest, efficiency, or overall welfare.

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2 See John G. Ruggie, "International Regimes, Transactions, and Change: Embedded Liberalism in the Postwar Economic Order," *International Organization* 38, no. 2 (1982): 139–174 and Robert Howse, "From Politics to Technocracy – and Back Again: The Fate of the Multilateral Trading Regime," *The American Journal of International Law* 96, no. 1 (2002): 94–117.

Chief among them are requirements of *structural equity*, which concern the trade practice distributes the benefits and burdens it creates, among different countries, and among their respective classes, according to principles that no one can reasonably complain of.[3] To say that the international market reliance practice has an equitable structure, or is structurally equitable, is to say that it distributes the benefits and burdens it creates according to a pattern that is reasonably acceptable to every country and class affected. (Perhaps everyone benefits in sufficient measure, or perhaps those who are burdened cannot reasonably insist on feasible alternative arraignments, without someone else's suffering an even greater disadvantage.) To judge the practice as inequitable, by contrast, is to judge that some could reasonably object to a particular set of arrangements, given a less objectionable alternative to which no one has a comparably powerful complaint. (Perhaps low-skilled workers in advanced countries repeatedly suffer severe and irreparable harm, in sustained unemployment, for the sake of small benefits spread among millions, e.g. of slightly cheaper food and TVs, while compensation could be feasibly provided, at only a small or moderate opportunity cost to each of many "winners.").

Concern with structural equity is more basic than, and helps to explain, a variety of other issues of fairness that arise in the global economy – including "fair trade," "fair bargaining," "fair play," "fair competition," "level playing fields," "equitable growth," "fair wages," and "exploitation."[4] Various other moral issues are wholly independent of structural equity in the first instance – including humanitarian concerns with poverty, questions of global justice or human rights external to the global economy, and concerns of rectificatory justice for innumerable past wrongs (e.g. of colonialism). My thesis is that structural equity generates substantial fundamental principles in its own right, without relying on moral claims of any of these other (perhaps equally or more important) kinds. Such further claims might complement or conflict with the demands of structural equity, but I assume this can be taken up as a further question.[5]

3 *FP*, Ch. 5.

4 See *FP*, pp. 156–63.

5 Thus past wrongful expropriation (through colonialism, or a dictator's theft of a country's resources) can upset the legitimacy of initial holdings in a way that changes what structural equity requires. My argument assumes only that the issue of structure equity is in principle separable from rectificatory and other moral issues. I take up several "external" issues and their relation to fairness in trade in *FP*, Ch. 10. See pp. 144–6 for the "internal" and "internal" distinction, and also Charles's Beitz's "Internal and External," and my reply, in a forthcoming special issue of the *Canadian Journal of Philosophy* (with replies to *FP* also by Christian Barry, A.J. Julius, and Kristi Olson).

Fairness principles

The basic requirements of (socio-economic) structural equity can be expressed by the following three principles.[6] Each principle specifies a collective responsibility of trading partners and applies to a different socio-economic tendency, normally found in trade practice (though qualified by an implicit "absent special justification" clause, under which extenuating or otherwise special circumstances may be accounted for).

The first principle concerns the harms of trade, such as unemployment, wage suppression, and income volatility that diminishes lifetime savings. According to

> *Collective Due Care*: trading nations are to protect people against the harms of trade (either by temporary trade barriers or "safeguards," etc., or, under "free trade," by direct compensation or social insurance schemes).

As I elaborate the relevant "harms," the principle at least requires that no person's life prospects be made worse than they would have been had his or her society of origin been a closed society.[7] In addition, no one's overall prospects are to be worsened by the removal of a barrier to trade (by a "historical" rather than "subjunctive-historical" baseline), unless compensation is also arranged.[8]

The second and third principles concern the national income gains that arise from trade, due to greater allocative efficiency in the division of labor, economies of scale, and the spread of technology and ideas. The "gains" in question are not the total economic improvements that result among societies in a trading relationship, including those that accrue to trade-independent endowments (i.e. that part of country's population size, natural resource base, culture of work or leisure, level of development, etc., that isn't "created" by trade, according to some appropriate characterization). At issue presently are only the gains in productivity that result *specifically due to trade*, as specified in economic theory and approximated in econometric practice. According to

6 Ch. *FP*, Ch. 7. For related specifically *political* responsibilities, see Chs. 3 and 5.

7 *FP*, pp. 208–17. Note that we can still justify some losses to "losers" (e.g. an oligarch or monopolist displaced by trade), provided a special justification for this (*FP*, pp. 208–9). I assume that all principles have "absent special justification" clauses (*FP*, 203n1).

8 This final clause about historical worsenings is not included in my official statement of the principle in *FP* (e.g. on pp. 203–4). I did endorse their relevance on p. 204, as a separate kind of harm that requires compensation for similar reasons (provided on pp. 207–8). To the extent the two baselines for harm lead to different verdicts, I assume compensation would be required for the greater of the two harms. On the potential divergence see Christian Barry's contribution to the forthcoming special issue in the *Canadian Journal of Philosophy*, and my reply.

International Relative Gains: national income gains due to specifically to international trade are to be distributed equally, unless greater gains flow (e.g. via special trade privileges) to poor countries.[9, 10]

And according to

Domestic Relative Gains: gains for a given trading society are to be distributed equally among its affected members, unless inequality of gain is reasonably acceptable to them all (e.g. according to domestic distributional principles).[11]

Those are my main claims. A crucial feature of the account is that it is *international* in a qualified yet particularly strong sense: it provides no scope for comparing levels of gain for any two individuals of the world. The first principle does consider harm to individuals (or members of social classes), whether or not they live within the trading system. But as far as the *gains* of the system are concerned, comparisons between individuals are only allowed (under the second principle) *within* a given trading society. Assuming no one is harmed, the distribution of gains across societies is evaluated (under the third principle) at the level of whole countries. This is despite the fact that we can easily imagine a further, specifically "global" or "cosmopolitan" fairness principle that directly limits the relative gains of any two individuals of the world.[12] So one might ask:

9 In the version of this principle stated in *FP*, p. 168, the intended "endowment adjustment" simply *identifies* the gains of trade. It does not generally call for a further "adjustment" as a substantive fairness consideration once the gains over autarky have been identified (as perhaps confusingly suggested in FP, pp. 19–20). I would allow such adjustments on an ad hoc basis, in special circumstances. See Kristi Olson's contribution to the forthcoming special issue of the *Canadian Journal of Philosophy*, and my reply.

10 I also assume appropriate adjustments for population: other things being equal, differences in overall population size can justify differential benefits, beyond differences in the size of the working-age population, seen as one of country's trade-independent endowments.

11 The question of domestic distribution can be subsumed under domestic principles that would equally apply even in the absence of trade. My claim is that a separate principle of this kind, which applies to the domestic distribution of gains from trade, is at work whether or not we assume any such independent principles. The separate principle might be a principle of strict equality, or a Rawlsian difference principle, applied only to the gains of trade, for example (see *FP*, pp. 219–21). I take this to reflect a deeper way the domestic and international contexts are not analogous: the global economy reflects "partial integration" between separate countries (in a sense explained below), whereas domestic economies, at least normally, are fully integrated. In theory, one might suggest that a domestic government's role in creating market relations gives the public a separable claim up the gains of private domestic market activity, but whether this is an apt framing would depend on further argument.

12 The *locus classicus* is Charles Beitz's, *Political Theory and International Relations* (Princeton, NJ: Princeton University Press, 1979), which applies Rawls's difference principle globally.

why not directly compare how, say, a particular American and a particular Brazilian fare? Given globalization, are they not both part of the same worldwide division of labor?

In brief, my answer is "no," at least not in the sense required. In general, mere economic interdependence between people or countries is not sufficient to give rise to the distinctive issue of fairness which is chiefly at issue in international trade. What does raise the distinctive issue is the special kind of *social relationship* that embeds market relations, namely, the international market reliance practice that allows and regulates economic interdependence. Because the practice has a specifically international structure and purposes, the relation the American and the Brazilian share by way of their economic interdependence is indirect; the basic parties to the organizing social relationship are their respective countries. Individuals, as such, can lay claim to protection against the harms of the trading system, including trade-related domestic policies. But further egalitarian claims, concerned with *relative* gains or losses, are held by their respective societies. Such claims are claims to the fruit of the relevant social cooperation, specifically, to *the type of good the trade relation is intended to create*, on the basis of participation in their joint creation. But because the central aim of international market reliance is the augmentation of *national* incomes, principles of distributional fairness in the first instance have an international rather than "global" or "cosmopolitan" form.

This reasoning depends on an interpretive claim about the economic rationales that have motivated trade liberalization for over two centuries. Adam Smith first defended the benchmark of national income as against mercantilist thought. Although he focused on the national income benefits to a country of trade to its "absolute advantage," that is, by specializing in what it does best relative to other countries, and trading for the rest from abroad, Robert Torrens, David Ricardo, J.S. Mill would explain that a country gains even more in national income by trading to its "comparative advantage" instead, that is, by doing what it produces best, not relative to *other countries*, but to its *own productive options*, given its national profile of industrial capabilities. The tradition of free trade argument would add that gains in national income are further augmented by economies of scale and the spread of technology and ideas, by reducing costs of production and increasing output, while the resulting gains in turn contribute (indirectly, and in conjunction with factors such as geography and institutional quality) to economic growth. On the best understanding of classical theory, I claim, the central, organizing aim of international trade is to allow countries to further refine their respective overall *national* divisions of labor, in order to allocate resources more productively and thereby increase national (average or aggregate) income. Exchange in a market is mainly a *means* to such specialization: the possibility of exchanging for what was previously produced allows ever further refinement, ever greater overall production, and ever greater national-level income gains.[13]

I mention the distinctively international structure of my proposed principles because it will be central to my discussion below. It also highlights why my proposed principles may be of interest: they show that a Rawlsian social contract approach can make a lot from modest means. Fairness in trade can be seen to generate limited but significant egalitarian requirements of distribution given only relatively plausible assumptions about the international system, the economic point of trade, and specific moral judgments that are quite separable from more general humanitarian, human rights, or global distributive justice requirements.

The social contract framework

On this last point about moral judgment, my proposed principles are intended to specify "what we owe to each other" in the trade context in the sense of T.M. Scanlon's moral contractualism.[14] The principles are those "no one could reasonably reject," given interests or claims relevant to the social context in question, in the present case, our interests in both the benefits of life in an open society and in protection against its insecurities. At the same time, Scanlon's theory is primarily devised for interpersonal morality, and so does not directly tell us how to address the large-scale patterns of economic interdependence we find in the current global economy. Such patterns are beyond any individual person's control, and so largely beyond the scope of principles for individual conduct. And yet they are hardly just the workings of fate: the patterns are both created and substantially shaped by domestic and international social institutions, which include the trading system.

Rawls's theory, by contrast, is concerned with institutions in the first instance: the special concern of *social* justice is the justifiability of collectively

13 National-level income gains may or may not translate into welfare, for countries overall or for individuals. As for countries overall, whether national income gains lead to overall welfare depends on how the gains are distributed. A net welfare loss might result if all the gains go to a few people, while enough "losers" suffer dearly. As for individuals, trade may or may not benefit a person, if only because trade simply changes "relative prices": as some prices fall, other prices rise. Whether one is better off overall will depend on what is in one's overall consumption basket. Even if some prices fall, the price of what one needs most may go up to a degree not covered by savings elsewhere, leaving one a net loser.

14 T. M. Scanlon, *What We Owe to Each Other* (Cambridge: Harvard University Press, 1998).

sustained social institutions and practices, in light of their large-scale distributive consequences.[15] (If Scanlon's concern is with what we each owe each other as so many individuals, we might say that the Rawlsian concern is with what a given organized collective "we" owes to all others affected.) Specifically, a central Rawlsian preoccupation is with what I am calling "structural equity" – the concern that a governed social practice treats all those it affects equitably, given the way it distributes the benefits and burdens it creates among them.

This is already a broadly egalitarian concern, in a minimal sense: differences in treatment under the common structure are assumed to be arbitrary unless they can be justified as reasonably acceptable to everyone affected. This does not yet limit inequality of outcomes, which still could turn out to be acceptable. Yet it does indirectly support a presumption in favor of equality of distribution. Insofar as participants in the practice (i) have equal moral status, (ii) a relevantly similar interest in greater rather than lesser shares of shares of the goods their participation helps to create, according to the practice's generally understood purpose, (iii) and otherwise lack special entitlements, beyond what is otherwise fair among them, equality of distribution is the fair default. Unless special reasons can be given why inequality is acceptable to all, anything short of equality would arbitrarily discriminate against those who receive lesser shares.[16]

Accordingly, once we've identified the gains that accrue specifically to the international reliance relationship, subtracting out the prospects each country would have enjoyed in the absence of the relationship (under some relevant benchmark of comparison, such as "national autarky," under some relevant description), an equal division of the gains of trade is fair by default.[17] (Note that although non-participants would lack this special claim, having had no hand in creating the cooperatively produced goods, they could still mount other forceful objections, for instance, against harm done to them or their exclusion from the practice.) In this way, equality of shares is at least a benchmark for moral justification.

Of course, for all this says, further justifications may well apply. To settle the matter, it is tempting but premature to ask what principles would reflect an impartial agreement under imposed conditions of uncertainty, say, given a suitable Rawlsian veil of ignorance. Assuming people have an interest in both the benefits of life in an open society and in protection against its insecurities,

15 See my "Constructing Justice for Existing Practice: Rawls and the Status Quo," *Philosophy and Public Affairs* 33, no. 3 (2005).

16 For development of these assumptions, in view of doubts about their applicability to trade practice, see *FP*, Ch. 6.

17 See *FP*, Ch. 6.

we might ask what system of international trade people would agree to live under not knowing facts about their actual social position, such as whether they are a low-skilled or high-skilled worker, or whether their country of origin is advanced or developing. Perhaps they would agree to my proposed principles, rejecting all of the alternatives.

At this point, however, drawing a veil of ignorance would be premature; it would assume too much that is properly controversial about how we are to run the thought experiment. Why not pose the question in a different way, with different interests or levels of ignorance? Why assume an international system, instead of being open to arrangements less like the status quo? As I understand Rawlsian methodology, these questions need to be answered in part by an independent characterization of the nature of the social structure at issue, in light of its basic aims and organizational form, and a specified set of interests and claims, which are relevant under the practice in question. The proper methodology, in the first instance, is a constructivist blend of (i) basic social interpretation, to identify the social form in question, (ii) morally informed "constructive interpretation" of the organization and aims of the social reality in question, and (iii) substantial moral explication of the morally relevant interests at stake, along with pure moral reasoning about what organization, if any, is reasonably acceptable to each person affected, in light of those relevant interests. Then, but only then, can we consider with any confidence how the original position representation of reasonable acceptability might go.[18, 19]

In these terms, my overall argument can be put as follows. My basic thesis of social interpretation is that the global marketplace is (and for the foreseeable future will be) fundamentally organized and shaped by an international market reliance practice, for the sake of mutual national income gains.[20] My moralized interpretive characterization suggests that this practice presents international cooperation of a kind that triggers egalitarian considerations of structural equity.[21] On that basis, I then defend my proposed three principles with substantive moral reasoning (about what principles people can and cannot

18 For details, see "Constructing Justice for Existing Practice"; *FP*, pp. 25–31; and "Why Practices?" *Raisons Politiques* 51, August (2013).

19 Note that the issue of design need not ultimately turn on whether we represent countries or individuals behind the veil of ignorance. A country's interest in national income gains might be represented as an interest of any of its members: each person may have an interest in living in a richer rather than a poorer society. Conversely, a person's interest in economic security might be represented as a country's interest in providing security to each of its members. The ultimate question is what interests are relevant and how they are balanced, not their general form.

20 See *FP*, Ch. 2.

21 See *FP*, Chs. 5 and 6.

reasonably accept), as shaped and supported by the first two interpretive/moral theses.[22] Taken all together, my grand thesis is that, given a larger contractualist framework, this set of interpretive and moral judgments is sufficient to justify the proposed three principles as normally conclusive moral requirements for the regulation of trade.[23]

Are the gains of trade really distinctive?

These are large claims, and they of course call for detailed argumentation, much of which I offer in *Fairness in Practice*. In the remainder of the present discussion, I develop and respond to a central challenge that is not addressed systematically that work, but which threatens to break down my proposed view's distinctively international structure.

The view I propose has the distinctively international structure I described earlier as a result of its assumption that we can distinguish the "gains of trade" from more general economic improvements, especially those that accrue to the endowments or capabilities of production that are independent of trade. It is natural to envisage "independent" endowments when we are imagining countries that begin in autarky, opening their borders to each other for the first time. But the image is less plainly apt within a longer standing and ongoing trade practice, since trade works precisely by "dynamically" shaping a given country's capabilities of production over time, perhaps by moving them markedly away from initial endowments that could once be said to be "independently" there.

By way of illustration, consider a country that begins with a natural "absolute advantage" in farming over countries with less favorable climates. In entering a sustained relationship of market reliance with other countries, however, specializing to its "comparative advantage" may require it to focus its productive energies in industries where it is still more productive – say, in tourism, or high-tech. If this wasn't true initially, it may become true over time, as markets "reveal" its comparative advantage in production, perhaps as new technologies are imported or other countries move to new specialization profiles. Or perhaps the shift results from "activist" government industrial policy. As in the case of South Korea, leaders wisely planned to create higher-return industries decades before, adopting

22 See *FP*, Ch. 7.
23 On this point, and on why my principles still count as "practice-dependent," without precluding the applicability of other principles that are less sensitive, or wholly insensitive, to trade practice, see my reply to A.J. Julius in the forthcoming special issue of the *Canadian Journal of Philosophy*.

far-sighted policies of infant industry protection, export subsidies, and public investment, in order to avoid being "locked" into lower-return industries for generations, as surely *would* have come to pass had the country's place in the international division of labor been left to fortune.[24] And whatever the origins of the new industries, their value may depend on ongoing integration with other countries, even as they've become the country's primary source of income. For all its formal powers of sovereignty, which allow it to close its borders in theory, a return to autarky may have become practically unthinkable.

To the extent that national capacities of production become integrated and interdependent in these ways, perhaps on an increasing basis, we may seem to lack a non-arbitrary basis for regarding the gains of international trade as distinct from larger productive forces. And to the extent we should view trade is simply one part of a larger economic and social relationship, we may seem to need principles more like those that apply within a single society. Perhaps this would not yet call for fully "cosmopolitan" principles, which allow us to compare how any two persons fare in a worldwide division of labor; or at least the conclusion would require a significant further stretch of argument. At every least it seems natural to ask: if countries really are integrated, why think a specifically internationalist conception of fairness is appropriate?

Indeed, this question can be posed in a Rawlsian key. In his domestic theory, Rawls argued against the system of natural liberty, and in favor of his difference principle, by objecting that the system allows the distribution of shares among persons to be settled by their personal productive capacities, as unduly shaped by morally arbitrary facts about their respective places in "natural lottery" of pure talent and the extent to which accident and circumstance lead them to develop or neglect their skills and abilities.[25] Rawls had always clearly stated that the injustice in question arises not from fortune or misfortune in the distribution of natural assets per se, but only because of the way social institutions *deal with their influence* on shares of the social product.[26] Everything then depends on the capacities of those institutions to regulate those tendencies of influence. But Rawls was optimistic about the capacity of domestic institution to do more than simply let fate decide relative life prospects according to "natural" endowment.[27] And even if we ignore the

24 For discussion see my "Fortune and Fairness in Global Economic Life" (unpublished ms., available at my UC Irvine, Department of Philosophy, webpage).

25 John Rawls, *A Theory of Justice* (Cambridge: Belknap/Harvard University Press, 1971), p. 72.

26 *A Theory of Justice*, p. 102.

27 In the international context, by contrast, Rawls (John Rawls, *The Law of Peoples* (Cambridge: Harvard University Press, 1999, pp. 108, 117) is sober about our powers to transcend the arbitrary workings of fate, and indeed soberly preoccupied with the "resource curse," the tendency for vagaries of the *natural* lottery, Rawls's argument from moral arbitrariness can cite only arbitrary *social* causes. In domestic production, "talent" is socially constructed by the deep structure of institutions such as the family and the economic system. As a *product* of the very institutions we are trying to justify, it would be arbitrary to look to a given way the distribution of "talent" happens to be constructed in order to justify its outcomes as against alternative constructs and their consequent distributions.

As we have seen, in much the same way, the global economy now not only reflects but also *significantly shapes* a given country's possibilities of production over time. Perhaps trade flows don't have a comparably deep role in constructing societal endowment. Still, the global economy needn't determine all of economic life, or even work independently of domestic institutions, in order to stand in need of justification for whatever ways it does indeed shape societal capacities of production and their consequences for individuals. And if significant integration has become a normal fact of life in the global economy as we know it, why think there is a meaningful difference between the "gains of international trade" and how societies and their members would fare in the global economy's absence? Why wouldn't some suitable analogue of Rawls's difference principle apply globally, among all the world's individuals?

Very roughly, my answer is that we shouldn't model the global economy on domestic social life, in part because it doesn't shape societal "talent" in the way domestic society does shape the "talents" of persons.[28] Or as I might more carefully put my position, I accept the following two theses: (i) the international principles I propose are appropriate under conditions of partial integration and (ii) the global economy as we know it, as is now and will be for the foreseeable future, is in fact this kind of situation.

natural resource *abundance* to hinder development by creating perverse incentives. (Oil rich countries tend to stagnate; resource-rich Argentina has not quickly developed.) It is partly for that reason, presumably, that Rawls allowed unlimited socio-economic inequality across societies in principle (subject to regulation of its untoward consequences for politics and societal bases of self-respect, and a duty of non-comparative assistance). But he also otherwise paid little attention to the global economy.

28 For further discussion, see my paper "Fortune and Fairness in Global Economy Life." There I admit that societal misfortune in capacities of production can give rise to "inequities of fortune" for individuals worldwide. I argue that this does not give rise to deontological demands of fairness, while structural equity does generate such demands for the ways trade practice in fact considerably shapes societal capacities of production over time, staging a more powerful challenge to the international system of natural liberty.

Partial integration

Taking each of these two theses in turn, the first relies on a rough model of trade provided by economic theory. The central idea is that, *among partially integrated countries that would remain productive in the absence of trade, we can expect gains from trade to national incomes as a result specifically of international social cooperation*. Under those conditions, we have a "fair division" rationale for equality in whatever national income improvements trade creates, for the reasons outlined earlier. When national income gains are created by specifically international cooperation, an equal distribution among the countries that jointly create them will be fair by default.

It is helpful here to imagine countries leaving autarky and trading for the first time, but this image isn't necessary. The fair division rationale applies as long as there are indeed gains to national income created by specifically international cooperation – even in a move from relatively free to freer trade. It is when we try to settle this rationale's *scope of application* in some real or imagined cases, that matters become more complicated. We then face thorny issues about how much different countries gain from trade, in view of appropriate interpretations of their trade-independent "endowments," "capacities of production," "autarky prospects," and so on.

If that's the main idea, we might elaborate as follows. For starters, assume a state system, in which productive activities are chiefly located within a defined territory, over which a government has presumptive authority. For all this says, societies could be fully integrated societies, because borders have ceased significantly shape economic and political relations. But now let us further assume – for the moment just for the sake of argument – that our world is one of partial economic interdependence. Although most countries are economically integrated, above a minimum threshold, the total economic improvements over time, for any or all countries, arise at least *in large part due to domestic relations of production*, within distinct societies. Trade refines but also *depends on* the specializations in production needed for a more or less functioning national economy, which could and would persist in its absence.

So to the extent countries do reap national income gains from trade, they could amount to only a relatively small share of the total economic improvements that accrue among all countries that trade together over time. But now also assume that gains to national income nevertheless do result from the removal of trade barriers as the fruit of specifically international cooperation. Whether or not the nations begin in autarky, each country engaged in the practice of trade can then refine its national division of labor, by focusing on what it does best relative to its productive options (or by arbitrarily dividing specializations), which increases its national productive capacity, while at the same time enabling such specialization and increased national capability in the other trading countries. As reliance on the practice continues over a suitable time frame, each of the countries does better in national income than it could and would given no or lesser trade.

Under these circumstances, we already have a general reason why the present argument would not call (even by presumption) for an equal distribution of the *total economic improvements* for all countries involved. The proposed argument applies *only* to the fruit of *international cooperation*, and so only to the national income gains due specifically to trade practice, whatever they turn out to be. Trading countries have a claim to those benefits by virtue of jointly creating them. But they don't jointly create all or even most of the total gains that might accrue during a trade relationship, which are (by stipulation) due in large part to trade-independent domestic factors. Trade merely *augments* the wealth of nations, as long as countries are only partially integrated.

Though hardly beyond question, this picture is assumed by much of international economics. My thesis is that, once put in just these general terms, the picture suffices as a relatively uncontroversial basis for a limited but significant egalitarian requirement of fairness that is foreign in much of economic thought.

This is true, I suggest, however we elaborate related ideas of "endowments," "capacities of production," "autarky prospects" for further, more specific purposes, such as deciding *how much* different countries gain from trade, under their different circumstances.[29] In asking how much a particular country has or would gain from removing certain trade barriers, given endowments already there, we'll have to say something sensible about which of its domestic industries or resources are "trade-independent," as opposed to sufficiently influenced by trade practice so as to be "created" by it. For example, when a society's otherwise worthless land becomes arable after it imports special tools or techniques for its cultivation, we presumably should count the benefits among the gains of trade instead of attributing them to domestic resources that are independent of trade. Or, if a country's overall profile of specializations depend heavily on trade but somehow make an inordinate contribution to the productivity of other countries, we might place a thumb in the scales, giving the country a correspondingly larger share of gains, on an ad hoc basis. Perhaps; there are a lot of possibilities. The present point is that we are unlikely to get very far on questions of what is and is not due to trade without heavy reliance

29 For closely related discussion, see Kristi Olson's contribution to the forthcoming special issue in the *Canadian Journal of Philosophy* and my reply.

on particular examples, societal case studies, and reasonable models and measurement proxies, and yet that an equal gains benchmark will apply in any case, to whatever gains from trade there are.

More generally, then, what fairness requires of trade policy depends on the practicalities of economic science, but it also works at a level of evaluation beyond policy detail, in a way that depends on the larger economic point of the market reliance relationship. For policy purposes, econometric practice will have to provide workable estimations of the gains reaped under different policy arrangements (perhaps with innovations supplied by a new set of normative preoccupations). Such estimates may be most tractable under very specific historical conditions, and for that reason one might be tempted to doubt whether we can aptly evaluate the "gains of trade" in any larger sense. Still, if anything, the results of context-specific studies (e.g. with computable general equilibrium models) are often absurdly precise. If economic theory is itself to be believed, the national income gains from trade are real and considerable even when they cannot be readily measured by going econometric techniques. (Indeed, measurement practice may be criticized and improved because new methods do better at capturing the national income benefits posited by theory.) And the point would hold not only for specific liberalization policies but also for trade as a whole, including the "dynamic" improvements it makes to a country's capabilities of production of time. As long as such gains are the fruit of international economic cooperation, because they are in one way or another credibly attributable to the trade relationship, they are open for egalitarian fairness claims.

Earlier I emphasized that the "dynamic" consequences of trade for national capabilities can seem to undermine the international structure of my account. But now notice that those consequences are fully consistent with our assumption that countries are only partially integrated, and so with the international structure of my proposed principles. By definition, under partial integration, any gains from trade will be limited by a country's capabilities of production as determined to a large extent independently of trade. This can be true even if more and more of a country's capabilities become "due to trade" over time. While we can imagine integration deep enough such that no meaningful line remains between what is and is not due to trade, to imagine conditions of partial integration is precisely to suppose that there *is* such a line. Certainly there is no flat contradiction in supposing both that trade creates significant improvements to domestic capability over time and that such improvements are not so comprehensive that we can still attribute growth primarily to capabilities that are already or anyway there (e.g. endowments such as a large population, which isn't created mainly by trade).

The point is most obvious when starting from autarky. We can then compare how a country would or might fare with the endowments it anyway happens to have, perhaps in light of the purely domestic "dynamic" policies of investment that it might have adopted even without trade. But even once integrated, after trade has shaped what and how much a country can produce, we can also ask a real question about its prospects going forward. We can ask about not only its potential improvements in income and capability from further integration, but also the *limits* on those improvements given the country's endowments up to that point in its history (partly due to trade). More generally, for any significant enough period of time of interest (e.g. decades), there will presumably often be a fact of the matter as to any country's maximum possible benefit, under any feasible foreign and domestic policy configurations, as limited by independent domestic capability. In general, a trading country's default claim to greater rather than lesser shares of the surplus of international cooperation won't exceed its maximum possible improvement; if a country does as well as it could possibly do, it has been treated fairly.[30] This may be true even as countries benefit to very different degrees from trade, as a result of background differences in capability.

So although economic must estimate the ways that trade has improved, or could be expected to improve, capacities of production, this can still amount to only the augmentation of incomes and productive capabilities that are to a large extent anyway there. I myself am not entirely sure how a general philosophical characterization of what is and is not "due to trade" would go, beyond either suggestive general talk of "autarky," "endowments," and "productive capability," or sensible economic judgments of particular, real or imagined, cases. My present claim is that, as important as the matter is for specific policy choices, no such general characterization is needed for purposes of grounding an egalitarian presumption and the International Relative Gains principle it supports. As long as we are imagining conditions of partial integration, the presumption and the principle can have meaningful application, however we specify any number of related notions, for further purposes.

30 Although fairness, all-things-considered, won't necessarily require that any country do as well as it could have, since its fair level of gain also depends on weight of other claims. Those further claims may be non-economic (e.g. based in the value of leisure over work). Perhaps it can also matter whether or not a government itself fails to do as well as it could have for itself, by its own bad policy choices, despite fair treatment in the larger market reliance practice. Because the trading system is not generally fair, and if only because countries already suffer dearly because of past mistakes, I'm not inclined to hold that such desert-like considerations should have significant weight, except in unusual cases.

The global economy as we know it

For all we have said so far, the foregoing picture could well be of questionable or very limited real world application. Perhaps countries are so deeply integrated that the foregoing rough model lacks is inappropriate. My second assumption is that the foregoing picture of partial integration does indeed aptly represent normal conditions of the global economy as we know it, in the post-war era, at least when we consider its most general and fundamental nature, as an international market reliance practice.

The world is of course organized in a basic way by the state system. Political authority is divided over distinct territories, with default expectations of non-interference across territorial jurisdictions. World politics is accordingly decentralized. Despite the emergence of a robust set of international regimes, the decision to free or not to free trade is made by separate territorially based political authorities. Even as governments of the world have overwhelmingly chosen to remove barriers to trade in the post-war era, the resulting economic interdependence is generally limited. Transnational relations are increasingly significant, and yet borders continue to dramatically shape the flow of goods, services, and capital, even among relatively open industrialized economies. For instance, there is still more trade between any two provinces of Canada than between those provinces and equidistant states within the United States.[31] As a rule, the gains from trade amount only to a relatively small share of a given country's total economic output. And while the fates of nations may often depend to some extent on the gains from trade, they hardly determine which countries become rich or remain poor. The relative wealth of nations depends as much or more on other factors such as war and peace, the quality of domestic institutions, geography, treatment by the international system (aside from in economic relations), and so on. Trade is only one among many determinants of a given country's prospects over a given course of its history.

I concede that sufficiently radical change in the underlying state system – e.g. easy global labor mobility, combined with deep economic and regulatory integration, over enough time – could in theory obliterate any meaningful benchmark of comparison for identifying the benefits and burdens created by trade. Even so, it remains plausible to assume that our politically decentralized and partially integrated world is, and for the foreseeable future will be, safely short of this obliterating line. Nor is it by any means clear, barring speculative

31 John McCallum, "National Borders Matter: Canada–U.S. Regional Trade Patterns," *American Economic Review* 81, no. 3 (1995): 615–23.

futurology, that "globalization" will invariably take us in the direction of a distinct condition of "full integration" eventually. And even if it does, my principles will remain applicable and important for world politics for at least a century or two.

If the future is uncertain, perhaps our picture faces clearer difficulties looking backward over a long history of global interconnections. Can the national gains of trade over a time period of interest really be separated from resources that have often accumulated due to globalization from earlier ages? As Mathias Risse and Gabriel Wollner explain, "World history is a history of trade." Noting spices, silk, and slaves, the Pax Romana, the Pax Islamica, the Pax Mongolica, Columbus's fateful second voyage, sugar cane, coffee, cotton, pigs, horses, and chickens, along with the upshot for diets, whole regional populations, and productive capacity – including "the skills people have, the knowledge that has accumulated across generations, [and] people's attitudes to work" – Risse and Wollner press the point:

> It is coherent to think about what a country can do on its own *at any given time*: we can subtract how much a country gains from trade beyond what it could accomplish in autarky. However, in a world that has been more or less densely interconnected for several thousand years, what people are capable of is a function of their history. For autarky to play the role James wants it to play it must be very clear that what people can produce by themselves is fully theirs, in the sense that it is not itself part of what should be commonly divided. But this makes sense only if different peoples existed in isolation and developed their own skills during that period, and then one fine day started interacting. But our world is not like this.[32]

In other passages, Risse and Wollner rightly note my pragmatic approach to using autarky as a point of reference. In *Fairness in Practice*, I identify the gains from trade, for basic analytic purposes, with reference to how countries would fare in the absence of trade, over a (long or short) time frame of interest. But as explained above, reference to autarky prospects is not strictly necessary for the bare application of my principles: they assume only that there at least some gains from trade due to international cooperation, gains that might flow, for example, when relatively open governments further reduce trade barriers. A comparison to autarkic prospects becomes more important when our concern is with how much different countries gain over some time period of interest. But even then, *which* time period of interest can be decided on a pragmatic basis.

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32 Mathias Risse and Gabriel Wollner, "Critical Notice of Aaron James's *Fairness in Practice*," *Canadian Journal of Philosophy* 43, no. 3 (2013): 382–401. See also their "Three Images," in the present volume.

Risse and Wollner also seem to hold that an autarky baseline is needed to identify the benefits to which a society is "fully and exclusively entitled."[33] The idea, it seems, that this *positive entitlement determines* what is (as they put it in the passage quoted above) "not itself part of what should be commonly divided." Why would a country have a positive entitlement not to share the gains it would see under autarky? Because, they suggest, "[o]nce there is a presumption that gains from trade are common, it is hard to see how states could be exempted *other than* by insisting they could obtain certain outcomes without trade."[34]

In my argument, though, countries are "entitled" only in a negative and quite limited sense: they have no duty to part with trade-independent benefits under *my proposed principles*. But that doesn't amount to an entitlement to keep them (not even pro tanto), from a broader moral perspective. Well-endowed and productive countries may have a conclusive duty to part with gains they see quite aside from trade, as, for instance, when their advantages in production have an unjust history.[35] Even leaving further moral issues aside, the countries involved in creating the gains of trade together are only said to have a special claim to their enjoyment, by virtue of their joint production. By symmetry of condition with respect to one another, they have to share them, while countries outside the relationship simply have no such participation-based stake in the matter (even if they do have other claims, e.g. against harm or exclusion). But when trading countries see improvements due to their separate, trade-independent activities, their relation to them is simply that of having no duty to share, at least absent further moral reasons. (There's no background assumption, for example, of common ownership.)

On my pragmatic approach, the natural starting point is the present. If our question is what we ought to do, we naturally ask about where we now are. Yet we might also look to history, at least far enough back to understand our present relationships and what they require of us going forward. In this vein, I am prone to cite the interwar years, not necessarily to identify trade's gains, but to identify

33 "Critical Notice," pp. xx.

34 "Three Images," pp. xx. As a further alternative, Risse and Wollner also suggest an appeal to contributory fairness, pp. xx. I mainly doubt whether the position can be adequately developed. See *FP*, pp. 172–4 and my reply to Kristi Olson in the forthcoming special issue of the *Canadian Journal of Philosophy*.

35 My account starts out assuming countries have come into different trade-independent capacities of production, perhaps at different times, by more or less arbitrary processes. This gives us an account of trade practice would be fair, which we can then use to argue that received capacities of production aren't *merely* arbitrary, but perhaps the result of a long history of wrongdoing.

its social nature. What accounts for the difference between the post-war global economy and the interwar condition of near universal autarky, in which governments largely closed their borders, for lack of assurance against being subjected to “beggar my neighbor” policies? The answer, I suggest, is a social practice of mutual market reliance, which provides just such assurances, in part for having established mutual benefit as a lasting, common purpose. Yet where I see the shadow of war, uncertainty, and social rupture in the interwar years, Risse and Wollner see continuity of interconnection. “The existence of a bad patch in trade,” they suggest, “does not undermine the point that the capacities that enable states to participate in trade both before and after have arisen from past interaction.”[36]

I of course wouldn’t deny the longer history of interconnections. Much as for any morass of activities and causes, it is a further question of interpretation what they come to as a matter of large-scale social relationships. (All will agree that Julius Caesar and I don’t share the same transportation practice, simply because his war wagon and my auto both have wheels, and because there is an amazing story to tell about the wheel in world history.) There was some trade in the interwar years, though at low levels compared to what came before and after. On my telling, what came before and after isn’t necessarily the same practice. The interwar years weren’t just a “bad patch” in a larger and ongoing relationship, because the economic relations imposed by colonial rule can come to a pretty different (and morally more problematic) kind of social animal. I wouldn’t pretend to have established this interpretive judgment, as against interpretations that posit greater continuity. But its possibility does show that we don’t have a rival reading simply in pointing to a lot of interconnections.

My method is pragmatic, but Risse and Wollner at one point worry that I succumb to “inchoate theorizing.” Although they direct this objection to an entitlement proposal that I don’t accept, for reasons given earlier, the general concern might arise for any method that relies on social interpretation. As part of a larger search for reflective equilibrium, I take it one can rely on particular, perhaps ad hoc judgments, of an interpretive or moral nature. They have to finally cohere with one’s larger framework of judgments and more general principles, in a way that serves worthy theoretical objectives, but because the standards of overall success are holistic, one doesn’t have to finally ground the particular claims in more general principles, so long as the overall fit is satisfying. This counts as proper “theorizing,” and, while telling the full story makes the theory less inchoate, it doesn’t amount to “inchoate theorizing.”

36 “Three Images,” pp. xx.

Cosmopolitan comparisons?

All of this suggests that principles of fairness for the global economy should have a distinctively international structure, at least justified in the way suggested. One might still defend principles that license comparisons between the fates of any two persons of the worldwide division of labor, but we have no basis for this, as yet, in the international nature of trade practice. I now further elaborate why this might be so under conditions of partial integration.

I should say that I do assume the "cosmopolitan" thesis that individuals are the ultimate units of moral concern. Yet, I also take it that in the global economy as we know it, the fates of individuals are bound up with the societies where they work and live, societies whose fates are themselves shaped by a global economy with an essentially international structure. The members of a society have an interest in having their society of residence treated in various favorable ways in an international system, in this case, ways that improve their joint possibilities of production and their average standard of living over time. Here I admit "cosmopolitan" reasons for liberal immigration policies. Especially in a world of extreme poverty, people should be significantly free to leave their countries of birth or residence for greener pastures. Even so, the relative few that do choose to leave will be leaving one society for another society. They then equally have an interest in how their adopted society is treated in the international economic system.[37] Still, one may ask, why not also admit a *principle* that asks us to evaluate the fairness of trade practice based on how individuals in different societies fare in comparison to one another? And why would this not seem natural given a global economy that only partially integrates societies?

To see why no such principle may be required, compare a world of advanced or comparably advancing societies, in which absolute poverty has long since been eradicated. In such a world, I take it we will want to raise questions of relative national gain across different trading societies, for instance, in exactly how labor and industry is divided over time, in what subsidies are allowed, as well as in how endowments are deployed (e.g. in a society's choice

37 This need be only one interest among many, though I take it to reach beyond an interest in the personal share of resources one is likely to wind up with. The interest is in the character of one's society as it shapes one's own prospects and the prospects of its other members. Lest this seem ad hoc, I might add that I also take our more basic humanitarian obligations to be relationship-sensitive in various ways: in the normal cases (unlike the case of rescuing a drowning child), would-be beneficiaries are embedded within families, villages, and states in ways such that there is no separating how we treat them and how we treat the groups to which they belong.

of leisure over work, which reduces the gains other trading countries receive). We will also want to raise questions of fairness within each society, for instance, when wages stagnate for lower-skilled workers while income soars for the higher skilled. None of this is yet to say that we should also compare prospects for different individuals or social classes across different societies. But now we may ask: why should we? Why, in a world of advanced societies – a world in which poverty as we now know it has been eradicated – would a comparison between American upper-income earners and the French working class tell us something about whether the *global economy* is structural equitable or inequitable?

The comparison *would* be apt if we are imagining a single global society. But it seems out of place as long as America and France remain different societies in a condition of partial integration. Then the comparison seems either irrelevant or relevant only when we turn to misfortune of a sort that isn't generated by the system of international trade (e.g. an American-born Francophile can't be truly happy living outside of France, but for reasons of familial obligation also can't immigrate).

If this is true of advanced societies, let us add developing societies to the picture. The point seems to stand. If principles that support direct comparisons between people in different societies are not required in a world of advanced or comparably advancing societies, they do not seem necessary to explain why it is fair for developing countries to do all they can in the global economy to reach that fortunate condition. It will surely matter how they distribute the gains of trade within their respective populations. But otherwise, the structural equity argument can be that developing *societies* must be allowed and enabled to aggressively re-position themselves in the international division of labor in a way that changes their endowment fortunes over time.

Indeed, this can be true even if we can expect "convergence" in societal living standards and rough equality of personal life prospects over the longer haul. That is, if indeed we could expect a structurally equitable trade practice to eventually bring about rough equality in living standards, as a matter of empirical conjecture, then we could take rough equality as a rule-of-thumb fairness expectation for the longer haul.[38] (Domestic distribution would be a further matter. But provided domestic inequality is not too great, there may be (perhaps very) rough parity in living standards for persons worldwide.) This happy future outcome would bear on fairness assessment: if rough equality of living

38 This would only be a "rule-of-thumb" expectation, since other explanations, arising from outside of the international economic relationship, may well be forthcoming. Development has many causes, beyond global economic integration, so there is a serious argument to have about whether or on what time frame the relevant conditions might be satisfied.

standards is not coming about as soon as it might, and the failure cannot be explained in some other way, the standing inequality will reflect structural inequity in the international economic system. Even so, equality of living standards worldwide would not thereby be a *principled* demand of structural equity (even if anything less is an inequity of fortune). For all we have said so far, the tendency toward equality arises simply from an empirically grounded presumption without a principled basis for directly comparing how individuals in different societies fare. Rough equality in living standards across individuals can simply turn out to result, for economic reasons of "harmonization," from a trading system regulated by essentially international principles.

Still, as rosy as this picture is, it may seem that mere structural equity offers little help to the worst endowed countries. If a trading country will have fair claim only to the *surplus* of international economic cooperation, then to the extent that a country – call it "Mali" – has very limited capacities of production, it seems that it will have a correspondingly slight claim to benefit. Perhaps its fair gains to national income would not suffice to significantly reduce poverty, even after years or decades of economic integration.

This highlights a genuine limit of the present structural equity argument, but also understates its critical resources. For one thing, a plausible minimum requirement for full participation in a market reliance practice can be tailored for special conditions of productive incapacity, creating special requirement to aid full inclusion within the practice.[39] Moreover, under International Relative Gains, any claims Mali has to the cooperative surplus will be assigned greater significance on account of Mali's impoverished condition. To the extent we regard this prioritarian claim as especially weighty, Mali may fairly adopt beneficial policies on a continuous basis as they become feasible over the whole course of the country's development.[40] Finally, to the extent trade practice can be expected to be an ongoing, long-standing relationship – perhaps it is presumed to last in perpetuity – the potential level of fair benefit over time will not be fixed by its *initial* set of endowments (whether at the commencement of trade or at the start of any period of assessment). In a relationship being negotiated de novo, it can be fair to ask for short-term sacrifices for the sake

39 *FP*, pp. 191–2.

40 To the extent that advanced countries face considerable up-front costs, they may feel most inclined to simply not undertake or discontinue the trade relationship. Even so, the fact that even poorly endowed countries can contribute to a system of trade to comparative advantage means that their exclusion from the relationship will require an especially good justification. Beyond this, rich countries will have humanitarian obligations to include Mali in the relationship and become subject to the demands of structural equity (which may generate different expectations from independently humanitarian demands).

of longer-term gains, on the presumption of a lasting mutually beneficial relationship. Similarly, it seems at least potentially fair to ask for benefits "up front" in light of presumed future contributions within the temporally extended practice. (If the relationship were instead temporary, by contrast, this would not be a claim against benefits of the relationship, but of another kind (e.g. a claim of humanity). In that case, given Mali's expected future contribution to others, even if at a later stage of development, it may now fairly lay claim to present benefits, perhaps as enabled by policies being adopted today, which can be expected to increase its future productive capacities with benefits to all parties involved.

Conclusion

I should perhaps emphasize the modesty of my position. I believe that the existence of a global economy raises limited but significant egalitarian issues of fairness in its own right, but this is not to deny the importance of any number of other moral demands. I do mean to suggest that the prominence of such issues should not lead us to overlook central issues of socio-economic structural equity. Moreover, while my position defends on properly controversial interpretive claims about the global economy at the present stage of world history, nothing I have argued precludes the possibility of justifying more demanding principles when a truly "global" rather than international social and economic order has in fact emerged. My main claim is that egalitarian argument needn't wait: the fairness case for significant egalitarian principles of socio-economic distribution can be made for the politically decentralized and partially integrated world we have today.