Fairness in Practice: A Social Contract for a Global Economy by Aaron James

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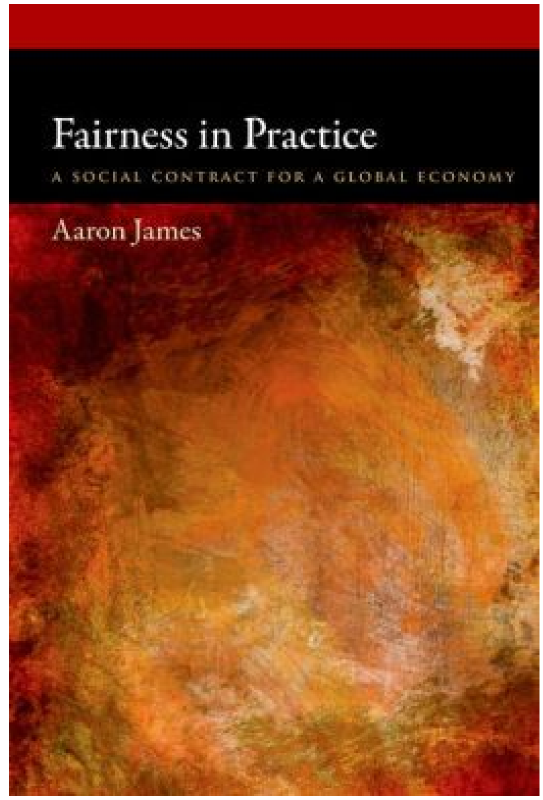

We are all familiar with the claim that the rules of the World Trade Organization (WTO) are unjust or otherwise objectionable. Yet this claim faces substantial hurdles in motivating corrective action. Most significantly, wealthy states face political pressures against moderating their bargaining positions. But this is not the only problem. First, there remains the suspicion that these rules are not, in fact, objectionable, or that they are only mildly so—perhaps "bad" but not "unjust." After all, no country is *forced* to be subject to them; the WTO is a voluntary institution. Second, we still have to determine what rules *would* be just. Is it really the job of the WTO to compensate for inherent inequalities between countries? In this book, the first philosophical work devoted exclusively to "fair trade," Aaron James seeks to combat the second of these challenges directly. In doing so, he also combats the first.

James argues for WTO concessions for developing countries from a "practice-dependent" perspective—a perspective from which the character of a social practice shapes the moral requirements that apply to it (pp. 25–31)—and he devotes the first third of the book to elucidating the "social practice of mutual reliance by societies on common markets" (p. x). Political economists commonly model the relevant circumstances as a Prisoner's Dilemma. In this model, each state is best served by raising trade barriers—whether to influence the terms of trade, limit domestic inequality, protect infant industries, or placate domestic interests —regardless of what others do. The problem is that by raising such barriers every state is thereby worse off than if all states simply refrained from protectionism. The role of a trade *regime*, then, is to enable an integrated order by threatening to punish protectionism.

By contrast, James puts issues of uncertainty and risk up front. The basic problem is that even if all states were willing to base their trade-policy choices on what it is *collectively* rational to do—and eschew the cheating that fuels the Prisoner's Dilemma even absent the threat of punishment—market integration would still be impeded if states wrongly *believed* that others were motivated to cheat. In the absence of assurance that others are similarly inspired, even the ethically motivated state's best strategy is to resist market integration *preemptively*—that is, to preempt being cheated on by others (p. 106). (Although James thinks that this dynamic is best represented by Rousseau's Stag Hunt game, arguably Robert Jervis's Spiral Model—a version of the Security Dilemma beloved of international relations theorists —is more apt.) Any degree of market integration absent a regime, therefore, is already evidence of a social practice: one in which states risk the goodwill of others and provide assurance of their own goodwill in doing so.

James emphasizes this alternative game for at least two reasons. First, he wants to stress that the normative principles he ultimately defends would be applicable even if there was no regime (p. 54). Second, he wants to respond to the realist who thinks that no state can be under an obligation to moderate its bargaining stance absent assurance that others will do likewise. His view seems to be that the mere fact that countries have taken a risk in making themselves dependent on foreign markets in the first place is assurance enough on this score (p. 88).

It is also possible that James downplays the Prisoner's Dilemma to highlight distributional concerns. It is sometimes thought that the Prisoner's Dilemma demonstrates that there is an *obligation* to act as collective rationality demands —in order to accord with the categorical imperative or to avoid free-riding. The problem is that this thought appears to vindicate the WTO's current rules—indeed, even if no country had signed up to them! Yet even if there is an obligation to act on *some* principles that, if all acted on them, all would gain, there remains the question of how gains are to be distributed, and therefore which *particular* principles should be adopted.

In the middle third of the book, James defends those principles that he thinks should guide WTO deliberations. His first principle ("Collective Due Care") requires that no person be worse off than if their society remained autarkic (pp. 204–19), while his second ("International Relative Gains") requires that each state achieve an equal increase in income per capita as a result of trade integration (pp. 221–26). James defends International Relative Gains on the basis that all countries enter the trade order with the same aim—augmenting national income—and play a structurally similar role in sustaining it.

One virtue of his view is that it provides a basis on which to criticize the WTO without implying that it ought to be some sort of charitable organization—one charged with addressing even those inequalities that would exist absent globalization. An additional merit is that he provides a basis on which to justify a departure from the WTO's current pillars—namely, reciprocity and most-favored-nation treatment—that is not merely *ad hoc*. If ensuring that poorer countries gain equally requires the *unilateral* opening of Northern markets (in agriculture and textiles, for instance) or trade-policy *discrimination* (against imports that do not originate in poorer countries, perhaps), so be it.

Finally, James offers us his third principle ("Domestic Relative Gains"), which requires that co-citizens gain equally from their country's trade integration (pp. 219–21). As the gains of trade arise from *national* specialization (for example, according to comparative advantage), James argues that they are returns over which no individual has a privileged claim. While there is undoubtedly something to his argument, the resulting principle seems rather demanding. Indeed, aren't there cases where there is cause to celebrate even a domestic distribution of trade gains that departs so far from equality as to violate Collective Due Care as well: namely, when trade integration undermines the disproportionate wealth and power that can come with captive markets?

In the last third of the book, James turns to some topics for which mutual market reliance is clearly relevant, but which are less comfortably categorized under "trade." On short-term capital flows, he argues from an analogy involving a bio-agent—one that is economically advantageous but carries with it a significant risk of causing a highly contagious disease—for a collective regime of capital controls intended to limit financial crises. On intellectual property and worker exploitation, he argues from his three principles. Thus, intellectual property "theft" is not objectionable as long as it enables poorer *countries* to get closer to an equal increase in income per capita, even if it deprives *corporations* of revenues they would otherwise reap. And seemingly inequitable wages in developing countries represent an injustice only if they are low because WTO rules do not allow those countries to achieve sufficient growth or sustain redistributive institutions domestically. James maintains that the entitlements of private actors are derivative because it is states that legitimately determine who is even in a *position* to trade with whom across borders.

In defending International Relative Gains, James directly combats alternative views, including that trade gains should fall in whatever way they happen to given the terms of *private* contracts in globalized markets (pp. 166–67; 174–79), and that WTO rules should represent a rational solution to bargaining between self-interested states (pp. 170–74; 227–28). Perhaps more valuable, though, is a thread of reasoning throughout that combats the first of our hurdles to action.Given the size of the WTO, and the fact that it demands a "single undertaking" (one set of rules for all), countries do not have a sufficiently attractive alternative besides membership. Consequently, the WTO is only voluntary in a weak sense, and its rules might be seriously objectionable despite the nominal assent of states.

By way of conclusion, it is worth noting that evaluating the global economy with any degree of rigor is not something that can be accomplished without traversing traditional academic boundaries. Thankfully, though, *Fairness in Practice* is a model of interdisciplinary scholarship. By bringing political economy, international relations, and development economics into conversation with moral philosophy, James has made a critical contribution to the debate over the ethics of globalization.

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