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Article

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Do Moral Duties Arise from Global Trade?

Abstract: This paper discusses the idea that trade – the practice of regularised exchange of goods or services between nation-states for mutual advantage under an orchestrated system of rules – can generate moral duties, duties that exist between only participants in the activity. It considers this idea across three duties often cited as duties of trade: duties not to harm; duties to provide certain basic goods; and duties to distribute (certain) benefits and burdens fairly. The paper argues that these three duties seem unlikely contenders for duties thought in some sense to supervene on trade, the former two because they seem to exist regardless of the existence of trade and the latter because it seems to apply to a group more widely conceived than to be coherently thought centred on trade. It concludes that, at least across these three duties, it is more plausible to think that they are duties which, although possibly having relevance for how trade is conducted, do not emerge from the practice and are, rather, grounded elsewhere.

Keywords: justice, moral duties, trade

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1 Introduction

Do nation-states have moral duties to other countries with whom they are involved in trade relations and to the populations of those countries? I suspect that all readers believe the answer to this question is “yes”. Here are three ways to conceptualise this belief:

- (1) There are moral duties owed to all worldwide regardless of any extant relations shared between them. Let us call this claim the *universal duties claim*.

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- (2) There are moral duties owed between all that share a broad socio-political framework, such as some form of global basic structure which ranges across various aspects of international relations, from war and peace to global telecommunications. Let us call this claim the *basic structure claim*.
- (3) There are moral duties owed specifically between parties that trade. Let us call this claim the *trade duties claim*.¹

Perhaps, it is possible for all of these claims to be true simultaneously, perhaps even fully co-extensive. But they are clearly different claims, with different ideas about the nature and dimensions of our duties and, equally possibly, rather different implications.

A distinction that differentiates the first two is Hart's distinction between general and special duties (Hart 1955, p. 183). Here, general duties characterise something like the *universal duties claim* – there are duties owed to all regardless of any extant relations that may exist between actors. Examples of this position would include a duty of aid to the distant needy (cf. Singer 1972), a duty to ensure the basic human rights of others are fulfilled (cf. Jones 1999), and the cosmopolitan claim that the demands of egalitarian justice are inherently universal and, thus, owed to all worldwide (cf. Caney 2005). General duties of any of these kinds can be contrasted with special duties owed to a particular sub-set of actors that arise in virtue of some kind of relationship shared between this group. For example, it has been argued that egalitarian duties of justice arise only in virtue of the relations of reciprocity that exist between actors within a nation (Sangiovanni 2007) or joint subjection to a common coercive body (Blake 2001) or authority (Nagel 2005). Rejections of these “statist” views often claim that the condition they cite as initiating egalitarian duties actually exists at the global level – that the global order involves relations of reciprocity or should be deemed coercive or authoritative in the relevant way – and that, therefore, such duties exist to all who participate in this order (cf. Beitz 1999; Abizadeh 2007). Such an account tracks the *basic structure claim*.

The way in which the *trade duties claim* differs from both would seem to be in the specification of the group to which it speaks. It asserts that the duties in question are owed *distinctively* between those that trade. Such a position seems discernable in the writing of a number of thinkers in recent literature. Mathias Risse, for example, writes that the principles connected to trade are addressed to “people ... related ... as fellow participants in the trading system” (Risse 2012, p. 273). Meanwhile Aaron James’ principle of “international relative gains”, which requires that the gains of trade “are to be distributed equally, unless

¹ The list is not intended to be exhaustive.

unequal gains flow ... to poor countries”, is specified with reference to those classed as a “*trading society*” (James 2012, p. 18, emphasis added). They seem, in short, to be principles addressed specifically to the mutual relations of actors *qua* agents involved in global trade.²

To understand such a claim, we first need a definition of “trade”. This term can be applied to anything ranging from isolated instances of gift exchange to patterned series of economic transactions taking place within complex legal systems. With limited space here, I will focus attention on what seems to be the subject matter considered by those who make the claims outlined above: “the global economy as it roughly is now” (James 2012, p. 21). Whilst interpretations of this phrase could vary widely, it does not seem overly controversial to suggest that we live in a world in which there is a practice of regularised exchange of goods and services between nation-states for mutual advantage under an orchestrated system of rules.³ This description contains a number of elements. It utilises a fairly commonplace understanding of a “trade” being an exchange of goods or services for the purposes of mutual advantage. Understood in this way, a trade could take place between almost any two actors in almost any context. However, the description also places focus upon exchanges forming a patterned series, which takes place under a purposely designed framework of rules. Thus, it is intended to capture the ongoing and structured nature of these exchanges in a regulated market context, such as that provided by a domestic legal regime or the “legal ground-rules for international commerce” as agreed at the World Trade Organisation (2014). In addition, to situate the description in the global context, it specifies the principal actors as nation-states. The global economy clearly does involve and affect other actors, including individuals and corporations, and the paper will, in relevant places, consider issues concerning some of them. But it does seem that one of the central dynamics of the global economy is the crucial role of nation-states both in constructing and in sustaining its parameters and in conducting the exchanges that take place within it. Thus, it is this outline of the global economy that I shall use as a definition of “trade” for the remainder of this paper.⁴

2 Although it concerns a different issue, the same idea seems present in Wollner’s focus on “thinking about the normative requirements in international finance” in terms of whether the “international finance system ...[is]... justifiable to *its participants*” (Wollner 2013, p. 2, emphasis added).

3 The first component of this definition follows Miller (2010, pp. 7–8), but I add the structural dimension to cohere with the focus of the writings of James (2012, p. 19) and Risse (2012, p. 272) which will be major focal points of attention in the paper.

4 I should note here that it is possible the ideas and arguments considered in this text could also be formulated with respect to other forms of market activity or arrangements, but because there might be differences between the cases, I focus here on only global relations.

Utilising this definition, one way in which the *trade duties claim* could be understood is as follows:

- a) Some existing duty *pertains* to trade and, thus, *applies* to those engaged in it. Let us call this idea the *application thesis*.

This suggestion would not necessarily contrast with the other ideas noted above. One could, for example, posit an inalienable universal right to assembly with a correlative duty upon countries not to violate this right. Because organising trade in a certain way might deprive individuals of the right (a regime of rules which specified the negation of it, for example), there is a way in which trade could violate the duty. Thus, we might say that there is a duty not to organise trade in this way that is owed to participants in the practice. But this duty would be grounded, in a sense, “elsewhere”, such as in the *universal duties claim*, and simply be applicable to trade much as it could and would be applicable to any other regime and owed between participants in any other type of relation which could violate it.

There is another version of the *trade duties claim* that appears to say something further:

- b) Some duty is *created* by trade and, thus, *exists* between only participants in this activity. Let us call this idea the *generation thesis*.

This claim appears in more direct contrast with the other ideas noted above. Akin to the *basic structure claim*, it contrasts with the *universal duties claim* insofar as it posits that the duty’s *existence* (not merely its application) supervenes on the existence of some kind of relationship. It contrasts with both the *universal duties claim* and the *basic structure claim* insofar as it suggests the duty exists between only those involved in *trade*. Imagine that there are three states. A and B are engaged in trade, whilst C, although engaged in a host of other interactions and collaborative efforts with A and B, say, to secure peace and free movement, does not trade with them. In this scenario, the *universal duties claim* and the *basic structure claim* will not differentiate A, B and C in terms of the basic essence of duties that exist between them. But the *generation thesis* implies that there are duties that exist between A and B that do not exist towards C.

This claim – that trade creates certain duties that exist between only those engaged in it – seems worth investigating in more detail. Although it is not perfectly clear, Risse and James both make comments that suggest they mean for their principles to be understood in this way. Risse writes that “international trade...generates its own principles of justice” (Risse 2012, p. 272). Meanwhile, James’ work focuses on outlining moral issues which “if the global economy as we know it did not exist...would not necessarily arise ... at all or in the same basic

ways” (James 2012, p. 144) and which have “relative autonomy” from other issues in international affairs (James 2012, p. 155). At any rate, the position is available and if it is defensible, it could have some controversial implications. Perhaps in our world there are no countries similar to C. But there remain certain sub-national groups rather offset from the context of global trade. There are also various instances of C-type cases in not so distant history. These include Jeffersonian United States under the Embargo Act (cf. McDonald 1976, pp. 142–152), Franco’s Spain from the combined impacts of an external boycott and the policy of autarky (cf. Carr 1980, pp. 155–156; Black 2010, pp. 23–24), and Japan under Tokugawa rule (cf. Beasley 1995, pp. xi–xvii). In such cases, and if they should appear again, the *generation thesis* would demarcate a set of actors not owed certain duties. In addition, one central issue in moral theorising is systematising how different types of duties fit together in order to direct our actions and institutions. Although the *generation thesis* does not necessarily imply anything in terms of the (comparative) weight, priority, or stringency that should be attributed to these duties, it might have important implications in this regard. For example, one view is that we should align our duties of beneficence simply in terms of who needs our help most, but it can be argued that due to the nature of our duties to co-nationals, we should give primacy to responding to their (lesser) needs before those of distant strangers (cf. Miller 1998). Similarly, one result of arguing for the *generation thesis* might be that although there are certain general duties to assist, say, all individuals in poverty, the fact that we trade with some of these individuals generates duties to them of greater weight, priority, or stringency. None of these points are meant to settle anything alone. But they do suggest that this version of the *trade duties claim* is worth exploring in detail.

There is not space here to consider all of the ways in which it could be argued that different duties might be candidates for the *generation thesis*. Thus I shall follow currents in recent literature on fairness in trade by focusing mainly on three duties often mentioned – duties not to harm; duties to provide certain basic goods; and duties to distribute (certain) benefits and burdens in a fair manner – and explore whether it seems plausible to suggest that these duties might be thought to supervene on trade. Although I discuss various issues in each case, the main theme of my considerations is that each of these ideas seems liable to collapse into one of the two alternative views cited above: on the one hand, an argument about duties owed to all (the *universal duties claim*) or, on the other, an argument about duties owed to a sub-set of actors, but a sub-set centred on shared involvement in a broader global order (the *basic structure claim*), not centred on shared involvement in trade. In the terms of my example above, I am unsure these duties can exist between only A and B in virtue of their trade relation since their foundations and structure seem to suggest they are also owed to C.

By focusing the argument in these ways, some potentially relevant ideas are not discussed in detail. Perhaps some of the most salient ideas historically in thinking about fairness in exchange are concerns of “commutative justice” – very broadly, the notion of transactional fairness.⁵ For example, it is typical to defend the ideas that market relations should be voluntary and based on reasonably full and transparent information. I will touch on some such concerns at certain points, but they have been less present in recent texts. In addition, the arguments do not challenge the *application thesis* – that there are certain duties grounded elsewhere which might apply to trade. There is also another version of the *trade duties claim*:

c) Some duty *originating* outside the trade relationship has a *particular form* (in terms of its content, strength, and so forth) between parties involved in trade. Let us call this idea the *formation thesis*.

The *formation thesis* adds some complexity to the discussion outlined above. Consider the following. We might think that there is a general duty to treat people as justice requires, but what justice requires in a particular case depends on the exact relation in which we stand with them. For example, we might think that there is a general principle that people should get what they deserve, but hold that the correlative duties of this principle are different for those who are simply fellow humans and those who are agents of a state. In this case, it might be plausible to say either (perhaps even both) that the duty in question originates outside the relationships *and* that it exists (in its particular form) in virtue of the relationship. To an extent, this complication is set aside here because the paper focuses on duties that appear specified in terms consistent with the purer version of the *generation thesis*. However, I will attempt to highlight where space might remain for arguments to be specified in terms of the *formation thesis*, and I will suggest, following the overall thrust of the paper, that to make such claims and show their plausibility, greater clarity and further development are required.

The paper proceeds through three sections, one devoted to each of the duties cited above, before drawing conclusions from the discussion.

2 Negative duties

The first idea I will consider concerns what are best termed “negative duties” or “constraints”, by which I refer to moral concerns requiring (at least *pro tanto*)

⁵ I believe the term “commutative justice” originates from Aristotle (350BC, Book V).

that one refrains from imposing some bad on others. Such a concern appears regularly in literature on fairness in trade. James, for example, defends a principle of “collective due care”, which requires that “trading nations ... protect people against the harms of trade” and specifically that “no person’s life prospects are to be worse than they would have been had his or her society been a closed society” (James 2012, p. 17).⁶ James’ principle here seems to focus primarily on refraining from making others worse-off *tout court*. Some other types of constraint suggested in this literature have a *pro tanto* form, arguing that certain ways of treating others are objectionable even if they benefit in certain ways from that treatment and that, as a result, it might be permissible to treat them such all things considered. Risse, for example, argues that trade relations are objectionable if two trading parties both profit from an activity that supervenes on the fact that one party is involved in oppression, such as when a dictator sells his country’s natural resources after they were mined by an enslaved population (Risse 2007, p. 362), although this worry might be overridden if the population benefit in the long-term from it (Risse 2007, pp. 363–365). But what both James and Risse appear to be arguing here is that participants in trade are under some form of duty not to exact certain harms through trade.⁷

It is a little unclear whether or how they deem it distinctive, although both specify their principles as “internal” to the practice of trade (cf. James 2012, p. 17; Risse 2012, p. 272). My sense, however, is that negative duties do not offer a strong case for thinking that duties can arise from trade. Note that it is difficult to see why we should think of such concerns as, in any sense, “tied-up” with trade. In relation to Risse’s case, for example, David Miller highlights that the worry about oppression would seem to apply “whenever there is interaction between people from which one party benefits but oppression on the other side that helps create the benefit” (Miller 2010, p. 13). Consider governments in our world that use oppressed populations to build or furnish luxurious palaces or

⁶ It should be noted that James qualifies this principle such that it does not object to *any* actor being made worse-off in *any* sense. For example, he argues that there are reasons not to apply it in the case of “the oligarch whose monopoly is undermined by foreign competition” (James 2012, pp. 208–209). But such exceptions do not detract from the general thrust of his principle or my comments on it here.

⁷ Although it concerns not quite the subject-matter I address here, it is perhaps worth noting that similar issues are present in literature on individual ethics in trade, such as objections to multi-national companies employing sweatshop workers on certain terms and in certain conditions, such as on extremely low wages in contexts with lax health and safety standards (cf. Arnold and Bowie 2003; Meyers 2004).

modern sports stadiums which, then, provide comfortable conditions for foreign visitors and bring prestige to the rulers. It seems similarly difficult to believe that a duty not to leave populations worse-off would not also apply to coordinating diplomatic relations.

More deeply, it is unclear whether we would think of a duty not to harm or not to benefit from oppression as contingent on the existence of social relations in any substantive sense. Even if C was socially isolated from A and B, would we think that it was permissible for them to engage in industrial processes that imposed environmental harms on C? Or imagine that C's dictator improves his powerbase by oppressing his people such that they are prevented from utilising some territory of C's that lies between the three countries. A and B take the opportunity to use the land for production, an act which C does not challenge because it helps embed the dictator's policy. Would the benefits A and B gain from this oppression not also be objectionable? There may be some "ought implies can" limitations on such duties in cases where A and B have no knowledge of C or cannot alter their relation to it. But for the basic question of their existence, what matters crucially for these kinds of duties seems to be, as Diane Jeske writes on a related topic, only that "there is an [actor] who is constrained and her potential victim" (Jeske 2001, pp. 245–246). They would seem, in other words, to be best understood as versions of the *universal duties claim*. And in our contemporary world, they would seem present and applicable in a host of relations that exist worldwide. These points suggest that, although negative duties might be thought relevant to trade in the sense implied by the *application thesis* – that trade is an activity that triggers them – they are unlikely to be existent between only those involved in this activity.

There remains space here for development of the *formation thesis* version of the *trade duties claim* – the possibility that such duties might take a particular form in the case of trade. Such an argument could be made along two lines. One is that the duty has a particular property in the case of trade.⁸ Perhaps countries can be asked to bear greater costs in order to avoid harming others through trade than through environmental externalities. The other is that the duty has a particular content in the case of trade.⁹ That is, although a duty not to be complicit in oppression is general, perhaps a duty not to purchase goods made in oppressive conditions is particular to trade.

The first of these lines seems problematic for similar reasons that stand against such a duty being contingent on social relations. At least intuitively, the major concerns in such cases seem to be the type and level of the bad imposed

⁸ I am grateful to Tom Parr for raising this point.

⁹ I am grateful to Graham Long for raising this point.

on others, and, when these factors are held constant, the kind of relation through which the bad is imposed does not seem likely to be of much import in determining its properties. The idea of particular content, meanwhile, might help us identify what duties imply in certain contexts.¹⁰ However, any particular specifications of such a duty would be specific duties of trade in only a thin sense, derivative, ultimately, from a duty grounded elsewhere and simply made more precise for the case in question. Of course, elucidating the shape of duties in concrete cases is an important task, but it is not one that seems to speak to whether duties can arise from trade.

At any rate, my sense is that these lines of argument are less extensively explored. Thus, what I think can be concluded from this section is twofold. First, that the idea of negative duties *per se* being specific to the case of trade seems unlikely, at least those with content, such as harm and oppression, commonly cited in this literature. The best characterisation of these duties seems to be what James considers “fully external to any contingent social relationship” (James 2012, p. 144, fn. 17) because it is difficult to see how the existence of such relationships could be necessary for them to be pertinent. In this respect, they seem more likely to be explained in terms of the *universal duties claim* – as owed to all regardless of the relations in which we stand – not the *generation thesis* version of the *trade duties claim* – as duties supervening on and relevant to trade relations particularly. The second conclusion would be that there remains some space for more particularised negative duties to be distinctive to trade, and that, if there is more mileage to be had in this area, it is in developing such an account.

3 Positive duties

Setting aside the idea of negative duties, the remainder of the paper will focus on different types of positive duties – duties that involve bestowing a certain kind of benefit on others. For much of the section I shall focus on the issue of “fair shares” – a concern regarding the distribution of certain benefits and burdens amongst relevant actors. It helps build a bridge to that discussion, though, to focus, first, on another form of positive duty often connected with trade.

¹⁰ Interesting examples in this regards are the conclusions both James (2012, pp. 249–284) and Wollner (2013) reach about the merits of a transaction tax on cross-border financial flows.

3.1 Basic goods

Once one moves beyond the terrain of negative duties, perhaps the first idea one is likely to reach is the idea of a duty to provide others with certain “basic goods”. I use this term here to refer to goods that might be thought important in any human life, such as certain levels of nutrition, health, security, and so forth. The idea that there is some form of duty to ensure all individuals have (access to) such goods is fairly commonplace in normative thought generally. It has also begun to appear in various literatures close to the idea of fairness in trade. For example, it is common in literature focused on the ethics of individuals and companies to argue for a duty incumbent upon such actors to secure fulfilment of certain basic needs of those who produce their goods. In this vein, Arnold and Bowie argue that “[multi-national enterprises] and their suppliers have a moral obligation to ensure that employees do not live under conditions of overall poverty by providing adequate wages for a 48 hour work week to satisfy both basic food needs and basic non-food needs” (Arnold and Bowie 2003, p. 234). Similarly, much literature on the Fair Trade movement has focused on the fact that many producers in, say, the coffee industry live in poverty and that purchasing Fair Trade is a way to alleviate that poverty (cf. Oxfam 2002; Reynolds 2002; Bacon 2005). Some authors have argued that this connection shows we have a duty to purchase Fair Trade goods (cf. Philips 2008; Hassoun 2011). Although I am not aware of any authors who claim that there is a specific duty incumbent upon nation-states to ensure the basic needs of populations in trading partner countries are met in virtue of this relationship, it is easy to see how the above literature could be transferred to this level. Meanwhile, there is an emerging set of literature focused on the inter-national case which argues for action designed to secure provision of other basic goods. For example, Barry and Reddy claim that “It is desirable to bring about an institutional arrangement in which rights to trade are made conditional upon the promotion of labour standards”, including certain levels of pay and certain working conditions (Barry and Reddy 2006, p. 549), a regime which would bestow a duty on wealthier states to bear the costs of these improvements.¹¹

At first glance, the idea of a positive duty to provide certain basic goods seems subject to the same line of thinking detailed in the previous section. Although it seems quite plausible to suggest that there is some form of duty to provide such

¹¹ I should note here recognition that arguments for promotion and protection of basic goods provision can be defended in terms of negative duties (cf. Pogge 2008). However, having considered the negative duties approach, I wish to focus my attention in this section on the possibility of a positive duty.

goods for others, this duty is usually defended with a focus on the moral import of individuals' basic needs being fulfilled, not on the existence of any relationship with that individual (cf. Jones 1999). In the example utilised above, imagine that the population of C is deeply impoverished. Again, there may be some sense in which a duty to redress their poverty could be subject to limitations imposed by knowledge and feasibility, but, these matters aside, it is difficult to believe that it is any less present than a duty incumbent upon A to address the poverty of B's population simply because the latter two trade. At least *prima facie*, the duty in question most obviously seems, then, a case of a duty owed to all regardless of any existent relations or a form of the *universal duties claim*.

Nevertheless, nothing in this point suggests that the existence of trade relations could not, in addition, be a sufficient condition for the existence of such a duty and it also leaves open the *formation thesis* – that the duty has a distinctive property in trade relations. It could, for example, be argued that a concern for certain kinds of employment conditions are conceptually associated with the fact that trade is the particular relation shared between two parties. In this vein, James writes that “concerns of labour [*sic*] exploitation are at least partly internal to the socioeconomic relationship” (James 2012, p. 320). Similarly, commenting on Barry and Reddy's proposal, Goodin argues that linking certain conditions to international agreements can be permissible when conditions are “germane” to the focus of the agreement and that there is a “tight the connection between the rationales underlying trade policy and labour standards” (Goodin 2008, p. 132).

Again, I think the case for conceptual linkage in these areas is far less developed in literature and I have argued elsewhere (Walton, forthcoming) the idea is more problematic than it intuitively may seem. Here, I wish to suggest something more acute. To wit, that if duties to provide for certain basic goods are not defended via the *universal duties claim*, they are better considered within a broader discussion of “fair shares”. My rationale for this comment is the following.¹² As noted above, the *universal duties claim* broadly tracks Hart's notion of a general duty – duties owed to all regardless of any extant social relations. When duties to provide basic goods are defended through this path, it is coherent to place most emphasis on the object of the duty. Since they are a-social duties, the social context is less central than the content. However, when duties to provide basic goods are not defended via the *universal duties claim*, and their defence, thus, rests on an argument about “special duties”, the social context becomes much more central in the case. Special duties are duties specified as owed to a particular sub-set of actors that arise in virtue of some kind of relationship shared between this group. Due to this relational nature, relevant aspects of the social

¹² The following point draws on ideas in Meckled-Garcia (2013).

context are an important dimension of their structure. For example, unlike the universal duties type argument for providing basic goods that I outlined above, when such duties are defended in the context of the nation-state, it is common to ground the argument in terms of what is required to function as an equal or respected member in some social scheme (cf. Anderson 1999; White 2003). It is, in other words, an investigation not so much into whether there is a *duty to provide basic goods*, but whether a duty to provide basic goods is what constitutes a plausible requirement *in the context of some social system*. Thus, whilst highlighting that the most obvious way to defend a duty to provide basic goods seems best couched in terms of the *universal duties claim* does not defeat the idea that trade may also give rise to such a duty, it should show that to defend this claim, we must focus our attention on a particular way to conceive the argument. It is to this alternative model that I now turn.

3.2 Fair shares

The point I raised at the end of the previous section leads to an issue that perhaps lies at the heart of many arguments about fairness in trade: the idea that participants should receive a fair share for their involvement. This issue is consistently raised about problems with the global economy. For example, it seems to underlie a common objection to the profits made by corporations in comparison to coffee farmers (cf. Oxfam 2002, pp. 22–24).¹³ Similarly, discussing “the basic and central fairness issue in the global economy”, James writes that the concern is with the way trade “distributes the advantages and disadvantages it creates among countries and their respective classes” (James 2012, p. 19). The key issue, he writes, is that “the gains of trade present a problem of fair division” (James 2012, p. 19).

This appeal to fair shares would appear to be a more promising approach for defending a set of duties particular to the trade relation than those detailed above. Thinking about my initial example involving A, B, and C, we might say that there is some “gain” accrued from A and B trading, a gain which C did not help realise. The question of fair division, then, lends itself naturally to asking whether *those involved* receive their rightful entitlement, a position which suggests that the question is one between trading partners, not those outside that relation.¹⁴

¹³ In a sense, such concerns reflect similar ideas to the discussion of a “just price” in Aristotle’s (350BC, Book V) discussion of commutative justice mentioned above.

¹⁴ This line of reasoning seems to be James’ thought in the claim that principles of ‘fair distribution’ which relate to trade ‘concern only those who do their part in sustaining the practice’ (James, 2005, p. 543).

Intuitively, the issue of fair shares also seems to avoid the difficulties faced by the other duties considered above. It is quite clearly coherent to regard a duty not to harm and, perhaps, a duty to provide basic goods existing independent of (certain) social relations and to think of them as latent or un-triggered in cases where they do not or cannot apply. The idea of a duty to distribute fair shares of some enterprise independent of the existence of that enterprise, on the other hand, seems, at least, far less meaningful. It seems less susceptible, in that sense, to the idea that it is best understood as a version of the *universal duties claim*.

The difficulty with mobilising an argument on the subject of fair shares, however, is that it is susceptible to unravel into a version of the other view I outlined at the beginning of the paper: the *basic structure claim*, which suggests that duties are grounded and owed between participants of a broad socio-political system which ranges across a host of issues in international relations, including, but not limited to, trade.

To provide a preliminary outline of this point, consider the following. Above, I suggested that the notion of fair shares figuring in an account of duties specifically connected to trade had intuitive plausibility because it looked to centre on a good to be distributed between “those involved”. In order for such a claim to work, though, it is crucial to know what constitutes being “involved”. To explain that dimension of the idea, it is necessary to make an appeal to some feature of a relationship shared between certain parties that look to have some normative importance, something that gives rise to the concern for the fair distribution. We are, in other words, on the terrain of a debate about the “grounds of justice”.¹⁵ This idea can be understood roughly in the terms of the general and special duties distinction that was introduced at the beginning of the paper. It can be argued that, although some duties (such as negative duties and concerns for basic goods) are quite general, concerns for comparative levels of advantage or “fair shares” are special duties that apply between actors in virtue of their joint involvement in particular types of institutional settings. In the latter case, it might be said that there are particular duties which have a distinct “grounding”, duties which arise only in virtue of this institutional setting being existent.

While this theoretical terrain clearly has some potential for those who advocate duties arising from trade, at least the most common positions that are associated with it are unhelpful. As noted above, the main debate in this literature concerns whether the duties exist between co-nationals are different to those owed beyond borders. In this debate, some have argued that the conditions that give rise to these kinds of special duties are rather narrow. It can be argued, for

¹⁵ This phrase is used in Risse (2012).

example, that is necessary for there to be a “collectively authorised sovereign authority” shared between relevant parties for special duties to exist (Nagel 2005, p. 141) or that these duties arise amongst only “those who support and maintain the state’s capacity to provide the basic collective goods necessary to protect us from physical attack and to maintain and reproduce a stable system of property rights and entitlements” (Sangiovanni 2007, pp. 19–20). However, on such accounts, their proponents suggest, trade relations would not be sufficient to generate such duties (cf. Nagel 2005, p. 141; Sangiovanni 2007, pp. 34–35).¹⁶ Authors on the other side of this debate have challenged this conclusion. In doing so, however, what they defend is not a view of regarding special duties between trade relations, but special duties between those involved in broader versions of the types of relations cited above. For example, accounts focused on the importance of cooperation do not restrict the focus to principles of trade, but advocate a global application of principles of justice to all those involved in global cooperation (cf. Beitz 1999). Those who address issues like shared coercive institutions also argue for this conclusion, on the ground that global structures meet the relevant criterion (cf. Abizadeh 2007). In the thematic example of this paper, these views would not focus on the trade relation between A and B, but on, say, the global system of cooperation, a system which includes a contribution from C. In this case, the case appears more akin to the *basic structure claim*, focused on the relations between all actors under a broad global order.

In short, the point is that if the normative feature of the relationship which is pivotal for raising the moral duties in question is, say, *cooperation*, the relevant relationship will exist between all those involved in global *cooperation*, a group which will include those involved in trade, but will extend, at the fundamental level, beyond this sub-set.

Thus, in order for the grounds of justice approach to be helpful to advocates of the *generation thesis* version of the *trade duties claim*, it is necessary to make one of two moves. The first would be to claim that trade has some form of primary importance in global relations. For example, it could be claimed that it is the only form of, say, (morally interesting) cooperation that exists globally or that any other existent forms derive their importance from the existence of trade. Neither of these ideas seems very plausible, though, because it is hard to envisage trade, especially in its regularised, institutional form, taking place without reasonably established diplomatic peace. Even writers on fairness in trade accept that for the questions they ask to arise one “assumes a relatively

¹⁶ Although such accounts, as its authors note, do leave open the possibility of duties to those with whom we trade which emerge from general obligations owed to all of humanity (Nagel 2005, pp. 126–127), or some version of the *universal duties claim*.

stable international system” (James 2012, p. 155). In that sense, of possible candidates for morally interesting global relations, trade is neither alone in existence nor *a priori* amongst them. Indeed, it seems logically secondary to some other such relations and cannot, therefore, be thought foundational to raising the kind of duties that issue from grounds such as cooperation.

The alternative is to argue that there is a normative feature involved specifically in the trade relationship that is distinct from other kinds of global relations, a feature that gives rise to a distinguishable set of duties. The closest example of such a claim that exists in literature to my knowledge is James’ comment that, for the purposes of conceptualising what justice requires, “the international practice of mutual market reliance is to a considerable extent separable, conceptually and practically, from larger international relations” (James 2012, p. 154). Clearly it connects with other areas of international affairs, but, he argues, the established practice of mutual market reliance is relatively autonomous from these others structures and retains its own general rationale, which “assumes a relatively stable international system but does not follow from it” (James 2012, p. 155).

Aside from these comments, James does not specify precisely how global trade is thought to be autonomous from other international affairs. Conjecturing a little, I take it that the key emphasis is apparent in the first comment noted above: that trade is “conceptually and practically” separable. If that is correct, the idea seems to be something like the following. It is possible to imagine two countries which agree to have peaceful borders between them, but which do not have any *cross-border* flows, of, say, goods or services. This arrangement creates certain benefits and burdens. But that set of benefits and burdens can be distinguished from the set of benefits and burdens that would arise if, then, these two countries began to trade. The difference between the sets, it might be argued, is the terrain of trade alone. Thus, it is possible to talk of distributing fairly the benefits and burdens of diplomatic collaboration and discuss separately distributing fairly the benefits and burdens of trade. If, as in my original example, A, B, and C are all involved in collaborating to ensure peace, but only A and B trade, all three are entitled to share in the benefits and burdens of the former, but only A and B are entitled to shares of the latter.¹⁷ Here, it might be argued, we can perceive a set of duties created by and particular to trade.

There are two problems with this line of argument. The first concerns the idea of practical separation. There is certainly something intuitively understandable about the picture drawn in the previous paragraph. However, it is unclear whether

¹⁷ The reasoning in this paragraph aims to track James’ thought that principles of fair distribution in trade relate to only ‘the benefits and burdens that the...practice actually creates’ (James, 2005, p. 543).

we can genuinely think about there being separable gains of trade in any realistic sense. There are various other domains of global political life that are quite intricately wound together with trade. Consider, for example, United Nations sanctions. Most sanctions are applied in cases where there is internal or regional conflict and are designed to bring an end to such hostilities, but their mechanisms for doing so are usually different forms of tariffs and embargoes and various other trade-affecting measures (cf. Biersteker et al. 2013). The same is true for environmental accords. A cap-and-trade scheme designed to regulate emissions could hardly be deemed a trade-directed prerogative, but it would have drastic effects on different countries' abilities and opportunities for trade (cf. Ellerman et al. 1998). Meanwhile, different patterns of trade clearly have implications for what level of peace we experience, from the general insight that trade relations engender peace to the fact that one (large) area of trade is arms (cf. Kelly 2005, p. 76 & p. 75 respectively), and for the quantity of carbon emissions long distance haulage produces (cf. Newell 2005, p. 111). In these cases, and many others that could be mentioned, it is, at least, unclear to me how one could distinguish what would constitute a "product of trade" from the "product of other aspects of international relations". Trade, to put it bluntly, is simply not relatively autonomous from other aspects of international affairs. It is true that current trade negotiations sometimes seem to work under the assumption that such separation is possible and I imagine that it does remain possible to conceptualise separable sets of numbers. But it strikes me that such calculations are similarly problematic as attempts to argue that the domestic economic product is separable from relations and organisation within the household. They, at best, represent fairly clumsy approximations of what could seriously be thought to constitute the "product of trade". In this respect, there seems, if nothing else, difficulty operationalising the idea of separable gains in a way that would track anything that might be thought of normative import in the distinction.

The example also leads me to a second issue: whether the possibility of conceptual or practical separation is normatively valuable. The difficulty of separating economic product from household relations offers an immediate reason to be cautious about focusing our understanding of duties in this way. To wit, often the approximations come at the expense of the contributions of certain actors being underestimated, belittled, or ignored. But there is a deeper point which underlies this example. One reason why it seems objectionable to think about separating domestic economic product from household matters is that both, in this example, seem interesting for the same *foundational* reasons: they both produce similar sorts of benefits and burdens that can, and, indeed, necessarily will, be shared and borne by a set of actors. Because the feature of these relations that seems, in this regard, of normative interest is of a kind, it seems coherent to

consider them together. This intuition is, I think, what lies behind Rawls' thought that the main subject of justice should be "the basic structure...understood as the way in which the major social institutions fit together in one system" concerned with "the division of advantages that arises through social cooperation" across these different domains (Rawls 2005, p. 258). The same seems the case with trade. When I elaborated the different ways in which the grounds of justice debate has been used to defend views about the significance of co-national relations, I emphasised that making such a case required identifying a feature to the relationship of normative importance. But what seems normatively important about trade is that it creates benefits and burdens of a certain kind, much as do diplomatic relations, agreements on the movement of people, shared sports organisations, global telecommunications arrangements, and so forth. That is to say that the normatively interesting feature is of a kind with the normatively interesting feature of other relations which exist alongside trade, or, indeed, are, as suggested above, a prerequisite to it. What that would suggest is that the duty to distribute shares fairly is one that would arise in a global system absent of trade and could be considered, at most, *altered* in its properties by trade – trade does not introduce some distinct normative feature which gives rise to new, separate duties in this regard. Being able to see the product of trade as practically or conceptually separate from this system would not change that the normative feature which could be said to generate relevant duties is of a kind with what already exists. Accordingly, perhaps the existence of trade can offer an argument for the *formation thesis* – that some duty takes a particular form in virtue of trade – in the case of fair shares, but it does not seem that it can offer a case for the *generation thesis* – a duty which supervenes on trade and is owed between only those involved in this activity. Any case for a distinct duty would appear more appropriately specified as connected to co-involvement in the broad global system, or, in other words, the *basic structure claim*.¹⁸

18 I should note that the issues considered here connect with a broader way in which duties might be thought, in some sense, particular to trade. To wit, it might be argued, following a Walzerian (1983) type of analysis, that we should theorise about justice within particular "spheres", separating different domains of activity, such as trade, environmental cooperation, diplomatic relations and inquiring what moral principles are appropriate for each of these spheres individually. Essentially, what I have considered here is one variant of such an argument that appears in recent literature and very clearly coheres with the framework of the question I posed for this paper. Other variants of the idea can be constructed. However, elaborating the array and structure of such possibilities requires both an exploration into other complex issues, such as positions on the metaphysics of justice theorising, and careful articulation of how different positions may be thought to generate or "merely" transform moral duties (the latter being possible in the fashion I mentioned in the introduction – that a general principle of desert is

4 Conclusions

In essence, this paper has advanced two arguments. First, it has argued that certain forms of a duty not to harm and a duty to provide basic goods seem unlikely to be duties thought to supervene on trade, because they seem more plausibly understood as duties not contingent on any social relationship. Second, it was acknowledged that a duty to distribute shares of some product fairly could be more easily understood as a special duty, but that any such duty pertaining to trade seemed likely to be a sub-component and derivative of an already existing duty to distribute fairly the benefits and burdens of involvement in a broader global order.

These conclusions point towards the idea that the pertinent moral duties involved in thinking about fairness in trade are most likely to be duties deriving from a broader conception of global justice and, in this sense, it is best, practically and normatively, not to divorce theorising about trade from theorising about a wider picture. For example, my last argument suggests that theorising about the distribution of the benefits and burdens of trade cannot and should not be done in isolation. However, my arguments leave open the possibility that some other duties might be thought to supervene on trade or that certain duties might take a particular form through it. Making this further case must, therefore, await another occasion. But hopefully the arguments here have established that at least a number of duties often connected with trade seem likely to have their origins elsewhere and reach beyond this domain and, in doing so, set forth some of the problems of theorising about the idea of moral duties arising from trade.

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given particular shape within the “sphere” of trade). With the aim of considering a range of recently articulated comments on the idea of trade generating duties in mind in this paper, there is not adequate space to address all such issues here. Accordingly, I consider the more abstract depth of the sphere-ist conceptualisation of trade justice elsewhere (Walton, forthcoming).

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