

Inclusive Trade: Justice, Innovation, or More of the Same?

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In recent years, the concept of “inclusive trade” has become more common in national governments’ policies, such as those of Canada, Chile, and New Zealand, and in international organizations, such as the Organisation for Economic Co-operation and Development (OECD) and the World Trade Organization (WTO). The suite of inclusive trade policies can include provisions in trade agreements and targeted domestic export assistance programs, among other things. The goal is to create better outcomes for more people as a result of trade, and in the process ideally ensure that the benefits of trade are widely shared. Whether inclusive trade measures are achieving these objectives is hard to assess. In part, this is due to the fact that we have yet to agree on criteria for assessing contemporary trade agreements, which go well beyond tariff reduction.¹ In addition, it will take time to gather the empirical evidence of their impact on people’s lives. Free trade agreements (FTAs) containing inclusive trade measures must first be implemented and allowed to take effect. In the meantime, there are other ways that we can assess such measures, notably through analytical frameworks drawn from the literature on global justice that help us to think about the kind of impact that inclusive trade policies might have.²

In this article, Nancy Fraser’s three justice idioms,³ which correspond to economic, cultural, and political dimensions of justice, provide a crucial lens for assessing inclusive trade agreement provisions. In particular, I focus on provisions

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pertaining to gender and Indigenous peoples in recent FTAs to which advocates of inclusive trade are party. I argue that inclusive trade agreement provisions can provide more just outcomes for these groups. However, the remedies contained in the provisions do not always match what we might expect from a trade agreement. Fraser's framework gives us a vocabulary for understanding that inclusive trade agreement measures can have an economic, cultural, and/or political impact. Although FTAs anchor a central economic activity and directly affect the distribution of economic benefits, the impact of inclusive trade measures tends to be cultural and political rather than economic.

INCLUSIVE TRADE

For the last twenty years, the WTO has hosted an annual public outreach event, now known as the Public Forum. This gathering is an important opportunity for stakeholders from around the world, including academics and representatives from the nongovernmental, public, and private sectors, to discuss pressing trade issues. In 2016, the theme of the public forum was inclusive trade. The WTO's annual *World Trade Report* that year focused on one aspect of inclusive trade; namely, "levelling the trading field for SMEs"⁴ (referring to small- and medium-sized enterprises). The WTO has published or co-authored reports on other aspects of inclusive trade, including *Investing in Skills for Inclusive Trade*, with the International Labour Organization (ILO), and *Making Trade an Engine of Growth for All: The Case for Trade and for Policies to Facilitate Adjustment*, with the International Monetary Fund (IMF) and the World Bank. Furthermore, the former WTO director-general, Roberto Azevêdo, routinely spoke about inclusive trade in his speeches. In 2017, he appointed a gender focal point to give added attention to gender and trade. That same year, 118 WTO members signed the Joint Declaration on Trade and Women's Economic Empowerment. On March 1, 2021, Ngozi Okonjo-Iweala became the seventh director of the WTO and the first woman to serve in that capacity.

The WTO is not the only organization in recent years to recognize inclusive trade as a critical concern. The European Union (EU) has its "Trade for All" strategy, which aims to promote an effective, transparent, and values-based trade policy.⁵ More recently, the EU has adopted the language of "balanced and progressive trade policy."⁶ In addition to these, the Inclusive Trade Action Group met on the margins of the 2018 Asia-Pacific Economic Cooperation meetings, led by New

Zealand, Canada, and Chile. The three countries issued the Joint Declaration on Fostering Progressive and Inclusive Trade, partly reflecting the Canadian government's progressive trade agenda, the precursor to its inclusive trade policy. This language also found its way into the title of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, or TPP-11, the version of the Trans-Pacific Partnership that followed the U.S. withdrawal. It seems safe to say that in the last four to five years, the conversation about trade has shifted to reflect this concern with inclusion.

It is worth noting that this phenomenon is arguably the “second wave” of thinking about inclusive trade. For years, scholars and trade practitioners have explored how to make trade more inclusive for developing countries and for workers. This latest discussion seeks to incorporate other stakeholders and issues into the conversation in a new way. Labor, for example, is still part of this new notion of inclusive trade in most versions of the definition. However, other groups, like women, are now receiving attention. This latest wave has not been without controversy. Some critics argue that issues of inclusion do not belong in trade agreement negotiations, while others maintain that the inclusive trade agenda does not go far enough.⁷

Despite the growing prominence of inclusive trade, its parameters as a concept and a practice are underspecified.⁸ To date, there is no consensus on the definition of inclusive trade, but there seem to be three core elements. First, there are excluded groups, such as women, Indigenous peoples, workers, and small- and medium-sized enterprises, which are all heavily impacted by trade but have typically been on the margins of trade policy-making. This marginalization can be understood partly in terms of scant participation in decision-making, but also in terms of inequitable enjoyment of the benefits of trade. Second, there are distinct issues that are affected by trade, so much so that they are finding their way into the inclusive trade conversation and into some trade agreements. These include investor-state dispute settlement (ISDS), labor standards, regulatory autonomy, and the environment. Third, in addition to these substantive concerns, some conversations about inclusive trade emphasize process, calling for greater transparency and more expansive stakeholder consultations.

In addition to identifying these core elements, an evaluation of inclusive trade needs to better understand what the policy is trying to accomplish and how well it does this. For instance, is the objective to deliver positive benefits for women and Indigenous peoples or is it to mitigate the negative effects of trade liberalization on

these groups? Is there something new and innovative in the inclusive trade approach? Does it correct the inequities that we associate with trade liberalization to produce more just outcomes? These are the key animating questions for this article.

I argue that the inclusive trade agenda can produce more just outcomes, though not in the ways one might expect. As noted earlier, Nancy Fraser's three idioms of global justice can be used to show that previously marginalized constituencies⁹ can benefit from the inclusive trade agenda as it manifests in trade agreement provisions; however, not necessarily in terms of material gain. Instead, these constituencies may be brought into the policy-making process in new ways. This will give them new visibility in trade debates as well as new avenues to participate in shaping the conversation about trade. In Fraser's terminology, the inclusive trade agenda may offer significant opportunities for recognition and representation, but not necessarily for meaningful redistribution. Opportunities for redistribution may lie in the domestic policies that accompany pursuit of the inclusive trade agenda in FTA negotiations.

In this article, I utilize Canada as an entry point, focusing on the engagement of and outcomes for marginalized groups—specifically women and Indigenous peoples—in the country's trade agreement negotiations since 2015. While much attention has been given to other groups, such as labor groups and developing countries, women and Indigenous peoples have more recently become part of the trade conversation. This novelty invites analysis. Furthermore, the Trudeau government has been emphatic about its commitment to both women and Indigenous peoples, making it a defining feature of its overall vision. For instance, it adopted a Feminist International Assistance Policy, and Prime Minister Trudeau has worked to maintain gender parity in his cabinet. In addition, Trudeau has been widely quoted as saying that “no relationship is more important to Canada than the relationship with Indigenous Peoples,”¹⁰ and has sought to make reconciliation a centerpiece of his policy. It stands to reason, then, that the Canadian government's inclusive trade agenda would provide a useful focus for assessment.

The Canadian lens focuses our attention on a range of inclusive trade provisions in some of the largest FTAs recently concluded, including the United States-Mexico-Canada Trade Agreement (USMCA), the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), and the Canada-European Union Comprehensive Economic and Trade Agreement

(CETA), as well as on some innovative provisions cropping up in smaller FTAs. This set of agreements also involves a broad range of Canada's trading partners, including the United States, the EU, Japan, New Zealand, and Chile, among others, that have been advocates for various versions of inclusive trade. Close analysis of the relevant provisions in these trade agreements, as well as desk research and semistructured interviews with Canadian officials and other trade law experts to understand the evolving inclusive trade policy in Canada and elsewhere, allows me to categorize and evaluate FTA provisions according to Fraser's tripartite conception of global justice.

TRADE JUSTICE

Examining trade through a lens of justice is not new. The academic literature has long studied the real and potential consequences of trade liberalization for vulnerable groups, including those in developing countries,¹¹ and for the environment,¹² among others. There is also a more recent philosophical conversation about trade justice.¹³ Strands of the broader academic literature focus on specific issues, including fair trade of commodities like coffee¹⁴ and the consequences for developing-country suppliers.

In addition to academic debates, civil society groups have voiced their concerns about trade liberalization. The Council of Canadians; the Canadian Centre for Policy Alternatives; Global Trade Watch; War on Want; and #noTTIP coalition, just to name a few, have long protested trade liberalization and trade agreement provisions that they felt would exacerbate inequality or limit democratic governance.¹⁵ Given these prior perspectives on trade and justice, what is new about the inclusive trade agenda? I argue that the inclusive trade agenda reflects a wider embrace of the controversial nature of trade liberalization. Concerns about trade that have long been taken for granted in academia and civil society are now finding recognition in two influential communities—economists and government officials. Both of these groups have traditionally emphasized the gains from trade over the losses.¹⁶ However, they have now been forced to take seriously the limited benefits of trade liberalization for some groups. In addition, the current notion of inclusive trade expands the conversation to include women; Indigenous peoples; SMEs; and, in some instances, youth, LGBTQ, and other groups that have hitherto not been part of trade policy or agreement negotiations.

Of course, this epiphany is not grounded in altruism but rather in ostensible political necessity. The inclusive trade agenda is arguably the product of a certain historical period characterized partly by a perceived backlash against trade policies in the U.K., the United States, and Europe. To say that it is a backlash against *trade* is convenient shorthand. Brexiteers supporting the exit from the EU are not opposed to trade, per se. Rather, they wish for the U.K. government to wrest control of British trading relationships (and other policies) from supranational bodies. The tens of thousands of people who poured into the streets in Europe at the height of Transatlantic Trade and Investment Partnership (TTIP) talks between the United States and the EU were not anti-trade; rather, they were concerned with the prospective inclusion of ISDS in the agreement as well as the perceived threat to European regulatory preferences, among other things. Similarly, the election of Donald Trump reflected less of a turning away from trade and more of a recognition that the levers of trade policy can be used to exert power over rivals such as China. The Trump phenomenon was also a response to the dislocation of workers in key sectors, some of which was attributed to trade competition.¹⁷ Again, the opposition was less to trade as an economic activity and more to trade deals that privilege certain interests over others.¹⁸ Likewise, protest groups are not calling for autarky, but for a more just trading system. Therefore, it is not hard to see how the inclusive trade agenda grew out of these sorts of insights. Trade has been conducted in a certain way, privileging the interests of certain groups. This has come home to roost in new ways in the current moment, and economists and government officials are finally being forced to recognize this. How, then, can we understand inclusive trade and its potential to correct some of the injustices that we associate with liberalized trade? To develop an answer to this question, I turn to Nancy Fraser.

NANCY FRASER AND GLOBAL JUSTICE: THE CASE OF INCLUSIVE TRADE

Fraser's work is useful for analyzing the inclusive trade agenda. Her theoretical perspective is grounded in two key insights. First, she observes that justice claims are no longer limited to the domestic sphere.¹⁹ As what Fraser calls the "Keynesian-Westphalian frame" loses its "aura of self-evidence," people understandably look for justice beyond the territorial state.²⁰ She notes that "activists contesting transnational inequities reject the view that justice can only be

imagined territorially, as a domestic relation among fellow citizens.”²¹ Instead, she argues that global governance initiatives, like preferential trade agreements or the WTO, should be assessed not only in terms of their effectiveness or adherence to institutional mandates but also in terms of justice, given their transborder impact on people’s lives. The concept of inclusive trade, and the narrative and practices associated with it, are emblematic of the fact that justice claims are being made in the transnational space where trade occurs. They are also being answered there. Below I discuss whether the responses are sufficient.

Fraser’s second key insight for our purposes is her observation of what she calls a “heterogeneity of justice discourse.”²² During the post–World War II era, there was general agreement on a distributive notion of justice, “which equated social justice with the fair allocation of divisible goods, typically economic in nature.”²³ However, she argues that this is no longer the case. There is a variety of qualitatively different (ontologically different, according to Fraser)²⁴ justice claims. As she suggests:

Movements demanding economic redistribution often clash not only with defenders of the economic status quo, but also with movements seeking recognition of group specificity, on the one hand, and with those seeking new schemes of political representation, on the other. In such cases, the question is not simply redistribution: pro or con. Nor even, redistribution: how much or how little? Where claimants hold conflicting views of the substance of justice, another question is also at issue: redistribution or recognition or representation?²⁵

Redressing injustice requires attention to all three dimensions of justice—economic, cultural, and political—and no one can be reduced to the other. Fraser explains that the first dimension, the economic dimension—grounded in the equitable distribution of wealth, assets, and resources, as well as society’s class structure—was, until recently, largely synonymous with justice claims. Mapping onto “maldistribution,” and economic inequality as its corresponding injustice, the economic dimension can be redressed through redistribution.²⁶

The cultural dimension of justice is rooted in the status order. Cultural injustice takes the form of “misrecognition” or status hierarchy.²⁷ Fraser moves away from an identity-based notion of group recognition toward highlighting “the status of individual group members as full partners in social interaction.”²⁸ Misrecognition arises when “an institutionalized pattern of cultural value constitutes some social actors as less than full members of society and prevents them

from participating as peers.”²⁹ To overcome subordination, recognition allows redress of this injustice. The form of the recognition depends on the form of the misrecognition it seeks to correct (for example, “juridified forms require legal change, policy-entrenched forms require policy change[,]” and so on).³⁰ Indeed, various types of recognition may be possible responses to a single case of misrecognition.³¹ Alternatively, specific forms of misrecognition may necessitate specific forms of recognition. In some cases, subordinate groups “may need to be unburdened of excessive ascribed or constructed distinctiveness; in others, to have hitherto under acknowledged distinctiveness taken into account.”³² For example, a prohibition on same-sex marriage has the effect of subordinating LGBTQ citizens, preventing their full participation in social life. The misrecognition is institutionalized, requiring a remedy in law to restore affected citizens to full-and-equal status.

The third dimension of contemporary justice claims, the political, is rooted in “the scope of the state’s jurisdiction and the decision rules by which it structures contestation.”³³ Whereas the economic dimension rests on society’s class structure and the cultural dimension on its status order, the political dimension reflects the “political constitution of society.”³⁴ The associated injustice in this third dimension is “misrepresentation.” Redress through representation can correspond to two aspects—membership and procedure.³⁵ The first aspect is concerned with social belonging and “inclusion in, or exclusion from, the community of those entitled to make justice claims on one another.”³⁶ The animating question here is, “Do the boundaries of political community wrongly exclude some who are actually entitled to representation?”³⁷ The second aspect deals with the “procedures that structure public processes of contestation.”³⁸ Here, the question is, “Do the community’s decision rules accord equal voice in public deliberations and fair representation in public decision-making to all members?”³⁹ Historical efforts to disenfranchise African Americans are an example of misrepresentation in Fraser’s terms. The Voting Rights Act of 1965 sought to remedy this political injustice.

As Fraser puts it, “Here, then, are three different views of the ‘what’ of justice. Insofar as each of them corresponds to a bonafide form of injustice that cannot be reduced to the others, none can be legitimately excluded from contemporary theorizing. . . . justice is better viewed as a multidimensional concept that encompasses the three dimensions of redistribution, recognition, and representation.”⁴⁰ Though we might have expected them mostly to provide for

redistribution, as we will see below, the range of inclusive trade provisions in recent FTAs correspond as much, if not more, to the cultural and political dimensions of justice. Determining how and to what degree requires some kind of benchmark and Fraser's work provides good guidance here.

In order to judge whether an injustice has been remedied, Fraser establishes "parity of participation" as a metric. She calls this "the normative core" of her notion of justice.⁴¹ To the degree that redress through redistribution, recognition, or representation succeeds, Fraser measures this in terms of whether the remedy fosters "social arrangements that permit all to participate as peers in social life."⁴² Redistribution leads to participatory parity when it overturns "economic structures that deny [people] the resources they need in order to interact with others as peers."⁴³ Recognition is required when people are "prevented from interacting on terms of parity by institutionalized hierarchies of cultural value that deny them the requisite standing."⁴⁴ Finally, parity of participation is achieved in the political dimension when people are no longer "impeded from full participation by decision rules that deny them equal voice in public deliberations and democratic decision-making."⁴⁵

Fraser's notion of participatory parity as a justice metric seems particularly well suited to assessing the inclusive trade agenda. On their face, both concepts evoke notions of inclusion. Beyond this general observation, Fraser argues that participatory parity is both "an outcome" and "a process notion,"⁴⁶ echoing much of the inclusive trade narrative, which speaks both to tangible outcomes for groups and issues and to inclusive processes. In addition, Fraser's threefold notion of justice dovetails well with current developments in trade. Many scholars have noted the expanding scope and depth of trade agreements.⁴⁷ No longer focused solely on border measures, such as tariffs or quotas, the new "deep" FTAs are increasingly encroaching on domestic "behind-the-border" policies. Many of these, by definition, move beyond economic policies to intersect with sociopolitical and cultural objectives. For example, safety standards for automobiles are an economic issue when automakers must pass another round of standards testing in an export market. But they are also a social policy aimed at ensuring the health and safety of citizens. As trade agreement negotiations increasingly target these sorts of nontariff barriers, their consequences are not only economic. Fraser's framework ensures that we are attentive not only to the economic consequences of trade agreements but also to their cultural and political consequences. The inclusive trade agenda is

emblematic of this larger trend in trade, especially since stakeholders invoke political, economic, and sociocultural concerns.

Ultimately, Fraser provides a vocabulary for assessing, classifying, and differentiating the justice claims of groups seeking certain trade policy outcomes or trade agreement provisions. One group may seek all three dimensions of justice, while another may privilege one. This same vocabulary allows us to determine if the policy outcomes that governments deliver as part of their inclusive trade agenda match the claims of the groups they seek to engage. For example, a trade agreement chapter on gender that is mostly hortatory might afford recognition of the consequences of trade for women or the obstacles to women's participation. However, it may not contain any truly redistributive content. Fraser's lens allows an analysis not only of whether the inclusive trade agenda is just but also in what ways.

My preliminary analysis suggests that few so-called inclusive trade initiatives in trade agreements are truly redistributive in nature. Some provide a modest form of recognition or representation. The justice upshot of the inclusive trade agenda, then, is primarily cultural or political in Fraser's terms, though generally not economic. This is surprising given the inherently economic nature of trade policy and trade agreement negotiations, though not necessarily bad. Trade agreements are limited in the direct redistributive outcomes that they can deliver. Nonetheless, they can catalyze a conversation that produces redistributive outcomes in other areas of trade policy. For example, while the redistributive outcomes of the FTAs that I address below might be modest, Export Development Canada has significantly expanded its Women in Trade Investments Program and worked to build a similar initiative for Indigenous peoples, including trade missions for Indigenous entrepreneurs. These programs can often produce truly redistributive outcomes for marginalized groups in a way that FTAs cannot.

THE CASE OF CANADA

The Canadian government describes its approach to trade in the following terms:

Trade works best when everyone benefits. As part of its Trade Diversification Strategy, Canada advanced an inclusive approach to trade that seeks to ensure that the benefits and opportunities that flow from trade are more widely shared, including with under-represented groups such as women, SMEs, and Indigenous peoples. By providing more opportunities for more hard-working Canadians to succeed, Canada is creating wealth and jobs for the middle class.⁴⁸

In order to assess the Canadian inclusive trade strategy in action, I look at perhaps the most high-profile aspect of it; namely, the provisions in five agreements that roughly correspond to the inclusive trade era: CETA, CPTPP, USMCA, the Canada-Chile FTA, and the Canada-Israel FTA. I will leave aside the domestic policy dimension for now, including export support programs that aim to help women-, indigenous-, and LGBTQ-owned businesses, including SMEs, in Canada.

Gender

To date, when trade agreements purport to deal with gender, this primarily means they consider their impact on *women*. My focus reflects this, despite signs that there is scope to develop a broader gender analysis.⁴⁹ Even using this narrow definition of gender, making women a priority in trade policy is already a daunting task because women participate in the market or are affected by trade agreements in many ways, including as workers, business owners, and consumers. As a result, a provision that helps women business owners might also harm women workers, even in the same sector. Furthermore, different sectors are also positively or negatively affected by trade agreements in different ways. If one sector employs more women than another, then the impact will be gendered. For example, Elson and Fontana argue that services liberalization could affect women in at least two ways. First, if liberalization means that the public sector provision of essential services shifts to commercial actors, the impact may fall on women as the primary recipients of such services. At the same time, a service sector expansion can create new job opportunities for women, who are typically employed there.⁵⁰

This discussion also raises the question of whether targeted provisions in trade agreements are the most beneficial to women. Reducing tariffs to ease access to a trading partner's market helps all exporters, regardless of gender. However, special carve-outs for women may be desirable if they face gender-specific disadvantages. Women-owned businesses are less common than those owned by men. In addition, women-owned businesses face unique challenges in obtaining financing or accessing export opportunities.⁵¹ Trade agreement provisions themselves rarely achieve these sorts of goals, though they can build awareness and help to create the conditions for domestic policies to promote diversity in business ownership and provide support for women to get easier access to financing or to foreign buyers. The next section examines the specific provisions in recent inclusive trade

agreements through the lens of Fraser's three justice idioms to assess the contribution they might make to women's economic empowerment.

Gender and CETA. The Canada-European Union Comprehensive Economic and Trade Agreement (CETA)⁵² entered into force provisionally in September 2017. It provided an opportunity for Canada to diversify its export markets away from the United States and for the EU to make inroads into Canada's provincial procurement and dairy markets, among other things. In her speech at the University of Ottawa in August 2017, on the eve of North American Free Trade Agreement (NAFTA) renegotiations, then-minister of trade Chrystia Freeland called CETA "the most progressive trade deal in history."⁵³ Yet the agreement itself contains little that seems targeted explicitly at advancing the trade and gender debate. One in-text provision that might be directly applicable is Article 23(3), which references ILO labor standards, including a description of how they pertain to non-discrimination. However, neither women nor gender is singled out in this CETA provision. Another article, in the "Investment" chapter of the agreement, prohibits targeted discrimination of investors based on gender, race, or religious belief.

Most significant in CETA is the establishment of the Joint Committee that addresses Trade and Gender as one of its foci. At the time of writing, the committee has met several times on this issue, including in civil society consultations and stakeholder workshops. This forum provides a critical opportunity to share information and best practices and to explore the link between gender and trade. The committee has made some specific and substantive commitments, establishing that trade liberalization has gendered effects. It has reaffirmed the parties' commitments to international agreements, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The committee has recommended that "the Parties cooperate to improve the capacity and conditions for women, including workers, businesswomen and entrepreneurs, to access and fully benefit from the opportunities created by CETA."⁵⁴ Further, it has recognized the need to gather data on a range of issues, including best practices around the world and the most effective methodologies and indicators associated with gender-differentiated trade data, as well as the specific approaches that each government is using.

These measures best correspond to Fraser's category of recognition in that they address women's social status. The in-text provisions on discrimination reinforce existing commitments, especially as they pertain to women workers and women

investors. The work of the Joint Committee considers both women workers and women business owners, though the committee's parameters suggest that there is still much learning that must go on before the most effective policies can be identified. As a result, these various measures do not themselves remedy the injustice of women's misrecognition in trade debates, which would require parity of participation as an outcome, though they arguably seek to lay the groundwork to do so. They establish gender equality as a priority, but the related concrete outcomes hinge on cooperative activities of the parties and ultimately, one might presume, on domestic legislation. These subsequent efforts, which might grow out of the committee's work, have the potential to remedy the injustice of maldistribution as parties ascertain how best to provide more equitable access to resources for women entrepreneurs, as well as how to mitigate the harms to women workers, specifically as they pertain to CETA. It seems apparent that the committee's work also remedies to some degree Fraser's injustice of misrepresentation by creating specific opportunities for women's perspectives on trade to be heard by government representatives and for stakeholders to share their specific concerns about gender and trade.

Gender and CPTPP. In 2012, Canada joined ongoing negotiations for the Trans-Pacific Partnership (TPP) once many chapters had already been largely closed. The TPP was a multilateral trade agreement between Pacific states aimed partly at expanding market access and partly at expanding U.S. influence in Asia. Canada was just one of ultimately twelve parties to the original agreement, leaving less room to promote its specific interests, had the government been so inclined. In January 2017, an opportunity presented itself for the Trudeau government to leave its imprint on the agreement when newly elected U.S. president Donald Trump withdrew the United States from the TPP, throwing talks into disarray for a time. Talks restarted later that year among the TPP-11, leading to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership⁵⁵ in January 2018, the modified version of the TPP. CPTPP incorporates most of the original TPP agreement by reference, with the exception of twenty-two key provisions that were suspended or changed. Therefore, negotiations of CPTPP took a similar trajectory to those for CETA in that most of the contents of the agreement were negotiated by the government of Stephen Harper, Justin Trudeau's predecessor. The addition of the "Comprehensive" and "Progressive" to the title is understood to at least partly be at the initiative of Canada.

Nonetheless, there is little targeted at the trade and gender debate. The preamble to CPTPP groups together a basket of issues in one bullet point. Specifically, the parties reaffirm everything from the importance of promoting corporate social responsibility and cultural diversity to environmental protection and sustainable development. Gender equality is included in this list, as is inclusive trade. This provision also seems best to correspond to Fraser's notion of recognition in that it acknowledges the need to correct for gender inequality. However, unlike the CETA Joint Committee's work on trade and gender, it does not take concrete steps to rectify any of the injustices associated with Fraser's three justice idioms or to promote parity of participation.

Gender and USMCA. The United States-Mexico-Canada Agreement (USMCA)⁵⁶ came about when U.S. president Donald Trump called for a renegotiation of NAFTA. The agreement entered into force on July 1, 2020. Although there was much discussion of a possible gender chapter in USMCA, it did not materialize. Instead, some provisions for gender are woven through the agreement. It is worth noting that a gender chapter would not necessarily be better: that is an empirical question that is implicit in my analysis here. Indeed, seemingly small provisions can pack a punch. One example of such a provision is Article 23(9) of USMCA, which addresses discrimination in the workplace. It states that

each Party shall implement policies that it considers appropriate to protect workers against employment discrimination on the basis of sex (including with regard to sexual harassment), pregnancy, sexual orientation, gender identity, and caregiving responsibilities; provide job protected leave for birth or adoption of a child and care of family members; and protect against wage discrimination.⁵⁷

This provision is symbolically significant since it moves these commitments out of side agreements, which tend to be nonbinding, and into the text of the trade agreement. The fact of it being in the text of the agreement suggests that it is covered by dispute settlement procedures, though this is not entirely clear. The "Dispute Settlement" chapter of USMCA is primarily concerned with measures that are inconsistent with obligations arising from the agreement. Chapter 23, the "Labor" chapter, establishes no obligations with regard to gender. Despite this enforcement issue, the language of Article 23(9) aims to remedy the status hierarchy associated with misrecognition by emphasizing the equality of all individuals as workers and by protecting against gender discrimination. Its presence in the

text, as well as the use of the word “shall” as opposed to weaker, more aspirational language, denotes some movement in a more just direction.

References to gender come up again in Article 23(12) of the “Labor” chapter, which enumerates ways that parties can cooperate to bring about effective implementation of the contents of the chapter. However, the language is reserved. The parties *may* develop cooperative activities in a range of areas, including gender issues related to occupational health and safety, among them the advancement of childcare and nursing mothers and the prevention of gender-based violence in the workplace. Cooperative activities can also explore workforce diversification, including on the basis of gender identity, as well as strategies to integrate and retain women in the job market and build the skills of women workers. These are all very worthy topics, but the “Labor” chapter merely flags them for possible cooperative activities among the USMCA signatories. It binds them to do very little. Unlike CETA, it does not establish a committee to focus on this work. In the chapter on SMEs, Article 25(2) envisions “more robust cooperation” between the parties on a number of fronts, including to “strengthen its collaboration with the other Parties on activities to promote SMEs owned by under-represented groups, including women, indigenous peoples, youth and minorities, as well as start-ups, agricultural and rural SMEs, and promote partnership among these SMEs and their participation in international trade.”⁵⁸

Understandably, many analysts expressed disappointment with the gender outcome in USMCA, partly because it included no chapter on gender. Laura MacDonald and Nadia Ibrahim called it a “lost opportunity.”⁵⁹ Nonetheless, it is worth noting that a prospective gender chapter, even if it did not materialize, prompted discussion and may have had the effect of raising awareness of the gendered nature of trade. No provisions in USMCA correspond directly to Fraser’s categories of representation or redistribution. Indeed, it is even debatable that the provisions I have flagged rise to her standard for recognition. They acknowledge that misrecognition has occurred for women, but they mostly propose future nonobligatory action to shift the status order.

Gender and the Canada-Chile Free Trade Agreement—Updated. The Canada-Chile Free Trade Agreement (CCFTA)⁶⁰ entered into force in 1997. Tariff reduction negotiations, as well as agreement updates, continued into the 2000s. The Amending Agreements to the CCFTA⁶¹ entered into force in February 2019. In addition to the CCFTA, Chile is also a CPTPP signatory. The Government of

Canada website indicates that these two agreements will eventually coexist (once CPTPP enters into force for all parties) and businesses will be able to choose which FTA regulations they honor, “depending on whichever applies more favourably to their goods and services.”⁶² The modernized CCFTA contains some of the same corporate social responsibility commitments and reference to OECD guidelines that we find in other Canadian FTAs. The innovation, however, is that CCFTA is the first trade agreement to which Canada is a party that contains a chapter on gender. Chile had already reached this milestone in its FTA with Uruguay.

Appendix II, chapter N *bis*, “Trade and Gender,” of the Amending Agreements⁶³ contains eight sections. The key ones recognize the specific ways that trade can have a differential gendered impact; can reaffirm the parties’ commitments to CEDAW and other international agreements; can specify possible areas of cooperation; and can create a joint committee to share best practices, gather and exchange information, and report on its work. In many ways, the text of this appendix resembles the text of the documents that established CETA Joint Committee’s work on trade and gender. For some, CCFTA carries more symbolic weight because the commitments are contained in a dedicated chapter on gender. However, it seems apparent that the work of the Joint Committee is as significant—perhaps more so—than that which is laid out in the CCFTA chapter. These resonances suggest that the chapter on gender, like the CETA provisions, corresponds primarily to Nancy Fraser’s notion of recognition. It acknowledges the status hierarchy as it pertains to women in trade and, ideally, sets in motion some activities that can remedy this injustice, activities that can lay the groundwork for further activities with eventual consequences for redistribution and representation.

Gender and the Canada-Israel Free Trade Agreement—Updated. The Canada-Israel Free Trade Agreement (CIFTA)⁶⁴ was originally signed in 1997. In July 2015, the Harper government in Canada announced the conclusion of talks with the government of Israel to modernize CIFTA. Several chapters were updated, including “Dispute Settlement,” “National Treatment and Market Access for Goods,” and “Rules of Origin.” Seven new chapters were added (“Electronic Commerce,” “Trade and Environment,” “Intellectual Property,” “Trade and Labour,” “Sanitary and Phytosanitary Measures,” “Technical Barriers to Trade,” and “Trade Facilitation”).⁶⁵ The Trudeau government

reopened talks with Israel in 2017 to include so-called progressive chapters, specifically on gender, SMEs, and corporate social responsibility.

The preamble to CIFTA “seek[s] to increase women’s access to and benefit from the opportunities created by this Agreement by advancing cooperative activities and removing constraints to their full participation in their economies and international trade.”⁶⁶ The “Trade and Gender” chapter, chapter 13 of CIFTA, is very similar to the chapter on trade and gender in the appendix of the Amending Agreements in the Canada-Chile Free Trade Agreement. The section headings are almost identical. One crucial difference in CIFTA’s chapter on gender is Article 13.6. In the event that any matter pertaining to the chapter cannot be resolved in a cooperative fashion, through dialogue or consultation, Article 13.6 says that the parties “may consent to submit the matter to dispute settlement in accordance with Chapter Nineteen (Dispute Settlement).”⁶⁷ No such article appears in the Canada-Chile agreement and, in fact, this provision makes CIFTA the only agreement with a chapter on gender that is subject to dispute settlement, though it is important to note that both parties must agree to such a process for it to occur.

In addition to gender being the subject of a chapter in CIFTA, related provisions are woven in throughout the rest of the agreement. Annex 12.9, “Cooperative Activities,” identifies a range of possible areas for cooperation, with section 1(i) focusing on “gender issues, including the elimination of discrimination in respect of employment and occupation.”⁶⁸ Article 16.4 of the “Other Provisions” chapter affirms the parties’ commitment to corporate social responsibility, reflecting what is said in the *OECD Guidelines on Multinational Enterprises*: “These guidelines and principles address issues such as labour, environment, *gender equality*, community relations and anti-corruption” (emphasis added). The Article goes on to note that any matters arising out of this Article should be resolved “through dialogue.”⁶⁹

These various provisions, including the gender chapter, are potentially significant in terms of representation and recognition. In all of the FTAs considered here, there seems to be an explicit acknowledgment that women face specific constraints with respect to trade, constraints that emerge from the status order related to gender. A change in the status order would likely not only rectify the injustice of misrecognition but also lead to redistributive benefits for women. The FTAs take the preliminary step of raising awareness and promoting cooperative activities.

Indigenous Peoples

In September 2016, Canada's then-minister of international trade, Chrystia Freeland, and its then-minister of Indigenous and northern affairs, Carolyn Bennett, met with national Indigenous leaders in Toronto. Freeland called the meeting, "the beginning of a really important dialogue between the government of Canada and First Nations, Métis and Inuit people about international trade," and remarked, "It's a discussion that is long overdue."⁷⁰

Indigenous peoples have a unique and complex relationship with international trade, both as active participants in markets and as stewards of territories and cultural practices that can be negatively affected by trade rules that are usually negotiated without their consent. Indigenous peoples in Canada participate directly in markets as traders, seeking to share in the benefits of trade. They also work to safeguard their treaty rights and way of life against encroachment by trading activity. Aligning these interests can be challenging, and there is no clear consensus on specific trade priorities across Indigenous communities.

Indigenous peoples have contributed to the debate about trade in various ways in the past; however, they have not been directly involved in trade agreement negotiations. For example, they weighed in on talks between the Canadian and American governments over softwood lumber, including formally through submission of an *amicus curiae* brief to a WTO panel.⁷¹ They expressed concerns about the original NAFTA agreement⁷² and were a critical part of the WTO dispute on seal products concluded in 2014.⁷³ In addition to these indigenous interventions in trade policy, the Trudeau government's pursuit of inclusive trade, including a proposed chapter on Indigenous peoples in USMCA, brought indigenous issues into the trade conversation in a new way. It arguably gave indigenous goals and concerns a new prominence and affirmed trade negotiations as a site for reconciliation.

Indigenous peoples and CETA. Several provisions in CETA pertain to indigenous issues in ways that deliver potentially significant justice outcomes. In addition, an accompanying commitment emerged late in the negotiations process, when the Belgian region of Wallonia threatened to block Belgian approval of the agreement. While efforts to allay Walloon concerns over ISDS, among other things, did not reopen negotiation of the CETA text, it did lead to the drafting of an accompanying document, the Joint Interpretative Instrument. The Trudeau government took this opportunity to include some of its own concerns, including a reference to

Indigenous peoples. Article 14 of the Joint Interpretative Instrument, “Preferences for Canada’s Aboriginal Peoples,” states: “In CETA Canada has included exceptions and carve-outs to ensure its ability to adopt measures that preserve rights and preferences for Aboriginal peoples. Canada is committed to active engagement with Indigenous partners to ensure the ongoing implementation of CETA continues to reflect their interests.”⁷⁴ There is clear recognition in this provision to ensure room for special measures for Indigenous peoples in CETA’s implementation. This provision arguably creates a space for actions that might actually remedy some of the misrecognition and distributive injustices that Indigenous peoples face in the trade conversation.

In the text of CETA itself, Article 12.2.2 indicates that chapter 12, “Domestic Regulation,” does not apply to a number of sectors and activities, including aboriginal affairs. Schwartz flags this provision as notable since it is included in the actual text of the agreement, as opposed to an annex or side agreement. Furthermore, she explains that it allows the government of Canada to keep or introduce domestic regulations that benefit indigenous service providers.⁷⁵ Article 2.a of Annex 19-7, in the “Government Procurement” chapter, states that the chapter does not apply to “any measure adopted or maintained with respect to Aboriginal peoples, nor to set asides for aboriginal businesses; existing aboriginal or treaty rights of any of the Aboriginal peoples of Canada protected by section 35 of the Constitution Act, 1982 are not affected by this Chapter.”⁷⁶ This provision allows the government of Canada to award contracts to indigenous businesses in a preferential manner. These provisions are significant in Fraser’s justice terms in the sense that they seek to remedy the status order inequity by offering the possibility of privileged access to procurement contracts for indigenous business owners. This, in turn, can create tangible economic opportunities for indigenous entrepreneurs. In other words, CETA addresses aspects of both recognition and redistribution.

Indigenous peoples and CPTPP. The CPTPP contains considerably more references to Indigenous peoples than to gender. The same preamble bullet point mentioned above, which includes gender equality alongside a list of many other social, cultural, and environmental issues, makes mention of indigenous rights and traditional knowledge. Several other provisions woven through the agreement also reference indigenous interests. For example, chapter 20, the chapter on the environment, contains the same exclusion in the definition of “environmental law”

that we find in other FTAs to which Canada is a party; namely, that it does not include “any statute or regulation, or provision thereof, the primary purpose of which is managing the subsistence or aboriginal harvesting of natural resources.”⁷⁷ This provision has the potential to be redistributive and is, by definition, according recognition. It removes any penalty that might be imposed on indigenous practices that do not square with other environmental objectives, thus shifting the status order in tangible ways.

Article 3(b) in annex 15-A states that Canada’s obligations under chapter 15 shall not apply to “any measure adopted or maintained with respect to Aboriginal peoples, nor to set asides for aboriginal businesses; existing aboriginal or treaty rights of any of the Aboriginal peoples of Canada protected by section 35 of the *Constitution Act, 1982* are not affected by Chapter 15 (Government Procurement).”⁷⁸ This is a substantial provision that also carries with it some real outcomes in terms of recognition and possibly redistribution. There is an implicit acknowledgment of the need to offer preferences to Indigenous peoples and a specific measure of which indigenous businesses can avail themselves. These examples suggest that the government of Canada tended to favor targeted carve-outs for Indigenous peoples, a strategy that we do not yet find utilized for women.

Indigenous peoples and USMCA. Assembly of First Nations national chief Perry Bellegarde called USMCA “ground-breaking for Indigenous peoples and their rights.” He commented that “throughout the negotiations, First Nations have had significant influence on the outcome of the deal, and I had an opportunity to provide advice to Foreign Minister Chrystia Freeland, too.”⁷⁹ Bellegarde was appointed to a small high-level advisory group, which had the ear of the minister. It was Canada’s declared intention to seek a dedicated chapter in USMCA on indigenous rights. While the contents of such a chapter were ostensibly drafted, no such chapter was ultimately included. However, a number of other provisions are significant. In the preamble to USMCA, the parties resolve to “RECOGNIZE the importance of increased engagement by indigenous peoples in trade and investment.”⁸⁰ Most significantly, Article 32.5 provides a general exception for Indigenous people’s rights. It is much more sweeping than any contained in agreements concluded by the United States or Canada. It reads: “Provided that such measures are not used as a means of arbitrary or unjustified discrimination against persons of the other Parties or as a disguised restriction on trade in goods,

services, and investment, this Agreement does not preclude a Party from adopting or maintaining a measure it deems necessary to fulfill its legal obligations to indigenous peoples.” The article is accompanied by a footnote, which says, “For greater certainty, for Canada the legal obligations include those recognized and affirmed by section 35 of the *Constitution Act 1982* or those set out in self-government agreements between a central or regional level of government and indigenous peoples.”⁸¹ Bellegarde called this provision “pivotal”⁸² because it should ensure that trade agreement commitments cannot trump the Canadian government’s legal and treaty commitments to Indigenous peoples.

A series of other measures also accord special recognition to Indigenous peoples, though they do not mandate any specific action or tangible outcome. For example, Article 24.2(4) of the “Environment” chapter says that “the Parties recognize that the environment plays an important role in the economic, social, and cultural well-being of indigenous peoples and local communities, and acknowledge the importance of engaging with these groups in the long-term conservation of the environment.”⁸³ Article 24.15(3), which deals with trade and biodiversity, says, “The Parties recognize the importance of respecting, preserving, and maintaining knowledge and practices of indigenous peoples and local communities embodying traditional lifestyles that contribute to the conservation and sustainable use of biological diversity.”⁸⁴ Furthermore, specific articles in the same chapter acknowledge the importance of marine fisheries and forest sectors to indigenous livelihoods.

Other measures go further to carve out specific conditions for Indigenous peoples. Article 24.19(2), also in the “Environment” chapter, prohibits the killing of great whales for commercial purposes. However, a footnote declares, “For greater certainty, the Parties understand that paragraph 2 does not apply to whaling by indigenous peoples in accordance with a Party’s law, including for Canada the legal obligations recognized and affirmed by section 35 of the *Constitution Act, 1982* or those set out in self-government agreements between a central or regional level of government and indigenous peoples.”⁸⁵ Similarly, Article 6.2(2) in the chapter on textiles and apparel stipulates that traditional folklore handicraft goods or indigenous handicraft goods are among the goods eligible for duty-free treatment.

In terms of Fraser’s justice idioms, the provisions in USMCA aimed at Indigenous peoples run the gamut of recognition, representation, and redistribution, including measures that respond to all three categories of injustice. However,

as is the case with gender, these provisions generally do more to acknowledge these injustices than to remedy them. The various measures that respond to a status hierarchy create some useful conditions for reordering it, though they are limited and their effects are not guaranteed. In terms of representation, the Assembly of First Nations national chief certainly participated in consultations to an unprecedented degree, but many argue that much more could be done.⁸⁶ Finally, we do find provisions that seek to rectify maldistribution for Indigenous peoples in trade. Nonetheless, the trade agreement provisions themselves can arguably only create the framework for redistribution. Indigenous-owned businesses must be aware of these opportunities and well-positioned to take advantage of them.

CONCLUSION

In a nod to Tolstoy's opening line in *Anna Karenina*, we can observe that many trade agreements are alike;⁸⁷ *inclusive* trade agreements are inclusive each in their own way. The agreements that I review above are quite uneven in their efforts to accommodate the interests of women and Indigenous peoples. Some include entire chapters devoted to a particular group. Others have significant (and less significant) provisions woven through the agreement text. This unevenness is due to a range of factors, including the interests and inclinations of trading partners. However, explaining this unevenness is a topic for another paper.

My goal in this paper was to use Nancy Fraser's three justice idioms to ascertain whether these trade agreements—ostensibly products of Canada's inclusive trade agenda—will produce more just outcomes for women and Indigenous peoples. In the conversation about trade, women and Indigenous peoples have distinctive claims for recognition, representation, and redistribution—recognition that the status hierarchy is inequitable for both groups where trade is concerned; representation such that both groups' voices can be heard in consultations and policy-making processes; and redistribution of benefits from trade and of resources to participate more fully in society. In assessing inclusive trade provisions, I seek not to develop a theoretical trade-justice account of these developments. Instead, my goal is more political—to mobilize a theoretical framework to hold to account governments that claim to care about trade justice.

My analysis shows little evidence of targeted provisions⁸⁸ that can provide concrete redistributive outcomes in inclusive trade agreements. Nonetheless, there are still several provisions that correspond to Fraser's notion of recognition in modest

but important ways. They spring from an acknowledgment that there is a status hierarchy in trade that has routinely excluded, negatively impacted, or simply not positively benefitted women and Indigenous peoples. Though these provisions do not typically offer concrete remedies to the injustice of misrecognition, they do flag them and encourage dialogue and action on these fronts. In terms of representation, we have seen some strides where indigenous consultation is concerned and some cooperative activities that will, in all likelihood, expand opportunities for women's voices to be heard. None of these provisions, in themselves, achieve the parity of participation for women or Indigenous peoples that, in Fraser's formula, would signify that the specific injustice has been remedied. In the end, the inclusive trade agreements under consideration acknowledge Fraser's three injustices where women and Indigenous peoples are concerned, but typically provide only partial remedies.

Does this mean that these inclusive trade agreements are, therefore, no more just than their predecessors? My answer is a tentative no. It is not insignificant for high-profile trade negotiations to serve as a vehicle to raise awareness about issues like gender equality and indigenous reconciliation, in particular emphasizing where they intersect with the key economic activity of trade. In other words, it is noteworthy that trade policy and trade agreement negotiations now, to a greater degree, accord recognition and representation to women and Indigenous peoples. While many might have wished to see more progress in the agreements discussed—progress that includes a concrete reordering of the status hierarchy or tangible redistributive outcomes—big changes will take time. Surely, provisions like the one in USMCA that intends to ensure that the agreement in no way interferes with the Canadian government's legal obligations to Indigenous peoples are a step in the right direction. Indeed, Assembly of First Nations national chief Perry Bellegarde called USMCA the “most inclusive trade agreement for indigenous peoples developed to date.”⁸⁹

Despite these strides, for many this is still insufficient. Why has the inclusive trade agenda not achieved more? This examination of the Canadian case suggests at least three possible answers to this question. First, governments may not wish or be able to take it any further. They may be comfortable with mostly hortatory, nonbinding references to marginalized groups because they are not committed to real redistribution/recognition/representation or because they are mindful of the fact that making such a commitment may require concessions to partners in other areas that they are not willing to make. Alternatively, a government

genuinely seeking inclusivity may face resistance across the negotiating table from a partner with different priorities. Trying to bring inclusive features into neoliberal trade through the standard request-and-offer negotiating process necessitates a substantial normative shift that will take time.

A second explanation lies in the deals themselves. It is possible that trade policy or trade agreements cannot actually deliver tangible gains to marginalized groups to remedy injustices. Instead (or, in addition), the critical terrain for such gains may be domestic policy. Marginalized groups are not always seeking redistributive benefits from the FTA process. When they do, those remedies sometimes materialize through other governmental processes and agencies. There is early evidence suggesting, for example, that a broader commitment to an inclusive trade agenda has led to noteworthy structural changes in the export promotion services available to women and indigenous entrepreneurs. Future work should confirm the links and the importance of assessing the effectiveness of the inclusive trade agenda by examining not only the implications of trade agreement provisions but also the range of domestic policies that accompany and support trade agreement negotiations. FTAs can create openings for market access, but domestic export promotion policies enable individual entrepreneurs to take advantage of these openings. In addition, the Canadian government has recently begun to subject new FTAs to a systematic gender-based assessment process. This may bear fruit in future deals.

A third explanation may lie in the nature of the inclusive trade agenda itself. Incorporating the voices and interests of those who have been on the margins of the trade conversation arguably represents a qualitatively different way of conducting trade policy. Advancing the inclusive trade agenda in a meaningful way is not a minor course correction. At a minimum, it will take time to shift the values that underpin the discourse on trade. It may also require a sequential process in which recognition and representation must clear the way for redistribution.⁹⁰ Many of the provisions considered above, which seem focused on correcting misrecognition, may signify step one in a multistep process that will later lead to more significant redistributive outcomes for women and Indigenous peoples.

While these limits are significant, the inclusive trade agenda still holds real promise in the long term. Understanding the relative contribution that each component of trade policy can make, in addition to holding governments to account in justice terms, will be crucial in moving the agenda forward.

NOTES

- ¹ Dani Rodrik, "What Do Trade Agreements Really Do?," *Journal of Economic Perspectives* 32, no. 2 (Spring 2018), pp. 73–90.
- ² For another effort to gauge the impact of inclusive trade measures, see Erin Hannah, Adrienne Roberts, and Silke Trommer, "Gender in Global Trade: Transforming or Reproducing Trade Orthodoxy?," *Review of International Political Economy* (2021), www.tandfonline.com/doi/full/10.1080/09692290.2021.1915846.
- ³ Nancy Fraser, "Rethinking Recognition," *New Left Review* 3, no. 3 (May/June 2000), pp. 107–20; Nancy Fraser, "Recognition without Ethics?," *Theory, Culture and Society* 18, nos. 2–3 (June 2001), pp. 21–42; Nancy Fraser, "Introduction: Scales of Justice, the Balance and the Map," in *Scales of Justice: Reimagining Political Space in a Globalizing World* (New York: Columbia University Press, 2009), pp. 1–11; Nancy Fraser, "Reframing Justice in a Globalizing World," chap. 2 in Fraser, *Scales of Justice*, pp. 12–29; and Nancy Fraser, "Abnormal Justice," chap. 4 in Fraser, *Scales of Justice*, pp. 48–75. Nancy Fraser, "Social Justice in the Age of Identity Politics," in Nancy Fraser and Axel Honneth, *Redistribution or Recognition: A Political-Philosophical Exchange* (New York: Verso Press, 2003), pp. 7–109.
- ⁴ World Trade Organization, *World Trade Report 2016: Levelling the Trading Field for SMEs* (Geneva: WTO, 2016).
- ⁵ European Commission, *Trade for All: Towards a More Responsible Trade and Investment Policy* (Luxembourg: Publications Office of the European Union, 2015), trade.ec.europa.eu/doclib/docs/2015/october/tradoc_153846.pdf.
- ⁶ Alasdair R. Young, "Two Wrongs Make a Right? The Politicization of Trade Policy and European Trade Strategy," *Journal of European Public Policy* 26, no. 12 (2019), pp. 1883–99.
- ⁷ For example, during negotiations for the United States-Mexico-Canada Trade Agreement, the conservative opposition characterized Justin Trudeau's inclusive trade agenda as "virtue-signaling" and implored him to focus on traditional trade deal concerns, like market access and job creation. On the other hand, Laura MacDonald and Nadia Ibrahim called the USMCA "a missed opportunity for gender equality," entrenching an old model rather than innovating a new one. See Laura Macdonald and Nadia Ibrahim, "The New NAFTA Is a Missed Opportunity for Gender Equality," *Monitor*, Canadian Centre for Policy Alternatives, January 23, 2019, monitormag.ca/articles/the-new-nafta-is-a-missed-opportunity-for-gender-equality. See also Diane Elson and Marzia Fontana, "When it Comes to Gender Analysis, Modern Trade Agreements Are Lacking," Centre for International Governance Innovation, April 4, 2018, www.cigionline.org/articles/when-it-comes-gender-analysis-modern-trade-agreements-are-lacking/.
- ⁸ For another effort to conceptualize inclusion, see Jean-Baptiste Velut, Gabriel Siles-Brügge, and Louise Dalingwater, "Rethinking the Dynamics of Inclusion and Exclusion in Trade Politics," *New Political Economy* (February 5, 2021), pp. 1–6.
- ⁹ I will leave issues and processes aside for now. In my judgment, the Fraser framework is best suited to analyzing the justice-related consequences for groups.
- ¹⁰ Justin Trudeau, "Statement by the Prime Minister of Canada on National Aboriginal Day" (statement, Ottawa, June 21, 2017), Prime Minister of Canada Justin Trudeau, pm.gc.ca/en/news/statements/2017/06/21/statement-prime-minister-canada-national-aboriginal-day.
- ¹¹ Margaret Biggs, "Inclusive Trade, Inclusive Development: Opportunities for Canadian Leadership," in Stephen Tapp, Ari Van Assche, and Robert Wolfe, eds., *Redesigning Canadian Trade Policies for New Global Realities* (Montreal: Institute for Research on Public Policy, 2016); Ricardo Grinspun and Yasmine Shamsie, eds., *Whose Canada? Continental Integration, Fortress North America, and the Corporate Agenda* (Montreal: McGill-Queen's University Press, 2007); Billy Melo Araujo, "Labour Provisions in EU and US Mega-Regional Trade Agreements: Rhetoric and Reality," *International and Comparative Law Quarterly* 67, no. 1 (January 2018), pp. 233–53; and Rorden Wilkinson, "Labour and Trade-Related Regulation: Beyond the Trade-Labour Standards Debate?," *British Journal of Politics & International Relations* 1, no. 2 (June 1999), pp. 165–91.
- ¹² M. Ali Khan, "Free Trade and the Environment," *Journal of International Trade & Economic Development* 5, no. 2 (1996), pp. 113–36; Hanna Bucher, Jane Drake-Brockman, Alexander Kasterine, and Mahesh Sugathan, *Trade in Environmental Goods and Services: Opportunities and Challenges* (Geneva: International Trade Centre, September 17, 2014); Steve Charnovitz, "The NAFTA Environmental Side Agreement: Implications for Environmental Cooperation, Trade Policy, and American Treaty-making," *Temple International and Comparative Law Journal* 8, no. 2 (Fall 1994), pp. 257–314; Jennifer Clapp and Peter Dauvergne, *Paths to a Green World: The Political Economy of the Global Environment* (Cambridge, Mass.: MIT Press, 2005); Anca D. Cristea, David

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- ¹³ Chios Carmody, Frank J. Garcia, and John Linarelli, eds., *Global Justice and International Economic Law* (Cambridge, U.K.: Cambridge University Press, 2012); James Christensen, *Trade Justice* (Oxford: Oxford University Press, 2018); Simon Cotton, "Globalisation and Distributive Justice: Evaluating the Moral Implications of Coercion and Cooperation in World Trade," *Australian Journal of Political Science* 49, no. 2 (May 2014), pp. 363–75; Helena de Bres, "Risse on Justice in Trade," *Ethics & International Affairs* 28, no. 4 (Winter 2014), pp. 489–99; Aaron James, *Fairness in Practice: A Social Contract for a Global Economy* (Oxford: Oxford University Press, 2012); Pietro Maffettone, "The WTO and the Limits of Distributive Justice," *Philosophy & Social Criticism* 35, no. 3 (March 2009), pp. 243–67; Mathias Risse and Gabriel Wollner, *On Trade Justice: A Philosophical Plea for a Global New Deal* (Oxford: Oxford University Press, 2019); Christian Neuhäuser, "Being Realistic about International Trade Justice," *Moral Philosophy and Politics* 5, no. 2 (2018), pp. 181–204; Oisín Suttle, "Equality in Global Commerce: Towards a Political Theory of International Economic Law," *European Journal of International Law* 25, no. 4 (November 2014), pp. 1043–70; and Oisín Suttle, *Distributive Justice and World Trade Law: A Political Theory of International Trade Regulation* (Cambridge, U.K.: Cambridge University Press, 2018).
- ¹⁴ Gavin Fridell, *Fair Trade Coffee: The Prospects and Pitfalls of Market-Driven Social Justice* (Toronto: University of Toronto Press, 2007); and Daniel Jaffee, *Brewing Justice: Fair Trade Coffee, Sustainability, and Survival* (Oakland: University of California Press, 2014).
- ¹⁵ Jörg Broschek and Patricia Goff, eds., *The Multilevel Politics of Trade* (Toronto: University of Toronto Press, 2020).
- ¹⁶ Robert Driskill, "Deconstructing the Argument for Free Trade: A Case Study of the Role of Economists in Policy Debates," *Economics & Philosophy* 28, no. 1 (March 2012), pp. 1–30; Dani Rodrik, *Has Globalization Gone Too Far?* (Washington, D.C.: Peterson Institute for International Economics, 1997); and Dani Rodrik, *The Globalization Paradox: Democracy and the Future of the World Economy* (New York: W.W. Norton, 2010).
- ¹⁷ David H. Autor, David Dorn, and Gordon H. Hanson, "The China Shock: Learning from Labor-Market Adjustment to Large Changes in Trade," *Annual Review of Economics* 8, no. 1 (October 2016), pp. 205–40.
- ¹⁸ For more on conflating "trade" with "trade agreements," see Rodrik, "What Do Trade Agreements Really Do?"
- ¹⁹ Fraser, "Introduction," p. 4. See also Franziska Boehme, Lindsay Burt, Patricia Goff, and Audie Klotz, "Cultural Diversity and the Politics of Recognition in International Organizations," *Journal of International Organizations Studies* 9, no. 2 (2018), pp. 117–32.
- ²⁰ Fraser, "Reframing Justice in a Globalizing World," p. 14.
- ²¹ Fraser, "Introduction," p. 5.
- ²² *Ibid.*, p. 2.
- ²³ *Ibid.*, p. 3.
- ²⁴ *Ibid.*
- ²⁵ *Ibid.*
- ²⁶ Fraser, "Reframing Justice in a Globalizing World," p. 16.
- ²⁷ Fraser, "Abnormal Justice," p. 58.
- ²⁸ Fraser, "Rethinking Recognition," p. 113.
- ²⁹ *Ibid.*, p. 114.
- ³⁰ *Ibid.*, p. 115.
- ³¹ *Ibid.*
- ³² *Ibid.*
- ³³ Fraser, "Reframing Justice in a Globalizing World," p. 17.
- ³⁴ *Ibid.*, p. 18.
- ³⁵ *Ibid.*, p. 17.
- ³⁶ *Ibid.*

- ³⁷ Ibid., p. 18.
- ³⁸ Ibid., p. 17.
- ³⁹ Ibid., p. 18.
- ⁴⁰ Fraser, “Abnormal Justice,” p. 59.
- ⁴¹ Fraser, “Social Justice in the Age of Identity Politics,” p. 36.
- ⁴² Fraser, “Reframing Justice in a Globalizing World,” p. 16.
- ⁴³ Fraser, “Abnormal Justice,” p. 60.
- ⁴⁴ Ibid.
- ⁴⁵ Ibid.
- ⁴⁶ Fraser, “Reframing Justice in a Globalizing World,” p. 28.
- ⁴⁷ Leonardo Baccini, Andreas Dür, and Manfred Elsig, “The Politics of Trade Agreement Design: Revisiting the Depth–Flexibility Nexus,” *International Studies Quarterly* 59, no. 4 (December 2015), pp. 765–75; Patricia M. Goff, “Limits to Deep Integration: Canada between the EU and the US,” *Cambridge Review of International Affairs* 30, nos. 5–6 (2018), pp. 549–66; Soo Yeon Kim, “Deep Integration and Regional Trade Agreements,” in Lisa L. Martin, ed., *The Oxford Handbook of the Political Economy of International Trade* (Oxford: Oxford University Press, 2015), pp. 360–79; Aaditya Mattoo, Nadia Rocha, and Michele Ruta, “The Evolution of Deep Trade Agreements” (Policy Research Working Paper No. 9283, World Bank, 2020), openknowledge.worldbank.org/handle/10986/33944; and Alasdair R. Young, “The Politics of Deep Integration,” *Cambridge Review of International Affairs* 30, nos. 5–6 (2017), pp. 453–63.
- ⁴⁸ “Canada’s Inclusive Approach to Trade,” Government of Canada, www.international.gc.ca/gac-amc/campaign-campagne/inclusive_trade/index.aspx?lang=eng.
- ⁴⁹ For instance, the Canadian government conducted an LGBTQ trade mission from 2018 to 2019.
- ⁵⁰ For an excellent overview of the range of issues at stake in the trade and gender conversation, see Erin Hannah, Adrienne Roberts, and Silke Trommer, *Gendering Global Trade Governance through Canada-UK Trade Relations* (Manchester: University of Manchester, 2018).
- ⁵¹ As the Empower Women website points out, in Canada “women own 16 percent of all small- and medium-sized enterprises in Canada, and only 11 percent of such women-owned enterprises are active outside Canada” (“Roundtable Discussion: Women and Trade in the Context of CETA,” Empower Women, July 18, 2019, www.empowerwomen.org/en/community/events-opportunities/2019/07/women-and-trade-in-the-context-of-ceta-roundtable-discussion). See also World Bank and World Trade Organization, *Women and Trade: The Role of Trade in Promoting Gender Equality* (Washington, D.C.: World Bank, 2020).
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- ⁸⁸ It is worth noting that some provisions in trade agreements do not specifically name groups like women or Indigenous peoples but benefit them all the same. For example, measures to help small- and medium-sized enterprises are not necessarily explicitly designed to help women, but statistics show that the vast majority of women-owned businesses are SMEs. Similarly, efforts to modify controversial ISDS provisions during CETA and USMCA negotiations were not responding specifically to indigenous demands. However, Indigenous peoples have perennially opposed ISDS provisions that threaten their rights. See United Nations General Assembly, “Report of the Special Rapporteur of the Human Rights Council on the Rights of Indigenous Peoples on the Impact of International Investment and Free Trade on the Human Rights of Indigenous Peoples,” A/70/301, August 7, 2015.
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- ⁹⁰ Interestingly, in her discussion of feminism, Fraser suggests that the three elements of justice have been pursued sequentially, with redistribution emphasized in earlier periods, and recognition and representation emphasized later on.

Abstract: Inclusive trade is taking hold in various forms in international organizations and in the trade policy of national governments. Absent empirical evidence that will take time to generate, it can be difficult to assess the achievements of this new approach to trade. Nancy Fraser’s three justice idioms provide a conceptual entry point for evaluating the potential of the inclusive trade agenda. Fraser argues that the contemporary global justice conversation must acknowledge claims for recognition, representation, and redistribution. Applying this conceptualization to the inclusive trade agenda shows that trade agreement provisions intended to favor women and Indigenous peoples go some distance in addressing claims for recognition and representation but accomplish less in remedying injustices associated with maldistribution. Therefore, the inclusive trade agenda does significantly advance global justice for marginalized groups, but works primarily in ways that are political and cultural, not economic.

Keywords: international trade, inclusive trade, global justice, free trade agreements, trade and gender, trade and Indigenous peoples, Nancy Fraser, recognition