# Contents

<table>
<thead>
<tr>
<th>Table of Figures and Charts</th>
<th>xxv</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preface</td>
<td>xvii</td>
</tr>
<tr>
<td>Acknowledgments</td>
<td>xxxxi</td>
</tr>
<tr>
<td>Table of Abbreviations</td>
<td>xxxv</td>
</tr>
</tbody>
</table>

**Introduction**

I. The Thesis  
II. Supporting Arguments  

**Part One**  
**Marxist Origins**

**Chapter 1 Globalization and Trade**

I. The "Anti-Third World Claim"  
II. Diversity  
III. An Illustration  
IV. Chesterton's Clever Response  
V. Not Too Pejoratively  
VI. Why Care about Intellectual Origins?  

**Chapter 2 Reviewing the Marxist Model**

I. From Growth Theory to International Trade Law: An Imperfect Translation  
   A. Some Conventional Wisdom  
   B. The Tendency to De-Radicalize  
II. A Story of Inevitable and Merciless Exploitation  
III. The Concept of "Surplus," and the Insatiable Appetite for New Markets  
IV. The Source of Surplus: Accumulated Labour  

**Chapter 3 Imperialism and Trade**

I. The First Link: Access to New Markets  
II. The Second Link: Extracting Surplus  
III. The Third Link: Hypocritical Trade Policies Advocated by an Unholy Alliance  
IV. An Illustration from the Third World: Bangladesh's Ready-Made Garment Sector  
V. The Romance of Orthodoxy  

vii
# Part Two
## Capitalist Growth Models

### Chapter 4 Defining "Growth"
- I. Ask Them About… 51
- II. Kuznets and Modern Economic Growth 54
- III. Development, Structural Changes, and Stages 55
- IV. Measuring Growth
  - A. GNP vs. GDP 58
  - B. Purchasing Power Parity 58
- V. Growth, Poverty, and Kuznets’ Inverted U Theory 61

### Chapter 5 One-Sector Growth Models
- I. Using Models 63
- II. The Harrod-Domar Model
  - A. The Concept of a Production Function 64
  - B. The Harrod-Domar Production Function 69
  - C. Shortcomings of Average Input-Output Ratios 70
    - 1. The Problem of Fixed Ratios 70
    - 2. Returns to Scale and the New Growth Economics 74
    - 3. Static versus Dynamic Analysis and the ICOR 76
  - D. The Final Expression of the Harrod-Domar Model 77
  - E. The “Non-Role” of Trade 79
  - F. Policy Implications of the Harrod-Domar Model 79
- III. Sources of Growth Models
  - A. The Production Function Again 80
  - B. Contributions to Growth of the Factor Inputs 81
  - C. Expression and Use of the Model 83
  - D. Reliability and the Importance of Model Design 85
  - E. Again, the “Non-Role” of Trade 85

### Chapter 6 Two-Sector Labour Surplus Models
- I. The Transformation from Agriculture to Industry Transformation 87
  - A. Modern Economic Growth and Industrialization 87
  - B. The Shift of the Surplus of Labour 90
- II. Patterns of Growth and the Chenery-Syrquin Study 92
- III. Rural-Urban Migration and its Causes 92
- IV. The Pace of Transformation 93
- V. The Fei-Ranis Labour Surplus Model
  - A. Two Points to Appreciate 95
  - B. Elements of the Fei-Ranis Labour Surplus Model
    - 1. The Agricultural Production Function 97
    - 2. The Marginal Productivity of Labour 98
    - 3. Wage Rates, the Supply and Demand for Labour, and the Essence of the Growth Story 99
  - C. The Transition Point 108
  - D. The Size of the Labour Surplus 110
  - E. The Transfer of Food from Rural to Urban Areas 111
  - F. The Three-Panel Fei-Ranis Labour Surplus Model 111
CONTENTS

G. The Potential Enhancing Role of Trade 114
V. A Variant: The Neo-Classical Two-Sector Model 116
   A. Weaknesses in the Fei-Ranis Model 116
      1. Is There a Labour Surplus? 116
      2. Ignoring Agriculture? 117
   B. Different Assumptions, Different Perspectives 117
   C. Depiction of the Model 118
VI. The Problem of Balanced Growth 121

Part Three
Organising Trade Rules

Chapter 7 The Theological Framework 129
   I. The Issue and Approaches to It 129
   II. Translation from Development Economics to Trade Law 131
   III. Challenging Conventional Wisdom 132
   IV. Elements in a Theological Framework for Special and
      Differential Treatment Rules 134
      A. The Homily 140
         1. Defining the Category 140
         2. Hypothetical Homiletic Rules 141
      B. Mortification 143
         1. Defining the Category 143
         2. Hypothetical Mortification Rules 144
      C. Mercy 145
         1. Defining the Category 145
         2. Hypothetical Merciful Rules 147
      D. Almsgiving 150
         1. Defining the Category 150
         2. Hypothetical Almsgiving Rules 154
   E. Playing Football 158

Chapter 8 Islamic Parallels 161
   I. Why Islam? 161
   II. The Homily and the Khutba at Jum’a Prayers 164
   III. Mortification and the Ramadan Fast 167
   IV. Mercy and Rahmah 169
   V. Almsgiving and Zakat 172

Part Four
Exhortations to Do More

Chapter 9 Defining “Special and Differential Treatment” 179
   I. Special and Differential Treatment in the GATT 179
   II. Special and Differential Treatment in the Uruguay and Doha Rounds 183
   III. The Present Focus 191
   IV. All Categories are Populated 193

Chapter 10 Homiletic Rules 197
CONTENTS

I. GATT Preamble (Paragraph 1) 197
II. Background to the 1966 Addition of Part IV to GATT 198
II. The 1979 Tokyo Round Enabling Clause 203
III. Classifying Paragraphs 1–7 of GATT Article XXXVI 206

Part Five
Obligations to Refrain

Chapter 11 Mortification Rules 215
I. GATT Article I:2 215
II. Part IV, GATT Article XXXVII:1 224
A. Three Types of Self-Restraint Required 224
B. Engaging in the Self-Restraints 229

Chapter 12 Apples from Chile 233
I. The "No Ruling" in the 1989 Dessert Apples Case 233
II. The EEC's Quantitative Restrictions and Price Intervention Mechanisms 235
III. The GATT Article XI Issues 238
IV. The GATT Article XIII Issues 242
V. A Future Case on GATT Article XXXVII? 249

Part Six
Obligations to Forgive

Chapter 13 Merciful Rules 255
I. GATT Article XVIII 255
A. Article XVIII:1 — A Statement of Faith 256
B. Article XVIII:2 — Recognition of the Need for Mercy 257
C. Article XVIII:3 — More Mercy? Requirements for Forgiveness? 258
D. Article XVIII:4 — Two Classes of Third World WTO Members Eligible for Mercy 259
II. An Overview of the Mercies of Article XVIII, Sections A–D 260
III. The Bounded Mercy of Article XVIII, Section A 261
IV. The Bounded Mercy of Article XVIII, Section B 263
V. Probing the Boundaries of the Section B Mercy:
   The India-Quantitative Restrictions Case 269
   A. Sovereignty in Development Policy 269
   B. Relaxing Restrictions 272
VI. The Bounded Mercy of Article XVIII, Section C 274
VII. The Bounded Mercy of Article XVIII, Section D 280
VIII. Part IV, GATT Article XXXVII:3(c) 282
IX. A Procedural Rule in Part IV of GATT: Article XXXVII:5 285

Chapter 14 The Special Mercy for India and Pakistan 287
I. GATT Article XXIV:11 287
II. An Optimistic Assumption 288
III. Special Tailoring for India and Pakistan 290
IV. Understanding Article XXIV:11 297
V. The Context: The Three Rules of Article XXIV 297
CONTENTS

A. Generosity, and a Blistering Critique
B. A “Purpose” Test?
C. Rule #1: The “Substantially All” Test
D. Rule #2: The “Higher or More Restrictive” Test
E. Rule #3: Notification, and Maybe a Bit More
F. Back to the Start: The Generosity of the Mercy
VI. Is the Indo-Pakistani Waiver Worth Much?
   A. A Textual Approach
   B. Going beyond the Text
   C. Thinking about a Troubled Past
VII. Another Mercy: Frontier Traffic and Paragraph 3(a)
VIII. Failure to Take Advantage of the Mercy
IX. Too Late for Bangladesh?

Part Seven
Obligations to Give

Chapter 15 Almsgiving Rules
I. GATT Article XXVIII:3(b) bis
   A. The History and Importance of Article XXVIII bis
   B. Paragraphs 1 and 2, and the Reciprocity Principle
   C. Almsgiving, Not a Homily, through Paragraph 3(b)
   D. Exemption from the Reciprocity Principle via GATT Article XXXVI:8
II. Part IV, GATT Article XXXVI:8
III. Part IV, GATT Article XXXVI:9
IV. Part IV, GATT Article XXXVII:3(a)-(b)
V. “South-South Almsgiving”: Part IV, GATT Article XXXVII:4
VI. Part IV, GATT Article XXXVIII
   A. Almsgiving through Paragraph 1
   B. Almsgiving through Paragraph 2

Chapter 16 Adhering to Almsgiving Rules
I. Are the Americans Paying Attention?
   A. The Proposal to Eliminate Industrial Tariffs
   B. Inconsistencies with Almsgiving Rules
II. Are the Europeans Paying Attention?
   A. The 1980 Sugar Refunds Case
   B. The EC’s Subsidy Scheme
   C. Brazil’s Successful GATT Article XVI Argument
   D. Brazil’s Successful GATT Part IV Argument

Part Eight
Social Justice Theory

Chapter 17 Social Justice “as” Virtue
I. Why Give Any More?
   A. Making a Case for the Third World
   B. The Two Justifications
   C. Mutual Exclusivity?
D. Other Possible Justifications? 378
E. Is a Justification Needed? 379

II. Gauging Social Justice by the Virtues Associated with Rules 380
A. Foundations 380
B. Social Justice and Other Types of Justice 382
C. Intellectual Sins 386
D. Attempting an Answer 388
E. What is “Virtue”? 390

Chapter 18 Virtues and the Rules in the Theological Framework 395
I. Potential Virtues of Homiletic Rules 395
II. Potential Virtues of Mortification Rules 397
III. Potential Virtues of Merciful Rules 401
IV. The Potential Virtue of Almsgiving Rules 405
   A. A Risk of Conflation 405
   B. What Charity is All About 407

Chapter 19 Societies and Social Justice 413
I. Revisiting Catholic Social Justice Theory 413
II. Methodology 414
III. Political and Economic Societies 417
IV. Three Moral Problems in Societies 420
   A. The Individual and Society, and Respect for Human Dignity 420
   B. Societal Leadership, and Pursuit of the Common Good 426
   C. The Poor in Society, and Giving Preference to Them 432
V. The WTO Society 438
   A. Calling the WTO a “Society” 438
   B. Scale and Avoiding Moral Relativism 440
   C. Scale and the Judgment of Nations 444
VI. Special and Differential Treatment as a Moral Expression of Preference for the Poor 448

Part Nine Enhancing Social Justice

Chapter 20 A Case for Better Almsgiving Rules 453
I. Genuine Mutuality Regarding Opportunity (Not Result) 453
II. The Paucity of Almsgiving Rules 459
III. Social Justice Demands Charity 463
IV. The Convergence of Social Justice “as” Virtue and Social Justice as a Rationale 467

Chapter 21 Three New Almsgiving Rules 471
I. More Charity through Three Proposals 471
II. First Proposal: Increasing Legal Capital 479
III. Second Proposal: Eliminating Conditionality 483
IV. Third Proposal: Funding Export Diversification 491

Chapter 22 Final Considerations 499
## CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Links to Human Rights?</td>
<td>499</td>
</tr>
<tr>
<td>II. A Caution about Subsidiarity</td>
<td>502</td>
</tr>
<tr>
<td>III. Leaders and Social Justice</td>
<td>504</td>
</tr>
<tr>
<td>Summary</td>
<td>507</td>
</tr>
<tr>
<td>I. Talking Past One Another</td>
<td>507</td>
</tr>
<tr>
<td>II. Neither a Devil Nor a Saint</td>
<td>508</td>
</tr>
<tr>
<td>III. Why the Development Economics?</td>
<td>509</td>
</tr>
<tr>
<td>IV. Why the Theology?</td>
<td>511</td>
</tr>
<tr>
<td>V. Recap: The Thesis and Supporting Arguments</td>
<td>514</td>
</tr>
<tr>
<td>VI. Shared Quests</td>
<td>520</td>
</tr>
<tr>
<td>About the Author</td>
<td>523</td>
</tr>
<tr>
<td>Index of Gatt Articles</td>
<td>525</td>
</tr>
<tr>
<td>Index of Cases</td>
<td>527</td>
</tr>
<tr>
<td>Subject Index</td>
<td>529</td>
</tr>
</tbody>
</table>