The Many Faces of Justice in International Negotiations

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Abstract

There are a wide range of roles and effects that justice can have in negotiations at the international level. It can be a source of conflict and trigger for negotiation, a referent guiding negotiations, a subject of negotiation, a tool to reach effective agreements, and a tactical tool. Justice can assume any or several of these roles in any one negotiation. This article looks at justice as a lens through which to understand what drives negotiation processes and explains different results in the international arena.

Keywords

justice – negotiation – agreement – power – conflict – equality

What roles does justice play in negotiations at the international level?2 The answer was far from obvious when significant research on this topic emerged some twenty years ago. Many studies, notably in social psychology, had already

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pointed to the importance of justice in bargaining in interpersonal and intra-societal contexts (Deutsch 1973; Lind & Tyler 1988). Some limited research on the subject at the international level also pointed to a role for justice as a referent guiding negotiations. But predominant approaches honored the realist tradition (Hopmann 1995) and its arguments about the limited applicability of morality and justice to state conduct and interstate relations. This research pointed to the absence of agreed ethical criteria or a shared moral purpose among states, the lack of a supranational authority capable of ensuring compliance with norms, and the supposed inevitable tendency of states to pursue their own interests and define any moral obligations narrowly in terms of these. The focus was thus on the role of power and self-interest in international bargaining (Snyder & Diesing 1977; Habeeb 1988).

Over the past two decades, a series of conceptual and empirical studies have, one by one, built up a rich record demonstrating the many faces of justice in international negotiations. They have contributed to widening perspectives on the key questions that underlie research on international negotiations: What motivates negotiators to act in a particular way? What drives international negotiation processes and explains different results? What does it take to make negotiations succeed and arrive at effective and durable agreements?

The purpose of this article is to illuminate the wide range of roles that justice may play in negotiations at the international level and the factors influencing the role it adopts in a particular context. In so doing, it goes beyond existing studies that typically analyze justice in a single role or from a single perspective. For justice claims and concerns can both facilitate and undermine negotiations. They may bring parties into conflict or to the negotiating table. They may serve as an external referent which helps to guide bargaining and frame the contours of an agreement or become a heated subject of negotiation itself which derails the process. When incorporated into negotiation procedures and/or the terms of agreements, justice can boost the effectiveness and durability of the outcome – in some cases. Finally, justice claims can play a tactical role in helping to serve party interests. Justice can assume any or several of these roles in any one negotiation. In conclusion, we discuss justice as a subject for future research.

**Justice as a Source of Conflict and Trigger for Negotiation**

Justice can be a major source of disputes. Disagreements over justice, as over interests, and unfulfilled justice claims can trigger conflict and war (Deutsch 2006). About twenty years ago, a pioneering study provided ample historical
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Evidence that the justice motive – defined as a motive to correct a perceived discrepancy between entitlements and benefits – can be a significant force in pushing national leaders to decide to go to war (Welch 1993). While many factors usually contribute to the outbreak of wars, Welch’s study of 200 years of major wars found that justice claims often work as powerful conflict drivers. This work may not have triggered much further research within war and armed conflict studies (Welch 2014), but has inspired scholars of international negotiation to take justice concerns seriously and examine their role within bargaining processes (see e.g., Müller 2013a; Müller & Druckman 2014).

While Welch’s work stresses the power of justice in escalating conflict and contributing to violence, justice claims are also a major source of non-military disputes on the international stage. They can be found in virtually all areas of international affairs – for example, in the environmental area, between polluting (often well-to-do) and victimized (often poor and vulnerable) countries; in the trade area, between developed and developing countries over market access; and in the nuclear non-proliferation area, between the nuclear powers and nuclear have-nots over mutual obligations and the fulfillment of these.

As importantly, justice claims can help bring parties to the international negotiating table. The mechanisms at play when justice moves parties in this direction and when it drives them into the battlefield have not been explored in any systematic way. But in general terms, how parties act upon justice claims is often functional. Perceptions and calculations of what avenue can best or realistically render the justice sought will supposedly play a role. For victims of environmental pollution, for example, there is often no other way of seeking compensation or protection from further damage than to enter negotiations with polluting countries. Polluting countries for their part have often agreed to come to the table, under pressure, when scientific or other evidence has demonstrated their responsibility for the problem in question and when negatively affected by it themselves. A case in point is the long-running acid rain negotiations within the United Nations Economic Commission for Europe (UN-ECE), triggered in the early 1970s by Scandinavian countries, as bitter victims of transboundary air pollution. These talks were hampered for many years by the UK and Germany, as major polluters, until scientific evidence of the problem improved, including details of the acid rain damage done to Germany’s own forests (Albin 1995a). The acid rain talks under the UN-ECE have turned into one of the most successful examples of international environmental negotiations.

In ethnic-sectarian conflicts, disagreements over whether force or diplomacy will best serve the cause of justice are common not only between, but also within, parties’ own ranks. In the Israeli-Palestinian conflict, for example,
such disagreements have always existed on both sides but deepened with the so-called Oslo peace process launched in 1993. The disagreements are partly rooted in conflicting notions of what a just peace must or can realistically entail. Within the Palestinian community, there is virtual consensus that the Oslo talks cannot result in a just solution from a historical or legal viewpoint. Differences of opinion instead concern whether negotiating for a minimally acceptable settlement which might at best be ‘fair under the circumstances’ is preferable to continued fighting – and the risk of losing even more. Disagreement over this question has caused deep splits within the Palestinian community and fuelled the Islamic fundamentalist camp, particularly because of the failure of the Oslo process to improve economic conditions (Albin 1999). Nonetheless, attempts at negotiating a comprehensive Israeli-Palestinian peace continue to be made periodically, frequently with references to justice.

Justice as a Referent Guiding Negotiations

The notion of justice as a referent that helps guide the bargaining process and frame the contours of an agreement stands out as the oldest one in the research literature on international negotiation. This pertains to situations in which the parties from the outset share the same or a similar notion of a just and desirable outcome. This notion then helps to coordinate expectations and the exchange of concessions, avoid confrontations and stalemates, and forge the terms of an agreement. Such shared notions can be so-called focal points that emerge as obvious and desirable because of cultural norms, precedent, custom, analogy or other factors (Schelling 1960). They tend to decrease competitive behavior, speed up concession-making, make a successful agreement more likely (Deutsch 1973; Bartos 1974) and, in this sense, reduce negotiation “costs.”

Common focal points involve a notion of equality – either with regard to the outcome sought (e.g., equal shares, ‘split-the-difference’) or the process of arriving at it (procedural equality). An example of the latter is the principle of reciprocity, that is, mutual responsiveness to each other’s concessions. It is widely recognized as essential to fairness in the research literature as in international negotiation practice. Different patterns of reciprocity are singled out in academic studies: ‘equal concessions’ whereby comparable concessions are exchanged; ‘equal sacrifices’ whereby parties make concessions causing them to suffer equally; ‘tit-for-tat’ whereby a party responds to toughness (softness) from the other with the same toughness (softness); ‘responsiveness to trend’ whereby each party makes concessions based on an evaluation of the other
side’s pattern of moves; and ‘comparative responsiveness’ meaning that each party acts on the basis of a comparison of its own and the other’s tendencies to concede (Druckman & Bonoma 1976). An analysis of six cases of international negotiations, including those resulting in the SALT I Agreement and the SALT II and Partial Test Ban Treaties, singles out ‘comparative responsiveness’ as the predominant pattern of concession-making (Druckman & Harris 1990). By contrast, ‘diffuse reciprocity’ – that is, ensuring that enough concession-making takes place to achieve arrangements which, all things considered, are reasonably balanced overall – was found to be the predominant pattern in another empirical study of international negotiations (Albin 2001). It takes into account contextual details, such as differences in resources and entitlements between parties, and stands in contrast to strict reciprocation of specific concessions on a bilateral or other basis.

Studies on U.S.-Soviet arms control talks during the Cold War have singled out how referents such as reciprocity, parity and equality played a facilitating role. They helped to guide the bargaining process as the superpowers moved toward a compromise agreement (Jensen 1983; Druckman 1990; Jensen 1963), and underlaid the terms of agreements on equal ceilings and percentage reductions in arms arsenals.

When can notions of justice play this coordinative role? Parties that view themselves as comparable in power, and/or foresee an agreement based on equality, tend to use procedures based on reciprocity (Schelling 1960; Bartos 1974). It is when parties perceive themselves as largely equal – for example, in dependency on or gains to be had from a negotiated agreement – that they realize the need to search for a balanced solution and acquire the motivation to reciprocate concessions to arrive at such a solution (Zartman 1991). Their equality implies that other procedures or other types of agreements may cause costly delays and even fail. These circumstances recall the considerable parity that existed between the U.S. and the Soviet Union as nuclear powers and the shared goal of using arms control to reinforce mutual deterrence (for example, through roughly equal second-strike capabilities).

The need for simplicity may be another reason for which parties accept a referent, such as equality to guide concession-making and the terms of an agreement. In European air pollution talks during the 1970s and 1980s, for example, Cold War hostilities and mistrust combined with insufficient scientific data to render the negotiations very difficult. As a result, in this period, parties ended up negotiating relatively simple and straightforward equal percentage reductions and uniform ceilings regarding acid rain emissions. This approach was deemed most likely to produce results under the circumstances and keep the negotiation process alive (Albin 1995a).
For a long while, justice appeared to play mainly this role as a referent guiding negotiations, at least judging by the research literature. Today, more recent work makes clear that it applies best to bilateral and small-scale negotiations, and that justice plays many other roles as well, as discussed below. There is much empirical evidence to suggest that a single referent, such as equality of outcome or procedure, rarely guides negotiations on a larger scale. Among numerous parties of diverse backgrounds, different notions of justice are likely to emerge and agendas with many difficult issues are too complex to be tackled with one sole principle. Reciprocity seldom functions as the overriding procedure in large-scale multilateral talks, where complexity reduces the appreciation and importance of individual concessions.

Justice as a Subject of Negotiation

Perspectives on how justice relates to international negotiation developed as research on the topic gained force and took off in new directions from the 1990s and onward. In a hallmark article published in International Negotiation’s first issue in 1996, a group of scholars argued that justice does not function as a single external validating principle in negotiation. Rather, negotiators agree among themselves internally on a notion of justice to guide a solution to their conflict or problem. They work out or arrive at this shared notion of justice in the bargaining process and, if they do not, negotiations cannot proceed to a successful conclusion (Zartman et al. 1996; see also Zartman 1995). The study draws on evidence from arms control, regional security and experimental studies. It relates closely to the notion that negotiators begin by working out a shared formula for a solution, which incorporates the terms of trade and some criteria for justice or fairness. In this notion, it is only after such a formula has been negotiated and established that it, along with the justice or fairness notion it incorporates, serves as a framework or referent for agreeing on the details of a settlement (Zartman & Berman 1982; Zartman 1997).

These arguments relate to the debate that has since followed about criteria used by negotiators and analysts for assessing what is just in negotiations. The vast majority of studies suggest either internal or external criteria. The use of internal criteria means that parties themselves supposedly define the meaning of justice inside the negotiation process without reference to external criteria. They focus on what parties themselves see as just from their subjective points of view in concrete situations. Several analysts depart from this perspective that justice is in the eye of the beholder (e.g., Müller & Wunderlich 2013; Welch 1993). A common critique is that it may reduce justice to self-serving subjectivity, and that external criteria are needed to assess the claims and
have them be taken seriously. The use of *external* criteria, then, means that negotiators and analysts rely on justice principles whose general content is defined independent of the particular situation to be judged. These are widely recognized principles that do no depart from the parties’ own interests and biases.

A recent study argues for a *mixed approach*. For both analysts and negotiators, external principles provide criteria for what claims can be taken seriously in a particular context. They have a general meaning, but decisions have to be made about how to apply them. In the bargaining process, parties discuss and attempt to agree on how to interpret and apply such principles in particular situations (Albin & Druckman 2014a). For example, in climate change talks, parties commonly refer to the principles of equality, proportionality, and compensation in negotiating agreements on greenhouse gas emission cuts. But what exactly is to be treated equally? What is to stand in proportion to what? Who is to be compensated for what, by how much, and by whom?

Another way in which justice becomes a prominent subject of negotiation is when parties arrive at the table with conflicting notions of this value. That they endorse different justice principles is very common on the international stage. A primary reason is that more than one principle can usually be credibly invoked and applied in any one context, as, for example, are the principles of equality, proportionality, and compensation in climate change talks. Differences in perspectives on and responsibility for the problem to be negotiated, in resources, interests, and cultural norms are other contributing factors. Different principles obviously cannot coordinate or guide any deliberations. They become part of the dispute and the negotiations themselves, and can easily derail the process if not successfully managed.

Negotiators need to successfully manage conflicting notions of justice if agreement is to be possible, but, as it is argued here, they do not necessarily need to arrive at a shared notion of justice. There are several ways in which this can be done. First, parties may agree to base a negotiated solution largely on one side’s justice stance; for example, in a situation of power inequality. Second, one or more parties may agree to set aside their justice concerns and base an agreement on other criteria (Albin 2001). Third, in the absence of agreement on the substance of a just solution, parties may agree to use some procedure viewed as just or fair for resolving the situation, such as through arbitration or some other third party involvement (Zartman et al. 1996). Fourth, as discussed below, parties may choose to balance and combine several – often conflicting – justice principles in a settlement.

What avenue is chosen depends in part on the balance of power, particularly in bilateral negotiations. The absence of sharp power inequalities enhances the motivation and need for parties to consider and act upon each
other's justice concerns, while their presence easily undermines the chance for the weaker party’s concerns to be heard. In other words, a party far superior in bargaining power may not see the need to take others’ justice concerns into account or to be concerned with such values at all. Israeli-Palestinian negotiations provide many illustrative examples. During the interim talks under the Oslo peace process, for example, Palestinian negotiators were unable to infuse their notions of justice and fairness into the bargaining over many issues. At times, they were also hesitant to do so, since this could remove incentives for Israel to participate. Notwithstanding many references to justice principles, the Palestinian negotiating strategy was in fact driven largely by pragmatic considerations of what could be achieved from a very weak position (Sayigh 1996; Khalidi 1996; Albin 1999).

In bilateral negotiations without sharp power inequalities and in multilateral negotiations in which power is usually dispersed and multifaceted, successful agreements are often based on several justice principles. Particularly in these two contexts, a decisive factor for producing agreement is frequently “the accommodation of competing standards of justice in a way that satisfies the demand for equity (fairness) on all sides” (Müller 2004). It is captured in the notion of ‘compound justice,’ which joins together different justice principles (Zartman et al. 1996). It may be viewed as a pragmatic method for arriving at a settlement in a situation in which parties endorse different principles and no one has the strength to subordinate the other's principles. Equally important, it may recognize the fact that a single justice criterion cannot always accommodate all pertinent factors and circumstances which should be taken into account: A balanced solution may have to be guided by several principles, reflecting a wider range of considerations (Young 1994). These may concern differences among parties in entitlements or contributions to a disputed issue, in needs or in the ability to bear the costs of an agreement.

Negotiations leading to one of the world’s most successful environmental agreements to date, the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer, combined several justice principles to take account of the varied conditions and concerns of signatory states. The proportionality principle was incorporated with the Protocol’s call for differentiated reductions in chlorofluorocarbon emissions proportional to the level of contribution to the ozone problem (specifically, proportional to each country’s 1986 emission level beginning in 1993), thus imposing a greater cost of regulation on industrialized countries. The equality norm was expressed in the long-term goal of the North and South sharing regulation costs on a basis of parity and in other provisions. Compensatory justice was incorporated in the provision of financial and technical assistance to the South and their exemption from the stipulated emis-
sion reductions for the first ten years for purposes of economic development. This last provision involved a form of cost-(burden-)sharing which has been critical to the Protocol’s great effectiveness in terms of securing universal ratification and compliance by states, and reducing ozone depleting substances. A Multilateral Fund for the Implementation of the Montreal Protocol was established and managed with equal representation by developed and developing countries to help developing countries comply with agreed measures (Benedick 1991).

Justice as a Tool to Reach Effective Agreements

The discussion above bridges to a fourth role that justice can play in international negotiations: that of a tool to help reach effective agreements. Many factors contributing to negotiation effectiveness in the international sphere, such as the roles of power, third parties and integrative problem-solving, have been explored. However, only a limited body of research has systematically examined if or how justice contributes to effectiveness in negotiations of international importance.

In the context of negotiations to end armed conflict, a very useful distinction between forward-looking and backward-looking notions of justice has been introduced and explored (Zartman & Kremenyuk 2005). Forward-looking notions look ahead to establish new cooperative relations and arrangements between parties. They address underlying sources of conflict and contribute to a positive-sum, resolving outcome. Backward-looking ideas focus on past wrong-doings, grievances and issues of compensation and punishment. They are typically zero-sum with clear winners and losers. Both types mainly concern principles of so-called transitional justice, namely, norms on the basis of which a society in transition from armed conflict and/or authoritarian rule handles past injustices, such as justice involving retribution, reconciliation, compensation, and redistribution (Albin 2009). Drawing on a diverse set of cases, this pilot study argues that negotiations that rely on forward-looking justice notions are closely associated with successful agreements, while those resorting to backward-looking ones bring about failure:

The record is striking. When parties base their position on a repetition of their past grievances, their past legalities, and their demands for reparations and punishment, negotiation is, in fact, war: an attempt to eliminate the other party by other means, not a search for a solution (Zartman 2005: 291).
This work sheds light on the extensive debate over if or how justice and durable peace can be combined, by bringing it into the sphere of negotiations and demonstrating that the answer depends on the type of justice pursued.

Studies in social psychology and management have long argued that one type of justice favors effective outcomes, namely, procedural justice (PJ), which refers to justice in the process and procedures whereby negotiations are conducted or decisions are made. Adherence to PJ reduces conflict in favor of collaboration and problem-solving, and promotes acceptance of the outcome (Tyler 2000; Hollander-Blumoff & Tyler 2008; Folger & Cropanzano 1998). Additional theoretical and empirical studies have argued that adherence to distributive justice (DJ) – that is, justice in the allocation of benefits and burdens – in negotiations and decisions has the same positive effect (Elster 1992; Albin 2001; Müller 2001).

Recent work examines propositions that PJ and DJ contribute to effectiveness in a wider context: in international negotiations over trade, arms control, and the environment at the bilateral and multilateral levels. “Effectiveness” is defined in terms of the extent of agreement (among parties on issues), the time required to reach agreement, comprehensiveness, and the quality of the agreement (integrative vs. distributive elements). The results suggest that some type of justice plays a role in all negotiations and that this often has an impact on the effectiveness of the results. They demonstrate that the type of justice that plays a role depends extensively on the context, such as the issue area and often the scope of the negotiations (bilateral or multilateral). In brief, adherence to PJ principles contributes to more effective agreements in multilateral environmental negotiations, bilateral arms control negotiations, and bilateral and multilateral trade negotiations. By contrast, adherence to DJ principles is associated with more effective results in multilateral disarmament negotiations and in bilateral environmental negotiations (Albin & Druckman 2014a, 2014b; Albin & Druckman forthcoming). The work does not provide conclusive evidence regarding mechanisms behind these different effects, but some explanations are plausible. That trade talks are often conducted in a normative setting that stresses justice-related procedures is certainly a factor behind the importance of PJ (Kapstein 2006). Multilateral environmental talks, as with large-scale talks in general, involve numerous parties and issues that increase the importance of just procedures. In bilateral talks, by contrast, the cost-benefit implications of proposed agreements are often more salient, which highlights the importance of DJ. In bilateral arms control negotiations, PJ norms such as reciprocity and procedural equality in concession-making have often facilitated the process of arriving at an agreement.

In sum, the empirical evidence available so far suggests that justice can be used as a tool to boost the effectiveness of negotiated agreements. However,
what is being negotiated and the contextual environment go far in determining what type of justice will have this positive effect.

Other aspects of effectiveness concern the implementation and durability of agreements over time. Can justice be used as a constructive tool in these areas as well? It seems intuitive that respect for justice considerations in negotiations and the formulation of agreements should enhance parties' inclination to implement and comply with them. After all, most international agreements need to be self-enforcing, which increases the importance of justice (Albin 1995b; Susskind 1994). However, the role of justice is seldom explored in research on factors that promote implementation, compliance, and durability (e.g., Downs and Stedman 2002; Simmons 1998; Victor, Raustiala & Skolnikoff 1998; Gallagher 1999). This near absence of research stands in sharp contrast to the knowledge accumulated over the past twenty years on the roles played by justice within the negotiating room.

There are a few exceptions. These include single case studies on the role of justice in arms treaty implementation and compliance, which point to its importance in this context (Fey, Melamud & Müller 2014; Ouagrham-Gormley 2014). A limited set of studies also examine relationships between justice (distributive, in particular) and the durability of agreements. Their conclusions vary widely – from arguments that justice in the terms of agreements undermines their durability (Snyder and Vinjamuri 2003/04) to arguments that justice, as incorporated in power-sharing provisions, enhances durability (Harzell & Hoddie 2007). Two recent studies set out to examine relationships between PJ, DJ, and the durability of peace agreements, defined as the extent to which their terms have been adhered to over a five-year period. One key finding is the central role played by the DJ principle of equality: When central in the terms of agreements, it reduces the negative effects of difficult conflict environments on durability (Druckman & Albin 2011). Another finding is that adherence to PJ principles in the process of negotiating peace agreements contributes to durability only if the equality principle is central in the agreement provisions (Albin & Druckman 2012). These findings need to be examined based on a larger sample of cases. Shedding more light on the causal mechanisms behind the identified correlations would also be illuminating. Finally, exploring the contributions of justice to durability in the long term (beyond the first five years) would be valuable.

Justice as a Tactical Tool

No discussion of the role of justice in international negotiations is complete without including its tactical uses. This means that a party justifies its position
or claim with reference to a justice principle without believing that it is right, for the purpose of improving its gains. Thus, references to justice can help to legitimize demanding bargaining positions and the pursuit of material gains. A weaker party can also take advantage of its situation and attempt to achieve a better deal by appealing to justice considerations.

The possibility of using justice arguments tactically refers back to two matters discussed earlier in this article. The first is the usual absence of consensus on one overarching justice standard, which can clearly guide the path to the “right solution.” Rather, there are commonly several different justice principles on which a process or an agreement can credibly be based and still be considered just in some way. The second reality is that almost any principle can be interpreted and applied in different ways. Parties may agree on the general principles, but not on their precise meaning or requirements in a particular context. Factors such as precedent, any normative framework within which issues are negotiated, and their nature constrain what principles or interpretations can be judged reasonable, but some scope for tactical maneuvering usually remains.

The fact that justice arguments are used tactically has often been invoked as a reason to be skeptical about any “authentic” influence of such a value in international negotiations. Yet, when tactical references to justice appear credible enough to be effective, this is precisely because various justice principles and norms carry weight and legitimacy on their own in different contexts (Albin 1993). Otherwise, they would lack value as a tactical tool. When this tool is used, it underscores how concerned negotiators often are about being able to justify their proposals on grounds that others can accept as reasonable and not too self-serving.

Common and effective uses of justice arguments are probably partly tactical and partly authentic. For example, a party chooses to interpret or apply a justice principle which it genuinely believes to be right in an advantageous way to itself. When more than one principle appears genuinely relevant and applicable, a party chooses to refer to the one that will leave it best off. As pointed out elsewhere, “Unless only a single principle or set of principles is clearly applicable, each party tends to prefer the principle that favors its own cause” (Zartman et al. 1996, referring to Hamner & Baird 1978). A rare study of the uses of and support for justice (equity) principles in climate change negotiations concludes that it is mostly self-interested, in being related to the economic cost considerations of parties (Lange, Löschel, Vogt & Ziegler 2010). It does not examine how these self-interested uses may be modified in the process of negotiating or their impact on the process and the outcome. However, there is some evidence from other empirical research that parties’ endorse-
ment of justice principles is more self-interested in the early phases of negotiating than in the latter ones, when often conflicting principles need to be tackled if an agreement is to be possible (Albin 2001). Purely tactical references to justice often appear too self-serving and therefore fail to be taken seriously and gain acceptance.

There has been no larger empirical study conducted to date across issue areas on the tactical uses of justice, from which more general conclusions can be drawn. Work on how to define and detect such uses would be valuable, in helping negotiators assess what claims and concerns must be taken seriously if an agreement is to be reached. Tactical uses of arguments about justice differ – but can be difficult to distinguish – from the common situation in which a party’s authentic notions of justice are partly influenced by its own circumstances and overlap with its own interests (e.g. Müller 2013b). A method for studying (academically) and detecting (in practice) tactical uses would need to depart from some notion of whether or not, and to what extent self-interest can legitimately be included in a serious claim to justice. This matter is contested on the academic side, with notions ranging from the idea that justice must be defined separately from self-interest (Rawls 1971) to the notion that justice is entirely self-serving and legitimately so (Gauthier 1986). Whatever the approach, the motivations, interests and preferences of parties – in relation to their justice claims and the consistency of these over time – would have to be assessed at close range using several sources. Fine-tuned, careful observations can go a long way to separate authentic justice claims from tactical ones, in the absence of any possibility of getting inside the minds of negotiators.

Conclusions

Scholarship accumulated over the past two decades demonstrates the varied roles which justice can adopt and the many effects it can have in international negotiations. It has provided a new lens for understanding what drives negotiation processes and explains different results in the international arena. Although the primary objective of international negotiators is rarely to render justice as an end in itself, it frequently has to be taken into account and acted upon in some way if a successful outcome is to be found. How justice factors in depends on the contextual details, among which are whether the parties’ justice notions from the outset are similar or conflicting, the balance of power between them, the scale of the negotiation, the issue area, and the normative environment in which the talks take place.
These are important insights for future research on making international negotiations more effective. Justice can be used as a constructive tool in this regard, instead of being downplayed, ignored, or seen solely as a difficult obstacle to agreement. However, notwithstanding the growth and contributions of justice research over the past twenty years, much remains to be examined and better understood. The propositions and results from many studies discussed in this article need to be tested on a larger number of cases, and across more issue areas. The mechanisms behind correlations found between justice and various aspects of negotiation effectiveness need to be investigated further. The reasons for which negotiators adhere to a particular justice principle, beyond self-interest, need to be explored in more depth. How power and power balances interact with justice in international negotiations are still not sufficiently well understood. One study points to the considerable impact of power on how justice is taken into account in negotiations (Albin 1999), while another reduces its importance (Albin & Druckman 2012).

As already pointed out, more information is needed about the importance of justice in the post-agreement phase when it comes to implementation and compliance. Cultural differences in ways of perceiving and handling justice in international negotiations remain under-explored. While the significance attached to justice is surely cross-cultural, different cultures emphasize different principles and norms. To what extent do these filter into international negotiation processes? Exploring notions of ‘enough justice’, ‘tipping points,’ or ‘thresholds’ beyond which more inclusion of justice concerns may overload the process and be counter-productive would be valuable in the context of both bilateral and multilateral negotiations. Ways of better detecting purely tactical uses of justice arguments would be helpful, as previously discussed. In exploring most of these topics, there is scope for developing research methods. Last but not least, insights from research about connections between justice, conflict, negotiation, and peaceful solutions should be formulated in a user-friendly way, and feed into negotiation training and practice.

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