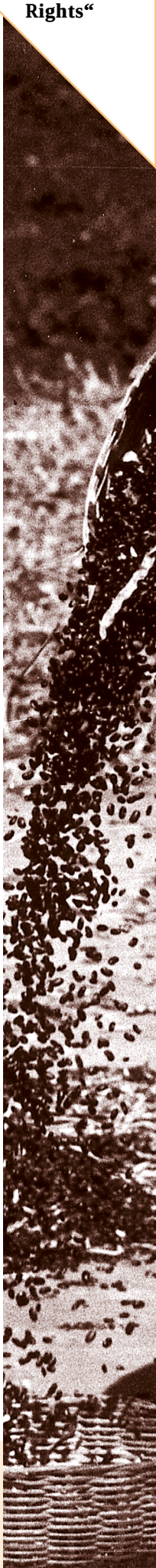
Trade and Human Rights
A New Perspective



Introduction

Economic globalization represents a considerable challenge for economic, social and cultural human rights. New regulations for global trade within the World Trade Organisation (WTO) restrict the scope of national political powers as, for example, in the agricultural sector. If sectors of the population are exposed to high price fluctuation or small farmers in developing countries cannot compete any longer with subsidized imports from industrial countries, international trade regulations constitute a danger for the realisation of the right to food.

Nevertheless, nowadays every text on trade and human rights surprisingly still has to begin with a justification, as from the beginning it has to fight against the suspicion that it supports a new type of trade protectionism and the restriction of access to markets in industrial countries for products from developing countries.

When it comes to the issue of „Trade and Human Rights“ politicians responsible for trade policy immediately dismiss the subject, as they think that it is nearly impossible to deal with it on the diplomatic stage. This is particularly surprising as nobody would accept the violation of human rights in a state operating under the rule of law. No trade diplomat would find it acceptable if a member of her family was tortured or if her children were denied access to health care because of the colour of their skin. There is obviously a basic understanding of the significance of human rights amongst all people. Nobody wants to be a victim of human rights violations.

However, it is still the case that mentioning human rights in connection with questions of trade policy seems to be the worst faux pas in trade policy debate. The refusal to discuss this relationship is mainly expressed by governments of developing countries, but also by non-governmental organisations. This is particularly the case when the issue of social standards in labour is brought up. Ever since French and US trade unions raised the issue in the negotiations on the founding of the World Trade Organisation (WTO), representatives from developing countries have expressed their concern that such social standards would be used to further hinder the access to markets in industrial countries for products from developing countries, who already face enough obstacles, by referring to low wage levels and bad working conditions.

Trade unions in the industrial countries have repeatedly pointed out that they are only concerned with fundamental labour norms such as the prohibition of slave and child labour. They can now also count on support from trade unions in developing countries, but the atmosphere in discussions on this issue is still poisoned.

This leads to the paradoxical situation that it has become extremely difficult to raise questions on trade and human rights. There are, however, a number of areas of relationship between these two aspects of international law, as will be shown with the example of the Agreement on Agriculture and the right to food. The importance of such a relationship becomes clear when dealing with the issue of patent protection of potentially life-saving medicine to treat HIV/aids. All WTO members, except the USA, would be willing to grant an exception from the patent rights under the WTO TRIPS agreement for those countries which need cheap provision of HIV/aids medication, to enable the states concerned to fulfil the obligations incurred from their commitment to the human right to health. Like the right to food, the right to health is one of the economic, social and cultural human rights (ESC rights) protected by the International Covenant on Economic, Social and Cultural Rights (ICESCR). A precise analysis of the relationship between trade and human rights is important to ensure that trade policy measures or trade regulations do not contribute to violations of human rights. It is thus important to break through the political blockade on the issue of social standards to come to an adequate assessment of the numerous effects of trade policy on human rights.

Previous studies on trade and human rights

The UN Human Rights institutions have started to analyze the relationship of economic globalization and the implementation of human rights. In 2001, the Human Rights Committee asked the High Commissioner for Human Rights to carry out a study with the United Nations Conference on Trade and Development (UNCTAD) on the effects of globalization on the full enjoyment of human rights. In 2002, the High Commissioner presented the first preliminary report on this issue (A/55/342). In addition to this report, there was a special study on the effects of the WTO Agreement on Agriculture on the right to food and development[1].

In 2001, the High Commissioner presented a comparable study on the effects of the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS) on the enjoyment of human rights[2]. In 2002, the UN's Special Rapporteur on the Right to Food dedicated an entire chapter of its report for the UN General Assembly to the relationship between trade liberalization and the right to

1. „Globalization and its impact on the full enjoyment of human rights“. Report of the High Commissioner for Human Rights submitted in accordance with Commission on Human Rights resolution 2001/32 (E/CN.4/2002/54).
2. UN document no. E/CN.4/Sub.2/2001/13. Some subcommittee resolutions have already dealt with two or three WTO agreements in detail, the TRIPS agreement 2001 and the General Agreement on Trade and Services (GATS 2001 and 2002). In 2002, the subcommittee hosted a „Social Forum“ in Geneva, which, amongst others, discussed the effects of the Agreement on Agriculture on the right to food.

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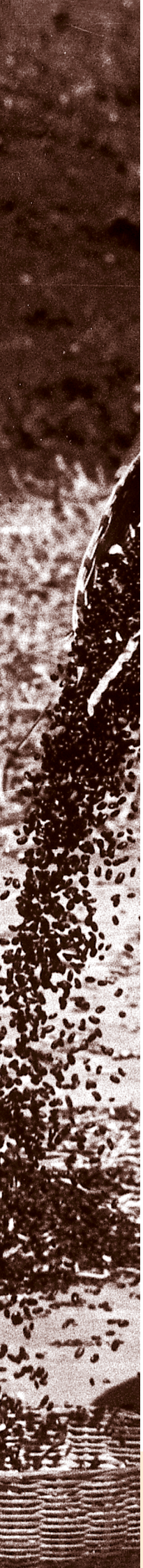

food[3]. Since 1998, non-governmental organisations have formed the network INCHRITI and have published various documents on the issue[4].

Thus work on an extensive human rights analysis of the WTO agreements has started. The human rights analysis of the WTO Agreement on Agriculture (AoA) can use information collected in numerous country studies on the effect of the agreement on developing countries and on poorer sections of the population in the developing countries5. The studies were partly published by UN organizations and non-governmental organizations. They generally focus on the effect of the AoA on development policy. So far there is still no detailed analysis from a human rights perspective , a project which is to be initiated with this series of fact sheets.

The way forward

In its fact sheet series FIAN wants to illustrate the different facets of the relationship between the right to food and international trade policy with special reference to the WTO Agreement on Agriculture, and wants to describe what measures are necessary to prevent any more violations of the right to food by international trade regulations.

One fact sheet will explain the basic relationship between human rights and international trade regulations.
Another fact sheet will offer a detailed presentation of the Agreement on Agriculture and will look at possible effects of the agreement on the right to food.
Another fact sheet will outline the current debate on a reform of the Agreement on Agriculture in the WTO Doha Round, named after its opening conference venue, and will explain the potential effects of the current proposals on the right to food.
Several fact sheets will describe the effects of the WTO Agreement on Agriculture on the right to food by presenting specific examples in individual countries.
The project will be concluded with FIAN's proposals and requests for an improved consideration of the right to food in future trade agreements.

We hope you enjoy and benefit from reading the fact sheets and we would like to use this opportunity to invite you to participate in FIAN's activities against the violation of the right to food. If you would like to know more about FIAN, if you would like to support our work with financial contributions, or if you simply want to receive information on other FIAN activities regarding the issue of trade and human rights, please contact one of the following.

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FIAN – FoodFirst Information and Action Network

FIAN is the international human rights organisation for the right to food. FIAN was founded in 1986 and currently has members in 60 countries. FIAN's objective is to contribute to the worldwide implementation of the universal declaration of human rights. FIAN works particularly for the right to food and supports people suffering from hunger and malnutrition. FIAN is recognized as a non-profit making organisation. Donations are tax-deductible.

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Gefördert durch die Europäische Gemeinschaft.
Hier vertretene Standpunkte geben die Ansicht der Herausgeber wieder und stellen in keiner Weise die offizielle Meinung der Europäischen Gemeinschaft dar.

[3] UN document no. A/56/210.
[4] INCHRITI = International NGO Network on Human Rights in Trade and Investment Agreements. FIAN International is a member of this network.
[5] Since 1999, the FAO has presented the results of 14 case studies (www.fao.org). John Madely analyzed approximately 30 NRO studies on the subject for his book, Hunger and Trade; Madeley, John; Hunger and Trade; London; ZED-books; 2001.