



encouraging collaboration amongst the development and human rights communities to ensure that trade promotes an equitable economy

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Integrating Human Rights into the Future of Agriculture

Report of a Workshop for human rights advocates on how to work to ensure that global agricultural policies are equitable and human rights consistent

Geneva, November 2004¹

1. Background and Objectives

3D organized this Workshop in response to demand from human rights advocates for guidance on how best to participate in trade policy work. The Workshop, timed to coincide with an international civil society Conference on agriculture trade, provided human rights advocates with an introduction to the main features of international agriculture trade, including the current negotiations, and to stimulate debate about the human rights effects of agriculture trade. Twenty people from all over the world participated in the Workshop. The list of participants is in section 6.

The Workshop's aim was to empower human rights advocates to more actively participate in campaigns relating to agriculture trade policy, and to build alliances between human rights advocates and civil society campaigners for a more equitable and human rights-consistent international agricultural system. It was also designed for human rights advocates to identify key dates and issues in the lead-up to the World Trade Organization (WTO)'s Hong Kong Ministerial Conference, as well as human rights-based strategies for campaigning on agriculture trade-related issues. Section 5 contains some of the ideas for future work in this area that were put forward by Workshop participants.

¹ 3D is grateful to the Friedrich Ebert Stiftung, Heinrich Boell Foundation, the Mission of the Netherlands in Geneva, the Polden Puckham Charitable Foundation, Rights & Democracy, and the AW.60 Trust, whose support contributed to the Workshop and enabled the participation of human rights advocates from all over the world.

2. The Agreement on Agriculture (AoA) and Current Negotiations at the WTO

Sophia Murphy of the Institute for Agriculture and Trade Policy (IATP) led this session. Before outlining the details of the WTO Agreement on Agriculture (AoA), she drew attention to the importance of framing the discussion based on what we want to achieve, i.e. a just, sustainable and human rights-based food system.

Sophia Murphy recalled that food is a human right, and that the right to food is closely related to the concepts of food security and food sovereignty. In turn, agriculture is important not just for food production but also for the wider rural economy: livelihoods, capital creation etc. Trade is a tool towards achieving food security and the right to food, and has been since ancient times, as national borders do not always correspond to the capacity to meet domestic food needs.

Food security is not just about supply of food, but also about distribution, access and culture. Agriculture is not just about farmers, but also about suppliers of inputs such as seeds, energy or irrigation, as well as labourers, traders, transporters, retailers and consumers. Food-related trade policies will have different impacts on people depending on their access to productive resources (water, land, credit, seed, breeding stock, etc) and on their market power (i.e. what you can obtain in exchange for your labour or product). The fact that some people who are affected by agricultural policies cannot influence them is a human rights issue.

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The presenter reminded participants that agriculture had been in effect exempt from international trade rules until the WTO was created, in 1995. She described why, from the 1980s, different countries, groups of countries or corporations were keen to subject agriculture trade to multilateral rules about trade liberalization, and how their practices affected developments in agriculture trade.²

Food Security and Food Sovereignty

FAO defines food security as “Food that is available at all times, that all persons have means of access to, that is nutritionally adequate in terms of quantity, quality and variety, and that is acceptable within the given culture.”

Food sovereignty underlines the importance of national determination of food and agriculture policy. Broadly, the concept makes the point that how you get the food is as important as whether individuals have food to eat.

The AoA is one of the WTO’s agreements, binding on all WTO Members. The main features of the AoA are its ‘three pillars’ and exceptions. The three pillars address (1) Market Access, (2) Domestic Support and (3) Export Competition.³ Sophia Murphy commented that the AoA deliberately ensures the right to export and the obligation to import.

The AoA’s main exceptions fall within the categories of ‘non-trade concerns’ (NTCs) and Special and Differential Treatment (S&D). NTCs are societal concerns related to agriculture. The AoA refers to food security and environmental protection as NTCs, and European Union (EU) countries and Japan have said they consider rural development, animal welfare and eco-labelling as NTCs. Some of these have been politically contentious as developing countries see them as disguised means to protect rich country farmers. The S&D provisions are concessions that the AoA makes for developing countries, and mostly take the form of longer deadlines for developing countries to comply with AoA provisions. Sophia Murphy said that the AoA’s recognition of NTCs could provide the space for raising human rights concerns about agriculture trade within the WTO.

Sophia Murphy presented the dynamics of the agriculture negotiations in the WTO, which are highly conten-

² For a discussion of these issues from a human rights perspective, see 3D and FORUM-ASIA, *Practical Guide to the WTO*, 2004, at <www.3dthree.org/en/pages.php?IDcat=5>.

³ For a description of the Agreement on Agriculture from a human rights perspective, see 3D and FORUM-ASIA, *Practical Guide to the WTO*, 2004. See also 3D and IATP, *Thread Backgrounder 1: A human rights perspective on agriculture trade and the WTO*, forthcoming 2005, and IATP, *Glossary for the WTO Agreement on Agriculture*, 2004, at <www.tradeobservatory.org/library.cfm?refid=37606>.

tious, and had stalled at the WTO's failed Cancun Ministerial Conference in 2003. They were only revived in July 2004, when WTO Members agreed to the 'July Framework.' Sophia Murphy described some of the main contents of the July Framework,⁴ and likely developments in agricultural trade negotiations in the coming months.

3. Why Human Rights Groups Should be Campaigning on Agriculture Trade Liberalization

The objective of this session was to consider impacts of agricultural trade liberalization on livelihoods, and to develop a human rights approach to analyzing these impacts.

Anna Antwi of ActionAid said that agriculture employs 65% of Ghana's labour force, and represents 40% of GDP. Even before the AoA came into force, the IMF and World Bank had conditioned their loans to Ghana on the removal of subsidies to small farmers who produced tomatoes, rice and poultry products. Following this, cheap imports of poultry from US, Asia and Europe and tomatoes from Italy invaded the market. Lack of subsidies reduced local farmers' competitiveness, and consumers increasingly chose cheap imports. This has also pushed local food processors such as tomato canning factories, out of business. Liberalization has therefore affected employment and household-level food security. Several participants from Africa and Asia echoed that similar experiences in their countries, and that cheap imports hit small-scale farmers hardest.

Charles Ayamdo from the Center for Public Interest Law in Ghana described a legal challenge to Ghana's reduced tariffs on food imports. The Ghanaian government had increased the tariffs on rice (10%) and poultry (25%) in 2003, to protect domestic producers from cheap imports. This led domestic producers to expect increased domestic consumption so they invested in agricultural infrastructure. Whilst WTO rules allow Ghana to raise its tariffs, the government came under pressure from the International Monetary Fund (IMF) and World Bank and Northern country's governments to drop the tariffs again, which happened two months later. The legal challenge is before Ghanaian courts.

Participants discussed whether a human rights approach would support farmers wishing to produce what they have produced for centuries, or whether it would agree that food security might be achieved from income earned when farmers diversify from producing staple crops for local consumption to, say, cut flowers for export. Armin Paasch pointed out that wages in the flower-for-export industry are often not high enough to ensure farmers' livelihood. In some countries, people have been displaced out of producing staple foods by flowers. Sally-Anne Way said that to produce for export, a farmer will need access to often expensive infrastructure and thus only better-resourced farmers benefit from trade – so even high revenues from exports can jeopardize food security. In addition, an export-based system leaves a country vulnerable to fluctuations in economies elsewhere.

Whilst States have an obligation to protect human rights, there is no single way to realize the right to food, and there are no clear obligations dictating the means through which human rights should be pursued. Even if trade rules leave countries the policy space⁵ they need to implement rights-consistent policies, many countries are not using the policy space, as illustrated by the Ghanaian tariff hikes. Thus it will be key for human rights advocates to ensure that countries use the flexibilities WTO rules allow, to adapt their trade rules and policies to the needs of their people. This will be particularly necessary as the US or the EU are adopting more and more bilateral trade agreements through which developing countries' policy space can be curtailed.

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Sally-Anne Way of the Research Unit on the Right to Food in Geneva described how liberalization of agriculture has happened outside the WTO, as many developing countries had to liberalize due to IMF and World Bank structural adjustment programmes. The WTO locks in liberalized policies.

She pointed out the non-reciprocal nature of agricultural liberalization today: whilst developing countries open their borders to imports produced with subsidies in rich countries, hardly any subsidise their own producers.

⁴ For details, see IATP, *The WTO July 2004 Framework Agreement – An Overview of Agriculture*, 2004, available at <www.tradeobservatory.org/library.cfm?refid=37471>

⁵ Glossaries of terms relating to trade and agriculture are available at <www.3dthree.org/en/pages.php?IDcat=12> and at <www.tradeobservatory.org/library.cfm?refid=37606>.

Meanwhile, industrialized countries maintain high tariffs which makes it hard for developing countries to export. There is an emerging pattern in world agriculture: while developed countries control staple food, developing countries grow niche food. Niche food is highly impacted by fluctuation in world prices and tariff levels. Sally-Anne Way also pointed out the role and huge strength of corporate actors.

She posed the question of whether trade liberalization can constitute a violation of the right to food, or simply an obstacle to its realization. Acknowledging that economic policies can have possible consequences, she asked when does difficulty of access to food become a human rights violation?

She explained that one human rights aspect of liberalization is that it has a *de facto* discriminatory impact – i.e. those that are already worst off suffer the most. She illustrated this with the examples of Zambia and Mexico.⁶

→ ***Does today's global agriculture trade system violate the right to food or is it merely an obstacle to the realization of the right?***

Governments are obliged, under human rights law, to progressively realize the right to food, so if malnourishment increases, we know that the policies in place are not adequate.

Another dimension of a human rights analysis of trade policies lies in the inequities between countries. Should developing countries undertake unilateral liberalization if this will result in violations of the right to food? And do developed countries have extraterritorial obligations to respect the right to food in other countries? The presenter expressed the view that developed country governments should be held accountable for trade policies that undermine the right to food elsewhere. Participants acknowledged the difficulty of identifying who is accountable.

Sally-Anne Way suggested that one can look to the obstacles to realization of the right to food to help us analyze how to improve enjoyment of the right. Participants discussed how to establish links of causality necessary to hold economic actors accountable to their human rights obligations.

Participants noted that developing countries are subjected to intense pressures to accept trade agreements that are not in their interests nor in the interests of the majority of their people. Whilst Southern governments should be held accountable if they undermine human rights, developed countries and corporations exerting pressure should also be exposed for doing so and held accountable. Gillian Moon of the University of New South Wales pointed out that the coalitions of developing countries that have gained some benefits at the WTO have stated the way a particular WTO agreement curtails a human need, as was the case in the TRIPS and access to medicines debate.

Jimena Garrote pointed out that the UN Charter sets out the obligation of States to cooperate internationally. This led to discussion about whether international organizations like the World Bank, the IMF or the WTO should be accountable for lack of realization of human rights, or violations that follow from policies that they advocates. Should States be held accountable for policies implemented by the World Bank, IMF or WTO?

Sally-Anne Way recalled that there is a lack of participation and transparency in trade policy, and a lack of access to effective remedies by those adversely affected, contrary to human rights. Several participants and the presenter concurred that focusing only on the right to food is too limiting to respond to the human rights concerns that arise in trade liberalization, yet that the focus on one specific right can be useful for awareness-raising and advocacy purposes.

4. Using Human Rights Mechanisms: Past Experience and Prospects

The objective of this session was to identify human rights approaches that have been applied in trade work. In a final brainstorming session, participants also explored other mechanisms that can be applied to ensure that rules on agriculture trade promote rather than undermine human rights.

Ariranga Pillay, Member of the Committee on Economic, Social and Cultural Rights, began by saying that in their reports to the Committee on Economic, Social and Cultural Rights, governments seldom drew attention to possible adverse impacts of trade policies on human rights. But the Committee was concerned about this, as

⁶ See Sally-Anne Way's powerpoint presentation, available at <www.3dthree.org/en/pages.php?IDcat=4>

evidenced in its consideration of the report of Nepal, in 2001, when Committee members feared that price increases following water privatization had terrible impacts on poor people. The Committee had also expressed concern about the eviction of indigenous people from their ancestral lands by multinational corporations engaged in extractive industries.⁷ He also referred to the Committee's statement on globalization, and its statement to the WTO's Third Ministerial Conference.

Armin Paasch of FIAN presented how economic globalization affects enjoyment of the right to food, and its consequences for the development of the human rights system. Application of States human rights obligations in their own territory is insufficient in today's globalized world. He described the evolving human rights focus on international and extraterritorial obligations. International obligations are States' obligations in international organizations or negotiations. Extraterritorial obligations refers to accountability for the impacts abroad of a State's own policy measures.

He described some of FIAN's experiences, for instance a successful 1993 postcard-writing campaign against the EU's export subsidies on meat sent to West Africa, that were destroying nomads' livelihoods. FIAN participated in the German Trade Justice Campaign, which called on candidates to the European Parliament to make a commitment to the right to food. 90 German candidates made this commitment, 43 of whom were elected. FIAN has also submitted parallel reports to the UN Committee on Economic Social and Cultural Rights some of which (Cameroon, Sudan, Honduras) covered trade issues. FIAN also submitted reports on the extraterritorial obligations of Norway, Spain and Germany.

Alison Symington of the Association for Women's Rights in Development (AWID) said that policy-makers should undertake gender analyses of proposed trade policy given that women worldwide are subject to exploitation (low wages) and discrimination. Lack of a gender analysis could result in overlooking discrimination. She recalled that women play diverse roles in agriculture, and that it is usually women who are in charge of feeding their families. Alison Symington noted that transparency, accountability and democracy cut across issue areas, such as indigenous groups, women, etc.

Jimena Garrote of CELS, Argentina described her organization's work on economic and social rights under the Inter-American Human Rights System. She said that the Inter-American system seems reluctant to consider economic, social and cultural rights, so CELS focuses on the civil and political rights dimensions of these issues. It was also mentioned that several Latin American countries (including Colombia and Venezuela) will submit a resolution to the Inter-American Commission in 2005, requesting that the Commission state that the proposed Free Trade Area of the Americas (FTAA) conflicts with Article 1 of the Convention's obligation to promote, protect and guarantee human rights.

Participants discussed the value of the recently-adopted FAO Guidelines on the Right to Food.⁸ Although many participants agreed that the Guidelines are flawed, others felt that they could be useful. They are a document written and adopted by States, which gives them credibility. A member of the Committee on Economic, Social and Cultural Rights said that the Guidelines can be more persuasive for governments than the Committee's General Comment on the Right to Food as unlike the General Comment, the Guidelines were adopted by governments.

5. Follow-Up: Possibilities for Action

At the end of the Workshop, as well as during a discussion held later in the week during the "Sustaining a Future for Agriculture" conference, participants put forward several ideas for follow-up activities related to human rights and international trade. These included:

Capacity-building of developing country trade negotiators, to improve their ability to negotiate effectively.

Informing trade policy-makers, including negotiators in Geneva, **about human rights standards**. Promoting collaboration between ministries responsible for trade and those responsible for human rights-related issues.

Shaming governments that are harming human rights through their trade policies. This can be done through a number of means, including by encouraging relevant UN Special Rapporteurs (such as Jean Ziegler, Special Rap-

⁷ See Committee on Economic, Social and Cultural Rights, *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Brazil*, 23 May 2003, available at <[www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/E.C.12.1.Add.87.En?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/E.C.12.1.Add.87.En?Opendocument)>

⁸ FAO, *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security*, September 2004, available at <www.fao.org/docrep/meeting/008/J3345e/j3345e01.htm>

porteur on the Right to Food⁹) to name a particular country, by submitting information to international human rights supervisory mechanisms, or through press work to mobilize public opinion.

Use of domestic litigation and training judges in human rights law. In the many countries whose constitutions do not explicitly recognize the right to food, international human rights treaties that the country has ratified can often be applied in the courts of many countries. Economic, social and cultural rights are not taught in many universities, so judges should be taught about the legal content and applicability of these rights.

Compile case studies, to develop a human rights-based analysis of the AoA. Analysis of the bilateral relations of the studied countries might be more illustrative than a multilateral angle. Norway might be an interesting country as it has been active in developing understanding of the right to food, and protects its agricultural markets on grounds such as Non-Trade Concerns.

Production of simple information materials on human rights and on trade.

Stimulate coalitions between human rights advocates and other civil society groups campaigning for a fairer trading system, at national and international levels. For instance, the right to food discourse could support the food sovereignty discourse, although regrettably, groups promoting food sovereignty have on occasion been in conflict or competition with people working on the right to food. A human rights approach could also strengthen developing country calls for Special and Differential Treatment and could help define Special Products.¹⁰ One participant suggested that Workshops similar to this one be held in various countries to help clarify the links between the AoA and human rights.

Develop slogans. Find a slogan that would draw attention to the importance that trade be human rights-consistent. Suggestions included: “binding human rights,” “food is a human right,” or creating a “human rights schedule.”

Global strategy on the right to information about trade policy. Participants suggested submitting requests

to their governments to share information about ongoing trade negotiations. A record of all responses or non-responses will be kept and compiled. The failure of the governments to provide information could be the basis for eventual court action or human rights-based challenges in some countries.¹¹

Develop a common worldwide strategy to expose when rich countries or corporations pressure developing countries into human rights-inconsistent trade commitments.

Participants identified key events in 2005 around which participants are planning or might plan awareness-raising about human rights in trade. These dates include the 10th December, human rights day, which falls immediately before the WTO Hong Kong Ministerial Conference.

6. Participants

Mr Aftab Alam, ActionAid, Brazil

Ms Anna Antwi, ActionAid, Ghana

Mr Charles Ayamdoo, Center for Public Interest Law (CEPIL), Ghana

Ms Aida Diop Diouf, 3D -> Trade – Human Rights – Equitable Economy, Geneva

Ms Caroline Dommen, 3D -> Trade – Human Rights – Equitable Economy, Geneva

Ms Cordula Droege, Juriste, International Commission of Jurists, Geneva

Ms Jimena Garrote, Centro de Estudios Legales y Sociales (CELS) Argentina

Ms Virginia.B.Gomes, Member, UN Committee on Economic, Social and Cultural Rights

Mr Christophe Golay, Research Unit on the Right to Food, Institute of Development Studies, University of Geneva

Mr Prakash Kafle, Rural Reconstruction Nepal (RRN)

⁹ See the website at <www.righttofood.org>.

¹⁰ See Glossaries referred to in notes 3 and 5.

¹¹ Summarized from notes prepared by Rights & Democracy for the Agriculture Conference, available from csamdup@dd-rd.ca.

Ms Cecilia Kimemia, BRIDGE Africa, Kenya

Ms Glenda Litong, ESCR-Asia, Philippines

Ms Jivka Marinova, Gender Education, Research and Technologies (GERT) Foundation, Bulgaria

Ms Fiona Marshall, Centre for International Environmental Law (CIEL), Geneva

Mr N.R. Mohanty, Orissa Human Rights Forum, India

Ms Gillian Moon, University of New South Wales, Sydney, Australia

Ms Sophia Murphy, Institute for Agriculture and Trade Policy

Mr Armin Paasch, Food First Information Action Network, FIAN

Ms Anna Paskal, InterPares, Canada

Mr Ariranga Pillay, Member, Committee on Economic, Social and Cultural Rights

Ms Carole Samdup, Rights & Democracy, Canada

Mr Johannes Smeets, Mission of the Netherlands to the UN and WTO in Geneva

Mr. Philip Ole Sironka, Kenya

Ms Gauri Srinivasan, Canadian Council for International Cooperation

Ms Alison Symington, Association for Women's Rights in Development, Canada

Ms Sally-Anne Way, Research Unit on the Right to Food, Graduate Institute of Development Studies, Geneva



3D → Trade
→ Human Rights
→ Equitable Economy

3D → Trade - Human Rights - Equitable Economy promotes collaboration amongst trade, development and human rights professionals, to ensure that trade rules are developed and applied in ways that promote an equitable economy.

Our Objectives are:

- To promote collaborative efforts between people working to promote an equitable economy,
- To strengthen the capacity of human rights advocates to raise their concerns with trade decision-makers,
- To encourage the use of human rights mechanisms and rules in support of efforts to promote an equitable economy, and
- To ensure accountability of all economic actors.