

### Linking Human Rights and Trade

Mr. Ton Zijldwijk notes that from a purely trade perspective, human rights and trade are seen as two solitudes. But Mr. Zijldwijk proposes that there exist links and norms between the two. He suggests that the International Labour Organization (ILO) played a major role in developing international labour norms. While many advocates and leaders wanted the World Trade Organization (WTO) to address trade and labour issues, the ILO had already expressed the international norms on many of these issues. Nevertheless, issues of trade and the environment, of intellectual property, and competition law, are being dealt with by the WTO. Meanwhile, the labour side of the North American Free Trade Agreement (NAFTA) did attempt to incorporate human rights norms regarding occupational safety, health, child labour, and women's rights, but these norms were fairly limited. Mr. Zijldwijk views the relationship of human rights and trade as being in a state of flux, and so the debate will go on. He believes that if the WTO gets more involved in human rights issues, then the relationship between the NAFTA, WTO and the ILO will have to be worked out.

In response, Ms. Buck commented on the risks of transferring jurisdiction over human rights issues to trade bodies when you already have human rights treaties in place. The United Nations Economic, Social And Cultural Rights Committee is working with the WTO and World Bank to try and inform the work of these bodies as to the crosscutting nature of these rights.

### Interpretation and Application of International Norms in Canada

Mr. Zijldwijk believes that Canada should link labour standards to trade rules by interpreting trade rules (such as the WTO rules) in a manner consistent with existing human rights and international labour norms. A direct conflict between these should be avoided. Mr. Zijldwijk believes that Canadian judges are very capable of interpreting Canada's international obligations in a consistent way with the applicable norms. In response, Mr. Onyalo noted that while federal and provincial human rights commissions can implement domestic human rights rules, no one can apply and implement international human rights laws. The provinces in particular can deny application of international human rights labour laws because it was the federal government that signed these documents.

A comment from the audience addressed this issue in light of the NAFTA side-agreement that asked states to respect standards that did not exist in Canada. The discrepancy was noted in that Canada does not recognize economic, social and cultural rights in our domestic human rights codes and yet is a supporter internationally. It was suggested that Canada should recognize that international law could help create these rights in our domestic law. If economic, social and cultural rights resonated better domestically, then Canada would appear more legitimate at the international level.

Following on the comment, Ms. Buck noted that civil and political rights are being used to open the doors to economic, social and cultural rights in our own domestic laws. For example, "social condition" is now being argued to be a ground of discrimination. The recent Baker case, wherein the Supreme Court of Canada stated that Canadian actions