

# PROJECT SYNDICATE



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## Trading Away Human Rights

NEW YORK – Trade negotiators in Singapore recently failed to finalize a deal on the long-awaited Trans-Pacific Partnership; they will soon have another chance to complete what would be the world’s largest regional free-trade agreement. But, given serious concerns that the TPP will fail to consider important human-rights implications, that is no cause for celebration.

The TPP talks involve the United States, Canada, and ten other Pacific Rim countries with a combined annual output of around \$26 trillion, or about 40% of global GDP. Their economic clout is matched by their ambitions; the talks go beyond traditional trade issues, which account for only five of the 29 proposed chapters, and consider a wide range of investment and regulatory issues that will affect many millions of people – and not always positively.

Whether trade liberalization generally helps or harms the most vulnerable is a complex question. But that theoretical debate should not prevent us from carrying out a thorough human-rights impact assessment on the terms of the deal currently on the table. Such an assessment should be conducted before the TPP negotiations reach any final agreement on the relevant issues, and it should not overlook how the terms are

implemented in practice. Unfortunately, TPP member states have not only failed to do this; they have also excluded independent organizations from the assessment process by refusing to provide access to draft texts.

An outside view is especially important when a free-trade and investment agreement is, as the Nobel laureate economist Joseph Stiglitz has noted, more of a “managed trade regime that puts corporate interests first.” Indeed, the TPP’s emphasis on regulatory policies suggests that business interests will trump human rights.

While some proposals (against shark-finning, for example) would benefit certain advocacy groups, many more items are likely to cause widespread hardship. Leaked drafts of intellectual-property proposals show an obstinate US effort to require patent protections for plants and animals, thus going beyond the World Trade Organization’s Agreement on Trade-Related Aspects of Intellectual Property Rights. The US stance could further restrict farmers’ access to productive resources, thus affecting the right to food. And such proposals would limit governments’ options when addressing wider food-related human-rights issues.

This clash of interests contravenes basic principles of international law, namely that countries’ trade deals must not conflict with their obligations under human-rights treaties. That is why a human-rights impact assessment must be conducted – and necessary additional safeguards added – before any TPP deal is signed.

An assessment would also galvanize public debate on the issues being discussed. Although trade negotiations require discretion to avoid political grandstanding by participants, the secrecy that currently surrounds the TPP talks is preventing important human-rights arguments from being aired. That entitlement to be heard – especially on a subject with such far-reaching significance – is also fundamental. Transparency and inclusiveness should be prerequisites of any deal. In fact, a human-rights impact assessment would not be difficult to conduct: guiding principles presented to the United Nations Human Rights Council in 2011 explain how to do it.

The matter is urgent. As the current round of TPP negotiations winds down, the opportunity for an open and rigorous impact assessment is diminishing. Yet, even at this

late stage, the negotiating countries could still commission a follow-up assessment that could be linked to reporting requirements.

The delay in reaching a final agreement should be viewed as a last chance to correct potentially profound injustices. It is the bare minimum that must be expected of negotiators. If they truly want the TPP to be a model for the twenty-first-century global economy, as they claim, then they should show real leadership. The TPP negotiators should consider the rights of everyone affected by the deal and act in the public interest, not just the special interests of the economic players that stand to benefit the most.