



# Human Rights and the WTO: The Case of Patents and Access to Medicines (International Economic Law Series)

*Holger Hestermeyer*

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The international trading system has come under increasing attack by activists as being in conflict with human rights law. Others have defended the system as contributing more to the fulfillment of human rights than many other areas of international law. This study examines the alleged conflict of WTO law with international human rights law, using one of the most prominent examples of such a conflict: that between international patent law, ie the TRIPS Agreement, and access to medication as guaranteed eg by the International Covenant on Economic, Social and Cultural Rights. This highly controversial political issue of the appropriate use of international patent law on life saving medicines gained the world's attention during the discussion about the price of AIDS medication, but recent instances also include the availability of the patented medication for bird flu and for anthrax. The book discusses both the patent law and the international human rights law involved in great depth, distinguishing between obligations under different human rights instruments and including a highly readable introduction into both areas of law. It then explains the concept of conflict between legal regimes and why patent law and human rights law are in conflict. The current state of international law on the conflict between legal regimes and the origin of such conflicts is analyzed, covering such issues as hierarchy in international law and introducing the concept of 'factual hierarchy' The book then turns to the role of human rights law in the WTO system, concluding that such law currently is limited to aiding the interpreting of the WTO agreements. It shows how a further integration of human rights law could be achieved and describes the progress made towards accommodating human rights concerns within the TRIPS Agreement, culminating in the first ever decision to amend a core WTO Agreement in December 2005.

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