Regional Consultation on the Practical implementation of the right to development: Identifying and promoting good practices

The case of SEATINI-Uganda in promoting human right in trade policies and agreements.

SEATINI –Uganda’s mission is to influence trade, fiscal and trade relate negotiations and policies at national, regional and global levels to ensure that they promote sustained development and improved livelihoods in Uganda and in the East African region. The major focus has been on strengthening the capacity of the different stakeholders i.e. government officials, small scale farmers, CSOs, media, women and youth organisations, private sector and members of Parliament to participate in and effectively influence trade and tax negotiations and policies at national, regional and international levels.

Trade is a key means of fostering sustainable development, eradication of poverty and improvement of livelihoods at household level. However depending on how the trade policies are designed, trade can lead to the further marginalization of the most vulnerable, negatively impacting the attainment of their human rights.

The reasons why it is imperative to mainstreaming human rights in trade policies and agreements include:

1. Trade is all pervasive, cutting across several areas of human life as it includes trade in goods, trade in services and trade in intellectual property. The term “trade relate issues” brings on board other issues such as government procurement, investment and competition policy. All these issues affect various aspects of human rights i.e. the right to health, to food, education…yet being under the purview of trade , they are put in the market place, through trade negotiations for the highest bidder.
2. There is an assumption that trade “lifts all boats from the harbor” i.e. everyone benefits at least through the “trickle down” effect. This assumption is erroneous.
3. The aggressive entry of the private sector especially the multinational corporation (MNCs) in the trade arena. The MNCs are influencing trade and trade related agreements and policies in their favor. Many governments in Africa are promoting Public –Private Partnerships (PPPs) which in most cases is an abdication of the state’s role to provide services to the people.
4. The mushrooming trade agreements at all levels i.e. multilateral , bilateral , continental , regional … These agreements are shrinking the policy space within which governments can promote and protect their citizens human rights.

SEATINI’s experience: What we have done to ensure that trade agreements and policies promote peoples’ human rights.

1. The Human Rights Based Approach ( HRBA) is used in two ways:
   1. Enhancing capacities of the rights holders not only to hold the rights holders accountable but also to influence the policy and practice decisions. Influencing the policy framework is very important in the protection of rights. As the saying goes “if you want it INK it”. Enhancing capacities is done mainly through explaining to the relevant stakeholders the linkages between specific articles/ or lack of an article in a particular agreement/policy and the specific rights. For example in the World Trade Agreement ( WTO) Agreement on Agriculture (AOA) , the lack of a user friendly safeguard mechanism has led to import surges affecting agricultural production and marketing of Small scale holder’s produce affecting the right to food and to development. The approach is also used to ensure the participation of the rights holders in consultations during the various stages of the project.
   2. Using the Human Rights Framework to analyse the efficacy of the policy /agreement. Such questions as: “What are the implication of this Article on the right to food/ health/ education..?” “How will the women small scale farmers, women cross border traders be affected?” Together with the rights holders, gaps and alternatives are identified. This is in contrast to the conventional analyses of trade agreements /policies which are largely done at national level looking at economic growth, GDP , increase in exports ….
   3. The HRBA is also used in the M&E to assess the extent to which a given project may or has impacted on human rights. At the point of designing the project, forecasts are made of possible impacts of the project on human rights, women empowerment, and gender equality and on environment sustainability so that mitigation measures can be adopted. Subsequently, during the M&E, efforts are also made to monitor and also evaluate the actual impacts of the project on human rights. The indicators set for monitoring include for example: i) the number of platforms ( bringing together duty bearers and rights holders) in place in the relevant community, ii) the compositions of the committees to address human rights infringements in the community, iii) the provisions on human rights in a given agreement/policy iv) the number of commitment by government in international fora ( i.e. UN guiding principles on Business and Human Rights) reflected in a particular policy/Agreement, v) policy and practice alternatives promoting human rights advanced by the rights holders .
2. Successes:
   1. Increased voice of the rights holders i.e. small scale men &women farmers, SMEs.. in trade related policy making processes. This has been achieved through the capacity building of the rights holders and also the platforms /spaces for engagement created by SEATINI. SEATINI organizes meeting for duty bearers (Government officials, negotiators, Members of parliament) and rights bearers to dialogue and reach a consensus on the key issues affecting the rights holders. This has also led to the narrowing of the gap between micro-level activism and macro level advocacy for policy change. This approach has a win –win outcomes for the duty bearers and the rights holders. The duty bearers and rights holders are happy to hear directly from each other. Such interactions have led to the refusal to conclude some onerous agreements by government.
   2. In order to meaningfully explain the linkages between trade and other sectors, SEATINI works closely with a number of sectors/CSOs i.e. gender, agriculture, land, food security, health, human rights …. A number of CSOs have been able to actively participate in trade negotiations and policy making; and to also mainstream trade into their programme. Linking an agreement to the different constituencies ensures that all the relevant actors as per that policy are brought on board. This ensures that no one is left behind in terms of participation and also in terms of the issues affecting that constituency.
3. Challenges:
   1. Limited capacity to analyse the trade agreements and policies using the human rights lenses; explaining the human rights violations within the agreements /policies to both the rights holders and the duty bearers; and crafting appropriate alternative proposals.
   2. Limited information by the rights holders regarding ongoing processes.
   3. Limited spaces for rights holders’ engagement with the duty bearers. Most often the few available spaces are at higher level i.e. national , regional or global.
   4. African governments’ prioritization of investor rights at the expense of people’s rights.
   5. The outcomes of trade policies and negotiations materializes over a long time and are qualitative in nature, thus making accountability of outcomes challenging. However in the short term accountability from duty bearers can be in terms of , for example positions taken in negotiations.

Innovative approaches adopted:

* Engaging communities in their locality i.e. using community radios to interview rights holders in the community and airing out their voices. This enables the rights holder to confidently engage and voice out their opinions.
* Collecting and using empirical evidence put together through case studies to influence policy processes. i.e. We used a case study of Women exposure to poisonous chemicals in a flower farm to influence the review of the Uganda-Netherlands Bilateral Investment Treaty (BIT)
* Initiation of Community Development Agreements (CDAs) between the communities where especially investment projects are located and the investors. The CDAs are negotiated and define the roles, responsibilities, rights and obligations of each party.

Recommendation: There is a need for increased capacity enhancement of the rights holders to protect their rights as they bear the brunt of the adverse policies made. Capacity enhancement is also needed for the trade and human rights activists as both fields are complicated on their own and even more complicated when they are brought together.