

## CPG on International Development

Tuesday 26<sup>th</sup> November 2019

### The Impact of Business and Trade on Human Rights

6pm - 7:30pm, Committee Room 4 (The Fleming room)

*\*Please note that it is not the intention of the minutes to record a verbatim account.*

**Attendees:** Lewis Macdonald MSP (Convenor), Patrick Harvie MSP (Deputy Convenor), Dr Alasdair Allan MSP

**Member Organisation list:** Scotland's International Development Alliance, ACTSA, Carey Tourism, Challenges Group, Christian Aid, Corra Foundation, Glasgow Caledonian University, International Justice Mission, Jubilee Scotland, Mastercard Foundation, Oxfam Scotland, Rwanda Scotland Alliance, SCIAF, Scotdec, Scottish Fair Trade Forum, UK National Commission for UNESCO, UN House Scotland, University of Dundee, University of Edinburgh, University of Glasgow, WasteAid

**Individual List:** Laura Miti, Otis Orteseh, Mildred Zimunya, Magda Giannouli, Alastair Greig, Quincy Namonje, Rachael Alexander, Karen Hogan, Paul Robison, Amal Matovu, Tana Canda

**Apologies:** Alexander Stewart MSP, Jackie Bailie MSP, Bruce Crawford MSP

**Welcome:** Lewis Macdonald MSP welcomed everyone to the meeting. The Minutes for the last meeting on October 9th were then agreed. Lewis then reminded guests to get in touch with either himself or Lewis Ryder-Jones at Scotland's International Development Alliance with other ideas on future topics.

He explained the theme of today's meeting would be the impact of business and trade on human rights and introduced the guest speakers:

- Jane Herbstritt, Campaigner at Global Justice Now
- Joanne O'Neill, Policy Officer at SCIAF
- Zambian National, Fr. Leonard Chiti, Provincial of the Zambia-Malawi Province of the Jesuits

He then introduced handed over to Fr. Leonard Chiti. to outline his experience of big business and its impact on human rights and the environment in Zambia.

**Fr. Leonard Chiti:** Fr. Chiti thanked the CPG for welcoming him and began by giving a background to his country's economic strategy and why this matters for human rights and the way business operates. He said that Zambia has adopted a private sector-led economic development strategy that has the Intended goal of attracting foreign direct investment. Laws and policies are in place to create an enabling environment for foreign investors to set up businesses.

He said that the expectation is that such investment will result in job and wealth creation for the millions of Zambians in need of jobs. As a result there is a range of transnational corporations (TNCs) active in Zambia in mining, construction, services, etc.

Fr. Chiti said that in the case of TNCs, the link between business and human rights is often non-existent. This leads to the exploitation of workers who work long hours, in unsafe conditions for little pay. He explained that some TNCs are not concerned about the effect of their businesses on the environment, and that some do not pay taxes.

He mentioned that many TNCs, particularly south Asian ones, are not concerned with making sure their business improves livelihoods of Zambians. An example is Vendanta. Who has come into trouble with the Zambian state because of exploiting its workers working on its mines. Now the Zambian government has controversially taken over the Vendanta subsidiary, Konkola Copper Mines for not adhering to agreed terms and conditions on its operations in Zambia. The matter is in court but it demonstrates a lack of robust promotion of Human rights alongside its business practices.

In 2017, it was sued by some 200 villagers in North west Zambia where it operates its mines; the villages want compensation for damage to their properties for toxic discharge from its mining operations. Vendanta Resources is registered in London.

He said that other TNCs that have a poor record of promoting Human rights alongside business of activities Chinese based companies. Many Chinese companies are in Zambia constructing airport terminals, roads, hospitals, etc. which are all good things, however, reports abound of bad treatment of workers, non-adherence to safety and environment benchmarks.

He added that corruption allegations are also frequently labelled against Chinese firms who are frequently accused of bribing public officials in order to win lucrative contracts.

He finished by saying that the UK Government is an important cooperating partner with the Zambian state in furthering economic and social development in Zambia. However, more can be done to help the Zambian state deal with bad business practices like those perpetrated by TNCs such as Vendanta Resources.

**Joanne O'Neill:** Jo began by saying that business can make a positive contribution to tackling poverty – whether that's through job creation, sharing technology or paying taxes. She said that because of this, national governments and global institutions have placed a high emphasis on the private sector in their development plans.

But from SCIAFs work on the ground she said they also know that the activities of some companies are having a very different impact on peoples' lives. All over the world, big business has been implicated in human rights abuse, sexual violence, poor labour standards, tax-dodging and environmental degradation.

So while we must acknowledge the positive impact of business, we must also be realistic about the negative impact business can have when appropriate regulations and safeguards are not put in place.

She said that broadly speaking, SCIAF wants to see greater regulation and transparency from big business. Complex corporate structures mean that in practice it can be very difficult to hold companies to account.

To address this, she explained that SCIAF and others would like to see legislation at a national level – here in Scotland that would mean legislation agreed by the UK Parliament – which would oblige companies to carry out human rights due diligence – ensuring that steps

are taken to identify, prevent and mitigate human rights abuses in their activities and supply chains.

She then said that because business operates across national borders – we also need global rules and introduced the UN binding international treaty on business and human rights. She explained that a binding treaty could help to redress the imbalance that has emerged between companies' interests and the rights and needs of communities and provide for access to justice for those harmed by business activity.

She said that the draft treaty that governments have been negotiating on has not received enough support, neither by the EU nor the UK Government. Organisations like SCIAF are now calling for governments – including the UK - to engage positively in the talks and support the need for a treaty.

She emphasised that even though most of the powers to regulate business sit in Westminster, raising awareness of the treaty and building support for the process is really important and MSPs can help in this. Firstly, MSPs can sign the global pledge to support a binding treaty, but they could also table a Parliamentary motion highlighting the need for a treaty and showing there is support for it. MSPs can also ask the Scottish Government to take a position on the treaty. The UK Government has a seat at the table in these negotiations but the Scottish Government can try to move the UK in a positive position.

In Scotland there are also other ways to encourage better business practice with things like its own national action plan on business and human rights. She hopes the Scottish Government will seek to implement best practice; ensuring the plan contains specific actions with dedicated timelines.

The Scottish Government working can work pro-actively with Scottish businesses to help them understand their human rights obligations and how they can be implementing best practice. She finished by saying that the Scottish Government spends some £9 billion procuring goods and services and that this money should be awarded only to companies who are meeting the highest ethical standards. Furthermore, policy coherence is key to the Government's approach – understanding that our contribution to eradicating poverty is not just through our aid budget or via the international development team but through all government policy (whether that is trade, procurement, transport or education).

**Jane Herbsbritt:** Jane began by introducing her organisation – Global Justice Now – and explained they campaign on a range of social justice issues with an international perspective.

She then spoke about their history of campaigning on trade justice and referenced the new wave of trade deals being negotiated by the EU –like TTIP, CETA, TiSA. She said that these trade deals are changing the rules of global governance – handing more power than ever to multi-national companies and undermining governments' ability to take measures to protect public health, the environment and human rights.

She also mentioned anecdotally that a campaigner from Uganda said he had long campaigned against trade deals between the EU and African countries – EPAs – European Partnership Agreements. And he said about TTIP, that while he very much supported their opposition to the trade deal, the small consolation was that 'now we'll know what it feels like'. The implication being that African countries had been the guinea pig for these new generation of trade deals.

She made the point that often trade deals like TTIP put public services at risk – new trade deals are about opening up markets – that means creating new ones – sometimes through privatisation. She also talked about the fact that the power of governments to regulate can also be restricted through trade deals. Patents can be part of this – of pharmaceuticals for example – could mean that cheaper drugs in the global south are made illegal through corporate pressure by TNCs to align patent laws in places like china.

She then went on to talk about Investor State Dispute Settlements (ISDS) which are a private tribunal, only accessible to foreign investors, that allows corporations to take governments to court if they make decisions that impact on their profits. Decisions are made in private, and even if a government wins a case they often have to pay costs. There is no right of appeal for ISDS.

She said that the UK is the third most likely country from which a corporation will raise an ISDS claim against another country. Whereas the countries that have faced the most claims since 1987 are largely from the global south, with Argentina and Venezuela the most targeted countries for ISDS claims.

She mentioned a few examples of when ISDS has been used to protect corporations from taking responsibility for human rights abuses around the world, including being used to challenge discrimination laws in South Africa, and labour rights in Egypt. The threat of ISDS can also create 'regulatory chill' where governments – particularly in the global south where there is less money to afford legal suits – are afraid to put forward strong laws protecting human rights in case they are sued by foreign investors.

She finished by saying that we need a proper democratic process for scrutinizing the negotiation of new trade deals and that here is no right of scrutiny granted to the UK parliament and no vote to reject the deal is possible. Political parties in Scotland need to oppose ISDS in any form, and agree to exclude it from future BITs.

**Discussion:** Questions and comments were raised about a number of issues relating specifically to Zambia including one comment by Dr Alasdair Allan MSP about the need to strengthen civil society in Zambia.

David Kenyan, from ACTSA, introduced their new report called 'The Money Drain' which focuses on how trade mis-invoicing and unjust debt undermines economic and social rights in Southern Africa. He encouraged attendees and MSPs to read the report and contact your MEP.

Responding to a point made about corruption and weak government, Fr. Chiti said that education is vital to fight this in future and that Individual Zambians need to know their rights and the reasons for why things are the way they are.

He also said that the Anti-corruption commission and other institutions are often weak in their approach to issues central to their existence.

Patrick Harvey MSP raised the point that organisations in Scotland with an international remit should engage with the UK Trade bill when parliament returns. He said the bill fell only because of the UK Election and asks that the international development community engage with this bill when it returns. Questions about its international impact are necessary. It needs scrutiny. We need to revive the arguments. The Trade bill must be scrutinised at an earlier stage than last time round.

Laura Miti, another Zambian national and Human rights activist said that social and economic rights are massively important for human rights. If equitable access to material

resources improved in zambia, then social existences would improve also. She emphasised this point by saying that 90% of national mining revenue ends up in Switzerland and only 3% of tax revenues comes from copper mines. Giving people the information to make the link between their poverty and those in power is essential. People are not accessing their own money.

Fr. Chiti mentioned that an access to information bill needs to be enacted – they have been campaigning for this for a while.

Another comment included the mention of a new report on an EU-MERCOSUR trade deal that was recently ratified. A

n Oxfam campaign called 'Behind the bar codes' was also raised as an example of what individuals can do to raise awareness and make a difference in a small way through their own consumption habits. However, another point was made that responsible consumption needs to consider both supply chain and waste Chain.

To finish Fr. Chiti mentioned that the last British high commissioner to Zambia called a press conference when finishing his role and made some strong comments directed at Zambian Government, but this is rare. More public pressure would be welcomed.

**Close:** Lewis Macdonald thanked everyone for coming and closed the meeting, reminding CPG members to contact either himself or Lewis Ryder-Jones about future CPG meeting topics.