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The Human Rights-Based Approach in German Development Cooperation

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Abbreviations

ASEAN	Association of Southeast Asian States
BMZ	Federal Ministry of Economic Cooperation and Development
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CPD	Convention on the Rights of Persons with Disabilities
CRC	Convention on the Rights of the Child
CSO	Civil society organisation
DED	German Development Service
DIMR	German Institute for Human Rights
FAO	Food and Agricultural Organization
GIZ	<i>Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH</i>
GTZ	<i>Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) GmbH</i>
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
HRBA	Human rights-based approach
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICPED	International Convention for the Protection of All Persons from Enforced Disappearance
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
KfW	<i>Kreditanstalt für Wiederaufbau - Entwicklungsbank</i> (German Development Bank)
MDGs	Millennium Development Goals
MoH	Ministry of Health
OECD/DAC	Organisation for Economic Co-operation and Development/ Development Assistance Committee
OHCHR	Office of the United Nations High Commissioner for Human Rights
SIDA	Swedish International Development Agency
SWAPs	Sector-wide approaches
UNAIDS	Joint United Nations Programme on HIV/AIDS
UPR	Universal Periodic Review

1 Introduction

This paper gives development practitioners an introduction to the human rights-based approach (HRBA) to development. It describes the principles and characteristics of an HRBA, and outlines how our work in German governmental development agencies can be strengthened by using it.

The Federal Republic of Germany has ratified the majority of the international human rights treaties which codify civil, political, economic, social and cultural human rights. This obliges Germany to respect, protect, and promote human rights in its development cooperation. As all partner countries of German development cooperation have also ratified the majority of the core human rights treaties, they are equally obliged to implement them.

In line with its own human rights commitments, the German Federal Ministry for Economic Coop-

eration and Development (BMZ) adopted its first Development Policy Action Plans on Human Rights in 2004 and 2008. They were replaced by a binding Human Rights Strategy in 2011, which reaffirmed human rights as one of the guiding principles for German development policy.¹ The realisation of human rights is recognised as an objective in itself. At the same time, BMZ regards the fulfilment of human rights as a prerequisite for sustainable development, poverty reduction and peace. BMZ's human rights strategy was complemented by operational guidelines (BMZ, 2013) specifying how to assess human rights-related risks and impacts in the appraisal phase of all development programmes commissioned by the Ministry.² Both the 2011 BMZ strategy and the 2013 guidelines are relevant for all sectors and areas of German development cooperation.

¹ BMZ (2011), Human Rights in German Development Policy: Strategy.

² BMZ (2013), Guidelines on Incorporating Human Rights Standards and Principles, Including Gender, in Programme Proposals for Bilateral German Technical and Financial Cooperation.

2 What is the HRBA to development cooperation?

The HRBA is a conceptual framework that is based on internationally recognised human rights and is directed to promoting and protecting these rights in practice. An HRBA integrates the norms, standards and principles of international human rights law into the plans, policies and processes of development.³

The HRBA implies a shift in perspective for development cooperation: target groups are no longer beneficiaries but turn into ‘rights-holders’ with legal entitlements, and government institutions are no longer mere service providers but ‘duty-bearers,’ who are under an obligation to deliver on people’s human rights. At the heart of the HRBA is the recognition that unequal power relations and social exclusion deny people their human rights and often keep them in poverty. A human rights focus helps explain why women and specific groups, such as ethnic or religious minorities, are highly over-represented among the poor, and why very often poverty is passed on from generation to generation:

‘All human rights – the right to speak, to vote, but also the right to food, to work, to health care and housing – matter to the poor because destitution and exclusion are intertwined with discrimination, unequal access to resources and opportunities, and social and cultural stigmatisation. A denial of rights makes it harder for the poor to participate in the labour market or have access to basic services and resources.’ (Louise Arbour, former United Nations High Commissioner for Human Rights, speech made to Lebanese Parliament, 9 December 2006)

The key objective of the HRBA is to support people (right holders) to claim their rights and state actors (duty bearers) to fulfil their human rights obligations. To this end, the outcomes of development programmes should be systematically aligned with human rights such as the right to life, health, education or fair trial. In addition, development cooperation should - across all sectors - contribute to the realization of human rights principles such as non-discrimination and equality, participation and empowerment, and transparency and accountability.

An HRBA supports political, social and institutional reform processes that address inequalities and create an environment in which people have opportunities and the freedom to make an act upon their own choices.

Beyond development cooperation, an HRBA is also concerned with global dynamics, such as trade, security or agricultural policies. For example, dumping highly subsidised European or US agricultural products in developing countries paralyses their own agricultural production and thus threatens livelihoods and the realisation of the right to food. Similarly, various measures in the fight against terrorism violate human rights. Just like skewed trade and agricultural policies, this also erodes political credibility.

Consequently, an HRBA not only supports human rights through development cooperation in partner countries but also strives for domestic and external policies with global effect (e.g. on trade, finance and investment) that promote human rights.

³ See also GIZ/DIMR (2012), Frequently asked questions on the human rights-based approach in development cooperation; and OHCHR (2006), Frequently asked questions on a human rights-based approach to development cooperation.

3 How the HRBA adds value to development cooperation

The HRBA adds value to development processes in four main ways, which are outlined below.

3.1 The HRBA helps bring about equitable and sustainable development results

- ▶ It provides a tool for understanding and addressing the multidimensional root causes of poverty and violent conflict: discrimination, repression, powerlessness, lack of political participation and lack of access to basic resources and services, such as education, justice, health and water.
- ▶ It focuses on the promotion and protection of the rights of women and marginalised groups, including ethnic, religious or sexual minorities, migrants or persons with disabilities.
- ▶ It links development efforts in all sectors to universal and legally binding human rights. This enhances the legitimacy of pro-poor development cooperation and creates additional political leverage in policy dialogue and reform processes.
- ▶ It provides an internationally acknowledged normative framework which is used by civil society worldwide to mobilise people and hold governments to account.
- ▶ It supports the good governance agenda in and across sectors, so that institutions and policies become more transparent and inclusive, allowing for better services and meaningful participation of all citizens, including disadvantaged groups.

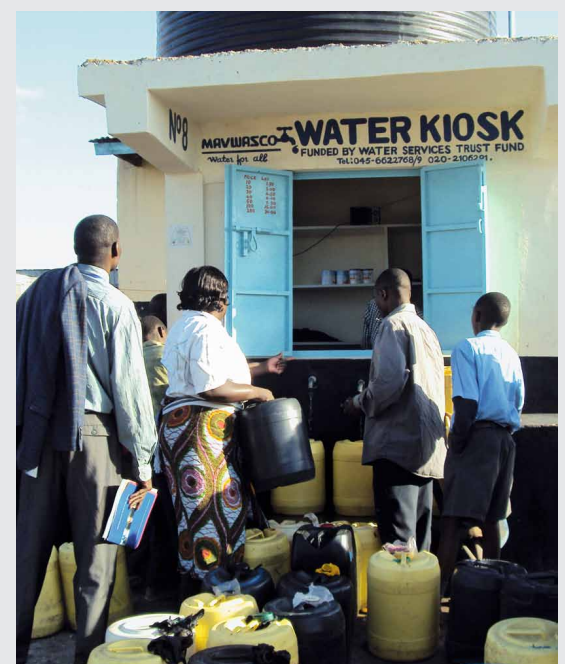
Experience 1

Water sector reform in Kenya: the HRBA supports a new focus

In a programme supporting the water sector reform in Kenya, GIZ and KfW found the right to water to be a very useful tool and frame of reference: it drew the attention of all stakeholders (public and private services providers, CSOs and the implementing agencies themselves) to the question of how to make water accessible to the poor living in informal settlements. This had not previously been a political priority. The HRBA motivated a new prioritisation of improved water supply by the Water Services Trust Fund supported by KfW and the establishment of water kiosks for low-income groups in order to provide fast-track access to safe drinking water for impoverished urban areas.

To facilitate access to water for the poor, the tariff structure was reviewed so that water became more affordable. For customers at water kiosks and consumers who use only small amounts to cover basic needs, tariffs were reduced and cross-subsidised through the system. The HRBA also triggered improved participation and the establishment of complaint mechanisms in the water and sanitation sector, especially for those particularly affected by poverty.

Source: GIZ/DIMR (2013), *Promising Practices on the human rights-based approach in German development cooperation – Water and sanitation: Ensuring access for the urban poor in Kenya*; and Kenyan Ministry of Water and Irrigation (2013), *Water Sector Reform in Kenya and the Human Right to Water*.



Operation of water kiosks, Kenya
© GIZ / Water Sector Reform Programme Kenya

3.2 The HRBA supports strategic management in development cooperation

- ▶ It provides minimum standards, which help to shape analyses, the identification of development priorities and objectives, implementation strategies as well as impact monitoring.
- ▶ It adds qualitative criteria to supplement and deepen quantitative development targets (such as the Millennium Development Goals or the future Sustainable Development Goals).⁴ It also strives to make processes to achieve quantitative development targets more inclusive: the HRBA pays special attention to those who are the most vulnerable or marginalised, and encourages, and in some cases requires, their meaningful participation in decision-making.
- ▶ Since the HRBA requires that priority is given to ensuring minimum standards for all, it provides a basis for equitable resource allocation. It helps development partners to identify insufficient or inequitable access to basic resources, such as education, food and social security, and to remedy this through corresponding priorities in national and sectoral development plans.

3.3 The HRBA strengthens aid effectiveness and the implementation of the Paris Agenda

- ▶ It aligns development policies with partner governments' human rights commitments expressed in the ratification of human rights treaties, national constitutions and legislation. Taking these commitments seriously is an important basis for citizen-led national ownership and broad domestic accountability.⁵

- ▶ It uses the internationally recognised human rights framework as a common platform for donor harmonisation processes and policy coherence. As the Busan Outcome document on the Partnership for Effective Development Cooperation states in its paragraph 11:

'As we embrace the diversity that underpins our partnership and the catalytic role of development co-operation, we share common principles which – consistent with our agreed international commitments on human rights, decent work, gender equality, environmental sustainability and disability – form the foundation of our co-operation for effective development.'

- ▶ It employs standards and principles enshrined in international human rights treaties to define and fine-tune strategies, targets and indicators for improved management for development results.

3.4 The HRBA complements existing development agendas

The HRBA and existing development agendas complement and mutually reinforce each other.

- ▶ **Poverty reduction:** Effective poverty reduction is a pre-condition for the full realisation of human rights for all. At the same time, an HRBA helps make poverty reduction sustainable: it addresses the structural causes of poverty such as discrimination, supports a multidimensional view on poverty,⁶ and considers poverty reduction as a legal obligation (rather than charity), based on international legal commitments. Furthermore, the HRBA focuses on extreme poverty and those most vulnerable to poverty and exclusion.

⁴ See also OHCHR and Center for Economic and Social Rights (2013), *Who will be accountable? Human rights and the post-2015 development agenda*

⁵ See the Busan Partnership Agreement for Effective Development Co-operation (2011), the Accra Agenda for Action on Aid Effectiveness (2008), and the OECD/DAC (2007), *Policy Paper on Human Rights and Development*.

⁶ A multidimensional understanding of poverty looks at the economic, human, political, socio-cultural, and protective aspects of poverty, and is influenced by Amartya Sen's analysis of capabilities and freedoms. See OECD/DAC (2001), *The DAC Guidelines on Poverty Reduction*.

Experience 2

Water sector reform in Kenya: Policy harmonisation on the basis of human rights

The Kenyan Ministry of Water and Irrigation has used international human rights standards on the right to water and sanitation as an explicit basis for its pro-poor sector reform and to align donor support. This has helped bring a coherent approach to a previously fragmented sector. In a 2007 publication, the Ministry sums up its experiences: 'The human right to water has helped the sector to focus better on the individuals' entitlement to access water and sanitation. The human rights approach offers additional tools to concentrate on the underserved and poor. As human rights are universal principles, the Ministry expects donors to align to these by harmonising their actions and programmes to the sector policy and strategies. In this context, commitment towards the right to water supports the implementation of the Paris Declaration on Aid Effectiveness.' One of the tangible impacts of this approach so far has been a growing interest of the donor community in the extension of pro-poor programmes to urban slums.

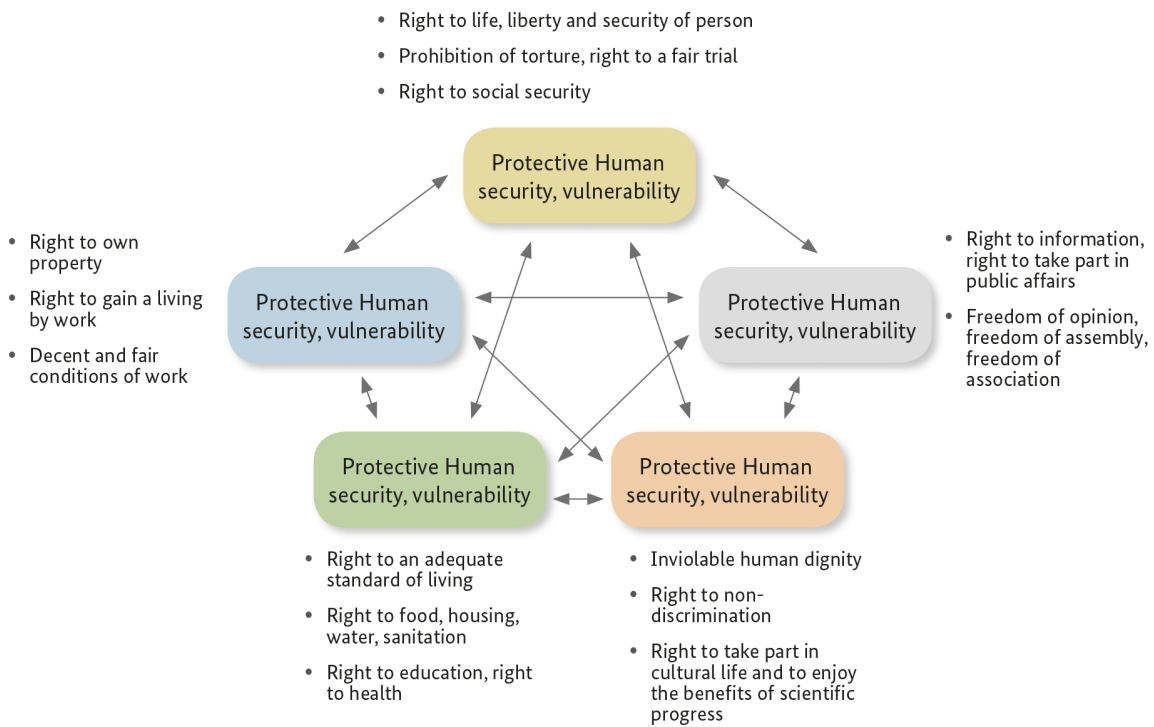
Source: Kenyan Ministry of Water and Irrigation (2007), Water Sector Reform in Kenya and the Human Right to Water.

- ▶ **Gender equality:** Gender equality and the HRBA are intrinsically linked. All human rights treaties are built on the right to equality, including gender equality, thereby turning it into a right and legal obligation. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) deals specifically with women's human rights. The UN Conference on Human Rights in Vienna (1993) reaffirmed women's rights as human rights, and the International Conference on Population and Development (1994) laid the groundwork for the HRBA to development, comprising also the human rights principles of equality and non-discrimination.
- ▶ **Crisis prevention and peace-building:** The HRBA supports sustainable and equitable peace processes and sharpens the focus on violations of human rights as root causes and determinants of conflict. The methods developed in the context of crisis prevention and peace-building help to tackle situations of conflict linked to human rights issues. In turn, the human rights framework provides for means of redress for past wrongs and contributes to successful peace-building.⁷
- ▶ **Good governance:** In German development cooperation, the concept of good governance is based on standards and principles enshrined in international human rights treaties. The rule of law, democracy, efficient and capable state institutions and anti-corruption measures create an enabling environment for the realisation of human rights. Both the HRBA and the good governance agenda are concerned with the performance of the state and the interaction between the state, the market and society.
- ▶ **Sustainable development:** The sustainable development approach is based on an understanding of the interdependence of the social, political, economic and environmental dimensions of development. This understanding is supported by the HRBA, which provides a nor-

⁷ See also: GIZ/ DIMR/ Zfd (2011), Connecting Human Rights and Conflict Transformation: Guidance for Development Practitioners, Eschborn.

mative basis for sustainable development and helps design processes that bring about sustainable development changes. Accordingly, it has been internationally agreed that human rights will constitute the normative framework for the future Sustainable Development Goals.

Figure 1: Human rights and poverty dimensions



*Source: poverty dimensions: OECD/DAC (2001).
The DAC Guidelines on Poverty Reduction Paris;
human rights: core conventions ICESCR (1966) and ICCPR (1966)*

4 What are human rights?

4.1 Human rights are inalienable

Human rights are inherent to all people on the grounds that they are human beings. They may be violated or not fulfilled, but, due to their character as human rights, they cannot be taken away or given up. Human rights define what humans need for a life in dignity and freedom.

Human rights relate to all areas of human development such as education, justice, health or personal security. While the Universal Declaration of Human Rights included all these human rights and stressed their interdependence, the first binding UN human rights treaties separated human rights into civil and political, and economic, social and cultural rights. This was mainly due to the global political divide at the time of adoption of these conventions and was overcome in more recent conventions such as the Convention on the Rights of Persons with Disabilities which, again, include all human rights in an integrated and interdependent fashion.

4.2 Human rights are interdependent

Fulfilment of one human right often depends on the fulfilment of others. For example: the realisation of the right to education enables people to make use of their right to political participation and freedom of expression. Likewise, the violation of one right adversely affects other human rights. For example, if people do not have access to safe water and sanitation this will impact on their right to the highest attainable standard of health.

4.3 Human rights are obligations

Human rights obligations apply to the state as a whole, including its various authorities (the executive and institutions with delegated authority, parliaments, and the judiciary) at central and decentralised levels. States assume obligations under international human rights law to respect, protect and fulfil human rights:

- ▶ The obligation to respect human rights obliges states to refrain from directly or indirectly interfering with the individuals' enjoyment of human rights. States must not violate human rights by, for example, committing torture, manipulating food aid for political reasons, or barring women from political leadership.
- ▶ The obligation to protect means that states must prevent third parties (e.g. individuals or companies) from interfering, directly or indirectly, with the enjoyment of human rights by other individuals. For example, states should enact and enforce legislation that prevents employers from discriminating between men and women by paying different wages for the same work.
- ▶ The obligation to fulfil obliges states to adopt the necessary legislative and administrative measures to achieve the full realisation of human rights, for example by setting up a fair judicial and educational system. Usually these measures will involve all parts and levels of government. The obligation to fulfil is often broken down to include the obligations to facilitate, to promote, and to provide, that is the creation of an enabling environment, promoting access to information on human rights, and the adoption of adequate policies.

Some human rights have to be fulfilled without delay, such as the right to non-discrimination. Others may be achieved progressively, taking into account the constraints imposed on state capacity by limited available resources. But even so, states have immediate obligations: they have to take concrete and targeted steps towards the full realisation, and have to demonstrate that they devoted 'the maximum available [domestic] resources' to doing so. If a state does not have sufficient resources to fulfil its obligations, it is obliged to seek international assistance.

During the Cold War, some states took the view that economic, social and cultural human rights – such as the right to education or the right to food – are mere aspirations of social policy but not legally

Box 1: Key human rights and their interdependence**Civil and political rights
(codified in the ICCPR)****Economic, social and cultural rights
(codified in the ICESCR)**

The equal right of men and women to the enjoyment of all civil and political rights (Art. 3); the prohibition of discrimination (Art. 26); the right to be treated equally before the courts and tribunals (Art. 14); the right of minorities to enjoy their own culture, to profess and practice their own religion, or to use their own language (Art. 27).

The equal right of men and women to the enjoyment of all economic, social and cultural rights (Art. 3); prohibition of discrimination (Art. 2 (2)).

The right to life (Art. 6)

The right to an adequate standard of living for oneself and one's family, including adequate food, clothing and housing (Art. 11); the right to the highest attainable standard of physical and mental health (Art. 12).

The prohibition of torture, cruel, inhuman or degrading treatment or punishment (Art. 7), and the prohibition of slavery and the slave-trade in all their forms (Art. 8).

The right to work, free choice of employment, as well as just and favourable conditions of work (Arts. 6, 7).

The right to liberty and security of person (Art. 9); the right to be protected from arbitrary or unlawful interference with privacy, family, home or correspondence (Art. 17).

The right to social security (Art. 9); the right to protection and assistance to family, mothers, children and youth (Art. 10).

The rights to freedom of thought, conscience and religion (Art. 18), and to freedom of expression (Art. 19).

The right of everyone to education; the right to free, compulsory primary education (Art. 13), the right to take part in cultural life and to enjoy the benefits of scientific progress (Art. 15).

The rights to peaceful assembly (Art. 21) and freedom of association (Art. 22), and the right to take part in the conduct of public affairs; the right to vote and to be elected (Art. 25).

The right to form and join trade unions (Art. 8).

The right to an effective remedy (Arts 2(3), 9(4), 9(5), 13, 14(5), 17(2))

The right to an effective remedy (Art. 2 (1))

enforceable.⁸ However, the adoption of an individual complaints mechanism for the ICESCR in 2008 and the increasing number of cases in which social, economic and cultural rights have been defended through legal action, show that economic, social and cultural human rights are – and have been for a while – justiciable. Litigation on these rights is generally complex, time-consuming and expensive, requiring sustained civil society engagement

to present the case in court and ensure that judgments are enforced. But in some countries litigation has led to substantial changes in the allocation of public resources and the realisation of economic, social and cultural rights. However, while the HRBA stresses that litigation is important to protect human rights, it does not privilege it over other modes of realising human rights.

Experience 3

Litigating economic, social and cultural rights

The most significant cases on economic, social and cultural rights were fought in South African and Indian courts where litigants claimed human rights enshrined in national laws. One of the famous cases was *Government of the Republic of South Africa & Others v Grootboom & Others* (2000).

A community of squatters, evicted from an informal settlement in Wallacedene, had set up temporary shelters made of plastic and other materials. They lacked basic sanitation or electricity. The group brought an action under sections 26 (the right of access to adequate housing) and 28 (children's right to basic shelter) of the South African Constitution. The Constitutional Court of South Africa concluded that the national and local governments had failed to take reasonable measures to progressively realise the right to housing. It ordered the various governments 'to devise, fund, implement and supervise measures to provide relief to those in desperate need.' The South African Human Rights Commission agreed to monitor and, if necessary report, on the government's implementation of this order. The decision had a major impact on housing policy in South Africa. Most municipalities put in place a 'Grootboom allocation' in their budgets to address the needs of those in desperate need.

Source: ESCR Net Caselaw Database

⁸ For an extensive debate, see OHCHR (2009), *Frequently Asked Questions on Economic, Social and Cultural Rights*.

5 Key elements of the HRBA

5.1 A twin-track approach

The HRBA is a twin-track approach. Given the human rights situation in countries all over the world, it will always be necessary to protect and promote human rights by means of specific projects and programmes. They may include initiatives that explicitly address human rights infringements affecting particular groups, those that strengthen mechanisms of regional human rights protection, and others that support the capacities of national human rights institutions and civil society organisations (CSOs).

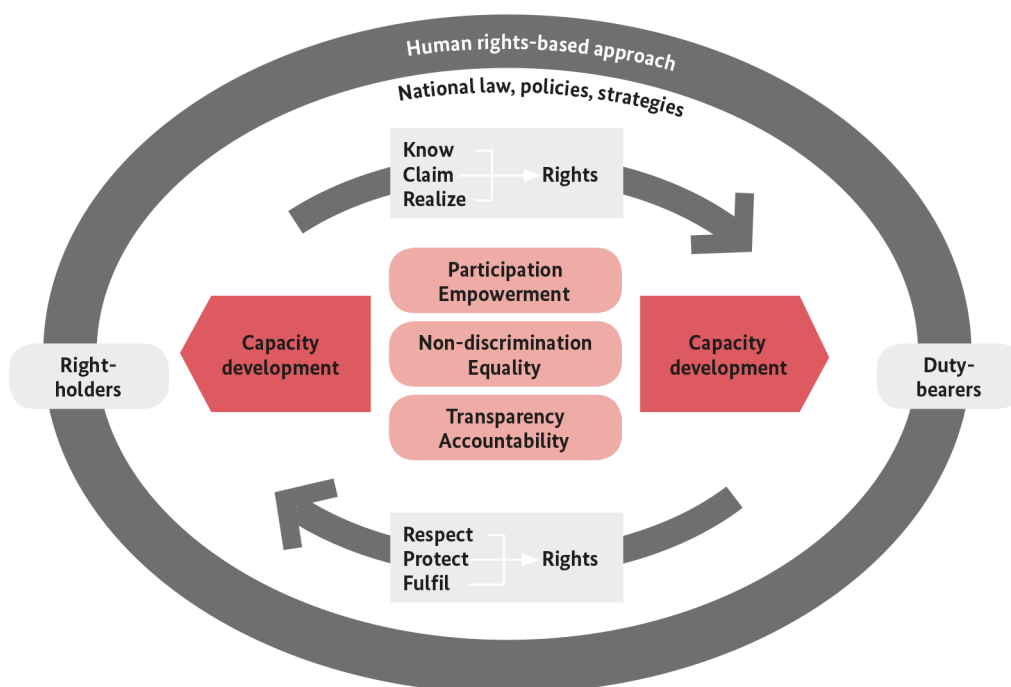
At the same time, an HRBA implies that human rights serve as a guidance and yardstick for development cooperation and policy across all sectors and levels of intervention. This second track comprises

three main elements⁹ (which will be further elaborated in the following section):

- ▶ Capacity development of right-holders to claim their rights and duty-bearers to fulfil their obligations;
- ▶ Systematic orientation towards, and reference to, human rights and reference documents, including human rights education and awareness raising activities related to the specific sector or area of work;
- ▶ Adherence to, and promotion of, human rights principles: non-discrimination and equality of opportunity, participation and empowerment, and transparency and accountability.

⁹ These three main elements coincide broadly with the United Nations Common Understanding of a Human Rights Based Approach to Development Cooperation (2003).

Figure 2: Model of the human rights-based approach



The baseline requirement for an HRBA is that development cooperation does not violate human rights – this do-no-harm principle is well known from crisis prevention. For example, the promotion of privatisation processes must not result in exclusion of marginalised or vulnerable groups from access to public services. Major infrastructure projects must not ignore the right of residents to be consulted, nor should they result in resettlement without adequate compensation. Even if such impacts are not intentional, they are infringements of human rights. To avoid such side effects, development partners need to assess and monitor impacts on human rights. If assessments find risks of human rights violations,

programmes need to be modified or abandoned, if necessary.

5.2 Working with right-holders and duty-bearers

Human rights focus primarily on the relationship between the state and the individual. But the HRBA also provides guidance on how to shape relationships between individuals and other actors and stakeholders, such as communities, private service providers or CSOs, basing these relationships likewise on rights and responsibilities. In general, an

Box 2: Right-holders and duty-bearers – clarifying relationships

In human rights law, the individual is the main right-holder, and the state the primary duty-bearer. While everyone in society has both rights and duties, only some of these are rights and duties in a human rights sense: national law and regulations contain rules and duties for individuals and actors such as corporations; human rights law regulates basic and universal entitlements of individuals towards the state. To give a number of examples from different areas of law:

- ▶ Human rights law guarantees the right to life. Accordingly, extrajudicial executions committed by state agents constitute a violation of human rights as does a state's lack of protection of its residents from violent crime and murder. The duty of the individual not to murder, however, is not a human rights obligation but a duty under national law.
- ▶ Teachers are human rights-holders in their relationship with the state as their employer: vis-à-vis the state, teachers have the right to decent working conditions. In relation to their students, teachers are duty-bearers because they execute the human rights obligations of the state with respect to the right to education held by students. Accordingly, a person can be both a right-holder and a duty-bearer in different legal relationships, but can never be both a right-holder and a duty-bearer in the same legal relationship.
- ▶ Sometimes private entities – like enterprises, church-based organisations, or CSOs – provide social services to the population, such as water and sanitation. However, this does not make them duty-bearers in a human rights sense. Such private entities have legal duties under national law, such as delivering the contractually agreed services, and individuals have rights in their relationship with them, as clients, customers, or residents. But the state is the duty-bearer regarding the human rights obligations: it must regulate and monitor private service providers so that they carry out their services in conformity with human rights.
- ▶ While right-holders are individuals or groups of individuals who hold human rights, and duty-bearers are the different state institutions at various levels of governments, the fulfilment of human rights obviously depends on more entities and actors. Therefore, an HRBA needs to engage those stakeholders – such as private enterprises, armed groups, community leaders, civil society organizations – and include them in a broad dialogue on the concept of rights and responsibilities.

HRBA works from both the ‘demand’ and the ‘supply’ side, because the implementation of human rights depends on the fulfilment of obligations. Living up to one’s obligations does not happen automatically but is a result of social and political struggle and advocacy. The HRBA aims to create effective mechanisms of ‘voice and response’ in order to shift power relations in favour of those who are disempowered. In this way, the HRBA changes the dynamics between people and the institutions meant to serve them. In the long run, an HRBA will also affect the dynamics between people, for example, of different ethnicities, social status, etc.

On the ‘supply side’ the HRBA implies support to partner institutions in translating human rights into national law, policies and practice. More specifically, this means support on a range of different levels:

- ▶ Creating the necessary conditions, environment and space for meaningful and broad stakeholder participation in relevant processes at micro, meso and macro level.
- ▶ Establishing complaint and redress mechanisms (e.g. health watch committees, ombudspersons, national human rights institutions), and introducing measures to improve the independence and accessibility of the judicial system.
- ▶ Developing the technical capacity to translate human rights into effective policies with appropriate budget allocations, based on concrete legal entitlements to basic services.

On the ‘demand side’, human rights-based development interventions work towards empowerment of right-holders to claim and realise their rights by supporting human rights education, awareness, monitoring, and action. Key areas of support include:

- ▶ Raising awareness on human rights.
- ▶ Developing the skills to monitor human rights fulfilment and infringements, including the monitoring of public budgets, expenditure and foreign aid.

- ▶ Developing organisational capacities so that groups are better equipped to mobilise, gather information and undertake advocacy campaigns, and also to apply human rights principles to their internal management and procedures.
- ▶ Enabling individuals and groups to claim their rights, be it in court through litigation, be it through other means, such as the press, the internet, public hearings, social audits, etc.

5.3 Using human rights instruments and reference documents

Human rights treaties

The HRBA is based on the major international human rights treaties, set out below in Box 2.¹⁰ Today, all UN member states have ratified at least one of the following nine core international human rights treaties, and 80% have ratified four or more.

Other international instruments enshrining human rights include the eight fundamental labour conventions of the International Labour Organization (ILO).¹¹

Besides the international human rights instruments, there are also a number of regional human rights treaties, such as the European Convention on Human Rights (1950), the American Convention on Human Rights (1969) and the African Charter on Human and Peoples’ Rights (1981).¹² Attached to these treaties are regional monitoring and judicial mechanisms. In 2004, the League of Arab States adopted the Arab Charter on Human Rights, and

¹⁰ See also the OHCHR website: Core International Human Rights Instruments and their Monitoring Bodies; and GIZ/DIMR (2014), The ABC of Human Rights for Development Cooperation.

¹¹ Covering the prohibition of forced labour (Conventions 29, 105), the prohibition of child labour (C. 138, 182), non-discrimination (C. 111) and equal pay (C. 100), and the freedom of association (C. 87) and collective bargaining (C. 89).

¹² See the three GIZ/DIMR Annexes to the ABC of Human Rights for Development Cooperation: The African Human Rights System (2012); European Human Rights System (2014) and Inter-American Human Rights System (2014).

in 2012, the Association of Southeast Asian States (ASEAN) adopted the ASEAN Human Rights Declaration. Both are under criticism because they do not fully correspond with the UN concept of human rights and have no effective monitoring mechanism attached to them.

Additional human rights reference material

In addition to the core human rights treaties, there are a number of other human rights reference documents, which provide guidance on the interpreta-

tion of specific provisions of those treaties, as well as further clarifications and information relevant to development cooperation.

- ▶ General Comments of the UN treaty bodies: These interpret and concretise human rights, making them operational for development cooperation. For example, the General Comments issued by the UN Committee on Economic, Social and Cultural Rights outline the core elements of the rights enshrined in the Covenant such as the right to housing, the right to food, or, as the following example illustrates, the right to education.¹³

Box 3: The nine core UN human rights treaties with year of adoption

	Ratifications
International Covenant on Civil and Political Rights (ICCPR), 1966	168
International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966	162
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), 1965	177
Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979	188
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 1984	155
Convention on the Rights of the Child (CRC), 1989	194
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), 1990	47
Convention on the Rights of Persons with Disabilities (CRPD), 2006	147
International Convention for the Protection of All Persons from Enforced Disappearance (ICPED), 2006	42

Source: United Nations Treaty Collection website.

¹³ General Comments can be found on the OHCHR website and Bayefsky website.

- ▶ Information from the human rights monitoring system: UN treaty bodies monitor the implementation of the treaties, and ratifying states are required to submit regular reports. Civil society organisations (CSOs) often submit complementary reports to these state reports. Assessing the progress of specific states in realising human rights, the treaty bodies issue Concluding Observations which recommend measures for improved implementation of the human rights treaty in question.¹⁴ In addition, since 2008, states undergo a periodic peer review under the Universal Periodic Review (UPR) system established at the UN Human Rights Council.¹⁵ The UPR consists of a cooperative process among members of the Human Rights Council, based on three reports. The first is a national report by the country under review, which provides the opportunity for each state to list the steps and measures it has taken to improve the human rights situation in the country, and to fulfil its human rights obligations. Secondly, a compilation of information from the UN human rights system and a summary of stakeholders' information, such as CSOs and national human rights institutions, form part of the UPR. Last but not least, reports on specific issues or annual reports publish the findings of investigative monitoring by international or national human rights CSOs.
- ▶ Reports by UN Special Procedures: The Human Rights Council can mandate a Special Rapporteur, an Independent Expert or a Working Group to work on grave and systematic violations of human rights in specific countries (country mandate). Other Special Rapporteurs are mandated to work on important human rights issues, and to further develop and operationalise

Box 4: Core elements of the right to education

Availability: Functioning educational institutions and programmes have to be available in sufficient quantity. Primary education needs to be available free of cost. Standards may differ according to context, but all educational institutions should be equipped with qualified teachers, educational material, sanitation for both sexes, and drinking water.

Accessibility: Educational institutions have to be accessible for everyone, financially and geographically. Financial accessibility covers the elimination of school fees in primary education but also the - often substantial - indirect fees of education, like fees for registration, uniforms, books and exams, and indirect costs incurred by the loss of children's incomes. Accessibility may require the provision of scholarships to facilitate the access to education for poor or otherwise disadvantaged groups of children, or the establishment of special facilities to ensure the physical, inclusive accessibility of schools, for example for children with disabilities.

Acceptability: Curricula and teaching methods have to be culturally relevant, gender sensitive, appropriate to students and of high quality. School discipline must not use corporal punishment or other degrading measures.

Adaptability: Education needs to be flexible and able to adapt to the needs of, and changes in, a society. Education should adequately respond to the needs of students in diverse social, economic and cultural settings.

¹⁴ For Concluding Observations see the OHCHR website and Bayefsky website.

¹⁵ See the OHCHR website: Universal Periodic Review.

human rights (thematic mandate). For example, the UN Special Rapporteur on the right to health developed indicators for monitoring child mortality from a human rights perspective. The work of Special Rapporteurs is based on regular country missions, which they extensively report on. These reports are an insightful source for human rights advocacy and can serve as a reference, for instance, in policy dialogue.¹⁶

- ▶ Statistical information: The Office of the UN High Commissioner for Human Rights (OHCHR) has developed human rights indicators, measuring the status of implementation of selected human rights at structural, process and outcome level.¹⁷ In the long run, states will be required to report on a number of these indicators as part of the reporting procedure of the UN treaty bodies.

- ▶ Jurisprudence: In response to individual complaints and law suits, the treaty bodies, regional human rights courts, and national courts have produced a substantial body of human rights jurisprudence.¹⁸
- ▶ In addition, various UN bodies and agencies have produced guidelines, toolkits, and fact sheets that provide further guidance on the realisation of human rights.¹⁹

Using human rights in different country contexts

Adopting an HRBA means that the human rights framework becomes part of our expertise and guides us in our development interventions. However, the extent to which an explicit reference to human rights yields positive results in policy dialogue and in policy advice will vary from country to country.

Experience 4

International human rights mechanisms and the Ugandan health sector

The UN Special Rapporteur on the Right to Health undertook a number of country missions to Uganda to review the Ministry of Health's sector strategy from a human rights perspective. He also reviewed the support of the Swedish International Development Agency (SIDA) to the Ugandan health sector to ascertain whether the programme effectively enhances the right to health. As a result, a standing committee on health and human rights has been set up within the Ministry of Health – with representatives from the Ugandan Human Rights Commission, WHO, civil society and OHCHR. The Ugandan Human Rights Commission has also established a Right to Health Unit (funded by donors through a basket fund) and begun a policy dialogue with the Ministry of Health. One of the outcomes/results of the work of the committee has been the proposed use of the SIDA and WHO Diagnostic Tool for Considering Human Rights and Gender Dimensions in Health Sector Plans and Policies in the annual review of the health sector strategy.

Source: Sebastian Bartsch, Case Study Materials for Strengthening the Development Results and Impacts of the Paris Declaration through Work on Gender Equality, Social Exclusion and Human Rights, OECD, Paris 2008.

¹⁶ See the OHCHR website: Special Procedures of the Human Rights Council.

¹⁷ OHCHR (2012), Human Rights Indicators: A Guide to Measurement and Implementation.

¹⁸ For a compilation of international, regional and national jurisprudence on economic, social and cultural rights, consult the ESCR-Net Caselaw Database; for jurisprudence by UN treaty bodies see the OHCHR website and Bayefsky website.

¹⁹ For example: FAO (2005), Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security; UNAIDS (2006), International Guidelines on HIV/AIDS and Human Rights.

In Kenya, German advisors explicitly referred to the human right to water in policy advice to the Kenyan Ministry of Water and Irrigation. Advisors were able to demonstrate that the existing water reform programme in Kenya already corresponded in a number of areas to key human rights requirements. This promoted greater confidence on the part of Ministry officials, and increased their openness to identifying shortcomings in the programme from a human rights perspective. The bottlenecks identified – such as neglecting water supply in informal settlements – were in line with the pro-poor approach adopted and were generally perceived as reinforcing Kenya’s overall policy goals. The Ministry also appreciated the human rights framework as a successful instrument for improving policy coherence and donor harmonisation (see Experience 2 above).

In other contexts it may be more difficult to talk about human rights in general, or about specific human rights. This often holds true for countries with authoritarian regimes, and those facing problems of entrenched discrimination. But even then, standards and principles enshrined in international human rights treaties can be used implicitly. For example, they may determine how programme objectives are set and indicators defined, serving as a template for the design of processes, and their content can guide policy advice and capacity development. This was the approach chosen in Cambodia, where German development cooperation in the health sector supported the development of a patients’ rights charter in consultation with a broad range of stakeholders, including local human rights organisations. Although human rights were not explicitly mentioned in the Charter, its content

Experience 5

Targeting human rights of prisoners in Bangladesh

Development programmes that are specifically aimed at improving human rights do not necessarily need to talk about human rights if this proves to be politically too sensitive. The Bangladeshi-German project ‘Improvement of the Real Situation of Overcrowding in Prisons in Bangladesh’ (IRSOP) aims at reducing prison overcrowding and improving legal protection for poor and vulnerable prisoners.

As an entry point issues of overcrowding were addressed by discussing challenges to public health and security. Bringing together ministries, courts, prison authorities and CSOs the project identified practical low-cost interventions that can quickly and permanently reduce the prison population. These included a survey of all inmates and their cases, paralegal aid services for detainees and training for prison staff. By May 2014, over 3600 prisoners had been discharged as a result of the interventions. In order to reduce unnecessary influx of new detainees, the authorities in Bangladesh then tackled a more system-wide reform of the criminal justice system, including the drafting of a modern Prison Act. Bangladesh has become a beacon of prison reform in South Asia. Today talking about human rights of prisoners has become a matter of course and an issue of pride.



Paralegals enter a prison
© GIZ/IRSOP

Source: GIZ Project ‘Improvement of the Real Situation of Overcrowding in Prisons in Bangladesh’ (IRSOP), 2014

reflected the core elements of the human right to the highest attainable standard of health.

Setting development priorities

It is rightly held that while human rights provide helpful guidance for setting priorities within a sector (e.g. which investments and which groups of people will be considered first in water and sanitation supply), the indivisibility of human rights makes it difficult to prioritise between sectors.

Indeed, there is no simple rule for addressing this issue. The indivisibility and interdependence of human rights prohibit any prioritisation of one right at the expense of another. However, human rights law encourages governments of both partner and donor countries to set priorities if limited resources do not allow implementation of all human rights at once. The decision about which sector – e.g. health or education – is to be granted priority, is a political one, and should be taken on the basis of inclusive, democratic decision-making.

However, human rights law places clear boundaries on political discretion: prioritisation must not permit infringements of the core obligations of any right. For example, a state must give priority to ensuring that people affected by under-nourishment do not starve. The progressive realisation of the right to food – e.g. by agrarian reform and related measures – requires measures which also take into account the realisation of other human rights, such as the right to water. In all these considerations, states have the obligation to invest available resources in such a way that they contribute to the realisation of human rights of marginalised groups and those in precarious situations.

5.4 Promoting human rights principles

The HRBA recognises that the achievement of desired human rights outcomes (such as access to safe water for all) is not, in itself, enough. The way these outcomes are achieved is equally important. The HRBA therefore emphasises that development cooperation works on the basis of the following human rights principles:

- ▶ Non-discrimination and equality of opportunities,
- ▶ Participation and empowerment,
- ▶ Transparency and accountability.

These principles, which are also essential elements of good governance, are enshrined in international human rights law. The HRBA makes these principles non-negotiable, enhances their legitimacy and applies them more consistently. Moreover, the HRBA stresses the interrelatedness of these principles.

Non-discrimination and equality of opportunities

Non-discrimination is a human right in itself and part of every human rights treaty.

The human right to non-discrimination obliges states to respect, protect and fulfil the rights of all, regardless of their origin, age, sex, mental or physical health, ethnic or religious affiliation, or any other such status.

Discrimination can be direct, for example taking the form of apartheid laws or regulations barring women from judicial or presidential office. It can also be indirect, creating inequalities if, for example, school education is provided in a language linguistic minorities do not understand. Discrimination becomes systemic when it is evident in individual behaviour patterns, social rules and institutional procedures and policies and legislation. Such systemic discrimination often affects vulnerable groups, and can lead to social exclusion of entire sections of the population, such as women or indigenous communities. A particular challenge is posed by multidimensional discrimination, where persons or groups are discriminated against based on a number of grounds, e.g. sex plus ethnicity.

Human rights treaties oblige states to immediately stop unlawful discrimination in national laws, policies and practices. Government and development cooperation resources must be used in ways that reduce discrimination and improve equal access for all to essential public services and resources such as health care, justice, land or sanitation. This may require time-bound measures that specifically

favour a (previously) discriminated group of people, for example through quotas or subsidies.

Monitoring and overcoming patterns of exclusion and discrimination requires appropriate data disaggregated by sex and any other relevant social criteria such as age or ethnic origin. Providing support to improve the availability and quality of statistics is an important dimension of the HRBA to development cooperation.

A key objective of the HRBA is to address the root causes of discrimination. As discrimination is often based on deep-seated, institutionalised social and cultural assumptions, for example in relation to gender, ethnicity or people living with disabilities, successful strategies must counteract these stereotypes. Initiatives include support for awareness raising campaigns in schools or the media, and efforts to encourage well respected politicians and community leaders to speak out against discrimination and stigmatisation. This may also require initiatives to protect groups at risk, such as women, girls or

Box 5: Non-discrimination in international human rights law

The provision on non-discrimination is embedded in all human rights treaties, for example in ICCPR Arts 2, 3, and 26 and ICESCR Art. 2. Three human rights treaties specifically deal with non-discrimination: ICERD, CEDAW and CRPD. The latter obliges international development cooperation explicitly to be ‘inclusive of and accessible to persons with disabilities’ (Art. 32).

Source: Promising practice on the human rights-based approach in German development cooperation. Health: Patients' rights charter in Cambodia (GIZ, 2014)

people with different sexual orientations, who are often victims of gender-based violence.

Experience 6

A charter for patients' rights in Cambodia

The Cambodian-German health programme aims at making public health care more effective and accessible for the population. An intensive dialogue with the Cambodian Ministry of Health, doctors' and patients' associations, and human rights organisations resulted in a jointly developed Charter on Patients' Rights and Health Care Providers' Duties. The Charter details patients' rights including, for example, equal access, the right to information, confidentiality and the protection of privacy. At the same time, the Charter aims to contribute to improving the work ethic of health care providers. The Charter has had a tangible impact. Since the Charter was published, health care personnel treat poor patients professionally and with more respect. With service quality significantly improved, patients are regaining confidence and frequent public clinics. The Charter has also proved beneficial for the health care facilities, since they profit from increased revenues and are able to pay a proportion of these as bonuses to staff.



Informing patients about their rights
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Source: GIZ Social Health Programme Cambodia, 2010

Participation and empowerment

The principle of participation has been applied in development cooperation for a long time. The HRBA, however, transforms participation from an option into a right, and connects it to accountability and non-discrimination.

Supporting participation as a key element of an HRBA to development entails a shift in focus. In the past, participation was mainly understood as consultation and engagement of relevant stakeholders in programme planning, implementation, monitoring and evaluation. While this remains important, the focus now is on strengthening and deepening civic and political participation. The HRBA supports structures, institutions, policies and legal frameworks that sustainably widen spaces for broad and meaningful participation and democratic engagement in the partner country. Successful development cooperation enables relevant groups, including the most marginalised, to participate in decision-making processes at local, regional and national level in a meaningful way.

In order to achieve this, development programmes will have to reach out and work with a diverse set of local partner organisations, including advocacy CSOs, community-based organisations, national or local parliaments, trade unions, national human rights institutions, ombudspersons, and the media. The HRBA encourages the development of the skills of individuals and groups (capacity-building) so that they can contribute to the development process and claim further improvements in the fulfilment of their rights. It also requires capacity development in government institutions, including sector ministries, and national and decentralised political structures.

For example, in the Guatemalan-German education programme, a human rights-inspired reflection on the programme led to measures involving children and youths in certain aspects of the school administration. This enabled students to voice their own views on their needs, rather than relying entirely on their parents to represent their interests.

Box 6: Participation in international human rights law

Participation in public affairs is guaranteed by ICCPR Art. 25 as well as by various other instruments, such as CRC Art. 12. Apart from guaranteeing the right to elect representatives, human rights law establishes a broad notion of political, social and cultural participation – enshrined in the right to assemble, to access and share information, and to bargain collectively (ICCPR Arts 21, 19 (2); ICE-SCR Art. 8 and ILO Conventions 87 and 98).

Transparency and accountability

Transparency implies that political and administrative procedures follow clear and publicly known rules, that decisions by state bodies are comprehensible, and that information on issues of public concern is publicly available (from tariffs for public services to parliamentary debates, etc.). Transparency is closely linked to the right to seek, receive and impart information. An essential element is the obligation of the state to inform citizens and residents about their rights and entitlements.

Accountability is the process that requires a government to show, explain and justify how it has discharged its duties. Where rights are infringed, right-holders are entitled to effective remedies. Without accessible procedures for complaint and redress, human rights (or other rights under national law) are not enforceable. Yet, accountability is not just retrospective but is also concerned with improving current and future government performance.

An effective accountability process is inclusive and participatory, and consists of three elements: monitoring, accountability mechanisms and remedies.

A crucial element of accountability is the availability of effective and participatory monitoring and evaluation systems, which allow for systematic monitoring of progress made towards poverty

Experience 7

Promoting political participation of women in Mauritania

The German-Mauritanian Good Governance Programme supported women who ran as candidates for the national parliament, the municipal councils and mayorships. In July 2006, the interim government of Mauritania had amended the election law requiring all candidate lists to include a minimum quota of 20% women. GIZ supported broad sensitisation, information and training campaigns in two regions involving the public administration, political parties, imams, traditional leaders, civil society and the media. Women candidates were trained in workshops preparing them for office. As a result, social acceptance of women in politics increased: more women than the required 20% of the candidate lists ran for office and an even higher share got elected. The trust in women in leadership positions was facilitated by the high rate of internal migration among men. Voters felt women were better connected to the region.

Overall, the country-wide rate of women representatives in municipal councils rose to 30% up from only 3% in 2001. Also, women's representation in the national parliament increased to 17% (up from 4%). One immediate consequence: social issues such as health were being given higher priority in parliament.

Source: Hildegard Schörry-Klinger, GIZ Mauritania Good Governance Programme/Gender Component

reduction and the fulfilment of human rights. The HRBA supports the trend in development cooperation to develop the capacities and systems in our partner countries for results-based monitoring and evaluation instead of just having programme-based monitoring and evaluation systems.

Accountability mechanisms provide forums for explanation and justification. These are not confined to formal settings such as courts, national human rights institutions or parliamentary enquiries, but also include informal settings such as public hearings, complaints desks or citizens health watch committees. The media also have a crucial role to play.

Five types of accountability mechanisms can be identified:

- ▶ Judicial, e.g. judicial review of executive acts and omissions, constitutional redress, public interest litigation;

- ▶ Quasi-judicial, e.g. national human rights institutions, regional and international human rights treaty bodies;

Box 7: Transparency and accountability in international human rights law

Transparency is a cross-cutting principle in all human rights treaties. In addition, various General Comments, e.g. the ones on health and water, specifically spell out the right to seek, receive and impart information. Accountability in human rights law translates into the right to an effective remedy in national courts where a human right has been violated (ICCPR Art. 2). Should national remedies be insufficient or exhausted, a number of human rights treaties give individuals the possibility to lodge individual complaints with the UN treaty bodies.

- ▶ Administrative, e.g. opposition proceedings, complaints desks for public services, ombudspersons;
- ▶ Political, e.g. parliamentary committees, elected health or education councils; and
- ▶ Social, e.g. the involvement of civil society in policy or budget monitoring, public hearings, social audits.

Remedies for violations can take a number of different forms including adequate compensation or an informal settlement that satisfies the person or

group whose rights have been infringed. Where economic, social and cultural human rights are concerned, violations are often the result of systemic problems rather than individual action. In these cases, effective remedy requires changes in legislation, policy and budget allocations that address the root causes of the problem.

The HRBA entails making monitoring and accountability mechanisms (more) accessible, particularly for disadvantaged individuals and population groups, tailoring them to their needs, and, where applicable, enhancing their participation in these processes.

Experience 8

National human rights institutions as strategic partners

National human rights institutions because of their special mandate and institutional independence can be valuable counterparts for different development interventions. The Kenyan-German Health programme involved the Kenya National Commission on Human Rights in the monitoring of the right to health. It has now become an important national player in the health sector that monitors that the outcomes of the Kenyan health policies are inclusive, transparent and accountable, and has been a valuable interlocutor in issues of pro-poor financing for health.

The regional resource governance project in West Africa identified the Sierra Leone Human Rights Commission as a strategic partner and together with other development partners empowered it to play an active role in monitoring and promoting human rights in the conflict ridden extractive sector. Supported by the Danish Human Rights Institute it developed 'Guidelines for Monitoring Business and Human Rights in Sierra Leone'.

The Peruvian Office of the Ombudsman was the main counterpart of the project 'Promoting the Implementation of the Right to Prior Consultation of Indigenous Peoples'. Because of its special constitutional mandate to protect and promote rights and supervise the government and with its network of offices in all provinces, the Ombudsman Office was pivotal to get the implementation of the right to prior consultation of indigenous peoples going in Peru.



The first consultation act of indigenous peoples in Peru
© GIZ / Karina Vargas

Sources: GIZ, projects 'Support of the Health Sector' Kenya, 'Regional resource governance in the extractive sector in the fragile states of West Africa' Sierra Leone and 'Promoting the Implementation of the Right to Prior Consultations of Indigenous Peoples', Peru, 2014

6 Summary: Implications of the HRBA for German development cooperation

6.1 The HRBA applies to all levels of development cooperation

As set out in BMZ's strategy on Human Rights in German Development Policy (2011), an HRBA has implications for all levels of development cooperation and requires consideration of human rights at policy and operational levels:

- ▶ At the international and regional level, an HRBA implies enhanced support for the development of mechanisms promoting and protecting human rights. In addition, it entails giving greater consideration to human rights issues in multilateral institutions and in other areas of international policy.
- ▶ In the policy dialogue between partner countries and donors, and in decision-making on aid modalities, the HRBA implies taking human rights into account more systematically and explicitly raising human rights issues in government consultations and negotiations. In general, recommendations by the UN treaty bodies, the UPR mechanism, the UN Special Rapporteurs, and those of the respective regional human rights protection system should be used to this effect.
- ▶ In the area of policy formulation, the HRBA requires policies as formulated in sector concepts and country strategies to be aligned with human rights standards and principles enshrined in international human rights treaties. The HRBA becomes increasingly relevant for donor harmonisation, including in Joint Assistance Strategies, SWAPs and pooled funds.²⁰
- ▶ The HRBA requires an extension of development resources for specific projects or programmes promoting human rights. These may include assistance to national or regional human rights institutions, local human rights CSOs or national complaint mechanisms, support for ministries and civil society groups to monitor human rights and engage in human rights education.
- ▶ At the operational level, development cooperation implementing agencies need to adjust their programmes and methods to ensure that they contribute to the realisation of human rights. This implies addressing human rights in policy advice and capacity development with partner institutions, working with a broader array of partner institutions, using human rights and reference documents as guidance for setting priorities and defining strategies, and systematically aligning development processes towards human rights principles, specifically towards greater inclusiveness and transparency.
- ▶ At the operational level of development agencies, an HRBA reinforces commitments to ensure gender equality and diversity among staff and leadership, and supports initiatives for internal ethics and accountability.

²⁰ The Accra Agenda for Action (AAA) of 2008 contains a far reaching political statement: 'Developing countries and donors will ensure that their respective development policies and programmes are designed and implemented in ways that are consistent with agreed international commitments on gender equality, human rights, disability and environmental sustainability' (para. 13 c). The AAA is reinforced by the outcome document of the Busan Partnership Agreement for Effective Development Co-operation (2011).

6.2 Human rights are relevant to all sectors and areas of action

Many development practitioners still associate human rights merely with civil and political rights and with the good governance agenda. But human rights equally encompass social, economic and cultural human rights. Thus, an HRBA is relevant to all sectors of development cooperation, be it education, water and sanitation, private sector development, energy, environment, governance and democracy, health and social security, food security and agriculture, transport or conflict transformation.²¹ Its key concerns are:

- ▶ Active inclusion and empowerment of the most marginalised groups in society with a view to shifting power relations.
- ▶ Sustainable access for all to basic services and resources – such as water, shelter, education, health and the justice system.
- ▶ Focus on the quality of processes and good governance in all sectors, referring to human rights principles.

Usually an HRBA does not call for a major shift in objectives, but enriches and strengthens existing approaches by its systematic emphasis on addressing the underlying causes of poverty and violent

conflict. This can help in making programmes more coherent, and detect unused potential for outcomes to have greater impact and become more sustainable. It can also inject new energy into political processes.

6.3 Human rights need to be considered in the entire programme cycle

An HRBA implies the consideration of human rights norms and principles in each step of the programme cycle - analysis, planning, budgeting, implementation, monitoring and evaluation. This includes selecting staff and consultants with appropriate human rights expertise, working with strategic partners such as national human rights institutions or parliaments, and including a human rights perspective in policy advice and capacity development for partner institutions. Working with an HRBA is challenging and at times time-consuming – as is working with participatory approaches and hard-to-reach target groups in general. Yet, the effort is worthwhile: evidence to date has demonstrated that an HRBA considerably improves the quality, impact and sustainability of development interventions. HRBA is an on-going learning process. While there is considerable experience in some sectors, the HRBA is still novel in others. A growing community of practitioners is steadily accumulating experiences and sharing good practice.²²

²¹ See for example BMZ (2010), Human rights in practice: Fact sheets on a human rights-based approach in development cooperation, with links to sector-specific resources.

²² See World Bank/OECD (2013), Integrating Human Rights into Development: Donor Approaches, Experiences, and Challenges, Washington.

7 Resources

7.1 BMZ, GIZ and German Institute for Human Rights (DIMR) websites and publications

Websites

BMZ, [What we do: Human Rights](#).

German Institute for Human Rights (DIMR), [information portal on Human Rights and Development Cooperation](#).

GIZ, [Expertise: Human Rights](#).

Publications

BMZ (2013), [Guidelines on Incorporating Human Rights Standards and Principles, Including Gender, in Programme Proposals for Bilateral German Technical and Financial Cooperation](#) (PDF, 621 KB), Bonn/Berlin. (also available in [German](#), [French](#) and [Spanish](#)).

BMZ (2011), [Human rights in German Development Policy: Strategy](#) (PDF, 506 KB), BMZ Strategy Paper No. 4, Bonn/Berlin. (also available in [German](#), [French](#) and [Spanish](#)).

BMZ (2011), [Young people in German development policy – a contribution to the implementation of the rights of children and youth](#) (PDF, 453 KB), BMZ Strategy Paper No 12, Bonn/Berlin (also available in [German](#)).

BMZ (2010), [Human Rights in Practice - Fact sheets on a human rights-based approach in development cooperation](#) (PDF, 1.54 MB), Bonn (also available in [German](#), [French](#) and [Spanish](#)).

GIZ (2013), [Human Rights in German Development Cooperation: Examples from the Field](#) (PDF, 3.87 MB) (also available in [German](#)).

GIZ/DIMR (2014), [The ABC of Human Rights for Development Cooperation](#) (PDF, 440 KB) (also available in [German](#), [French](#) and [Spanish](#)).

GIZ/DIMR (2013), [Annex to the ABC of Human Rights for Development Cooperation: European Human Rights System](#) (PDF, 245 KB).

GIZ/DIMR (2012), [Annex to the ABC of Human Rights for Development Cooperation: The African Human Rights System](#) (PDF, 430 KB).

GIZ/DIMR (2014), [Annex to the ABC of Human Rights for Development Cooperation: The Inter-American Human Rights System](#) (PDF, 28 KB), Eschborn/Berlin (also available in [Spanish](#)).

GIZ/DIMR (2014), [National Human Rights Institutions](#) (PDF, 297 KB) (also available in [German](#)).

GIZ/DIMR (2014), Promising Practices on the human rights-based approach in German development cooperation. [Economic development: Improving labour rights in the garment industry in Bangladesh](#) (PDF, 254 KB)

GIZ/DIMR (2014), Promising practice on the human rights-based approach in German development cooperation. [Adequate housing: Urban development planning in Brazil & participation, habitability and accessibility](#) (PDF, 256 KB)

GIZ/DIMR (2014), Promising practice on the human rights-based approach in German development cooperation. [Health: Patients' rights charter in Cambodia](#) (PDF, 297 KB)

GIZ/DIMR (2014), Promising practice on the human rights-based approach in German development cooperation. [Local governance: Accountable public services in Indonesia](#) (PDF, 290 KB)

GIZ/DIMR (2014), Promising practice on the human rights-based approach in German development cooperation. [Education: Setting participation in motion for education in Peru](#) (PDF, 177 KB)

GIZ/DIMR (2014), Promising practice on the human rights-based approach in German development cooperation. [Islam, HIV and AIDS and human rights in Tanzania](#) (PDF, 255 KB)

GIZ/DIMR (2013), Promising Practices on the human rights-based approach in German development cooperation – [Health: Ensuring inclusion and access to quality health care in Kenya](#) (PDF, 212 KB), Eschborn/Berlin.

GIZ/DIMR (2013), Promising Practices on the human rights-based approach in German development cooperation – [Water and sanitation: Ensuring access for the urban poor in Kenya](#) (PDF, 233 KB), Eschborn/Berlin.

GIZ/DIMR (2013), Promising Practices on the human rights-based approach in German development cooperation – [Justice Reform: Improving the Situation of Overcrowding in Prisons in Bangladesh](#) (PDF, 543 KB), Eschborn/Berlin.

GIZ/DIMR (2012), Promising Practices on the human rights-based approach in German development cooperation – [Education: PACE – A rights-based vision among education officials in Guatemala](#) (PDF, 2.99 MB), Eschborn/Berlin.

GIZ/DIMR (2013), [Indigenous Peoples and Human Rights](#) (PDF, 1.05 MB).

GIZ/DIMR (2013), [Sexual orientation and gender identity as human rights issues in development cooperation](#) (PDF, 912 KB), Eschborn/Berlin.

GIZ/DIMR (2012), [Frequently Asked Questions on the Human Rights-based Approach in Development Cooperation](#) (PDF, 503 KB), Eschborn (also available in [German](#)).

GIZ/ DIMR/ ZfD (2011), [Connecting Human Rights and Conflict Transformation: Guidance for Development Practitioners](#) (PDF 1.62 MB), Eschborn.

7.2 Complementary resources

Websites

Bayefsky, [Database for all UN human rights treaties and related documents](#).

International Labour Organization (ILO) website, [Conventions and Recommendations](#) with the eight fundamental labour conventions.

International Network for Economic, Social and Cultural Rights (ESCR-Net) [Caselaw Database](#).

[OHCHR](#) website,

- ▶ Link '[Core International Human Rights Standards and their monitoring bodies](#)': texts of the nine core human rights conventions and their additional protocols and link to the respective UN treaty bodies;
- ▶ Link '[Countries/Human Rights in the World](#)': state reports, concluding observations, special procedures and other country-related human rights information for each country;
- ▶ Link '[List of Human Rights Issues](#)': legal documents, tools, reports of Special Rapporteurs and other issue-specific human rights information;

- ▶ Link '[Universal Periodic Review](#)': search engine for the UPR mechanism by country with documents and reports.

UNICEF, [Human Rights-Based Approach to Programming](#).

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