

Towards the Implementation of the Right to Development

Field-testing and fine-tuning the UN Criteria on the Right to Development in the Kenyan-German Partnership

Felix Kirchmeier, Monika Lüke, Britt Kalla



Towards the Implementation of the Right to Development

Field-testing and fine-tuning the
UN Criteria on the Right to Development
in the Kenyan-German Partnership

Felix Kirchmeier, Monika Lüke, Britt Kalla

Impressum

ISBN 978-3-89892-853-3

Publisher:

Friedrich-Ebert-Stiftung
Geneva Office
6bis, chemin du Point-du-Jour
1202 GENEVA
Switzerland
Deutsche Gesellschaft für
Technische Zusammenarbeit
(GTZ) GmbH
Postfach 5180, 65726 Eschborn

Cover Photos:

dpa Pictue Alliance, GeoAtlas

Layout:

Pellens Kommunikationsdesign

Printing:

bub Bonner
Universitäts-Buchdruckerei

FRIEDRICH
EBERT
STIFTUNG

gtz



Bundesministerium für
wirtschaftliche Zusammenarbeit
und Entwicklung

Table of Contents

1. Preface	7
2. Executive Summary	9
3. Introduction	10
The Incorporation of Human Rights into Development Cooperation	10
The Human Rights-Based Approach versus the Right to Development	11
The Right to Development: History and Present	11
The RtD Criteria and Indicators: Present and Future	12
Human Rights Orientation of German Development Cooperation	13
Kenya's Commitment to Human Rights	13
Overview of the Study Project	13
4. Theoretical Frame: A Matrix for the Application of the RtD Criteria and Indicators	15
Description of the Matrix and its Application	16
Challenges vis-à-vis the Utilization of the Criteria and Indicators	16
1) <i>How to Measure Compliance with the Criteria?</i>	16
2) <i>How to Accurately Analyze the Indicators' Answers?</i>	18
3) <i>How to Assess Steps as Successful or Failed?</i>	18
5. Implementation and Application of the Criteria	19
The Institutional Frame of the Partnership	19
1) <i>National Constitutions and Legal Systems</i>	19
2) <i>Government Negotiations and Partnership Agreements</i>	21
3) <i>Implementation of Programs and Projects</i>	21
Application of the Criteria and Indicators	25
1) <i>Problematic Criteria</i>	25
2) <i>Problematic Indicators</i>	25
6. Evaluation	27
<i>Discrimination</i>	27
<i>Standardized Outcome Indicators</i>	28
<i>Human Rights Mechanisms</i>	28
7. Conclusions and Recommendations	29
Recommendations to Bilateral Development Partnerships	29
Recommendations to the HLTF and the WG on the RtD	30
1) <i>Exclude Broad Criteria</i>	30
2) <i>Develop New Criteria</i>	30
3) <i>Develop New Indicators</i>	30
4) <i>Restructure the List of Suggested Indicators</i>	31
5) <i>Develop Effective Measurement Mechanisms</i>	31
Literature	33
Annex I: Matrix for the Application of the Right to Development Criteria and Indicators to the Kenyan-German Partnership	34
Annex II: Suggested List of Criteria for the Periodic Evaluation of Global Development Partnerships from a Right-to-Development Perspective (new)	43
Annex III: List of Suggested Indicators to be Applied to the Criteria ("implementation checklist") (new)	44
On the Authors	46

Abbreviations and Acronyms

ACP	African, the Caribbean and the Pacific Countries
APRM	African Peer Review Mechanism
BMZ	Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung (German Federal Ministry for Economic Cooperation and Development)
CEPAL	Economic Commission for Latin America and the Caribbean
CSOs	Civil Society Organizations
DED	Deutscher Entwicklungsdienst (German Development Service)
DFID	Department for International Development (UK)
ECA/OECD-DAC	Economic Commission for Africa / Organisation for Economic Co-Operation and Development – Development Assistance Committee
EU	European Union
FES	Friedrich-Ebert-Stiftung
FGM	Female Genital Mutilation
GDC	German development cooperation
GG	Grundgesetz
GTZ	Gesellschaft für Technische Zusammenarbeit (implementing agency for German development cooperation)
HAC	The Harmonization, Alignment, and Coordination Donor Group
HLTF	High-Level Task Force
HRBA	Human Rights-Based Approach
KACC	Kenya Anti-Corruption Commission
KfW	Kreditanstalt für Wiederaufbau
KJAS	Kenya Joint Assistance Strategy
KNCHR	Kenya National Commission on Human Rights
MDGs	Millennium Development Goals
NGOs	Non-governmental Organizations
OHCHR	Office of the High Commissioner for Human Rights
PRSP	Poverty Reduction Strategy Paper
RtD	Right to Development
SWAP	Sector-Wide Approach
SWEC	Strategy for Wealth and Employment Creation
UN	United Nations
WG	Working Group

1. Preface

The Declaration on the “Right to Development” (RtD, resolution no. 41/128) was adopted by the United Nations’ General Assembly on December 4, 1986. The unique approach of the RtD lies in the fact that it links in a comprehensive way human rights aspects to the issue of development. More specifically, it places the individual (Art. 2/2) and his rights in the centre of the developmental process, stressing that it is the human being that should be both the subject and beneficiary of development. Though many might think this to be obvious, we believe that this is the key to understanding the Declaration’s conceptual meaning: the individual is being entitled to rights, and the nation state is the main addressee for creating an environment that enables development – and this, as we live in a globalized world, in cooperation with other states.

However, the environment in which development can or cannot occur is shaped by a multitude of different and complex factors of economic, cultural, political and historical nature – both, on the internal (national) and external (international) levels. The interdependency among all these factors makes it difficult to identify the reasons why a given country is not developing economically and socially while others do. Several problems and questions arise from this: how can the Right to Development help change this situation? Which mechanism can be used to operationalize the RtD in practice? Which indicators could be used to measure implementation of the RtD?

When we look into the external factors, it is namely the imbalances between rich and poor countries that we face; exploitative relations in the past have been widely held responsible for the lack of development. Here again, which mechanism should or could the Declaration on the Right to

Development provide to address these imbalances and injustices on the international level?

On the internal (national) level, the RtD is challenged by existing deficits in terms of governance, comprising a lack of accountability and participation mechanisms, as well as an often missing focus of governmental policies and services on the most marginalised groups of society.

The text of the Declaration is widely accepted among states. It is the lack of concrete mechanisms for implementation as well as the lack of criteria and indicators for measuring the degree of fulfillment that have so far prevented the RtD to obtain binding legal force.

What is needed is the political will of the nation states to commit to implementing the RtD in practice. Examples of how the RtD could be useful in practice could help bringing out its added value for the promotion of human rights and therefore alleviate the impasse between rich and poor countries. The Human Rights Council’s Working Group on the RtD and the High-level Task Force on the RtD have undertaken substantial initial steps into this direction by translating the Declaration on the RtD into practical instruments and mechanisms.

This joint publication of the Friedrich-Ebert-Stiftung (FES) and the Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) is meant to support these endeavors by looking more in depth into bilateral development cooperation as one important contribution to realize the RtD. The authors use the criteria and indicators that have been developed by the High-Level Task Force to measure and evaluate development partnerships as to their conformity with the requirements of the RtD and apply them to specific projects of the development cooperation between Germany and Kenya.

It is the first of its kind and you may find substantial as well as technical insufficiencies – we are well aware of this and ask for your kind understanding with regard to the shortcomings of a project in the state of infancy. We would very much like to invite you to comment on them and work with us to formulate and test more accurate and applicable instruments.

Türkan Karakurt

Director

Geneva Office

Friedrich-Ebert-Stiftung

We would like to thank the Bundesministerium für Wirtschaftliche Zusammenarbeit und Entwicklung (German Ministry for Economic Cooperation and Development) for its kind permission to use data related to the German-Kenyan development cooperation. We would also very much like to thank the three authors that have meticulously worked on translating highly theoretical and philosophic language into technically measurable formula.

Jörg Haas

Planung und Entwicklung

Abteilungsleiter, Abt. 42 Staat und Demokratie

Deutsche Gesellschaft für Technische

Zusammenarbeit (GTZ) GMBH

2. Executive Summary

Development cooperation has changed and improved during the last decades. By now, concepts like ownership, policy space and sustainability dominate thinking and planning of and within development cooperation. All these aspects are embedded in the overall goal of working towards good governance and democratic structures in partner countries, to be achieved in partnership.

This paper conceptualizes and applies a new policy approach for development partnerships: the implementation of the Right to Development.

Emerging from the development debate in the 1960s, this human right has become universally accepted in theory, but lacks examples of practical application. Only recently, the UN Working Group on the Right to Development has started to focus on the implementation of the Right to Development to certain global partnerships as a piloting exercise. For this purpose, a list of “criteria for periodic evaluation of global development partnerships from a right-to-development perspective” has been developed and amended with a suggested initial “implementation checklist” of indicators. The authors of this paper take up this approach and transfer its application to a bilateral partnership.

The Kenyan-German development partnership has been chosen for a piloting of the criteria for practical reasons: Kenya has shown commitment to align its development policies to human rights and German Development Cooperation is pursuing a human rights-based approach in the partnership with this country. This means that a general orientation towards human rights is discernible and materials for the evaluation were available.

The aim of this project is twofold: first, to show that the Right to development is applicable to a specific project and can help to evaluate its performance. The second objective is, to make suggestions regarding the further development and refinement of the criteria and indicators developed by the UN Working Group.

The authors have developed a matrix which breaks down the lists, matches criteria and corresponding indicators and tries to answer the indicator questions on the ground of materials available from Kenyan-German development cooperation as a typical bilateral partnership. On this basis, the authors show how an evaluation of the Kenyan-German partnership could be undertaken and which sectors of the partnership need further attention from the perspective of fulfilling the Right to Development.

The application of the criteria and indicators to Kenyan-German development cooperation as a test case also leads to suggestions concerning a possible refinement and reframing of the criteria and indicators; some of which are seen workable and others not. Thus, some new criteria indicators are being proposed and difficulties in applying and evaluating others are discussed.

The study makes proposals and recommendations to bilateral development partnerships and to the future work of the UN Working Group. Most prominently, it suggests dropping some criteria and formulates new ones instead, taking in account the developments in the political debate since the adoption of the declaration in 1986. It is hoped that this input can help to move the debate further which will lead to the full implementation of the Right to Development making it a reality for all.

3. Introduction

Development cooperation has changed and improved during the last decades. Many approaches before had proven unsuccessful, some projects even counterproductive. One major flaw in the overall conception and implementation of development cooperation was the external approach of donors, neglecting the real needs of the population concerned. To counter these problems, policies have been changed many times, yet mostly unilaterally by the donors. Conditionality was obvious in all arrangements, forcing the partner countries to accept and implement policies that were deemed helpful by the donor countries. As the problems created by this approach became apparent, little by little a shift to increasing participation of the partner countries happened, allowing them more space for policy formulation.

Recently the donor community was “rethinking conditionality”¹ in a process of discussion with partner countries and adopted cooperation policies, which strongly promote the partnership aspect. Since then, concepts like ownership, policy space and sustainability dominate thinking and planning of and within development cooperation. All these aspects are embedded in the overall goal of working towards good governance and democratic structures in partner countries, to be achieved in partnership.

The Incorporation of Human Rights into Development Cooperation

An important step in this direction is marked by the human rights-based approach (HRBA) taken up

in various (pilot) projects of bilateral and multilateral development cooperation. The HRBA highlights the synergy between the implementation and promotion of human rights and good development. Human rights standards, such as the prohibition of discrimination, can be utilized as an additional effective tool to realize coherent poverty orientation in development policies. An extensive but general description of this approach was formulated by the UN Office of the High Commissioner for Human Rights (OHCHR) in 2006.² According to the OHCHR, the HRBA is “a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights”.³ More specifically, this approach incorporates the standards and principles of the international human rights system into the plans, policies and processes of development programming. Whereas the standards are those included in the international treaties and declarations, the major guiding principles contained in the HRBA are equality and non-discrimination, participation and inclusion and, finally, accountability and the rule of law.⁴ The overall aim of this incorporation is “to analyze inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress”.⁵ To do so, the HRBA identifies the rights-holders and duty-bearers with respect to their rights and responsibilities. Through tackling the root causes of poverty, it then seeks to strengthen both actors’ capacities.

1 This approach has been laid out for example in a UK policy paper, prepared by DFID: “Partnerships for poverty reduction: rethinking conditionality”, DFID, March 2005: <http://www.dfid.gov.uk/pubs/files/conditionality.pdf>.

2 See “Frequently asked questions on a human rights-based approach to development cooperation”, OHCHR, United Nations, New York and Geneva, 2006.

3 “Frequently asked questions on a human rights-based approach to development cooperation”, OHCHR, United Nations, New York and Geneva, 2006, 15.

4 See “The Human Rights-Based Approach to Development Cooperation: Towards a Common Understanding Among the United Nations Agencies”, Second Inter-agency Workshop, Stamford, USA, May 2003.

5 “Frequently asked questions on a human rights-based approach to development cooperation”, OHCHR, United Nations, New York and Geneva, 2006, 15.

The Human Rights-Based Approach versus the Right to Development

Taking this approach into account but going much further, the Right to Development (RtD) extends in a comprehensive way to all issues of development, identifying development as a human right with all its implications regarding rights-holders *and* duty-bearers. Development cooperation is important, but the RtD does go beyond this: it addresses the (pre-)conditions of development in general on the national *and* international, the individual and the collective level, in the global trade *and* financial systems and in the framework of global governance. These preconditions, as difficult as it may be to determine them in a specific case, refer to an economic, social, ecological and political environment that is organized along the principles of equity, participation, non-discrimination, transparency and accountability.

The Right to Development: History and Present

The notion of development as a human right emanated from the post-colonial debate and the claims of newly independent developing countries as well as a number of scholars. They all called for industrially developed countries to support the development of the former colonies whose underdevelopment, in their view, was due to the exploitative practice of the wealthy North. This idea was initially promoted by Raúl Prebisch in the early 1960s, then director of the Economic Commission for Latin America and the Caribbean (CEPAL). Through the concept of “dependence theory”, he introduced the argument of structural disadvantage of developing countries to the international discussion.⁶ Academically, the RtD was probably first

introduced as a human right in a lecture by Judge Kéba Mbaye of Senegal in 1972.⁷

While many of these claims have not lost their importance,⁸ the focus of the RtD has changed in the opinion of most scholars and politicians today. When entering the realm of the UN Human Rights System, the RtD was defined by a majority of the members of the General Assembly as a human right with national *and* international, individual *and* collective dimensions in the 1986 Declaration on the Right to Development⁹. This view was reinforced by the 1993 World Conference on Human Rights in Vienna where 171 Heads of State anonymously adopted the “Vienna Declaration and Programme of Action.” Even before the acceptance by the UN, the RtD had been included in a regional Human Rights Charter – the (Banjul) African Charter on Human and Peoples’ Rights¹⁰. Adopted in 1981, the RtD for the first time found entry into regional legislation. Since Vienna, the RtD has been referred to in most major UN documents and conferences, latest at the 2000 Millennium Summit and in the 2005 World Summit Outcome.¹¹

In the context of the UN, the work on the RtD is currently mostly advanced through the open-ended intergovernmental Working Group on the Right to Development (hereafter: WG) and its High-level Task Force on the Right to Development (hereafter: HLTF). These two bodies were set up in the UN human rights framework to explore further ways to implement the RtD. The WG is the political body and a subsidiary organ to the UN Human Rights Council; the HLTF serves as an academic expert advisory group. Both meet once a year for roughly one week each, trying to find commonly accepted grounds in the interpretation and implementation of the RtD. Their meetings are separate and the HLTF reports to the WG on the progress made regarding the work that was man-

6 Raúl Prebisch: *Hacia una dinamica del desarrollo latinoamericano*, 1963.

7 Judge Kéba Mbaye; lecture at the International Institute of Human Rights in 1972, published as “Le droit au développement comme un droit de l’homme,” *Revue des droits de l’homme*, Vol. V, No. 2-3, pp. 505-534.

8 Even a former draft of the KJAS 2007 listed the „colonial history of state formation“ and the current trade system „in which richer countries and their firms“ provide income for the elite of developing countries as reasons for the current shortcomings and problems in Kenya’s economic development.

9 General Assembly Resolution 41/128.

10 Adopted in 1981, The (Banjul) African Charter on Human and Peoples’ Rights entered into force on Oct. 21, 1986.

11 For a more comprehensive overview of the development of the RtD see: Kirchmeier, 2006.

dated by the WG. Usually the chair of one group attends the meetings of the other.

Notwithstanding their work and the above mentioned declarations and conferences, the debate around the RtD has been politically polarized as well as polarizing; and despite the numerous references, statements and commitments, the interpretation of the Declaration has remained very controversial. This is partly due to the political spin of the theoretical discussion, which has not yet been linked to real test cases that are backed by actual data. However, taking into account the vague nature of the language used in the Declaration, it is conceivable that this dispute might not be solved through theoretical debates alone. An approach that is more promising and in some ways has already proven workable is the WG's attempt, under the leadership of Ambassador Ibrahim Salama (Egypt), to bring the RtD "from conceptual debates and general principles to its operationalization".¹² With the support of the HLTF, criteria have been established that aim at measuring the state of implementation of the RtD to global development partnerships as defined in Millennium Development Goal (MDG) 8.¹³ Baseline for the criteria and the RtD itself are the five principles of equity, participation, non-discrimination, transparency and accountability¹⁴, which are at the same time core principles of a human rights-based approach to development.

It has to be kept in mind, of course, that the RtD is applicable to far more than just global development partnerships. It has been repeatedly stressed that the RtD has to be respected not only in partnerships but also in regard to the international trade and financial systems and global governance. Due to constraints in resources and time, however, the HLTF considered it necessary to take one step at a time and decided to focus its current work on global partnerships as defined in MDG 8. The HLTF gave priority to the evaluation

of multilateral partnerships such as the ECA/OECD-DAC Mutual Review of Development Effectiveness, the African Peer Review Mechanism (APRM) and the monitoring system of the Paris Declaration on Aid Effectiveness. Those partnerships were chosen because their core principles – accountability, transparency and ownership – are also contained in the RtD concept. Moreover, they provide specific characteristics regarding ownership in a South-South cooperation (APRM) and advanced methodologies in the monitoring of international partnership commitments. Bilateral partnerships were discussed by the HLTF and subsequently by the WG but their consideration deferred to a later stage – or to the initiative of civil society organizations (CSOs).¹⁵ For this reason, following up on a series of workshops and presentations, the Friedrich-Ebert-Stiftung (FES) decided to carry out a study on a bilateral partnership attempting to close this temporary gap in the consideration of partnerships. As a pilot exercise, the Kenyan-German development partnership has been chosen. The authors think that the application of the criteria on the RtD to a bilateral partnership can be helpful for the evolution of the criteria and also serve as an example of their applicability. Applying the criteria within the narrowly defined frame of a bilateral partnership will lead to experiences that can be helpful for their use in more complex global dimensions.

The RtD Criteria and Indicators: Present and Future

In its sessions in 2006 and 2007, the HLTF drew up and subsequently restructured 15 "criteria for the periodic evaluation of global development partnerships from a Right-to-Development perspective"¹⁶ and amended them with an initial "implementation checklist" of 17 indicators (hereafter: indicators).¹⁷ It also started exploring the already

¹² A/HRC/4/47, para. 47.

¹³ <http://www.un.org/millenniumgoals/goals.html>.

¹⁴ See Marks, 2006.

¹⁵ A/HRC/4/47, paras. 19, 35, 36 and 53.

¹⁶ The list of criteria is contained in the report of the WG on its 8th session: A/HRC/4/47.

¹⁷ The implementation checklist is given in the report of the HLTF on its 3rd session: A/HRC/4/WG.2/TF/2.

existing monitoring systems of the abovementioned partnerships with view to possibly extrapolating a monitoring and evaluation system for development partnerships from the perspective of the RtD.

The work plan for the HLTF, agreed upon by the WG, lays out the following steps of a “gradual approach” to be taken over the next three years:¹⁸ During the first year (2007), the HLTF will continue to work on the research taken up on the three partnerships referred to above. It will also consider the Cotonou Partnership Agreement between the African, Caribbean and the Pacific (ACP) countries and the EU with the aim of refining the criteria and indicators on the RtD. In the second year of this cycle (2008), the HLTF will extend the scope of research to additional partnerships, covering a wider geographical and thematic range, taking into account all the issues contained in MDG 8. In the third year (2009), the HLTF plans to sum up its findings and present a consolidated list of criteria and operational indicators.¹⁹ In addition, the HLTF intends to make suggestions for the WG’s subsequent work.²⁰

Human Rights Orientation of German Development Cooperation

Human rights are recognized as independent values and goals in German development cooperation (GDC). At the same time, the promotion of human rights is regarded as a prerequisite for and an effective means to sustainable development, poverty reduction and the achievement of global peace. In July 2004, the German Federal Ministry for Economic Cooperation and Development (BMZ) adopted the Development Policy Action Plan on Human Rights 2004–2007²¹. Thus, official GDC is politically and practically committed to pursuing a human rights-based approach. As such, the human rights action plan as the relevant basis also explicitly

includes the RtD and the commitment to reach progress in this area.

Since the end of 2005, the human rights-based approach in German development cooperation has been piloted in Kenya and Guatemala, with the intention to mainstream a human rights-based approach in the current sectoral programs. The experiences from the pilot countries serve as practical examples to guide GDC with other countries in the future. Priority areas of GDC with Kenya are: private sector development in agriculture, reproductive health and water.

Kenya’s Commitment to Human Rights

Having ratified six of the nine core human rights Conventions and signed a seventh, Kenya expresses its commitment to human rights. Also, while not focusing on human rights, the Kenyan Poverty Reduction Strategy Paper discusses equality and poverty reduction as well as good governance in detail. Chapter 5 will further elaborate on this human rights orientation.

Overview of the Study Project

The intention of this paper is to apply the RtD to a concrete project of bilateral development cooperation, using and field-testing the criteria elaborated by the HLTF and subsequently endorsed by the WG for this purpose. This field-testing will also use the list of indicators which has been proposed by the HLTF and is currently under revision by the WG. As a test-case, the chosen pilot project deals with Kenyan-German development cooperation. It will focus on the practical experiences with a human rights-based approach in Kenya and its relevance for the realization of the RtD along the suggested criteria and indicators.

¹⁸ See three-year work plan of HLTF as laid out in A/HRC/4/47, para. 53.

¹⁹ A/HRC/4/L.11/Add.1. The resolution is unclear in its extent: para. 2(f) of the Resolution on the RtD renews the mandate for two years, while para. 2(b) endorses the road map of three years.

²⁰ It is new for the HLTF to be able to plan that far ahead as up to now the mandate needed to be renewed every year. This extension of the period of the mandate to two years – and the de facto extension because of the three years covered by the work plan – can be seen as a sign of trust into the HLTF and its Chairperson, Professor Stephen Marks, who is using a very practical approach to the issue.

²¹ See <http://www.gtz.de/de/themen/politische-reformen/demokratie-rechtsstaat/14902.htm>; to be followed by a second plan 2008–2010.

The partnership with GTZ²³ has been chosen because the GTZ cross-sectoral project “Realizing human rights in development cooperation” has been supporting the pilot activities in Kenya on mainstreaming a human rights-based approach at the operational level. The FES in Geneva focuses much of their work on the issue of human rights and the RtD, accompanying the international debate at the Geneva based UN Human Rights Council. In pursuing this project, GTZ and FES picked up on the deferral of the consideration of bilateral development partnerships to the initiative of CSOs.

The paper will assess the Kenyan-German development partnership along the criteria established by the HLTF and the WG. Using this bilateral example, the study will elaborate suggestions for the further development of the criteria and the accompanying indicators whose “provisional” nature has been repeatedly stressed by UN bodies and Member States alike.²⁴ For this purpose, we developed a matrix to allow the application of the criteria and indicators to a given development partnership, e.g. German development cooperation with Kenya, in a standardized and easy-to-use manner.²⁵

23 GTZ, the Deutsche Gesellschaft für Technische Zusammenarbeit, is one of the major implementing agencies for German Technical Development Cooperation on behalf of the BMZ. The company also operates on behalf of other German ministries, partner-country governments and international clients.

24 See the Report of the 3rd session of the HLTF: A/HRC/4/WG.2/TF/2, para. 72.

25 See Annex I.

4. Theoretical Frame: A Matrix for the Application of the RtD Criteria and Indicators

The evaluation of the implementation of the RtD to the Kenyan-German bilateral development partnership is based on a matrix²⁶, which utilizes the criteria and indicators developed by the HLTF. Its aim is to facilitate the evaluation by subdividing it into several independent steps and, in doing so,

reducing the complexity of the issue. Indicators, in particular, can be seen “as useful tools in reinforcing accountability, in articulating and advancing claims on the duty-bearers and in formulating requisite public policies and programmes for facilitating the realization of human rights”.

Box 1					
Criteria	Partnership countries	Indicators (Implementation Checklist)	Implementation of the RtD to the Bilateral Development Partnership between Kenya and Germany		
<i>Structure/ enabling environment</i>	(Kenya and Germany)		Yes, No, Party	Comments/ Explanations	Tendency re. Criteria (↑, →, ↓)
(b) The partnership respects the right of each state to determine its own development policies, in accordance with its international obligations. <i>Respect re. the right to determine one's own development policies</i>	Germany	7. Do developed countries respect national development strategies and priorities elaborated by developing countries?	Yes	– KJAS in consultation with the Kenyan government and non-state actors (KJAS, 7); – KJAS supports various strategies and priorities (KJAS, 19ff.); – One of the central principles of German development cooperation is to align itself to partners' priorities, thus following the political commitments of the Paris Declaration on Aid Effectiveness.	↑
Excerpt from Annex 1: Matrix for the Application of the RtD Criteria and Indicators to the Kenyan-German Partnership.					

²⁶ See Annex I.

²⁷ Report of the OHCHR on indicators for monitoring compliance with international human rights instruments: HRI/MC/2006/7, para. 3. Undeniably, the employment of criteria and indicators is not the panacea to the difficult task of assessing such an implementation. In fact, their utilization entails a few challenges to be presented later in this part of the study. Nevertheless, the matrix is seen as facilitating and improving the evaluation of the implementation of the RtD to bilateral development partnerships generally, and the Kenyan-German partnership specifically.

Description of the Matrix and its Application

The box above (Box 1) is a very short excerpt from Annex 1, the suggested matrix for the application of the RtD criteria and indicators to the Kenyan-German bilateral development partnership. It is supposed to help the reader fully comprehend the following description of the matrix.

The first column of the matrix lists the suggested criteria that evaluate the partnership in question. The third column specifies the indicators that can be applied to each criterion. Because not all of the indicators can be fulfilled by both sides of the partnership, the second column illustrates which country, donor or partner country, has to fulfill which indicator. The last column is divided into three smaller ones. It is here that the evaluation of the implementation of the RtD to the Kenyan-German bilateral development partnership is carried out. In sub-column one, the indicators, which are formulated as binary questions, are answered. Sub-column two serves as the place where comments and explanations regarding the answers given can be made. Sub-column three, finally, provides the user of the matrix with the possibility to display a tendency regarding the conformity of the evaluated criterion with the RtD. This tendency can be either positive (↑) or negative (↓), meaning that the criterion tends to be fulfilled or tends not to be fulfilled and thus a contribution towards the implementation of the RtD is made or not made. Taken together, the evaluation of the criteria with the help of the matrix presents valuable information with regard to successful or failed steps towards the implementation of the RtD to the Kenyan-German partnership.

As stated, the HLTF originally created 15 criteria (see Box 2 below) and 17 indicators for the evaluation of global development partnerships from an RtD perspective. During the development of this matrix, it was decided to leave out four of the 15 criteria but to apply all of the indicators. The criteria excluded from the matrix are the following:

- (a) The partnership contributes to creating an environment and supports a process in which all human rights are realized.

- (e) The partnership reflects a rights-based approach to development and promotes the principles of equality, non-discrimination, participation, transparency and accountability.
- (j) The partnership recognizes mutual and reciprocal responsibilities between the partners, based on an assessment of their respective capacities and limitations.
- (o) The partnership contributes to a development process that is sustainable and equitable, with a view to ensuring continually increasing opportunities for all.

These four criteria take up central features and general goals of good development cooperation as well as of the human rights-based approach and are therefore important for the overall evaluation of a partnership. However, they do not relate to specific questions and thus do not fit into the context of the other criteria. Instead, they could rather be considered as main headings.

From a theoretical perspective, the remaining criteria and also all of the indicators do seem effective. Yet, only the practical application of the matrix as undertaken in the implementation section will help to discover, which of the criteria and indicators are indeed useful for the evaluation of the partnership.

Challenges vis-à-vis the Utilization of the Criteria and Indicators

When applying the criteria and indicators, three main challenges arise: the first one brings up the question of how to best measure compliance with the criteria. Following that, the second challenge is to accurately analyze the answers to the indicators so as to successfully contribute to measuring the criteria. Once these aspects have been seen to, the third difficulty lies in the assessment of whether the steps taken towards the implementation of the RtD to the Kenyan-German bilateral development partnership have been successful or have failed.

1) How to Measure Compliance with the Criteria?

A major problem one is faced with when trying to use and apply the criteria, is the lack of quantification inherent to their formulation. Originally, all

Box 2**A/HRC/4/47****CRITERIA FOR PERIODIC EVALUATION OF GLOBAL DEVELOPMENT PARTNERSHIPS FROM A RIGHT-TO-DEVELOPMENT PERSPECTIVE (List as adopted by the Human Rights Council)****Structure/enabling environment**

- (a) The extent to which a partnership contributes to creating an environment and supports a process in which all human rights are realized;
- (b) The extent to which partnerships for development promote the incorporation by all parties concerned of all human rights, and particularly the right to development, into their national and international development strategies, and the extent to which partner countries receive support from international donors and other development actors for these efforts;
- (c) The extent to which a partnership values and promotes good governance, democracy and the rule of law at the national and international levels;
- (d) The extent to which a partnership values and promotes gender equality and the rights of women;
- (e) The extent to which a partnership reflects a rights-based approach to development, and promotes the principles of equality, non-discrimination, participation, transparency and accountability;
- (f) The extent to which a partnership ensures that adequate information is available to the general public for the purpose of public scrutiny of its working methods and outcomes;
- (g) The extent to which a partnership respects the right of each State to determine its own development policies, in accordance with its international obligations;

Process

- (h) The extent to which, in applying the criteria, statistical and empirically developed data are used, and, in particular, whether the data are disaggregated as appropriate, updated periodically, and presented impartially and in a timely fashion;
- (i) The extent to which a partnership applies human rights impact assessments and provides, as needed, for social safety nets;
- (j) The extent to which a partnership recognizes mutual and reciprocal responsibilities between the partners, based on an assessment of their respective capacities and limitations;
- (k) The extent to which a partnership includes fair institutionalized mechanisms of mutual accountability and review;
- (l) The extent to which a partnership provides for the meaningful participation of the concerned populations in processes of elaborating, implementing and evaluating related policies, programmes and projects;

Outcome

- (m) The extent to which policies supported by a partnership ensure the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free, and meaningful participation in development and in the fair distribution of the benefits resulting therefrom, as required by article 2, paragraph 3, of the Declaration on the Right to Development;
- (n) The extent to which the priorities set by a partnership are sensitive to the concerns and needs of the most vulnerable and marginalized segments of the population, and include positive measures in their favour;
- (o) The extent to which a partnership contributes to a development process that is sustainable and equitable, with a view to ensuring continually increasing opportunities for all.

criteria asked for “the extent to which...” something is implemented (i.e. criterion (d): “the extent to which a partnership values and promotes gender equality and the rights of women”), without defining how this extent is to be measured or which measure of extent, how many per cent so to speak, would mean a tendency towards conformity with the RtD. The vague language of the 1986 Declaration of the Right to Development has in this case been matched by the politically careful language of the criteria.

To countervail this vagueness, one year after having established the criteria, the HLTF produced a set of indicators to measure the degree of fulfillment of the criteria. Yet, these indicators are not explicitly linked to corresponding criteria.²⁸ The HLTF and the WG are aware of these remaining challenges, and so both lists are always referred to as being preliminary and non-exhaustive, needing further elaboration. It is one of the goals of this study to contribute to this elaboration. The recommendations section sees to this task.

2) *How to Accurately Analyze the Indicators' Answers?*

The indicators do complement the criteria insofar as they ask for clear results. They are formulated as binary questions, hence providing clear answers. Nevertheless, it is at this stage unclear how to deal with the indicators assessed. More precisely, how many “no’s” on indicator-questions are acceptable to still be able to speak of the fulfillment of a certain criterion, and thus conformity with the RtD? This question becomes particularly interesting when considering the fact that not all criteria have the same number of indicators applying to them. How can this circumstance be effectively taken into consideration? The HLTF has not yet presented any suggestions as regards these questions. Therefore, possible recommendations to the HLTF and the WG are offered in the last section of this study.

3) *How to Assess Steps as Successful or Failed?*

The query that needs answering here is quite similar to the one posed above: how many “down-arrows” (↓) are acceptable to still evaluate a step as successful towards the implementation of the RtD to the Kenyan-German bilateral development partnership? Are “down-arrows” acceptable at all? And if so, are they acceptable for every criterion or does the importance of the criteria and hence their labeling differ? Again, the HLTF has neither addressed nor answered any of these queries. Once more then, the recommendations section will provide suggestions concerning this challenge.

²⁸ Report of the HLTF on its 3rd meeting: A/HRC/4/WG.2/TF/2.

5. Implementation and Application of the Criteria

German development cooperation with Kenya focuses on the priority areas of water (sector reform), private sector development in agriculture and reproductive health. This focus has been a joint decision by the Kenyan and German governments in the process of inter-governmental consultations and negotiations.

As mentioned above, the RtD is an overarching concept, so looking only at certain sectors within a certain project of development cooperation necessarily presents a limited view.²⁹ But in light of the interconnectedness and indivisibility of human rights, the meaning of those sectors for the promotion of human rights and development becomes obvious: The water sector is intrinsically linked to the right to water and sanitation, as contained in a number of international human rights treaties and declarations.³⁰ The area of agriculture relates to the right to food³¹ and also to trade capacity, both of them of relevance in the context of the RtD. Reproductive health, the third priority area, directly relates to the right to the highest attainable standard of health³².

At the same time the promotion of those sectors is directly vital to the implementation of the RtD in the given situation and the given partnership as essential and structural features of development are being addressed. The following paragraphs will analyze the Kenyan-German cooperation from the perspective of the RtD using the

criteria and indicators. Since Kenyan-German development cooperation has been chosen by the BMZ to pilot a human rights-based approach, the available materials focus on the right to water, the right to food and the right to access to healthcare as well as the principles of non-discrimination, transparency and accountability, participation and empowerment.

The Institutional Frame of the Partnership

The indicators will be used in the evaluation of the realization of the RtD at three institutional levels as elaborated below: 1) National constitutions and legal systems, 2) Government negotiations and partnership agreements and 3) Programs and projects implemented.

1) *National Constitutions and Legal Systems*

Neither the Kenyan Constitution nor the German “Grundgesetz” (GG) entail explicit commitments towards the RtD, but both constitutions contain a bill of rights.³³ The focus of these constitutions lies in the area of civil and political rights. However, the prohibition of discrimination, which is entailed in both constitutions³⁴, provides an entry point for economic and social rights guarantees. Whilst the German GG offers comprehensive protection against discrimination in all legal areas, constitutional protection in Kenya contains some gaps re-

²⁹ At this point we want to reiterate that the RtD criteria will be applied to the partnership only and can therefore not evaluate the state of economical, social and political development of Kenya in general.

³⁰ While not being laid out in any International Covenant, the right to water can be found in the following resolutions and declarations: Mar del Plata Declaration, United Nations Water Conference 1977, preamble; Commission on Human Rights Resolution 2004/17, / CN.4/RES/2004/17; Commission on Human Rights Resolution 2005/15, E/CN.4/RES/2005/15; Dublin Statement on Water and Sustainable Development, International Conference on Water and the Environment: Development Issues for the 21st Century, UN Doc. A/CONF.151/PC/112 (1992); Agenda 21, Report of the United Nations Conference on Environment and Development 1992; Principle No. 2, Programme of Action of The United Nations International Conference on Population & Development; European Parliament, Resolution on water management in developing countries and priorities for EU development cooperation, 4 September 2003.

³¹ As guaranteed in Art. 11 of the International Covenant on Economic, Social and Cultural Rights to which both, Kenya as well as Germany, are parties. United Nations human rights treaties are accessible at www.ohchr.org/english/law/index.htm.

³² As guaranteed in Art. 12 of the International Covenant on Economic, Social and Political Rights and also in Art. 16 of the African Charter for Human and Peoples' Rights.

³³ Art. 1-19 GG, Art. 70-86 Kenyan Constitution.

³⁴ Art. 3 GG, Art. 82 Kenyan Constitution.

lating to the discrimination of women in family and inheritance matters as well as ethnical discrimination.³⁵ Both, Kenya and Germany allow discrimination of foreigners³⁶ – the constitutional law in Germany permits it only in some areas whereas the Kenyan Constitution generally exempts foreigners from protection against discriminatory treatment.

The two countries have ratified most of the nine core universal human rights treaties.³⁷ Therefore, these international human rights commitments have become part of the domestic law in Germany, though ranking below constitutional law, and as such are binding for all state action. The legal system in Kenya pursues a different approach: the international treaties which have been ratified by Kenya do not become part of the domestic law. Yet, their provisions are binding for state action in Kenya whether through parliament, government departments or courts.

Thus, Kenya and Germany, including their development cooperation work, are obliged to implement those criteria for the operationalization of the RtD that relate to international human rights standards and accordingly would have to apply these aspects of the RtD. In addition, both states have supported the Vienna Declaration and Programme of Action of the 1993 World Conference on Human Rights, which reaffirms the RtD³⁸ and guarantees the indivisibility of all human rights.³⁹

Finally, both governments have undertaken political commitments towards realizing the RtD: the Development Policy Action Plan for Human

Rights (2004–2007) of the BMZ, which is part of the Human Rights Action Plan of the German government⁴⁰, explicitly refers to the RtD. Its main objective is to promote a human rights-based approach to development policy. In this context, it also supports the RtD and, hence, makes clear that a human rights-based approach to development and the RtD are intrinsically linked.⁴¹ The Kenyan poverty reduction strategy paper, “Strategy for Wealth and Employment Creation” (SWEC),⁴² does not explicitly mention the RtD. Human rights are not the focus, yet equity and poverty reduction as well as good governance are discussed in considerable detail.⁴³ In fact, some of these aspects can be linked to the criteria suggested for the operationalization of the RtD in development partnerships. For instance, the SWEC mentions the undertaking of reforms and programs in areas such as education; health; HIV/AIDS; labor; and special groups, i.e. women, children and the youth (criterion d and h).⁴⁴ Moreover, the paper speaks of the design of a vulnerability program, which targets the marginalized and vulnerable segments of the population and significantly improves their access to public services (criterion l and m).⁴⁵ Finally, the SWEC covers aspects of good governance, including police reforms, anti-corruption measures and judicial reforms (criterion c).⁴⁶ These are valuable strategic efforts towards the implementation of the RtD in accordance with the suggested criteria. Yet, the decisive test will be whether the political commitments of the SWEC can be implemented in practice.

35 Art. 82 (4) Kenyan Constitution.

36 In Germany: some of the basic rights only protect German citizens, for example, while the Kenyan Constitution explicitly allows different treatment for foreigners in Art. 82 (4a).

37 Kenya and Germany both have ratified six of the nine core international human rights instruments. These are: International Convention on the Elimination of All Forms of Racial Discrimination; International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Convention on the Elimination of All Forms of Discrimination against Women; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Convention on the Rights of the Child. In addition, Kenya and Germany have signed the Convention on the Rights of Persons with Disabilities.

38 Para. 10.

39 Para. 5.

40 Annex to the 7th report of the Federal Government of Germany on the situation of human rights worldwide, see: <http://www.diplo.de/diplo/en/Aussenpolitik/Menschenrechte/7BerichtMRBuReg.html>.

41 Measure 10 of the Development Policy Action Plan for Human Rights.

42 SWEC / PRSP Kenya on: <http://www.imf.org/external/pubs/ft/scr/2005/cr0511.pdf>.

43 SWEC, 51 ff.

44 SWEC, 51–55.

45 SWEC, 59.

46 SWEC, 60 ff.

2) *Government Negotiations and Partnership Agreements*

The intergovernmental negotiations between Germany and Kenya set the future directions for their cooperation. The recent negotiations in February 2007 and the resulting commitments integrate several criteria suggested by the WG: good governance is a core topic and so are human rights. The existing inequalities between the rich and the poor, between the urban and the rural population as well as between men and women are another important issue.

As stated above, the priority areas of Kenyan-German development cooperation are water, health and private sector development in agriculture. The future directions in all these sectors have links with the suggested criteria for the operationalization of the RtD: in the water sector, the already existing emphasis on poverty reduction is again strengthened through the agreement that GDC will dedicate 5.5 million Euros to the urban component of the Kenyan Water Service Trust Fund. This institution has the task to accelerate access to water for the hitherto neglected areas. Additionally, both sides have agreed to continue the pro-poor orientation of their cooperation and to focus on human rights standards. In the health sector, the focus is on improving access to health care. This has a direct human rights impact and, therefore, also relates to the criteria for the operationalization of the RtD. Equity is a core element of Kenyan-German cooperation on health, thus taking up discrimination issues which are also part of the criteria suggested by the WG. Kenyan-German cooperation in private sector development in agriculture gives an explicit commitment towards the integration of human rights and gender equality. In the course of the negotiations, the topics of transparency and accountability have also been addressed. The German side reminded the Kenyan partners that they had committed themselves towards transparent and accountable government.

3) *Implementation of Programs and Projects*

The Kenyan-German cooperation is embedded in the Kenya Joint Assistance Strategy (KJAS)⁴⁷ as a common framework that contains numerous commitments to human rights (see below). The GTZ cross-sectoral project “Realizing human rights in development cooperation” supports GDC – comprising programmes carried out by GTZ, KfW and DED – with their efforts to orientate their work towards the relevant human rights standards and principles. Although the advice in Kenya has focused on the priority areas water, health and private sector development in agriculture, synergies were also built with the GTZ-supported governance support project and the project on budget support. Since the criteria for the operationalization of the RtD reflect several aspects of a human rights-based approach, the experience of the GTZ cross-sectoral project can at the same time be used to examine in which aspects GDC with Kenya currently implements the criteria for the RtD:

Water as a Priority Area of Kenyan-German Development Cooperation

GDC with Kenya focuses on support for the successful implementation of the water sector reform. The sector reform provides for the commercialization of water and sanitation supply through private companies that are owned and supervised by state boards. The reform process has the objective to improve the quality and efficiency in the provision of urban water and sanitation services and the management of water resources. Kenyan-German cooperation in the water sector focuses on middle-sized (secondary) towns. It additionally supports the Water Service Trust Fund to achieve fast track improvements for the urban poor.

Both, Kenya and Germany, have committed themselves towards the full realization of the right to water: in the process of sector reform, Kenyan law and policy have moved towards realizing the right to water in Kenya, both through formal re-

47 KJAS on <http://www.hackkenya.org/documents/kenya-joint-assistance-strategy/view-category.html>.

cognition of the right to water in the relevant policy documents⁴⁸ and through the adoption of specific pro-poor initiatives. The water sector reforms – carried out with the support of GDC – have revived public institutions dealing with water, at the same time greatly improving their effectiveness.

The Kenyan Water Act as well as the National Water Resource Management Strategy prioritize water availability for personal and domestic use, thus strengthening the realization of the right to water in Kenya. The National Water Services Strategy includes the minimum target of 20lt/c/d and, therefore, aims to realize the threefold goal for availability according to the right to water.

The water sector institutions are beginning to make progress towards extending access to the poor, particularly in rural areas. The recent decision to expand the Water and Sanitation Trust Fund to urban areas to generate fast track improvements for the urban poor and the significant contribution of GDC in this regard has the potential to lead to considerable progress in realizing the right to water for the urban poor. The Water Service Trust Fund's approach for urban initiatives is to link in with systemic formalized solutions offered by the water service providers in order to expand supply in a low-cost manner to informal settlements, for example through kiosks.

The new tariff guidelines set standards so that tariffs for the essential amount of water (and by extension for sewerage) are kept affordable for the poor. The definitions in relevant policy documents have integrated the standards of the right to water: they suggest that spending for water and sanitation services should not exceed 5 per cent of the household income and that the water tariff at kiosks shall not be higher than 2 times the tariff for lifeline consumption at household connections (this also satisfies the 5 per cent of income criterion). Therefore, water tariffs will be reduced for those using small amounts, thus increasing the proportion of people who will be able to afford water supply through household connections. At

the same time, progressive tariff structures enable cross-subsidization by those using larger amounts. Furthermore, GDC promotes the establishment of water kiosks to provide solutions for those who cannot afford to pay the up-front and monthly contributions for a household connection.

Participation of relevant stakeholders is recognized as a crucial element in official documents such as the Water Act. The water sector has become far more open to participation of NGOs than was the case prior to the reforms, and this has enhanced decision-making. Efforts to include communities and civil society in the reform process are ongoing but still have to be enhanced, so as to involve the representatives of poor communities who are underserved in regard to water and sanitation. The lack of such representation will make it more difficult for the reforms process to achieve its pro-poor objectives.

The water sector is now far more accountable to users than prior to the reforms. Water companies have adopted a customer service approach and the structure of complaints mechanisms, like customer care desks, and access thereto, has been considerably improved.

Health as a Priority Area of Kenyan-German Development Cooperation

Another focal area of Kenyan-German development cooperation is health. The overall objective of the activities is improving access to services relating to reproductive and sexual health and safeguarding the financing of health services, thereby contributing to poverty reduction. In the field of reproductive and sexual health, the focus lies on the themes of family planning and reproductive health for young people, the fight against female genital mutilation (FGM), and measures to prevent and control HIV/AIDS. Access to reproductive health services in Kenya is still very limited, especially in rural areas. The demand for family planning is high and unsafe abortion is a major problem, particularly for poor and unmarried women. Gender-based violence is widespread in Kenyan society and con-

⁴⁸ The Ministry for Water and Irrigation has published a brochure on the relevance of the right to water for the water sector reform in Kenya.

sidered legitimate behavior by the majority of women and men.

In recent years, the Kenyan government – with the support of donors – has made significant efforts to develop population and health policies, and to enact legislation consistent with international health standards. Since the 2006 Sexual Offences Act, FGM is comprehensively outlawed and domestic violence sanctioned.

Kenyan-German cooperation in the health sector has a human rights focus, addressing the right to access to essential reproductive health services and relevant information. This requires a particular focus on the poor and vulnerable groups. Therefore, the introduction of pro-poor financing systems to bring about affordability is an integral element of the approach used, and contributes to the reduction of health inequalities. Other elements of the human rights-based approach of GDC in reproductive health in Kenya are support for recovery services for victims of gender-based violence and intergenerational dialogues in the FGM component. Further focus of intervention is capacity development for non-public health service providers, such as church-related services, which play an important role in the health care provision in Kenya.

Agriculture as a Priority Area of Kenyan-German Development Cooperation

Cooperation in this sector concentrates on private sector development in agriculture, including irrigation. Within the overall objective of poverty reduction, Kenyan-German cooperation in the agricultural sector focuses on small and medium scale private farms, considering them to have a substantial potential for growth. It is assumed that improvement of production and income on such farms will lead to an expansion of local food production and additional agricultural jobs for the poor.

Most activities – though indirectly – contribute to the realization of the right to food. Furthermore, the Kreditanstalt für Wiederaufbau (KfW) – and GDC's supported programs respectively – (each

carried out with the support of the German Development Service (DED)) have the potential to make a further contribution towards the realization of human rights in the working process: through its efforts to promote vocational training, through strengthening self-organization capacities and generally through improvement of production conditions.

The programs also incorporate aspects of the human right to the highest attainable standard of health through its efforts in HIV/AIDS mainstreaming and through improvement of production. One of the strengths of the program activities in relation to human rights is the focus on participation and empowerment of farmers. The fact that the programs mainly address farmers who have organized themselves in groups ensures a certain degree of initiative and demand on the part of the farmers and thereby generates ownership. Farmers' groups seem to regularly undertake multi-sectoral initiatives. This increases the chances for sustainability of the processes and at the same time provides strong indications for successful participation and empowerment of the farmers active in a given area.

Program activities also include support for the partner's commitment to address the issue of discrimination, especially relating to persons living with HIV/AIDS or other illnesses. However, promotion of women in the farming sector or the specific problems of young farmers are not yet adequately tackled by the program despite respective commitments of the Kenyan partner in its Strategy for Revitalizing Agriculture.⁴⁹

Another important human rights issue in the agricultural sector in Kenya remains to be adequately addressed: to this point, the program in its activities does not specifically tackle problems related to the discrimination of women in access to land and to the sub-division of land in very small farm holdings as a consequence of a system of inheritance law – often just 0.5–3 acres. The small size of farm holdings makes it difficult to carry out farming activities that lead to more than subsistence.

49 Government of Kenya, Ministry of Agriculture, Strategy for Revitalizing Agriculture (March 2004) 8.5.2.

Governance and Budget Support as Additional Areas for Kenyan-German cooperation

The GTZ-supported governance project mainly works on two topics: the fight against corruption and access to justice. It has facilitated an internet-platform in cooperation with the Kenya Anti-Corruption Commission (KACC), the so-called “Whistle-blowing System”, where citizens can make anonymous complaints on corrupt practices. This platform has been used more than 600 times since its launch in October 2006. The governance project also supports the Kenya Magistrates and Judges Association in their initiative for a transparency and accountability mechanism for the judiciary. This includes the use of citizens’ report cards and a peer review committee for judges and magistrates. The GTZ-supported project for budget reform provides support to the Treasury of the Republic of Kenya in its efforts to implement transparent budgeting.

A Coherent Approach Within the Donor Community (Donor Harmonization)

Aspects of human rights and good governance, including transparency, accountability and non-discrimination, are also key topics for the overall donor community. The initiatives of Germany and Sweden have led to a strong human rights and governance focus in the Draft of the KJAS. The KJAS includes a core strategy of 17 development partners for 2007–2011 that “provides the basis for the partners’ support for the implementation of the government’s development strategy”.⁵⁰ Comparing this strategy to the Assistance Strategies of other countries in the region like Tanzania, Uganda and Zambia shows the progress in Kenya at the level of development cooperation. As regards the criteria suggested for the operationalization of the RtD in development partnerships, the KJAS takes up most of them. For example, the strategy focuses on such important issues as significantly reducing corruption (criterion c); reforming the public administration (criterion e); considerably enhancing the deli-

very of basic services to the poor (criterion h, l and m); protecting Kenya’s poorest and most vulnerable people (criterion l); and reducing inequities between men and women (criterion d).⁵¹ However, dealing with these issues does not necessarily indicate that the criteria are already fulfilled. On the contrary, it often implies that more work is needed to achieve the goals set within the criteria. Nevertheless, progress has been significant. A results framework annexed to KJAS with milestones and outcomes will measure the advancement.⁵²

Donor coordination in the priority sectors of Kenyan-German development cooperation is also improving. In the health and water sector, sector-wide approaches (SWAPs) are in the process of being developed. Both, the health SWAP as well as the SWAP in the water sector, regard human rights as a central topic.

In the health sector, for example, equal access to health care is the overall objective, which relates at the same time to human rights, gender and discrimination. Moreover, considerable efforts are undertaken to reduce the administrative costs and respective budgets of the Ministry of Health and the management of the hospitals prioritizing transparency and accountability of public administration. Capacity development of staff is another issue which is addressed.

In the water sector – under the lead of GDC – the right to water has become a key issue, strengthening the poverty orientation of the sector reform. Achieving access to water for poor and marginalized groups, improving participation of communities and users and working towards transparency and accountability of the service providers are objectives of donor coordination in this sector.

The Governance, Justice, Law and Order sector has also agreed to work through a sector-wide approach coordinating efforts to improve access to law and to fight corruption in Kenya. These political commitments in the area of human rights

⁵⁰ KJAS, page 1.

⁵¹ KJAS, page 1.

⁵² KJAS, Annex.

can at the same time be seen as a first step towards the operationalization of the RtD in accordance with the criteria laid down by the HLTF. Yet, considerable challenges remain at the implementation level. Kenya continues to be a highly unequal society by income, gender and geographic locality⁵³ and the majority of the population still considers governance to be poor and corruption far-spread.⁵⁴ Therefore, the crucial test will be whether or not these political commitments can be implemented into practice.

Application of the Criteria and Indicators

The majority of the RtD criteria and indicators can be applied to the Kenyan-German development partnership and, as can be gathered from the matrix and the illustrations above, the political strategies as well as the objectives of GDC provide a good basis for it.

Nevertheless, the application of some criteria and indicators either appears problematic or needs clarification. The different reasons will be discussed in this section:

1) Problematic Criteria

Criterion (I) The partnership applies human rights impact assessments and provides, as needed, for social safety nets.⁵⁵

In our view, it cannot be the task of a bilateral partnership to provide for social safety nets. Every country has a primary responsibility to establish those national social safety nets that are needed. Development partners can only support these processes. This should be a coordinated effort of all partners. A provision of social safety nets through external actors could lead to a fragmen-

tation of the system and prove unsustainable in the long run. A reformulation of this criterion is necessary if the above train of thought is to be included. The following reframing is proposed:

(I) The partnership applies human rights impact assessments and supports, as needed, the establishment of social safety nets.⁵⁶

2) Problematic Indicators

Indicator 10⁵⁷ [formerly 4] was deemed problematic because of the way it was formulated. Originally, it read as follows:

4. Is there an increasing or decreasing trend in terms of the percentage of untied aid?⁵⁸

For the sake of unification, this indicator has now been reformulated for the use in this paper. It has become a binary question:

10. Is there an increasing trend in terms of the percentage of untied aid?⁵⁹

As such, all the indicators are now of the same style, thereby facilitating the utilization of the matrix.

One of the indicators which needs clarification is indicator 11 [formerly 6]:

6. Do accountability mechanisms provide remedies for human rights claims relevant to the right to development, and complaint and oversight mechanisms?⁶⁰

When answering this question, it was not entirely clear what the term “accountability mechanisms” refers to. Does it refer to the bilateral development partnership in particular or the partnership countries in general? We have decided that it can only refer to the latter for any other use of the term would make the question unanswerable.⁶¹

53 Society for International Development, *Pulling Apart, Facts and Figures on Inequality in Kenya* (Nairobi, 2004), Government of Kenya. 2007. “Basic Report on Well-being in Kenya,” Kenya National Bureau of Statistics (formerly the Central Bureau of Statistics), Ministry of Planning and National Development.

54 New Partnership for Africa’s Development. African Peer Review Mechanism. 2006. “Country Review Report of the Republic of Kenya,” Kenya Commission on Human Rights, Public Perception on the State of Human Rights in Kenya (Nairobi, 2007).

55 See Annex II.

56 See Annex III.

57 The numbers of the indicators refer to their order in the list annexed to this paper. This list is a restructured and amended version of the original list by the HLTF, as suggested by the authors.

58 See Annex III.

59 See Annex III.

60 See Annex III.

61 For an answer to this question, please see the matrix in Annex I.

Nevertheless, to avoid such confusion in the future, it is suggested to reformulate indicator 11 as follows:

11. Do partnership countries' accountability mechanisms provide remedies for human rights claims relevant to the right to development, and complaint and oversight mechanisms?⁶²

Finally, there is indicator 15 [*formerly 11*], which also needs clarification. This indicator asks whether non-discrimination is guaranteed to all persons and whether there is "equal and effective protection against discrimination on the grounds of race, color, sex, language, religion, political or

other opinion, national or social origin, property, income, birth, disability and health status, or a combination of these grounds?"⁶³

In the context of this paper, the indicator is to be understood very narrowly, i.e. it only asks for non-discrimination within the actions and projects of the partnership. If it was considering the issue of non-discrimination in the broader national context, the answers given in the matrix would differ substantially. Clarification in the indicator's formulation might therefore be necessary for any future application.

⁶² See Annex III.

⁶³ Annex III.

6. Evaluation

As mentioned, the matrix has been developed to facilitate the evaluation of the implementation of the RtD and as such has been applied to the Kenyan-German bilateral development partnership. It utilizes the criteria and indicators established by the HLTF. The matrix's aim is to ease the evaluation by subdividing it into several independent steps, thus reducing the complexity of the issue. Experiences from Kenyan-German development cooperation serve as a first test-case to show how the matrix can be employed in practice. By no means do we believe the matrix and, hence, the evaluation of the implementation of the RtD to the partnership to be all-inclusive. On the contrary, the pilot implementation is merely supposed to help the potential user become familiarized with the matrix and its application, to discover additional issues of significance and, possibly, to change the matrix accordingly.

Moreover, one needs to be aware that although we have researched each of the criteria and indicators extensively, we do not possess full information on each aspect. Therefore, we were not able to give definite answers to all the indicators. Indicators 1a; 2; 3; 12 and 14, in particular, have been problematic to respond to with the materials available. Consequently, these indicators could only be answered with "partly". Of course, these responses might differ if, for example, the matrix was filled out by representatives of the governments of Kenya and Germany.

Our utilization of the matrix, as attached in Annex I to this paper, shows that the Kenyan-German bilateral development partnership is fulfilling many aspects required by the RtD. Of the 13 criteria evaluated, three have been marked with an "up-arrow" (↑); these are criteria (a); (b) and (h). The remaining ten criteria have been marked with a "side-arrow" (→), none with a "down-arrow" (↓). This means that overall, successful steps have

been taken towards the implementation of the RtD to the Kenyan-German partnership. Nevertheless, other aspects are being neglected such as, most strikingly, the issue of non-discrimination. Further important aspects like remedies for human rights claims and the use of standardized outcome indicators – covered in the indicators (new) 15, 11, 16⁶⁴ – are also not yet fully addressed. This could be changed if the partnership took the "criteria" into account and made fulfilling them a policy aim. The following paragraphs will elaborate on the background and meaning of those weaknesses. While we are concentrating here on the three issues mentioned above, we are acknowledging that aspects of tied vs. untied aid (as covered by indicators 9 and 10) and participation and ownership of the national development priorities (indicator 1b) are important fields as well. It is due to the available background information that we are restricting our comments to the following points.

Discrimination

According to the central data examined for this evaluation, there does not seem to be any discrimination on the given grounds within the scope of this partnership. However, further background information reveals that there are some critical questions, which lead to the conclusion that discrimination still remains a fundamental problem in Kenya and, therefore, within the bilateral partnership. Three examples illustrate this point:

In agriculture, for a considerable time subsistence farmers and those without land had been outside the foci of Kenyan-German development cooperation – the primary focus was on the economic development of smallholders. This has changed. Due to the sensitization on human rights issues, the revised program now considers its impact upon subsistence farmers and upon those

64 See Annex III.

without land and it explicitly intends to improve their situation. The same holds true for young and female farmers. There is one issue, however, which has not been tackled yet: discrimination as regards access to land; here, Article 82 of the Kenyan Constitution allows for exceptions.⁶⁵ In some communities, women still cannot become the formal owner of land. Consequently, they cannot inherit their husband's plots – a circumstance that gives space for discrimination through traditional rules.

In water, GDC's contribution to sector reform through political advice and capacity development at the national level provides strong support for the realization of the right to water and has a stringent poverty focus, e.g. through the extension of networks to the poor, including low-cost solutions. At the meso- and micro-level, German support focuses geographically on Nyeri in Central Province and middle-sized towns in Lake Victoria North in Western Province. It is arguable that Kenyan-German cooperation does not fully address the most striking inequalities. For example, 44.6 per cent of residents in Western Province have a water source less than 15 minutes distance from their home while this figure drops to 22.1, 31.6 and 38.7 respectively for North Eastern, Nyanza and Eastern Provinces. The Matrix of Donor Activities in the Water and Sanitation Sector does not reveal any focused support for the Northern WSB Region. With the exception of Busia, it is doubtful whether the other cluster towns where German investment takes place are among the poorest and most disadvantaged locations in Kenya as far as access to water and basic sanitation is concerned. Therefore, it would be useful for Kenyan-German cooperation to consider increased cooperation in areas not addressed by other donors, including the

Northern Region and districts of other Regions with low levels of access.

Finally, as stated above, the viewed documents show no discrimination within the frame of the partnership (or if, then only in favor of the ones most marginalized). Nevertheless, there are no guarantees against discrimination mentioned either. Further, a positive evaluation of this criterion does not imply any judgment of the situation in Kenya in general, where a worrying degree of discrimination can still be observed. This problem is also reflected in the matrix in Annex I.

Standardized Outcome Indicators

As can be gathered from the above, with the issues of water and health, which are addressed by the partnership, outcome is measured by the authorities - though not by using standardized indicators. International comparison and the objective measurement of progress would profit from the use of such indicators.

Human Rights Mechanisms

A somewhat delicate topic is the reference to human rights mechanisms. While asking for a mechanism for human rights claims and remedies within the partnership might overstretch the reach of the partnership, what is needed is a linkage to existing human rights mechanisms (e.g. National Human Rights Institution, National Human Rights Commission/Council) empowering the partners to deal with accusations of violations within or resulting from the partnership. Within this frame, the issue of claims and remedies should be addressed. It cannot be expected that each development partnership creates a new mechanism, but acceptance of legal authority of existing mechanisms should be expressly acknowledged.

⁶⁵ See Article 82 of the Kenyan Constitution.

7. Conclusions and Recommendations

Related to the evaluation above, a number of recommendations can be made to the different actors involved in the process. These are bilateral development partnerships that plan to undertake such an evaluation as well as the HLTF and the WG on the RtD. While the emphasis of this paper lies on the suggestions to the HLTF and the WG, we would also like to offer recommendations to partnerships on the basis of the evaluation undertaken.

Recommendations to Bilateral Development Partnerships

The piloting exercise of applying the “criteria for periodic evaluation” to the Kenyan-German partnership has shown that this partnership, by following a HRBA is already well underway to fulfill the requirements of the RtD. The evaluation also shows the potential value added by an RtD approach. As can be seen from the criteria and indicators suggested, both approaches do have many similarities; in fact the RtD approach of a development partnership could somehow be considered an extended HRBA. It complements the legal human rights framework with other important aspects of good development, e.g. economic structures and social justice. Both approaches implement the Paris Agenda since they support development partners in the realization of their own commitments. However, partners’ interest and ownership seems stronger towards an approach that explicitly takes up the RtD whilst the HRBA is still sometimes – though mistakenly – perceived as hidden conditionality on the part of the donors.

In development, however, both approaches, the HRBA and the RtD approach are quite congruent. This can be gathered from the example of Kenyan-German development cooperation, which is committed to pursuing a HRBA. Therefore, the evaluation of this bilateral development partnership along the criteria and indicators for the operationalization of the RtD can be undertaken

without too much of an additional effort.

The overall conclusion from the Kenyan-German example is that the “RtD compatibility” of a bilateral partnership can be reached without changing the whole system of a partnership – just in form of some specific additions.

As seen above in the evaluation, the areas that needed to be addressed are

- linkages to mechanisms and commitments for human rights claims/remedies (relating to indicator 11), taking into account the human rights obligations as given in the Constitutions and resulting from International Covenants signed by the parties,
- intensified focus on standardized outcome indicators (relating to indicator 16), and promotion of statistical capacity (this relates to baseline information that will strengthen accountability and allow for further counter-corruption measures)
- the question of discrimination (relating to indicator 15),
- development of aims for the partnership improve the situation of the most marginalized, e.g. through the promotion of social reforms.

Therefore, the matrix could serve as a useful guideline for the operationalization of the RtD in the framework of development cooperation, whether multilateral or bilateral. It might even help to broaden the scope of the partnership. If used periodically, it can help to evaluate the tendencies and developments within the partnership. In view of donor harmonization, the evaluation should be comprehensive and be used especially in frameworks like the KJAS in the current example to engage other donors in order to be able to pursue a HRBA and fulfill the RtD in an extensive way. Going beyond the narrowly defined development partnership, other aspects of the RtD can be progressively involved to ensure that other policies, for instance trade and financial policies, do not counteract the development programs.

Recommendations to the HLTf and the WG on the RtD

In the following paragraphs we focus on five main recommendations to the HLTf and the WG. It is hoped that these recommendations, despite being developed out of the evaluation of a particular bilateral development partnership, are also useful for the HLTf's and the WG's evaluation of multi-lateral development partnerships as well as for the evaluation of other bilateral development partnerships.

1) Exclude Broad Criteria

It is recommended that criteria a, e, j and o (see box 2 above) are excluded from the list. As has been explained, these criteria are very comprehensive and thus lack specificity. We therefore believe that an effective evaluation of them is difficult to achieve, as can be seen from the example of Kenyan-German development cooperation.

2) Develop New Criteria

The aim of the criteria and indicators is to evaluate development partnerships from a "right-to-development perspective". However, a closer examination of the 1986 Declaration on the RtD reveals that while many Articles have been addressed through the criteria established, a few have been left out. The *raison d'être* lies in the politically careful creation of the criteria. Although this circumstance is acknowledged, it is deemed important that at least one of the Articles, namely Article 8.1, is being introduced to the revised list of criteria.⁶⁶ Article 8 of the Declaration reads as follows:

1. States should undertake, at the national level, all necessary measures for the realization of the right to development and shall ensure, inter alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair

distribution of income. Effective measures should be undertaken to ensure that women have an active role in the development process. Appropriate economic and social reforms should be carried out with a view to eradicating all social injustices.

2. States should encourage popular participation in all spheres as an important factor in development and in the full realization of all human rights.

This Article in mind, the following two criteria are proposed:

Process

- (h) The partnership supports necessary economic and social reforms with a view to eradicating all social injustices.

Outcome

- (m) The partnership ensures equality of opportunity for all in their access to basic resources, education, health services, food, water and sanitation services, housing, employment and the fair distribution of income.

Both criteria would serve as a means to cover these important aspects of the Declaration, which currently have not been explicitly addressed. To incorporate them is of major significance since the access to these basic resources constitutes a fundamental human right.

Finally, as explained earlier, we suggest that criterion (i) be reformulated:

- (i) The partnership applies human rights impact assessments and supports, as needed, the establishment of social safety nets.⁶⁹

3) Develop New Indicators

Recommending new criteria entails proposing new indicators. The following indicators are suggested for none of the existing ones can be applied to the new criteria:

⁶⁶ See Annex II.

⁶⁷ Article 8.1 of the 1986 Declaration on the Right to Development.

⁶⁸ Please note that Article 8.1 of the 1986 Declaration on the Right to Development does not mention "water and sanitation services". This is probably due to the fact that the right to water was not a prominent issue at the time. Over the past 20 years, however, discussions on a right to water have proliferated and so it must not be excluded in a criterion, which covers the issue of basic resources.

⁶⁹ See Annex III.

5. Do a government's national development strategies and priorities include economic and social reforms, such as education, health or water sector reforms?

6. Does the government provide public access to basic resources or, if they are provided through private operators, does the government ensure that access is not denied?

Whereas the first indicator should support creating a realistic tendency for criterion (h),⁷⁰ the second one should help to formulate a realistic tendency for criterion (m).⁷¹ These additional indicators have been established because it was felt that the other indicators by themselves do not entirely capture these two criteria.

Moreover, it is recommended that at least two additional indicators be developed:

1a. Are the national development strategies and priorities pro-poor, i.e. are they considerate of marginalized and vulnerable groups?

4. Does the government make use of anti-corruption measures?

Finally, as elaborated earlier, indicators 10 and 11 need to be reframed as follows:

10. Is there an increasing trend in terms of the percentage of untied aid?

11. Do partnership countries' accountability mechanisms provide remedies for human rights claims relevant to the right to development, and complaint and oversight mechanisms?⁷²

4) Restructure the List of Suggested Indicators

The Suggested Initial Implementation Checklist for the Criteria complementing the list of criteria created by the HLTF and approved by the WG is, by itself, a great achievement. The checklist covers many aspects of the criteria. However, when used together with the list of criteria, its organization appears disordered.

This is due to the fact that the indicators are structured like the criteria along the categories of "structure, process and outcome", equivalent to the method used by OHCHR and others in the development of other human rights indicators. Yet, this composition of indicators proves ineffective for the three categories of indicators do not apply to the corresponding categories of criteria.

It is therefore proposed to restructure the list of suggested indicators along the categories "indicators for the developing countries, for the donor countries and for both".⁷³ It seems that such a composition much better supports the specific evaluation of bilateral as well as multilateral development partnerships.⁷⁴

5) Develop Effective Measurement Mechanisms

The last two recommendations hint at the difficulties of assessing the efforts of operationalizing the RtD as "success" or as "failure". In short, how many indicators per criterion have to be fulfilled to consider a certain criterion to be accomplished? How many criteria have to be realized for a development partnership to be successful from the perspective of the RtD? As long as the criteria and indicators do not provide any guidance on this, it will be difficult to use them as guidelines for measuring progress on the RtD.

As regards the first query, it cannot be expected that all of the indicators for evaluating a partnership within a given matrix will be answered in the affirmative. If this were so, the RtD would be fully implemented and so there would be neither the need for evaluations nor for improvements. Consequently, it is anticipated that some of the indicators might be answered in the neutral or in the negative. But how many "partly" or "no" are acceptable? What would be a reasonable guideline? The answer to this can not be given by this study

⁷⁰ Criterion (a) [formerly b] reads as follows: The partnership for development promotes the incorporation by all parties concerned of all human rights, and particularly the right to development, into its national and international development strategies and partner countries receive support from international donors and other development actors for these efforts.

⁷¹ Criterion (c) reads as follows: The partnership values and promotes good governance, democracy and the rule of law at the national and international levels.

⁷² See Annex III.

⁷³ See Annex III.

⁷⁴ It is certainly recognized that the current structure of indicators as suggested by the HLTF and endorsed by the WG reflects the current methods used by OHCHR and others in the development of other human rights indicators. This method of clustering indicators is used e.g. by Eibe Riedel et. al. in their "IBSA" project and by Fasel/Malhorta at OHCHR (see: HRI/MC/2006/7).

but will need to be addressed by the HLTF in the future.

In regard to the second query, the recommendation is more straightforward. It is understood that if one of the criteria is marked with a “down-arrow” (↓) one cannot speak of successful steps towards the implementation of the RtD to the Kenyan-German bilateral development partnership. To do so would contradict the overall purpose of moving towards such implementation. Therefore, while there is some leeway concerning the first question, the second one does not allow any flexibility. As a result, the partnership in question would need to be revised in the points concerned and the developments would need to be monitored regularly.

It is hoped that the elaboration above provides the reader with an idea of how a utilization of the matrix may look in practice. Having employed the matrix ourselves, we have learned that it did facilitate the application of the RtD criteria and indicators to the Kenyan-German partnership. Yet, every new invention brings with it new challenges. To successfully address these and, in doing so, to improve the evaluation of the implementation of the RtD to global partnerships, should be our common concern to get closer to the goal of making the Right to Development a reality for all.

Literature

Basic Law (Grundgesetz) of the Federal Republic of Germany

Constitution of the Republic of Kenya

DFID: "Partnerships for poverty reduction: rethinking conditionality", DFID, UK policy paper, March 2005: <http://www.dfid.gov.uk/pubs/files/conditionality.pdf>.

Government of Germany, BMZ Concepts: "Development policy action plan on human rights 2004 – 2007: Every person has a right to development", German development policy approach to respecting, protecting and fulfilling political, civil, economic, social and cultural human rights, Bonn, July 2004. See: <http://www.gtz.de/de/themen/politische-reformen/demokratie-rechtsstaat/14902.htm>.

Government of Kenya, Ministry for Planning and National Development, "Economic Recovery Strategy for Wealth and Employment Creation", June 2003.

Government of Kenya, Ministry of Agriculture, "Strategy for Revitalising Agriculture", March 2004.

Government of Kenya, "Basic Report on Well-being in Kenya," Kenya National Bureau of Statistics (formerly the Central Bureau of Statistics), Ministry of Planning and National Development, 2007.

Kenya Commission on Human Rights, "Public Perception on the State of Human Rights in Kenya", Nairobi, 2007.

Kirchmeier, Felix: "The Right to Development – where do we stand?"

FES Geneva, Occasional Paper N° 23, Bonn and Geneva, July 2006.

Riedel, Eibe: Messung von Entwicklungen bei der Realisierung des Rechts auf Nahrung durch Indikatoren: Das „IBSA“-Verfahren, Universität Mannheim, 2006.

Marks, Stephen: "Misconceptions About the Right to Development", in: Development Outreach, Vol. 8, N° 2: Human Rights and Development, World Bank Institute, October 2006.

Mbaye, Kéba : "Le droit au développement comme un droit de l'homme," Revue des droits de l'homme, Vol. V, N° 2–3, 1972, pp. 505–534.

New Partnership for Africa's Development, African Peer Review Mechanism, "Country Review Report of the Republic of Kenya", 2006.

Society for International Development, "Pulling Apart, Facts and Figures on Inequality in Kenya", Nairobi, 2004.

UN Documents

OHCHR: Frequently asked questions on a human rights-based approach to development cooperation, United Nations, New York and Geneva, 2006.

OHCHR: Report on indicators for monitoring compliance with international human rights instruments, HRI/MC/2006/7.

Report of the HLTF on its 3rd session: A/HRC/4/WG.2/TF/2.

Report of the WG on its 8th session: A/HRC/4/47.

Internet Sources

<http://www.un.org/millenniumgoals/goals.html>

<http://www.ohchr.org/english/law/index.htm>

www.dfid.gov.uk

www.gtz.de

www.fes-geneva.org

SWEC, PRSP Kenya: <http://www.imf.org/external/pubs/ft/scr/2005/cr0511.pdf>

<http://www.diplo.de/diplo/en/Aussenpolitik/Menschenrechte/7BerichtMRBuReg.html>

HAC-Kenya: Kenya Joint Assistance Strategy 2007, on

<http://www.hackenya.org/documents/kenya-joint-assistance-strategy/view-category.html>

Annex I

Matrix for the Application of the Right to Development Criteria and Indicators to the Kenyan-German Partnership

Please note: this matrix has been developed to facilitate the evaluation of the implementation of the RtD to the Kenyan-German bilateral development partnership. It utilizes the criteria and indicators established by the HLTF. The matrix's aim is to ease the evaluation by subdividing it into several independent steps, thus reducing the complexity of the issue. Experiences from Kenyan-German development cooperation serve as a first test-case to show how the matrix can be employed in practice. By no means do we believe the matrix and, hence, the evaluation of the implementation of the RtD to the partnership to be all-inclusive. On the contrary, the pilot implementation is merely supposed to help the potential user become familiarized with the matrix and its application, to discover additional issues of significance and, possibly, to change the matrix accordingly.

Moreover, please be aware of the following: although we have researched each of the criteria and indicators extensively, we do not possess full information on each aspect. The documents sighted are:

- Joint Assistance Strategy for the Republic of Kenya (2007 - 2012), Draft of June 13, 2007 (= KJAS);
- Kenya Freedom of Information Act 2007, Draft of April 2007 (= FOI Act);
- Quarterly Budget Review, Second Quarter 2006/2007 of Kenya's Ministry of Finance, March 2007 (= Quarterly Budget Review);
- Investment Programme for the Economic Recovery Strategy for Wealth and Employment Creation 2003 - 2007, IMF (= SWEC);
- PRSP-Watch Country Profile Kenya, October 2004 (= PRSP-Watch);
- BMZ's webpage:
<http://www.bmz.de/en/index.html>;
- The Constitutions of Germany and Kenya.

This is certainly only an extract of the existing documents. Therefore, we were not able to give definite answers to all the indicators. Indicators 1a; 2; 3; 12 and 14, in particular, have been problematic to respond to with the materials available. Consequently, these indicators have been answered with "partly". Of course, these responses might differ if, for example, the matrix is filled out by representatives of the governments of Kenya and Germany.



Please note: newly established and reformulated criteria are highlighted.

Criteria (n = 13)		Partnership countries: Kenya and Germany	Indicators (n = 17) (Implementation Checklist)	Implementation of the RtD to the Bilateral Development Partnership between Kenya and Germany		
Structure/ enabling environment				Yes, No, Partly	Comments/Explanations	Tendency re. Criteria (↑, →, ↓)
(a) The partnership for development promotes the incorporation by all parties concerned of all human rights , and particularly the right to development, into its national and international development strategies and partner countries receive support from international donors and other development actors for these efforts.		Kenya:	1. Do the developing country partners have their own national development strategies and priorities?	Yes	For example: <ul style="list-style-type: none">Economic Recovery Strategy for Wealth and Employment Creation 2003-2007 (SWEK);Kenya Joint Assistance Strategy 2006-2010 (KJAS);Strategy for Revitalizing Agriculture 2004-2010;Second National Health Sector Strategic Plan 2005-2011;National Water Services Strategy (2007-2015).	↑
<i>Incorporation of human rights into development strategies.</i>			1a. Are the national development strategies and priorities pro-poor, i.e. are they considerate of marginalized and vulnerable groups?	Partly		
<i>Support from international development actors.</i>			1d. Do the national development plans have measurable, time-bound targets, particularly in regard to indicators on advancement of human rights, well-being and equality?	Partly		
			2. Are the country's national development strategies and priorities reflected in the Government's budget in its actual allocations and expenditures and in their impact at the community level?	Partly		
					See 1. The Strategy for Revitalizing Agriculture, the National Health Strategic Plan II and the National Water Services Strategy, all place particular focus on poverty reduction. Sometimes more differentiation would be useful, concerning diverse situations of marginalization. <ul style="list-style-type: none">Also, an Economic and Social Empowerment Program is proposed (KJAS, 28).	
					SWEK: no specific human rights targets but time-bound targets re. education, health, HIV/AIDS etc. (SWEK, Appendix 1); KJAS: no specific human rights targets but time-bound targets re. education, health, HIV/AIDS, water, sanitation, gender equality, democratic governance etc. (KJAS, Annex 1).	
					Analysis of recurrent expenditures for all the ministries/departments (Quarterly Budget Review, 19); Issuing of budget strategy papers (KJAS, 11); Impact at the community level discussed in the KJAS.	

	Germany:	7. Do developed countries respect national development strategies and priorities elaborated by developing countries?	Yes	<ul style="list-style-type: none"> KJAS in consultation with the Kenyan government and non-state actors (KJAS, 7); KJAS supports various strategies and priorities (KJAS, 19ff.); One of the central principles of German development cooperation is to align itself to partners' priorities, thus following the political commitments of the Paris Declaration on Aid Effectiveness. 	↑
		8. Are the development partners using and fostering national mechanisms in the developing countries to channel aid and other support?	Partly	<ul style="list-style-type: none"> KJAS "The proportion of total development assistance that is channelled through country systems will increase gradually as public financial management improves" (KJAS, 31). 	
		9. Are the development partners providing sufficient and appropriate assistance in support of the country's national development strategy (e.g. is all aid untied)?	Partly	<ul style="list-style-type: none"> KJAS presents a coordinate effort to align development contribution to the national development strategies: SWEC, Vision 2030 etc... It has been developed jointly with the Kenyan government (31ff.). No, not all aid is untied. According to KJAS, 77 per cent of aid is untied (KJAS, Table 3). 	
		10. Is there an increasing trend in terms of the percentage of untied aid?	Partly	<ul style="list-style-type: none"> As regards the KJAS, an increase is planned but it depends on the performance of the national government (KJAS, Table 3). 	
(b) The partnership respects the right of each state to determine its own development policies , in accordance with its international obligations. <i>Respect re. the right to determine one's own development policies.</i>	Germany:	7. Do developed countries respect national development strategies and priorities elaborated by developing countries?	Yes	See above.	↑
	Kenya:	3. Is the government's budget transparent and easily known and monitored by the citizens?	Partly	<ul style="list-style-type: none"> Budget is transparent and accessible (Quarterly Budget Review); Issuing of budget strategy papers (KJAS, 11); Strategy to Revitalize Public Financial Management Program 2006-2011 (KJAS, 29); No specific data on the aspect of monitoring. 	
(c) The partnership values and promotes good governance, democracy and the rule of law at the national and inter-national levels.					

Promotion of good governance, democracy and the rule of law.	4. Does the government make use of anti-corruption measures?	Yes	<ul style="list-style-type: none"> Implementation of the Economic Crimes Act (2003) → Establishment of an Anti-Corruption Commission in 2004; Approval by Parliament of the Public Officers Ethics Act in 2003 (PRSP, 61-62). Whistleblower-Initiative, supported by the Governance-Project of German development cooperation with Kenya. 	↑
	11. Do partnership countries' accountability mechanisms provide remedies for human rights claims relevant to the right to development, and complaint and oversight mechanisms?	Yes	Both, Germany as well as Kenya, have systems of democratic governance and accountability. Governmental actors are accountable to their superiors. The governmental institutions are accountable to parliament. Furthermore, governmental actions can be reviewed by the courts. Citizens can access courts to claim their rights. Furthermore, the Kenya National Commission on Human Rights (KNCHR) has been established as a review mechanism for human rights violations. Citizens can access the Commission with human rights complaints. Sometimes the political reality in Kenya does not meet these formal legal and institutional standards. To facilitate critical review and improvements, the Governance project of German development cooperation in Kenya has facilitated the introduction of citizens' report cards and critical review of the achievements of the Courts of Law in Kenya.	
	12. Are mutual accountability, review and monitoring processes transparent? Is the public adequately informed?	Partly	<p>Kenya:</p> <ul style="list-style-type: none"> The Study does not have comprehensive information about transparency. However, the government of Kenya took part in the African Peer Review Mechanism. In the respective report, which is public, government action is critically reviewed. Similarly, the review of juridical practice that has been initiated through the system of citizens' report cards presents a valuable initiative towards transparent monitoring processes. A lively press landscape also contributes to citizens' information. <p>Germany:</p> <ul style="list-style-type: none"> German citizens can inform themselves on these issues on the BMZ's webpage. 	
(d) The partnership values and promotes gender equality and the rights of women.	1d. Do the national development plans have measurable, time-bound targets, particularly in regard to indicators on advancement of human rights, well-being and equality?	Partly	See above.	
	Kenya:			

<p><i>Promotion of gender equality and the rights of women.</i></p>	<p>1b. Are the national development strategies and priorities owned by all stakeholders within the country, including women, indigenous people, minorities, the poor and other vulnerable sectors of society?</p>	<p>Partly</p>	<ul style="list-style-type: none"> • The question of ownership is difficult to measure. It needs participation in the formulation of the strategy, plus regular monitoring ensuring that ownership continues. Monitoring has to be implemented through differentiated data; • As regards the SWEAC, broad consultation process with political groups and civil society in all regions, including women, the youth and the disabled (PRSP-Watch, 1ff.); • Non-state actors also contributed to the formulation of the KJAS. However, it is not clear who belonged to the group of non-state actors (KJAS, 7). <p><i>At the country level:</i></p> <ul style="list-style-type: none"> • Establishment of the National Economic and Social Council (PRSP-Watch, 5); However, do women organizations have a say in this Council? • Civil society consultation for the SWEAC included all groups (PRSP-Watch, 1ff.). <p><i>At the partnership level:</i></p> <ul style="list-style-type: none"> • Consultation funded by donors (PRSP-Watch, 2). • Kenyan-German development cooperation in all three priority areas – private sector development in agriculture, water and reproductive health – apply special mechanisms to include women in their participatory methods.
	<p>Both:</p> <p>14. Are there specific mechanisms and institutional arrangements – both at the partnership level as at the country level – in place, through which the marginalized and disadvantaged sectors, particularly women, effectively participate at different stages of decision-making, including review and monitoring?</p>	<p>Partly</p>	<ul style="list-style-type: none"> • Both countries have anchored the principle of non-discrimination as a basic right in their respective constitutions. However, the Kenyan Constitution (Art. 82) allows exceptions and thus different treatment for women as regards marriage, inheritance and other family matters and gives space for discrimination through traditional rules. Moreover, there is still high inequity between the rich and the poor and the urban and the rural population. There is progress in that Kenyan-German development cooperation seeks to pursue a coherent poverty focus, especially in the areas of reproductive health and water but further improvement is needed.
	<p>15. Is non-discrimination guaranteed to all persons and is there equal and effective protection against discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, income, birth, disability and health status, or a combination of these grounds?</p>	<p>Partly</p>	<ul style="list-style-type: none"> • No mentioning of the use of these external outcome indicators in the reports studied. However, Kenya and the developing partners have made use of self-established indicators, which seek to measure the poverty focus and the realization of human rights in a differentiated and disaggregated manner.
	<p>16. Do the partners in a partnership use outcome indicators (such as the Human Development Index, the Gender Development Index, the Gini Coefficient, the Children's Human Rights Index and the Trade and Development Index), in order to measure progress and ensure accountability?</p>	<p>Partly</p>	

<p>(e) The partnership ensures that adequate information is available to the general public for the purpose of public scrutiny of its working methods and outcomes.</p> <p><i>Availability of adequate information to the general public.</i></p>	<p>Kenya:</p> <p>Both:</p>	<p>3. Is the government's budget transparent and easily known and monitored by the citizens?</p> <p>12. Are mutual accountability, review and monitoring processes transparent? Is the public adequately informed?</p>	<p>Partly</p> <p>Partly</p>	<p>See above.</p> <p>See above.</p>	
Process					
<p>(f) The partnership provides for the meaningful participation of the concerned populations in processes of elaborating, implementing and evaluating related policies, programmes and projects.</p> <p><i>Provision for the meaningful participation of the concerned populations.</i></p>	<p>Kenya:</p> <p>Both:</p>	<p>1c. Are the national development strategies and priorities discussed and approved in institutionalized mechanisms of political representative participation, such as parliament?</p> <p>13. Does participation cover preference revelation, policy choice, implementation and monitoring, assessment and accountability?</p> <p>14. Are there specific mechanisms and institutional arrangements – both at the partnership level as at the country level – in place, through which the marginalized and disadvantaged sectors, particularly women, effectively participate at different stages of decision-making, including review and monitoring?</p>	<p>Partly</p> <p>Partly</p> <p>Partly</p>	<ul style="list-style-type: none"> As regards the SWEAC, there was no institutionalized participation of parliament, only selected parliamentarians were able to participate (PRSP-Watch, 1). The KJAS, however, was developed collaboratively with the government and endorsed by the government at the Kenya Coordination Group meeting (KJAS, 7). All programs of Kenyan-German cooperation provide for participatory methods including target groups. <ul style="list-style-type: none"> As regards the SWEAC, participation covered preference revelation and policy choice but not the other aspects. However, the government has started to develop a monitoring system (PRSP-Watch, 5). As regards the KJAS, partners will “encourage the government to engage civil society in its monitoring and evaluation efforts” (38). German development cooperation with Kenya applies a HRBA. This includes participation at all stages of the programs/projects: from the planning and inception phase through implementation up to monitoring and evaluation. <p>See above.</p>	

(g) The partnership includes fair institutionalized mechanisms of mutual accountability and review. <i>Inclusion of fair institutionalized mechanisms of mutual accountability and review.</i>	Both:	11. Do partnership countries' accountability mechanisms provide remedies for human rights claims relevant to the right to development, and complaint and oversight mechanisms?	Yes	See above.	↑
		12. Are mutual accountability, review and monitoring processes transparent? Is the public adequately informed?	Partly	See above.	
		13. Does participation cover preference revelation, policy choice, implementation and monitoring, assessment and accountability?	Partly	See above.	
		14. Are there specific mechanisms and institutional arrangements – both at the partnership level as at the country level – in place, through which the marginalized and disadvantaged sectors, particularly women, effectively participate at different stages of decision-making, including review and monitoring?	Partly	See above.	
(h) The partnership supports necessary economic and social reforms with a view to eradicating all social injustices. <i>Support re. economic and social reforms.</i>	Kenya:	5. Do a government's national development strategies and priorities include economic and social reforms, such as education, health or water sector reforms?	Yes	Kenya has undertaken many reforms in such areas as water, education, health, HIV/AIDS, agriculture etc. (KJAS, 18ff.).	↑
	Germany:	7. Do developed countries respect national development strategies and priorities elaborated by developing countries?	Yes	See above.	
(i) The partnership applies human rights impact assessments and supports, as needed, the establishment of social safety nets. <i>Application of human rights impact assessments and provision for social safety nets, if needed.</i>	Kenya:	1d. Do the national development plans have measurable, time-bound targets, particularly in regard to indicators on advancement of human rights, well-being and equality?	Partly	See above.	↑
	Both:	17. Are sufficient funds made available for the collection of timely and appropriate data, properly disaggregated, that will assist in the review and monitoring of the performance of the partners and other stakeholders?	Partly	<ul style="list-style-type: none"> Establishment of a firm baseline of current practices by KJAS partners and Kenya before the end of 2007 to assess the operational effectiveness (KJAS, 35). 	

<p>(j) In applying the criteria, statistical and empirically developed data is used, and, in particular, the data is disaggregated as appropriate, updated periodically, and presented impartially and in a timely fashion.</p> <p><i>Use of statistical and empirically developed data, which is disaggregated, updated and presented.</i></p>	Both:	<p>16. Do the partners in a partnership use outcome indicators (such as the Human Development Index, the Gender Development Index, the Gini Coefficient, the Children's Human Rights Index and the Trade and Development Index), in order to measure progress and ensure accountability?</p> <p>17. Are sufficient funds made available for the collection of timely and appropriate data, properly disaggregated, that will assist in the review and monitoring of the performance of the partners and other stakeholders?</p>	Partly	See above.	↑
Outcome					
<p>(k) The policies supported by a partnership ensure the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free, and meaningful participation in development and in the fair distribution of the benefits resulting therefrom, as required by article 2, paragraph 3, of the Declaration on the Right to Development.</p> <p><i>The policies ensure the constant improvement of the well-being of the entire population, on the basis of its active, free, and meaningful participation in development and in the fair distribution of the benefits resulting therefrom.</i></p>	<p>Kenya:</p> <p>Both:</p>	<p>1a. Are the national development strategies and priorities pro-poor, i.e. are they considerate of marginalized and vulnerable groups?</p> <p>1c. Are the national development strategies and priorities discussed and approved in institutionalized mechanisms of political representative participation, such as parliament?</p> <p>13. Does participation cover preference revelation, policy choice, implementation and monitoring, assessment and accountability?</p> <p>14. Are there specific mechanisms and institutional arrangements – both at the partnership level as at the country level – in place, through which the marginalized and disadvantaged sectors, particularly women, effectively participate at different stages of decision-making, including review and monitoring?</p>	<p>Partly</p> <p>Partly</p> <p>Partly</p> <p>Partly</p>	<p>See above.</p> <p>See above.</p> <p>See above.</p> <p>See above.</p>	↑

<p>(l) The priorities set by a partnership are sensitive to the concerns and needs of the most vulnerable and marginalized segments of the population, and include positive measures in their favor.</p> <p><i>Priorities are sensitive to the concerns and needs of the most vulnerable and marginalized segments of the population</i></p> <p><i>Priorities include positive measures in their favor.</i></p>	Kenya:	<p>1a. Are the national development strategies and priorities pro-poor, i.e. are they considerate of marginalized and vulnerable groups?</p> <p>1b. Are the national development strategies and priorities owned by all stakeholders within the country, including women, indigenous people, minorities, the poor and other vulnerable sectors of society?</p> <p>14. Are there specific mechanisms and institutional arrangements – both at the partnership level as at the country level – in place, through which the marginalized and disadvantaged sectors, particularly women, effectively participate at different stages of decision-making, including review and monitoring?</p>	Partly	See above.	↑
<p>(m) The partnership ensures equality of opportunity for all in their access to basic resources, education, health services, food, water and sanitation services, housing, employment and the fair distribution of income.</p> <p><i>Partnership ensures equality of opportunity for all in their access to basic resources.</i></p>	Kenya:	<p>6. Does the government provide public access to basic resources or, if they are provided through private operators, does the government ensure that access is not denied?</p>	Partly	<ul style="list-style-type: none"> • Free Primary Education Program 2004 (KJAS); Private Sector Development Strategy 2006-2010 aims at a better provision of services (KJAS, 21). • The relevant political strategies in the priority areas of Kenyan-German cooperation prioritize access to water, health and food for all Kenyans, with a particular focus on the poor and marginalized: <p>The National Health Sector Strategic Plan II has the priority to achieve equal access to health for all and thus, aims at realizing the relevant human rights.</p> <p>The National Water Services Strategy has the objective to improve access to water and sanitation for all, and therefore to contribute to the realization of the right to water.</p> <p>The Strategy for the Revitalization of Agriculture intends to realize food security for all Kenyans, and hence, to contribute to the realization of the right to food.</p>	↑

Annex II

Suggested List of Criteria for the Periodic Evaluation of Global Development Partnerships from a Right-to-Development Perspective

Restructured and Amended List as Suggested by the Authors

Structure/enabling environment

(a) *[formerly b]* The partnership for development promotes the incorporation by all parties concerned of all human rights, and particularly the right to development, into its national and international development strategies, and partner countries receive support from international donors and other development actors for these efforts.

(b) *[formerly g]* The partnership respects the right of each state to determine its own development policies, in accordance with its international obligations.

(c) The partnership values and promotes good governance, democracy and the rule of law at the national and international levels.

(d) The partnership values and promotes gender equality and the rights of women.

(e) *[formerly f]* The partnership ensures that adequate information is available to the general public for the purpose of public scrutiny of its working methods and outcomes.

Process

(f) *[formerly l]* The partnership provides for the meaningful participation of the concerned populations in processes of elaborating, implementing and evaluating related policies, programmes and projects.

(g) *[formerly k]* The partnership includes fair institutionalised mechanisms of mutual accountability and review.

(h) The partnership supports necessary economic and social reforms with a view to eradicating all social injustices.

(i) The partnership applies human rights impact assessments and supports, as needed, the establishment of social safety nets.

(j) *[formerly h]* In applying the criteria, statistical and empirically developed data are used, and, in particular, the data are disaggregated as appropriate, updated periodically, and presented impartially and in a timely fashion.

Outcome

(k) *[formerly m]* The policies supported by a partnership ensure the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free, and meaningful participation in development and in the fair distribution of the benefits resulting therefrom, as required by article 2, paragraph 3, of the Declaration on the Right to Development.

(l) *[formerly n]* The priorities set by a partnership are sensitive to the concerns and needs of the most vulnerable and marginalised segments of the population, and include positive measures in their favour.

(m) The partnership ensures equality of opportunity for all in their access to basic resources, education, health services, food, water and sanitation services, housing, employment and the fair distribution of income.

Please note: newly established and reformulated criteria are highlighted.

Annex III

List of Suggested Indicators to be Applied to the Criteria Restructured and Amended List as Suggested by the Authors

Indicators for the developing countries

1. Do the developing country partners have their own national development strategies and priorities?

1a. Are the national development strategies and priorities pro-poor, i.e. are they considerate of marginalized and vulnerable groups?

1b. *[formerly 9]* Are the national development strategies and priorities owned by all stakeholders within the country, including women, indigenous people, minorities, the poor and other vulnerable sectors of society?

1c. *[formerly 12]* Are the national development strategies and priorities discussed and approved in institutionalised mechanisms of political representative participation, such as parliament?

1d. *[formerly 5]* Do the national development plans have measurable, time-bound targets, particularly in regard to indicators on advancement of human rights, well-being and equality?

2. *[formerly 13]* Are the country's national development strategies and priorities reflected in the Government's budget in its actual allocations and expenditures and in their impact at the community level?

3. *[formerly 17]* Is the government's budget transparent and easily known and monitored by the citizens?

4. Does the government make use of anti-corruption measures?

5. Do a government's national development strategies and priorities include economic and social reforms, such as education, health or water sector reforms?

6. Does the government provide public access to basic resources or, if they are provided through private operators, does the government ensure that access is not denied?

Indicators for the developed / donor countries

7. *[formerly 2]* Do developed countries respect national development strategies and priorities elaborated by developing countries?

8. *[formerly 3]* Are the development partners using and fostering national mechanisms in the developing countries to channel aid and other support?

9. *[formerly 14]* Are the development partners providing sufficient and appropriate assistance in support of the country's national development strategy (e.g. is all aid untied)?

10. *[formerly 4]* Is there an increasing trend in terms of the percentage of untied aid?

Indicators for both partners

11. *[formerly 6]* Do partnership countries' accountability mechanisms provide remedies for human rights claims relevant to the right to development, and complaint and oversight mechanisms?

12. *[formerly 16]* Are mutual accountability, review and monitoring processes transparent? Is the public adequately informed?

13. *[formerly 10]* Does participation cover preference revelation, policy choice, implementation and monitoring, assessment and accountability?

14. *[formerly 11]* Are there specific mechanisms and institutional arrangements – both at the partnership level as at the country level – in place, through which the marginalised and disadvantaged sectors, particularly women, effectively participate at different stages of decision-making, including review and monitoring?

15. *[formerly 8]* Is non-discrimination guaranteed to all persons and is there equal and effective protection against discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, income, birth, disability and health status, or a combination of these grounds?

16. *[formerly 7]* Do the partners in a partnership use outcome indicators (such as the Human Development Index, the Gender Development Index, the Gini Coefficient, the Children's Human Rights Index and the Trade and Development Index), in order to measure progress and ensure accountability?

17. *[formerly 15]* Are sufficient funds made available for the collection of timely and appropriate data, properly disaggregated, that will assist in the review and monitoring of the performance of the partners and other stakeholders?

Please note: newly established and reformulated indicators are highlighted.

On the Authors

Felix Kirchmeier works since 2006 as Program Officer for Human Rights at the Geneva Office of the Friedrich Ebert Stiftung (FES) and has published on the Right to Development in this capacity. Before joining FES, he supported the Office of the High Commissioner for Human Rights in servicing the 2005/2006 meetings of the High-level task force and the UN Working Group on the right to development. He holds a Master degree in political science from the University of Freiburg (Germany).

The Friedrich Ebert Stiftung is a German private political foundation that is based on, and promotes the values of social democracy. Together with the offices in Berlin and New York, the Geneva Office forms part of the so-called "Dialogue on Globalization" program which contributes worldwide to the debate on globalization and global governance. It is based on the premise that – through an inclusive and responsive global policy approach – globalization can be shaped into a direction that promotes peace, democracy and social justice.

Monika Lüke works with the cross-sectoral GTZ Project "Realising Human Rights in Development Cooperation" which was commissioned by the German Federal Ministry for Economic Development and Cooperation in 2005. Within the project, her focus lies on Africa. Before, Monika has worked on migration and refugee policy and also taught international law at German and British universities.

GTZ, the Deutsche Gesellschaft für Technische Zusammenarbeit, is one of the major implementing agencies for German Technical Development Cooperation. The company also operates on behalf of other German ministries, partner-country governments and international clients, such as the European Commission or the United Nations.

Britt Kalla has participated in different projects at the *German Institute for Human Rights* since September 2006. She currently works in the Institute's press and communications department. Kalla was educated at the University of Canterbury in Christchurch, New Zealand where she earned a BA Honours in Diplomacy and International Relations and an MA in Political Science. The topic of her thesis was the implementation of a human rights-based approach to the *New Partnership for Africa's Development*.

The *German Institute for Human Rights* is Germany's National Human Rights Institution, established in March 2001 on the recommendation of the German Federal Parliament (Deutscher Bundestag). The Institute promotes and protects human rights by conducting studies, documentations and academic research projects. It offers public seminars, educational programmes, contributes to expert discussions and public debates, and gives policy advice to integrate human rights aspects into domestic and international policies.

ISBN 978-3-89892-853-3

