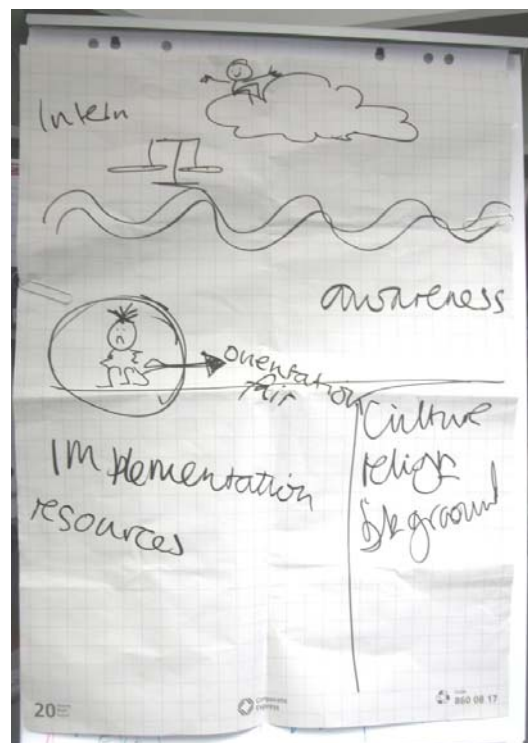




DOCUMENTATION

HUMAN RIGHTS-BASED APPROACHES TO DEVELOPMENT

Workshop for Consultants, Facilitators and Advisors
27th and 28th September 2007
GTZ-Eschborn



Organised by

GtZ cross-sectoral project: "Realising Human Rights in Development Cooperation"
German Institute for Human Rights

Trainers:

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Development)
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Objectives:

- To raise participants' awareness on the concepts and practice of human rights-based development
- To gain deeper understanding of right issues in development, in various sectors and across various issues
- To explore practical issues for taking rights-based work forward

Participants will leave the workshop with increased awareness and understanding of how rights-based development policy and practice are relevant to their work.

Programme:

Day 1	
9.00 – 9.15	Welcome, introduction and objectives:
9.15 – 9.30	Opening activity: where we stand now on rights
9.30 – 10.45	Poverty in Practice (group activity and plenary discussion)
10.45 – 11.15	Break
11.15 – 12.30	Human rights: what they are and how they relate to development (brainstorming and presentation)
12.30 – 14.00	Lunch
14.00 – 15.45	Activity: Characteristics of Rights-Based Development (RBD) Presentation: Principles of RBD: reaching the MDGs Plenary Discussion
14.45 – 15.00	Break
15.00 – 17.00	Activity: Discrimination and inclusion Plenary discussion

Day 2	
9.00 – 9.30	The day before – questions and answers
9.30-10.30	The right to know: Issues of Confidentiality (group activity and plenary discussion)
10.30 – 10.45	Break
10.45 – 11.15	Rights-holders and duty-bearers, issue-based stakeholders (roles)
11.15 – 12.30	Rights issues in the three sectors: agriculture, governance and conflict & disaster (group work)
12.30 – 14.00	Lunch
14.00 – 14.45	Rights issues in the three sectors (presentation of group work, plenary discussion)
14.45 – 15.15	Rights issues in the three sectors – the relevant standards (presentation)
15.15 – 15.30	Break
15.30 – 16.30	Programming and planning for Rights-based development : what we take forward into the work – Experiences from Kenya
16.30-17.00	Closing

1 Conceptual framework of a Human Rights-based approach (HRBA) to development

1.1 Background

The 1993 conference in Vienna on Human Rights emphasized the interdependence of civil, cultural, economic, political and social rights. It also encouraged the UN to stronger link their development work with its Human Rights machinery. But it was only with the Millennium Declaration and the MDGs, adopted by the international community in 2000, that Human Rights in development work gained momentum. Both documents prompted not just a stronger focus on poverty reduction for development work, but placed development cooperation within a broader framework of fulfilment of all Human Rights. In 2003, several UN agencies adopted the “UN common understanding on a HRBA”¹.

In Germany, the Federal Ministry for Economic Cooperation and Development (BMZ) adopted the “Development Policy Action Plan on Human Rights”² in July 2004 and extended it for another three years in 2007. It requires all German federal development assistance to work for the fulfilment of Human Rights and “continue and deepen the systematic orientation of our development policy towards Human Rights”.

1.2 Main elements of a Human Rights-based approach

At the heart of the HRBA is the recognition that unfair power relations deny people their rights and keep them in poverty. As Louise Arbour has stated,

*“Poverty is frequently both a cause and a consequence of Human Rights violations. (...) Tackling poverty is one of the gravest Human Rights challenges of our time.”*³

A HRBA aims at structural changes in society and therefore addresses the root causes of poverty - the misuse and abuse of power. A HRBA works to make shifts in power relations so that there is greater equity between powerless and powerful people.

A HRBA does so by strengthening capacities of both rights-holders in being aware of and claiming their rights as well as of duty-bearers in accepting and fulfilling their legal obligations. A HRBA in development supports the institutional change necessary to ensure meaningful participation and inclusion of marginalised groups, who become able to challenge and change the institutions that govern their lives.

A HRBA also makes development cooperation more accountable. Accountable not only with regard to its contribution towards respect, protection and fulfilment of all Human Rights, but also with regard to its capacity to integrate all Human Rights principles into its processes - equality/non-discrimination, participation/empowerment and accountability/transparency.

¹ http://www.unescobkk.org/fileadmin/user_upload/appeal/human_rights/UN_Common_understanding_RBA.pdf

² <http://www.bmz.de/en/service/infothek/fach/konzepte/konzept128engl.pdf>

³ Human Rights Day, 10 December 2006, http://www.ohchr.org/english/events/day2006/hc_op_ed.htm

1.2.1 Orientation towards Human Rights standards

The Human Rights enshrined in international Human Rights are the internationally agreed minimum standards for a life in dignity. They impose obligations on states to which they have acceded voluntarily. The most important international Human Rights instruments are:

- International Convention on the Elimination of all forms of Racial Discrimination (ICERD)
- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- Convention on the Rights of the Child (CRC)
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)
- International Convention for the Protection of All Persons from Enforced Disappearance (not yet into force)
- Convention on the Rights of Persons with Disabilities (not yet into force)

The ratification of these instruments impose three kinds of duties on states:

- **Respect:** The States Parties shall refrain from directly or indirectly interfering with the enjoyment of human rights
- **Protect:** The States Parties shall prevent third parties (e.g. private individuals or companies) from interfering, directly or indirectly, with the enjoyment of human rights
- **Fulfil:** The States Parties shall adopt legislative, administrative, financial, judicial, supporting and other necessary measures to achieve the full realisation of human rights.

Human Rights relate to and thus, protect all areas of human life, ranging from the right to a fair trial, the right to water, adequate housing, freedom of association, to the right to food etc. Their specific minimum standards and contents have been elaborated and operationalized in the "General Comments". These comments are issued by the Treaty Bodies set up within the framework of each Human Rights instrument. The Treaty Bodies monitor compliance with treaty obligations⁴. These General Comments also specify some core elements common to most economic, social and cultural rights and provide a valuable tool for defining the and adjusting the content of development cooperation. These common core elements are also sometimes referred to as the "4 As".

For example, for the **right to education** (art. 13 of the Covenant on Economic, Social and Cultural Rights), the Committee established the following four core elements⁵:

- **Availability:** functioning educational institutions and programmes have to be available in sufficient quantity within the jurisdiction of the State party.
- **Accessibility:** educational institutions and programmes have to be physically and economically accessible to everyone, without discrimination, within the jurisdiction of the State party.
- **Acceptability:** the form and substance of education, including curricula and teaching methods, have to be acceptable, that is relevant, culturally appropriate and of good quality.

⁴ For further information: http://files.institut-fuer-menschenrechte.de/576/ABC_englisch_update_Sep07.pdf

⁵ General Comment Nr 13 on the Right to Education:

[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/ae1a0b126d068e868025683c003c8b3b?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/ae1a0b126d068e868025683c003c8b3b?Opendocument); see also: Orientation Sheet on applying a HRBA in education - Overview and Recommendations to the Education Quality Programme (PACE) in Guatemala : http://files.institut-fuer-menschenrechte.de/576/Orientation_Sheet_Education_GTM_engl.pdf

- **Adaptability:** education has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings.

Another example is the **right to water**. It is regarded as an integral part of the right to an adequate standard of living and the right to the highest attainable standard of health (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights). The Committee establishes in its General Comment on the right to water⁶ the following core elements:

- **Availability.** The water supply for each person must be sufficient and continuous for personal and domestic uses. The quantity of water available for each person should correspond to World Health Organization (WHO) guidelines, which is 7.5 litres/day in emergencies and 20litres/day as a minimum.
- **(Acceptable) quality:** The water required for each personal or domestic use must be safe, therefore free from micro-organisms, chemical substances and radiological hazards that constitute a threat to a person's health.
- **(Physical & economic) Accessibility:** Water and water facilities and services have to be physically (not more than 30 minutes/both ways) and economically accessible to everyone without discrimination, within the jurisdiction of the State party. This includes the right to seek, receive and impart information concerning water issues.

1.2.2 Including and interlinking all Human Rights principles

Human Rights standards contain important cross-cutting principles, which are equality/non-discrimination, participation/empowerment and accountability/transparency. Encouraging peoples' participation in development is nothing new, nor is transparency or inclusion of discriminated groups. But the HRBA combines and interlocks these principles and thus goes beyond current practice. This adds substance, coherence and focus to development interventions.

- **Non-discrimination and equality** means that – even though government resources might be very limited – they have to be used in ways that reduce discrimination and work towards access for all people to government services and infrastructure.
For example, does a programme also reach those which are living at the edge of society? Does a programme not only provide temporary assistance to people in “vulnerable and marginalized” situations, but does it also work on the root causes, for example structural discrimination?
- **Participation** from a HRBA perspective is not limited to good development practice of actively involving people in planning, monitoring, implementation and evaluation. It rather works to **empower** poor and marginalised people so that they have the capacities and competencies to make a valued contribution to decision-making.
For example, are those groups among the population, which are supposed to benefit from a certain program intervention, included substantially (and not just formally) into planning, implementation and evaluation of that project? Does a programme not only provide access to basic services, but does it also improve the capacity of individuals and groups to claim further improvements in the political sphere?
- Legal provisions without structures and institutions securing **accountability** and redress tend to be meaningless. Human rights foresee a variety of institutions such as judicial remedies, independent committees overseeing political procedures and those investigating complaints. Accountability also presupposes **transparency** – without access to information a monitoring of state behaviour is not possible.

⁶ General Comment Nr. 15 on the Right to Water:

[http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/a5458d1d1bbd713fc1256cc400389e94/\\$FILE/G0340229.doc](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/a5458d1d1bbd713fc1256cc400389e94/$FILE/G0340229.doc)

For example, are there legal provisions guaranteeing access to information and is that information also physically, geographically and economically accessible? Are there accessible mechanisms, which can provide remedy in case that a certain population feels infringed in their rights by that project?

1.2.3 Rights-holders and duty-bearers

Human Rights focus by nature on persons in vulnerable situations, who are not participating in the socio-economic and political development of their country. Some of these groups might be marginalised due their geographical situation, other for lack of financial means; some suffer from discrimination which has been transformed into institutional practice, like persons with HIV, refugees, prostitutes, homosexuals or persons who are physically or mentally disabled. Due to their increased vulnerability, a state has a specific duty to take care that their rights are guaranteed.

The decisive questions when applying a HRBA are therefore: which are the rights in questions? Whether, for whom and to which extent they are realised? Are they realised in a non-discriminatory manner? And: Who is responsible for their fulfilment and is he actually fulfilling? Is he unwilling or unable to fulfill?

That entails first an analysis of who are

- the **rights-holders**: Those who are entitled to enjoy Human Rights. This is every individual, e.g. everyone has a right to adequate housing and to water, to freedom of opinion and right to a fair trial.
- the **duty-bearers**: Those who are obliged to respect, protect and fulfil Human Rights. The state who has acceded to the international Human Rights instruments is the primary duty-bearer. However, depending on the internal legal order of each country, there might be other entities that have human rights obligations. This does however, never release the state from its obligation to monitor and supervise the implementation.

A HRBA works towards empowering rights-holders to claim their rights and duty-bearers to fulfil them. This includes strengthening the capacity of duty-bearers for example such as state institutions and government employees to exercise their functions effectively and comply with their duties. It also includes strengthening rights-holders such as individuals and civil society organisations in articulating their rights and organising themselves.

1.3 Conclusion

A HRBA does not overhaul development cooperation, nor does it intend to do so. Experience shows that it rather adds value in terms of a powerful political tool for political dialogue and policy advice, as well as an analytical and operational framework for defining development objectives, processes and strategies.

2 Facilitation/presentation

Flexibility on the part of the facilitators seems essential, especially if human rights training is facilitated in the context of a general training course, annual general meetings etc. , i.e. as part of a wider agenda.

However, it has to be ensured that sufficient amount of time and attention is provided for the human rights-training. A “crash course” on human rights will hardly be able generate the necessary understanding and rooting of human rights in the development practitioner’s work. Ideally the human rights training is succeeded by joint practical work to test the integration of human rights issues in development practice.

Inter-active exercises are essential to trigger the involvement, interest and understanding of the participants. It is furthermore important that the facilitator continuously reacts on participant’s demands, ideas and questions.

Charts and draws constitute very useful tool to present arguments clarify question.

The importance of practical experience of the facilitator in the area of human rights and development cannot be overestimated. Illustration of arguments with practical examples will increase the credibility of the practicality and advantages of human rights in development. Thus, the experiences of the facilitator the area contribute to make a human –rights based approach/human rights based development more plausible, especially in situations where the audience consists of development practitioners.

3 Activities

3.1 Commitment Line

Objective: To get a quick, visual representation of people's feelings about RBD

Following introductions, participants were asked to imagine a line dividing the room into two halves. On one side of the line, the space represented a place where people felt relatively comfortable with RBD and confident in communicating ideas on RBD to others. On the other side of the line, the space represented discomfort with RBD and lack of confidence. The closer to the walls, the more extreme the feeling. Participants were then asked to place themselves in the room at a spot which would show how comfortable/confident they currently felt with RBD. Everyone was then asked, individually, to give a reason for why they had chosen that spot.

3.2 What is poverty?

Objective: To get participants thinking about the underlying causes of inequity. To explore the relationship between power and inequity.

In this activity, participants work in three groups to explore the case studies outlined below. Participants are asked to use different coloured cards to identify **opportunities** and **barriers** for the people involved in the case study in terms of human security and achieving well-being. Barriers are placed down one side of a piece of flip chart and opportunities down the other. Participants are then asked to identify the **underlying causes** of the barriers to human security and well-being.

The case studies:

Yemen

Fatima is fifteen and she is the third wife of a powerful Sheikh living in a mountainous area in the North of Yemen. Fatima got married last year and now she is seven months pregnant. Her mother-in-law says that it will be twins. Fatima's husband is not really unkind to her, but she hardly ever sees him. He is often away in the city, where he stays with his second wife in a house he has built for her. His first wife stays in the village. To Fatima, it seems the first wife is almost as old as the mother-in-law. When she was young, Fatima went to school for two years. Then her father removed her because he said it was too dangerous for a young woman to be walking around, away from the house. She has forgotten how to read and write. Fatima has been feeling really unwell with the pregnancy, and it is getting worse. She can no longer lift the jerry can of water which she has to fetch from the spring down the mountain every morning, and her legs seem to be swelling badly, even when she tries to rest. Her mother-in-law is not sympathetic. Fatima knows she needs to see a doctor, but her husband is away and, without his permission, she cannot ask to be taken to help.

Main results of the working group (Flipchart):

Barriers:

- Early marriage and pregnancy
- Lack of access to medical care
- Insecurity in the area ? (is it really insecure or was it a pretext?)
- Husband's absence
- Early school leaving
- Overdependence on her husband's family

Opportunities:

- Husband's absence
- Access to financial and political resources
- Two years of education
- Marriage to a powerful sheikh

Underlying causes:

- Limited infrastructure (hospital, phone)
- Religious beliefs
- Perception of empowerment
- Cultural factors (gender)
- Lack of state support for girls (legal framework, resources)

Kenya

Moraa has two sons and one daughter, Arati. Her husband, Nyambane, was a tobacco farmer. He died of tuberculosis 9 months ago. The Clinical Medical Officer at the nearest dispensary explained that Nyambane's T.B. was made worse by the crude methods used by most farmers in drying the tobacco leaves. Since Moraa's husband's death, she has been snubbed by her in-laws because she refused to be inherited by Nyambane's brothers. Also, because Nyambane is a staunch Christian she is refusing to have her daughter' circumcised. Her late husband's family hoped that Moraa would succumb to their pressure to circumcise Arati. As Moraa refused to abide by the traditional norms, she was prohibited from ploughing the family in-law's *Shamba* (land) which has not yet been officially demarcated. In search of subsistence, Moraa has been mining soapstone and carving. This is a job mostly done by men. Moraa has developed pains all over her body and is unable to carry out all the house-hold tasks, like fetching water from a river about 4 kilometres away. The community borehole has been taken over by the local militia, '*Sungu Sungu*,' who control the access of water demanding high fees unaffordable to most of the villagers. Moraa's health is getting really bad. Recently she complained to her fellow miners about her inability to feel the left side of her body. She could neither walk more than 20 KM to the nearest dispensary nor use *Boda Boda* because the bumpy roads aggravated her pains. While in a church gathering, Moraa collapsed and the local priest arranged to take her to Kisii District Hospital. The doctor's diagnosis revealed that Moraa suffered a stroke and is infected with HIV-virus which he is convinced was the cause of Nyambane's death too. Moraa's biggest worry is the welfare of her children and she especially fears for Arati. Because Moraa married against the will of her parents she cannot turn to them for help either.

Main results of the working group (Flipchart):

Barriers:

- HIV infected
- No land use rights
- Work is inappropriate for a woman (the fact that she is having a man's job, shows that she is excluded from society)
- She is sick, resulting in that she is : a) unable to get water, b) to take care of children, c) soon she can't work anymore
- Pressured by in-laws to follow the traditional patterns
- Lost support of her parents due to second marriage
- Death of husband resulted in negative impact on family income

Opportunities:

- Strong self identity
- Moraa can say "No" to her in-laws (role model/protection of daughter)
- Free primary education for children possible
- Moraa has a job
- She has access to health care
- Moraa is supported by the church
- Two sons and one daughter
- Strong faith-based networks

Underlying causes:

- No HIV education
- Rigid cultural pattern
- Local elites (militia) restrict the access to natural resources (water)
- Lack of law enforcement/legal security
- No land use rights for females

Germany

Three months ago, Fatma and her two small children came from Iran to Landshut. She decided to migrate after her son Tarek, who is 5, was diagnosed with epilepsy and no proper medical treatment was available in her village in the mountains. A friend had told her that medical treatment would be good in Germany. Thus, she undertook the long and difficult journey. She is currently without residency status, but has been awarded "subsequent orders of toleration" for herself and her children. These allow her to stay in Germany for an extendable period of 3 months. The order of toleration limits her right to move around the country and she has to stay put in Landshut. In Iran, Fatma was a trained teacher. In Germany she has applied for employment with a cleaning company, but none of her applications has been successful, since the toleration order limits her entitlement to stay to three months. So, Fatma is living on social benefits. These are mainly handed out in vouchers with some additional cash as pocket money. The vouchers entitle her to buy her food in certain supermarket chains. But she cannot use them to buy Halal meat with the only Turkish grocery shop in town. Her son Tarek has received treatment from the local hospital. However, because they lack official residency status, the hospital would be limited to providing Tarek with only absolutely essential care. Therefore, they cannot get the new and expensive drug which has been specifically developed for children suffering from epilepsy. Fatma's second child, Sara, is 7 years old. She is going to the beginner's class in a German all-day primary school in Landshut. She is the only child in her class who is not German. Sara can only speak and understand a few words in German but the teachers say that she will not receive any special support. They say that it is in Fatma's responsibility to make sure that her daughter catches up. At a parent's meeting Fatma is greeted with great reservation. Fatma attributes that to the fact that she is wearing a headscarf. The other parents express worries that their children's learning will be held back should there be special consideration for Sara's needs. Sara has been jeered at by her class mates since she refuses to eat meat during school lunch for fear that it is pig.

Main results of the working group (Flipchart):

Barriers:

- "Subsequent orders of toleration" – limitation of residence status results in restrictions on a) right to move, b) work (can't find work)
- Social benefits: no Halal meat
- Medical treatment: only absolutely necessary care (~ emergency care) available
- Discrimination at school: headscarf/lack of language skills
- Epilepsy (Tarek)

Opportunities:

- "Subsequent orders of toleration" – at least she can stay for three months
- Social benefits: at least she can survive
- Medical treatment: at least her son gets a treatment
- She sends her daughter to school/can support her
- She is a strong woman
- She is educated/ is a teacher

Underlying causes:

- 3 months – unsecure residence status
- no proper treatment in Iran

3.3 What is poverty?

- Brainstorming and discussion

Flipchart results:

- basic needs are not fulfilled
- lack of adequate financial and natural resources
- lack of access to basic services
- no possibility for self-determination
- opportunities for personal growth and development > self-esteem
- lack of participation in decision-making of relevant issues
- cultural poverty
- lack of information
- no chance of living a life in dignity
- absence of financial means
- lack of food, water, healthcare, education, housing etc
- lack of infrastructure
- basic needs are not met
- lack of equal opportunities (jobs)
- lack of access to (productive) resources
- no access to or absence of rule of law
- no longer term life perspective
- lack of choice; exploitation
- lack of opportunities to improve your situation
- lack of rights
- lack of networks
- lack of empowerment: a) education, b) to enforce your rights
- no sufficient income to meet basic needs
- lack of resources
- lack of education: to take your own decision
- restricted access to resources

3.4 What are the characteristics of a Human Rights-based approach?

- Brainstorming and discussion

Flipchart results:

- Empowerment
- Respect
- HR standard
- Equality
- Participation
- Dignity
- Responsibility
- Access to information
- Non-discrimination
- Transparency
- Resources
- No more charity
- Accountability
- Access to basic needs
- Networks
- Security
- Protection
- Individual/structural
- Democracy/governance
- Tolerance
- Diversity
- Coherence and consistency
- Changing roles
- Credibility

3.5 What are Human Rights?

>>> see Annex 1 – Human Rights, PP presentation by Monika Lüke

3.6 Discrimination and inclusivity

Adapted from © CR2 Social Development 2006

Objective: To experience feelings relating to discrimination and social exclusion and relate these to inclusion issues in development

To be able to work for inclusivity from a rights-basis, we need to tackle all aspects of discrimination. We need to look at both: at how society, culture and tradition discriminate against certain groups of people and also at the ways we, as individuals, discriminate and are discriminated against. Not all discrimination is “obvious”. And we all discriminate against other people at times.

Here is a list of simple things which can lead to discrimination: ask yourself if you have ever felt discriminated against because of any of them. Or have you perhaps discriminated against others because of any of these things? What does it feel like to be discriminated against? What does it do to you? What do you feel about the person who is judging you in this way? What do you feel when you judge other people in a discriminatory way? What do you think they feel about you?

Have you ever been discriminated against:

- Because of being a boy or a man
- Because of being a girl or a woman
- Because of the way you look
- Because of the amount of money in your family
- Because you were poor
- Because of the amount of education you had
- Because of your background
- Because of the colour of your skin
- Because of your age
- Because of your health status
- Because of your sexual practice or preference
- Because of your nationality
- Because of the clothes you wear
- Because of your personality
- Because you are close to someone with HIV
- Because you have been abused

Notes for debriefing and discussion

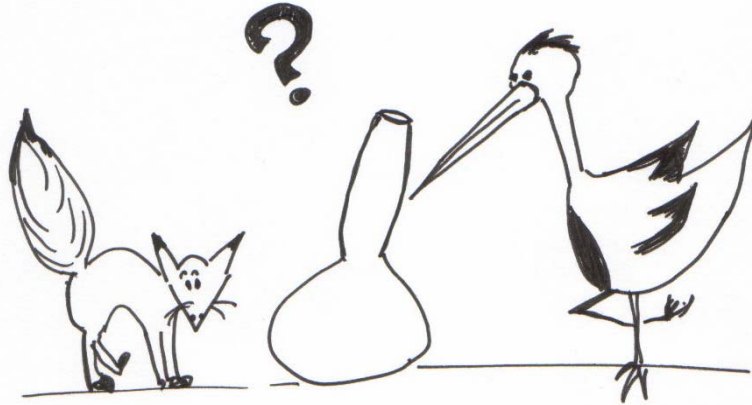
Questions for debriefing: Have you ever discriminated against anyone else for any of these reasons? What does it feel like to be discriminated against? What do you feel when you discriminate against someone else? What did you experience when doing the activity?

Once again, this is an instance where we can see that working for rights-based development means that we have to challenge ourselves and our own preconceptions and judgements just as much as we challenge the wider society. We can't work to encourage poor and marginalised people's voices in the education system if, in our own homes and lives, we aren't willing to listen to people who have fewer advantages or less power than we do.

Challenging discrimination means that we are challenging inequality. When we get rid of discrimination, we can treat people more equally. But this does not mean that we will then treat everyone exactly the same. Treating people equally means that we will take people's particular needs into consideration, and we will work with them to identify appropriate means to get their rights and their needs met.

The Fox and the Stork

Two friends, a fox and a stork, were both very hungry and were walking across the grasslands together looking for food. Eventually, they met a woman carrying a tall gourd and in the bottom of it there was a delicious meal. She agreed that they could eat the food, and she left them with the gourd and walked on to her home:



Q: Both the fox and the stork were happy at first and agreed to share the food, half each. But, in the end, who got to eat the food?

A: Only the stork could eat, because only he could reach in to get the food. The gourd was not an appropriate shape for the fox to be able to eat. The only way the fox would be able to eat that day, would be if he ate his friend!

DIFFERENT BUT EQUAL!

3.7 Why is an understanding and analysis of discrimination important to our work in development?

- Brainstorming and discussion

Flipchart results:

- Discrimination as a cause of poverty
- Poverty is both a result of and a reason for discrimination
- Our target groups are discriminated
- Targeted poverty reduction
- Creating opportunities for the discriminated
- Target group differentiation can be a desirable way of discrimination
- Empathy and response
- Protect vulnerable groups
- Discrimination implies social and economic costs for society and leads to conflict and violence
- The poor should enjoy the ultimate benefits of any development intervention
- To avoid exacerbating existing inequalities/discriminations
- Powerlessness and discrimination are mutually reinforcing, therefore development should focus on changing power relations
- Selection of staff and intermediaries should follow equal opportunity guidelines
- Development is incomplete without tackling exclusion

3.8 Issues of Confidentiality

Objective: To get participants thinking about interdependences, linkages and conflicts between rights and responsibilities.

If, for example, a woman comes to a clinic and is tested and found to be HIV positive, what is the right thing to do? She has a right to confidentiality, but doesn't her husband or partner have a right to know her status so as he can protect himself? What about her children, don't they have a right to know too? What is the right thing to do? Could any decision lead to somebody's rights being infringed?

People are very concerned by these issues. Yet, some parts of the problem have clear answers:

As a medical practitioner, you are sworn to keep the confidentiality of clients.

As a medical practitioner, you have no right to put a client in a situation that may endanger her/him (beyond the monitored risks associated with appropriate medical care).

As a practitioner, you have a duty to support your client.

What this means is that, whilst every situation will be different, generally speaking we do not have the right to inform family members without permission to do so from the client. Ideally, we would want to talk with our client and support them in making a decision on whether or not to inform other people. We must believe that the client knows their own social circumstances best. Nevertheless, if we can offer the right support, our encouragement may be enough to ensure that someone can disclose their status safely, and without jeopardising their support base, or the love of their family.

However, many women, in many countries have been put in danger when they have disclosed their status to husbands or partners. A considerable number of women have been killed for doing this, and others have committed suicide rather than face the situation. Our role has to extend beyond the medical, to being able to offer support, family and community counselling when, and where, necessary.

All over the world, it is women who are "blamed" for the spread of HIV – even when it is clear that a man has passed the virus to his wife, and not the other way round. Women, generally, are more willing to tell their husbands (if they do not fear for their safety) and to accept the responsibilities that being sero-positive brings. Men may be less so. It may be harder to persuade a husband that there is need to tell his wife of his status. Across the world, many women become positive and only learn of their status when they become ill, or when they are pregnant.

Flipchart results:

Group a)

Persons	Rights	Responsibilities
Patient	To counselling and adequate help and medical treatment	To inform partner
	To determine on next steps/information/action	Together with partner make provisions for future of children
		To take all available medical precautions to save unborn child
Doctor		Inform about medical risks and consequences
		Maintain confidentiality
Husband	To be informed	To get tested and evt. Inform other sexual partners
Children	To be protected	
	To get adequate care provisions	
	Right to life of the unborn	

Group b)

- Right to privacy
- Right to health
- Right to life
- Inform woman about consequences for herself, her husband, her children and other family members
- Discuss with woman necessity to inform family, on HOW to inform family
- Necessity for husband to be tested
- Invite woman and husband for next meeting
- Information to officials

Group c)

- Inform patient about risks for herself, the child, husband, wider family
- Inform patient about possibilities for herself, child, others
- Get more information about circumstances
- Try to convince patient
- Offer support
- Think about options: Option A: Woman informs husband and children; Option B: She refuses to inform anybody – it is her right to do so. Follow-up?

3.9 *Right to education*

Brainstorming and discussion:



Some questions for discussion:

- Who has got rights and responsibilities? Which level of rights?
- Are there always corresponding rights and responsibilities?
- What, if education is not granted adequately?

3.10 *Rights-Based Development*

>>> see Annex 2 – RBD, presentation by Sheena Crawford

3.11 Three case studies

Objective: To encourage participants to think about the components/steps of rights-based development in particular sectors/projects.

Case study 1: Conflict and Disaster

There has been wide-scale flooding in the Northern part of the country, following from a period of civil war in which the President had just been killed. At least one million people are seriously affected by the flooding, and the whole country is in uproar – leaderless and with no authority firmly in power. Many lives have been lost in the war, and now in the flood. In the flood affected areas, the vast majority of the people are officially homeless or only just being able to return to their homes. Assets – such as land, fields, animals etc. have been destroyed. Added to this, in the urban areas, and particularly in the capital, two different factions have been organising to loot from businesses and homes. These factions are aligned with the two main opposing parties – which have been engaging in sporadic fighting until recently. There had been no intention of re-starting development assistance until the political situation had calmed. But now, the flood emergency means that some assistance has to be given.

1. What do you need to take into consideration to ensure that:
 - a) You are being as equitable as possible in the circumstances
 - b) People's will get their immediate needs met and their rights will not be infringed now?
 - c) There will be improved chances for equitable, sustained development into the future?
2. What are the particular issues that would affect your ability to meet these conditions?

Flipchart results:

Actors:

- Government
- Militia A
- Population A
- Opposition party
- Militia B
- Population B (most affected)
- Population C (minority)
- Widows and their children of population C

Measures to be taken/aspects to consider:

- Responsible fundraising
- Donor coordination
- Promote dialogue between government and opposition
- Work with civil society
- Balance relief between different groups
- Thorough needs assessment
- Relief committees with equal representation of all groups
- Link food aid with seeds and tools (relief – development)

Case Study 2: Food security in technical cooperation with Kenya

Brief Description of the programme “Cooperative Programme on Promoting the Private Sector in Agriculture”

“Agriculture is one of the key pillars of Kenya’s economy, both in the long and short term. 51% of Kenyan GNP is generated by the agricultural production and agroprocessing industries. About 60% of the workforce is active in this sector. Although growth in the agricultural sector was stunted for many years, since 2003 the annual growth rate has risen to 6.7% (2006). Nevertheless, only a relatively small portion of rural inhabitants accounting for three-quarters of Kenya’s population has benefited from the upturn. Half of rural inhabitants live under the poverty line. The potential of the Kenyan agricultural sector is still not being optimised, due to unstable framework conditions, particularly for the private sector, and shortfalls in infrastructure and services. The agricultural sector also has to deal with stiffer competition and a depleting resource base.

The reform of the Kenyan agricultural sector is based on the Kenyan Economic Recovery Strategy for Wealth and Employment Creation (ERS) 2003-2007 and the Strategy for Revitalizing Agriculture (SRA). The reform strategy outlined in these documents is geared towards promoting the private sector and has already significantly improved framework conditions in the sector.

Furthermore, the Agricultural Sector Coordination Unit (ASCU) was set up as an inter-ministerial coordination mechanism to implement the SRA and develop sectoral approaches. It plays a key role in coordinating sectoral tasks and reforms.

German Development Cooperation (DC) with Kenya promotes the focal area of developing the private sector’s involvement in agriculture which forms part of the Kenyan strategies outlined above. The Technical Cooperation (TC) activities outlined in this document and the Financial Cooperation (FC) activities, which focus on improving infrastructure in the areas of small scale irrigation, rural road construction and marketing infrastructure, form together a joint programme strategy.

The objective of German TC is: The owners of small- and medium sized agricultural production and processing enterprises realize their production, market and employment potential in an ecologically sustainable manner.

The overall programme is to run over 12 years (from 2003 to 2015). The third promotion phase will run for a term of three years (from January 2008 to December 2010). A total of EUR 7.35 million is available for this phase. (Of this, EUR 5.7 million is newly pledged funds, EUR 1 million residual funds from the previous phase and EUR 650,000 combined financing provided by the Netherlands).

The programme executing organisation is the Ministry of Agriculture, which is also primarily responsible for implementing the Strategy for Revitalizing Agriculture.

The programme’s promotion strategy involves providing advisory services, basic and further training measures. In this context, measures to shape the political framework conditions, to develop value chains and promote environmentally sustainable technologies will be linked up.

German TC will also play a key role in coordinating activities in the sector by providing consultancy services and helping to fund the ASCU.

TC support will contribute to:

1. improve the political and economic framework conditions for private-sector actors involved in the area of agriculture (including the conservation of natural resources),
2. help actors and subsistence farmers from the private sector and the landless to benefit from the further development of (no more than eight) selected value chains,
3. help enterprises and actors in the programme’s target region to benefit from the increased use of environmentally sustainable and cost-reducing technologies.

The German contribution is significant, primarily because, unlike other donors, German DC intervenes at all levels and is therefore able to systematically transfer implementation experience to decision-makers. Furthermore, TC activities links up with FC measures in the infrastructure

sector. The programme is being implemented primarily in the following provinces: Rift Valley Province, Eastern Province, Western Province, Nyanza Province and Central Province. To ensure that the promotion programme is successfully implemented, the German Government expects the Kenyan Government to continue to focus on developing the private sector, as stated in the ERS and the SRA. This is vital if the agricultural sector in Kenya is to develop further. The German Government also anticipates that by promoting transparency and accountability in agriculture, the Kenyan Government will help combat corruption.”

Questions:

1. In what respect could the programme make a contribution to the realisation of the right to food and to the implementation of a human rights-based approach?

2. What do you need to take into consideration to ensure that:

- a) everybody, including the poorest and most marginalised people, will be included in transparent and accountable decision-making processes in relation to delivery of basic services?
- b) when cases of malpractice or maladministration occur, perpetrators are held to account and those mistreated are treated equitably and justly regardless of their status
- c) there is improved and sustained accessibility to equitable, quality basic services into the future

3. What are the particular issues that would affect your ability to meet these conditions?

Flipchart results:

Rights which are most at stake:

- Land rights
- Right to food
- Health rights

(This working group defined their results rather in the way of a process-oriented approach towards adapting the existing programme. Accordingly, the following lines should be read rather as steps which build on each other, than as single measures to be taken)

- Define & discuss rights and responsibilities of all stakeholders
- Identification of gaps
- Participatory process
 - o Preparation, implementation, monitoring
 - o Programme could facilitate this process
 - o Programme facilitates discussion forum
- Foster inclusion of the poorest, e.g. through awareness-raising on longterm consequences of discrimination etc.
- Maybe consider conditionality of external support?
- Analyse interests of all stakeholders

Possible outcomes of this process could be evt.:

- Define value-chain in a broader way
- Line up with other CBOs/NGOs
- Partnerships
- Building inclusive farmer groups
- Generate a common interest
- Building self help groups for landless > microcredits

Case Study 3 – Corruption and Governance

Under the terms of the second PRSP, which commits the government to sustained economic growth and poverty reduction, there are explicit measures for improving transparency and accountability in the delivery of decentralised basic services (Health, Education, Water and Sanitation). These are currently run through line ministries with some involvement of local government. The aim is to give more responsibility for planning and decision-making to local government administrations. Targets and indicators have also been set to track inclusion of user groups and communities in the local management of the services, particularly women and vulnerable groups.

At the same time civil society pressure led by the local branch of Transparency International has led to widespread public debate on the effects of corruption in the delivery of basic services. Poor people are the most affected by lack of oversight; institutionalised under-the-counter payments to officials. In response, the government has set up an anti-corruption commission within the Ministry of Home affairs. It has 5 members of staff led by a senior official and small budget. Civil society activists are not convinced that the commission is sufficiently empowered to carry out its mission to root out corruption in government and bring corrupt officials to account. They are preparing to put it to the test during the implementation of PRSP II.

- 1 What do you need to take into consideration to ensure that:
 - a) everybody including the poorest and most marginalised people will be included in transparent and accountable decision-making processes in relation to delivery of basic services
 - b) when cases of malpractice or maladministration occur, both perpetrators are held to account and those mistreated are treated equitably and justly regardless of their status
 - c) there is improved and sustained accessibility to equitable, quality basic services into the future
- 2 What are the particular issues that would affect your ability to meet these conditions?

Flipchart results:

(Some) identified problems:

- Evt. physical danger for AC activists
- Insufficient budget of ACC > inadequate fulfillment of mandate
- Corruption leading to a) less quality of services, b) less quantity of services
- No independence of ACC (linked to Mo Home Affairs)

Persons/institutions	Rights	Responsibilities
Mo Health/ Education/ Water/ Sanitation – responsible for basic services		Responsible for <ul style="list-style-type: none"> - legal framework - budgeting - organisation - monitoring of decentralised services - oversight
		Ensure the provision of decentralised services

Local government administration (regional and municipal)	Right to sufficient budget from central government	Provision of infrastructure for basic services
Hospitals and health services and all other service providers such as schools		Grant non-discriminatory access to services and in accordance with provisions
Judiciary		Independent, impartial in dealing with cases of corruption
Anti-Corruption Commission	Institutional and financial independence	Prevention, challenging and controlling
Civil Society Organisations	Right to challenge and redress	
	Right to information	
	Naming and shaming: evt. Bring cases to authorities	
Most marginalised population (minorities, vulnerable, women, mistreated among society as such)	Right to access to justice	
	Right to Health/ Education/ etc.	
	Right to Non-discrimination	
	Right to information	

Measures to be taken:

- Check of compliance of legal framework/budget with int'l standards
- Capacity development & sensitization for inclusive policies at national level, local level and for providers
- Affirmative action for marginalised & vulnerable in local government (Question: How do we know/find out who exactly are the most marginalised and vulnerable?)
- Sufficient budget and trained staff for ACC
- Protection of HR defenders and ACC activists
- CSO participation in budget allocation and budget control at local level (Problem: accountability of CSOs?)
- Empowerment of society, esp. marginalised, to control CSOs and government

3.12 Experiences water sector Kenya

>>> see Annex 3 – Experiences Kenya, presentation by Monika Lücke