

# Promising Practices

## On the human rights-based approach in German development cooperation Health: Ensuring inclusion and access to quality health care in Kenya

### Background

Kenya is a signatory to a number of international human rights treaties, including the International Covenant on Economic, Social and Cultural Rights, which contains the right to health. In addition, the 2010 Constitution of Kenya recognises the highest attainable standard of health as a basic human right. In spite of this, access to quality health services remains a mirage for various population groups in Kenya, particularly in the area of sexual and reproductive health.

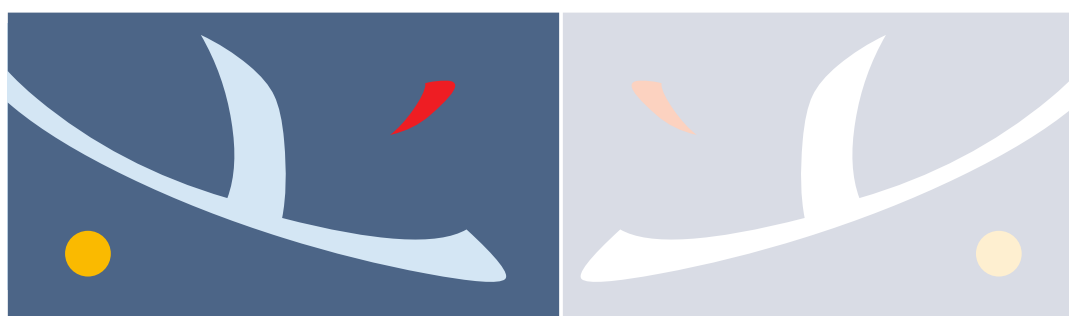
For a majority of Kenyans, the difficulty in claiming their rights to health and adequate healthcare is due to a lack of proper policy, resources and institutional frameworks. Health planning processes lack transparency, and the population is often left out in public decision-making processes related to health matters. The result is an insufficient allocation of public funds to the health sector: only 6 per cent of the national budget is allocated to the health sector, a far cry from the required 15 per cent required in the Abuja Declaration of 2001, to which Kenya is a signatory.

Societal stigma and discrimination coupled with a harsh legal and religious environment have limited access to information and quality healthcare for population groups most at risk, including sex workers, men having sex with men, injecting

drug users or lesbians, gay, bisexual, transgender and intersex people (LGBTI). Other vulnerable groups, such as persons with disabilities and adolescent girls, also face different forms of stigma and discrimination that undermine their right to health. In addition, the Kenyan Government has not dedicated a budget to adequately address the needs of vulnerable population groups – including survivors of gender-based violence.

Since 2006, the German-Kenyan Health Sector Programme has adopted a human rights-based approach. Its objective is to improve equitable access – especially for the poor and marginalised groups comprising those affected by HIV/AIDS – to affordable and good quality healthcare, particularly in the area of reproductive health. The programme works both at national and regional levels. Besides government institutions the programme cooperates with faith-based organisations, non-governmental organisation networks and the private sector in order to ensure better health system outcomes. The programme comprises four components:

1. Policy advisory services
2. Health financing
3. Family planning and reproductive health
4. Reduction of gender-based violence and human rights violations.



The programme is jointly implemented by GIZ and Kreditanstalt für Wiederaufbau (KfW) and is financed by the German Federal Ministry for Economic Cooperation and Development (BMZ). It was launched in 2005 and is expected to run until 2016.

### Human rights framework

Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) establishes the right to the highest attainable standard of physical and mental health. The UN Committee monitoring the implementation of the ICESCR specifies the right to health: Health services must be available, accessible, acceptable and of good quality (General Comment No. 14 of 2000). Kenya ratified the covenant in 1972.

The Constitution of Kenya adopted in 2010 guarantees the following economic, social and cultural rights: the right to the highest attainable standards of health including the right to health care services, reproductive health care and emergency medical care; the right to housing and sanitation of a reasonable standard; the right to food; the right to water. article 27 of the Constitution determines that the state shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.

Article 12 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) obligates governments to ensure the availability of reproductive health services and to remove legal barriers to reproductive healthcare. Kenya ratified the convention in 1984.

Article 25 of the Convention on the Rights of Persons with Disabilities (CRPD) obligates governments to ensure equal range, quality and affordable health care to persons with disabilities. Kenya ratified the convention in 2008.

Article 16 of the African Charter on Human and Peoples Rights (Banjul Charta) obligates governments to protect the health and ensure the medical treatment of their people. Kenya ratified the Banjul Charter in 1992.

## Towards a human rights-based approach

The Government of Kenya has adopted the National Health Sector Strategic Plan (NHSSP II) and corresponding health policy reforms. The BMZ funded Health Programme implemented by GIZ encourages innovative approaches to improving basic human rights, including access to good quality and affordable healthcare, reducing gender-based violence, and assuring fair treatment for those vulnerable, marginalised and stigmatised by society. This is attained through mainstreaming the human rights-based approach in all aspects of health at structural, systemic and operational levels (see Figure 1).

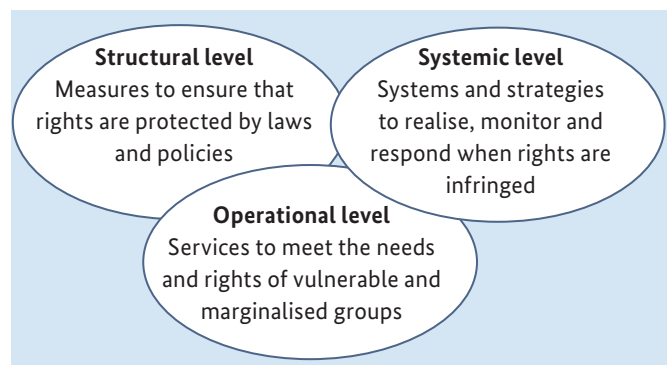


Figure 1: The human rights-based approach – levels of intervention

At the **structural level**, GIZ has supported the integration of human rights standards and principles in legal and health sector policy reform processes:

- Inclusion of a Bill of Rights within the Constitution
- Pro-poor health sector reform
- Working with government agencies and other stakeholders on pushing for enactment of laws that prohibit female genital mutilation (FGM)
- Collaborating with the GIZ implemented Good Governance Programme in Kenya on the enforcement of the Sexual Offences Act
- Updating the reproductive health policy for adolescents
- Support in drafting the National School Health Policy

At the **systemic level**, GIZ has promoted the integration of human rights principles in annual health sector planning at national and decentralised levels. District Health Management Teams in supported districts have drawn up annual operational plans. These have included interventions with communities geared at fighting root causes of violence by challenging the gendered cultural norms that are harmful and lead to practices such as FGM.

GIZ has also provided training and advisory assistance to civil society organisations, such as the Health NGO Network and the Gay and Lesbian Coalition, to enhance their capacity to advocate for the rights of marginalised groups. Support for and institutional strengthening of civil society organisations and networks have increased their participation in policy-making processes in the context of the sector-wide approach to health. At community level they have promoted advocacy forums on reproductive health issues, including gender-based violence.

The inclusion of faith-based organisations within the government disbursement mechanism of Kenya's Health Sector Services Fund has led to an increased access to health services particularly for vulnerable and poor persons.

At the **operational level**, the programme has focused on improving the quality of care. This has included the promotion of practical skills and attitudinal change among service providers, in particular when dealing with person from vulnerable and marginalised population groups.

Through various pilots and projects, the programme is enhancing the capacity of health service providers to distribute information and improve services. An example is the initiative 'Health for all Kenyans through Innovation'. It seeks to improve access to healthcare for vulnerable people in low-income settings. Another example is a public-private partnership which has increased access to comprehensive services for survivors of gender-based violence.

The programme has also supported the Kenya Union of the Blind (KUB) in the installation of software that converts materials to text, MP3, digital talking books, large print and Braille. This took place at the ICT resource centre for youth with visual impairments, providing free internet access and computer training. Young people with visual impairments working in the centre thus were supported in producing materials in accessible formats. This honed their skills and gave them an income-generating activity geared towards support for KUB projects.

## Impact

Human rights are now an integral part of Kenya's Constitution and the respective provisions are highlighted in the Bill of Rights. Government agencies, partner organisations and the Kenyan public are now more aware of the right to health and related rights.

At policy level, human rights are a thread running through various laws and policies. Support and institutional strengthening has enhanced the capacity of service providers to deliver inclusive and non-discriminatory information and services. Human rights principles are now integrated in the sector-wide approach, and there is emphasis on increasing access to services and information for the poorest population groups. Visually impaired persons for example can now access a translation of the Sexual Offences Act into Braille.

Furthermore, support for and the participation of civil society and faith-based organisations in policy-making processes have increased their capacity to advocate for the rights of marginalised groups. For example, people living in areas where only faith-based health facilities are accessible can now access treatment following the inclusion of these facilities in the new health services funding mechanism: the Health Sector Services Fund.

The Kenyan Government is also piloting projects within government health facilities to increase access for LGBTI, persons with disabilities and adolescent girls, groups that constantly battle with stigma and discrimination.

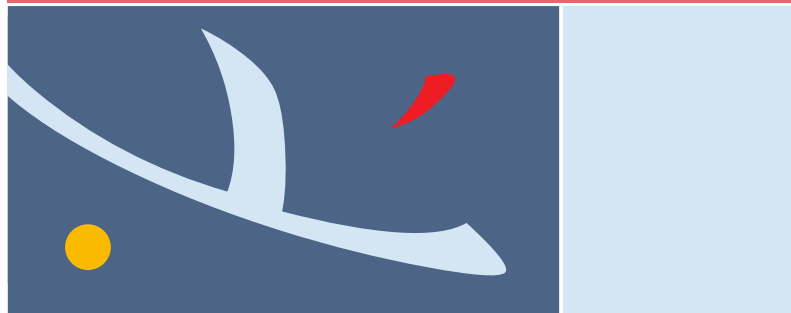
There is also better inclusion and participation of civil society through the Health NGOs Networks at the highest decision-making levels, such as the Reproductive Health Inter-Agency Coordinating Committee. This has provided an advocacy platform for responding to the health needs of the most vulnerable in Kenyan society.



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## Challenges

Often enough, policy makers still view advocacy on health-related human rights as activism rather than a matter of key principles and obligations. National champions can change this; if properly identified and trained they can continue advocating for health-related human rights, embed them in strategies and policies, and put advocacy for human rights in the right perspective.

Monitoring and evaluation of compliance with human rights standards is another challenge. There is a need to further develop implementation and monitoring frameworks for constitutional and legal provisions. There is also a gap in documenting 'what works' as far as human rights interventions are concerned.

Despite increased awareness concerning human rights, human rights for sexual minorities and LGBTI are still very sensitive and controversial. Much more needs to be done to foster change in social attitudes towards human rights principles, like non-discrimination.

The low proportion of the national budget allocated to the health sector is a key challenge to achieving affordable and quality healthcare. The Kenyan Government needs to ensure sufficient staffing and stocking of health facilities if Kenyans are to benefit from improved services.

## Lessons learned

The GIZ implemented programme's multi-level approach has made the human rights-based approach multi-directional, and thus more effective. In addition, promoting dialogue between several stakeholders (government, civil society and faith-based organisations) has contributed to the fact that more Kenyans have access to information on health-related human rights and benefit from improved services. Finally, with increased awareness, information and progressive laws entrenching human rights – such as the Kenyan Constitution – citizens can and increasingly do demand implementation of these laws.

In terms of project management it has become obvious that – in order to achieve sustainable impacts – human rights need to be integrated at the onset of project planning and have measurable indicators within monitoring and evaluation frameworks.

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