



D R A F T

**Report of the advisory mission
“Strengthening the human rights orientation of the GTZ-
supported programme ‘Promotion of the Private Sector in
Agriculture’”**

by
Dr. Monika Lüke

GTZ cross-sectoral project:
“Realizing Human Rights in German Development Cooperation”



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gtz | Menschenrechte umsetzen in der
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I. Introduction

The advisory mission “Strengthening the human rights orientation of the GTZ-supported programme ‘Promotion of the Private Sector in Agriculture’” was generated by the selection of Kenya as one of two countries to pilot a human rights-based approach in German development cooperation by the German Ministry for Economic Cooperation and Development.

The advisory mission which took place from 27 March to 7 April 2006 had the overall objective of contributing to strengthening a human rights-based approach in the agricultural sector in Kenya and specifically in the implementation of the Strategy for Revitalisation of Agriculture (SRA), with a particular focus on Kenyan-German cooperation in the priority area of private sector development in agriculture.

Before the mission began, a desk analysis of objectives and indicators of the GTZ programme on Promotion of Private Sector in Agriculture was undertaken.

Besides providing information about content and significance of the human rights-based approach in the implementation of SRA in general and more specifically in the GTZ-supported programme, regular and intensive exchange (interviews and discussions) with team members and partners on existing elements of a human rights-based approach in their work, actual strengths, potential shortcomings and possibilities for further action was a central element of the mission. The discussions with selected staff of the Ministry of Agriculture mainly took place during two training sessions on human rights in agriculture with a particular focus on SRA, conducted by the advisor in the context of the mission.

A two-day field trip to Nyeri and Meru districts provided the chance to become familiarised with programme practice and have discussions with farmers’ groups and members of farmers’ associations as well as district officers in two value-chain components: dairy goats and Irish potatoes.

Meetings with KENFAP, the Agribusiness Training Centre, NALEP and UNHABITAT completed the mission.

Towards the end the advisor had the chance to present her impressions and preliminary findings to the PSDA team during a programme management unit meeting, resulting in a lively discussion among staff.

Before the start of the mission it had been agreed that advice and support should also be given to the M+E unit in the Ministry of Agriculture. Unfortunately, cooperation with the M+E unit could not be brought beyond the introductory stage, i.e. information of and exchange with the head of unit and sensitisation of three members, due to a major reshuffle in staff in the wake of the mission and due to lack of availability of staff, probably related to the fact that most staff were new and therefore could not be informed well in advance.

However, the programme director will follow-up that issue, so it is hoped that cooperation with the M+E unit in the Ministry of Agriculture can be intensified at a later stage.

II. Human rights-based approach in Kenyan-German development policy

The human rights-based approach is an approach that complements the range of instruments hitherto used by DC and strengthens certain elements. It is an approach that works towards explicit orientation of German DC towards the realisation of international human rights standards, which have been ratified by the relevant parties.

Thus, the human rights-based approach in Kenyan-German cooperation is anchored on two pillars, Kenya's international obligations and policy commitments and also Germany's human rights obligations and policy commitments:

To corroborate its international human rights commitments and to strengthen human rights protection in the area of development policy in 2004 the German Ministry for Economic Cooperation and Development adopted the Development policy action plan on human rights 2004-2007 endorsing explicitly the aim "...to mainstream human rights approach in German Development cooperation".¹

With the exception of the UN Convention on the Protection of the Rights of Migrant Workers, the government of Kenya has ratified all UN human rights conventions and bound itself to the realisation of international human rights standards². It has also ratified important regional human rights instruments³, with the exception of the regional *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa ("the Maputo-Protocol")*. According to these treaties, the government of Kenya has committed itself to the realisation of international human rights standards and, consequently, to shape the domestic legal system and to implement its policies in accordance with international human rights standards.

The Kenyan National Commission on Human Rights, the national human rights institution, which was established in 2003 to act as the chief agent of Kenya's compliance with regard to its international human rights commitments, actively supports efforts to implement a human rights-based approach into Kenyan policy⁴. Accordingly, a member of the Kenya National Commission on Human Rights attended the Kenyan-German consultations, that were conducted in early February 2006 and included human rights issues.

Through the adoption of a human rights-based approach in their cooperation policy both, Kenyan and German actors have committed themselves towards a consequent and coherent compliance with international human rights standards⁵ and principles⁶ throughout the project cycle.

What are the new elements inherent in a human rights-based approach? Where are the advantages?

Commitment towards substantial human rights guarantees

The commitment towards international human rights integrates development cooperation into a universal reference system which is applicable to the overall majority of donors and partners alike⁷ and which sets legally binding standards for both. Development cooperation

¹ Measure 2.

² International Covenant on Civil and Political Rights (CCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on the Elimination of All Forms of Racial Discrimination (CERD), Convention against Torture (CAT), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention on the Rights of the Child (CRC).

³ African Charter on Human and Peoples' Rights, including the Protocol on the Establishment of an African Court on Human and Peoples' Rights; African Charter on the Rights and Welfare of the Child.

⁴ E.g. recently through the organisation of a national conference on the human rights-based approach to programming "Showcasing the human rights-based approach to development", Safari Park Hotel, Nairobi, 23/24 March 2006.

⁵ I.e. substantial human rights guarantees as contained e.g. in the International Covenant on Civil and Political Rights: e.g. the right to life, access to justice, prohibition of torture, freedom of press, freedom of association, and in the International Covenant on Economic, Social and Cultural Rights, e.g. right to food, right to work, right to the highest attainable standard of health, right to an adequate standard of living, right to education etc.

⁶ Participation and empowerment, accountability and transparency, equality and non-discrimination.

measures have the additional and essential function of supporting the partner in the fulfilment of its international legal (human rights) obligations.

Commitment towards human rights principles

Besides commitment towards realisation of substantial human rights guarantees, such as the right to food etc., a human rights-based approach has the following core elements: participation resulting in empowerment, non-discrimination and inclusion of vulnerable groups, and transparency leading to accountability (the so-called “human rights principles”).

Participation and Empowerment

Participation and Empowerment are principles which have been applied in German development programming for almost 20 years. A human rights-based approach strengthens their force as it calls for the systematic and coherent application of participation and empowerment throughout all stages of programming from planning through implementation to monitoring and evaluation to generate structural and institutional changes. The objective and advantage of a participatory and empowering approach is to identify rights holders and raise their awareness of their rights and capabilities. At the same time, they are encouraged and requested to take up the freedom and responsibility inherent in any rights-position and take decisions and yield power with regard to their development, so that ultimately any support for development processes is carried out on a demand-driven basis. A central objective of empowerment as part of a human rights-based approach is to enable individuals and groups of individuals to invoke their position, i.e. their rights towards the government, including government officials. Encouraging individuals or groups of individuals to raise their human rights concerns is an important element of states’ obligations in the context of international human rights treaties.⁸

Non-discrimination

The principle of non-discrimination is a fundamental human right in itself and is included in all international human rights treaties.⁹ It prohibits any distinction, exclusion, restriction or preference which is based on any ground (such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status), which differentiates without any legitimate reason.¹⁰ In practice, prohibition of discrimination is of particular relevance in relation to access to (limited) resources, and hence, in the area of economic and social rights including the right to food, right to education and training etc...

The principle of non-discrimination requires a particular focus on vulnerable groups, e.g. women, persons with HIV/Aids, pastorals, certain ethnicities, and special efforts the objective of which is that these groups have the same access to resources as others and are not excluded. This might require state parties to temporarily adopt special measures to diminish or eliminate conditions that cause or help to perpetuate discrimination prohibited.¹¹

Transparency and accountability

⁷ The United Nations human rights treaties have been ratified by the overall majority of the 192 states: CCPR: 156 states parties; CESCR: 153 states parties; CAT: 141 states parties; CEDAW: 182 states parties; CRC: 190 (!) states parties (as of 19 April 2006).

⁸ E.g. art. 2 (3) CCPR, art. 2 (1) CESCR, art. 3 CEDAW.

⁹ Art. 2, 3, 26 CCPR, arts. 2 (2), 3 CESCR; art. 2 and numerous provisions in CEDAW.

¹⁰ Cf General Comment No. 18 (1989) of ICCPR: Non-discrimination (para. 6 f.) referring to the definition contained in art. 1 (1) of the International Convention on the Elimination of All Forms of Racial Discrimination and art.1 of the International Convention on the Elimination of All forms of Discrimination against Women

¹¹ CCPR General Comment No. 18: Non-discrimination of 10 Nov. 1989, para. 10.

Transparency resulting in accountability of state action at various levels is another indispensable feature of a human rights-based approach. Human rights constitute binding legal obligations for the state and its officials towards individuals as rights holders and therefore imply accountability requirements. Transparency and accountability requirements not only create challenges and obligations for duty bearers, but also strengthen their sense of responsibility and ownership and therefore, contribute towards sustainability.

For these specificities a human rights-based approach is likely to generate sustainability in development.

In practice, the human rights perspective covers two dimensions:

- A critical reflection and assessment of the existing and intended impact (WHAT do we do?). That is: To what extent does the programme contribute to the realisation of human rights in the agriculture sector, e.g. to the right to food, to an adequate standard of living, to the generation of employment etc...?

- A reflection and assessment of methodologies (HOW do we work?). That is: To what extent does the implementation of the GTZ-supported programme involve and empower the "target groups", also including marginalised groups, e.g. women, youth in its various stages?

III. Human rights in agriculture

Human rights and agriculture are closely interrelated. Along with the right to food and the right to an adequate standard of living, other human rights such as the right to life¹², the right to water¹³, property rights, especially the right to own land¹⁴, the right to conditions which are favourable to the generation of employment¹⁵, rights with regard to production methods¹⁶ and the right to organise collectively and form trade unions¹⁷ are highly relevant to the achievement of sustainable development in agriculture and are mutually interlinked.

Given the importance of the agricultural sector for food security and freedom from hunger, the right to food seems to be of particular relevance. This also holds true for Kenya, where about 80 % of the population live in rural areas and derive their livelihood from agriculture¹⁸ and where still 50.6 % of the population lack access to adequate food¹⁹. Accordingly one of the core objectives of SRA is to contribute to food security²⁰ and thus the realisation of the right to food.

Closely interwoven with other essential human rights guarantees in the economic and social sphere²¹, hunger and malnutrition increase vulnerability to diseases and hence affect the human right to the highest attainable standard of health. In agriculture access to production

¹² Art. 6 (1) CCPR, art. 4 Banjul Charter.

¹³ Art. 11, 12 CDESCR, art.14, para. 2 (b) CEDAW, art. 24, para 2 (c) CRC, Committee on Economic, Social and Cultural Rights, General Comment on the Rights to Water (No. 15), 2002, UN Doc. E/C.12/2002.11.

¹⁴ The right to have access to land without discrimination is explicitly granted in art. 14 Banjul-Charter; it is also an inherent part of the right to food (Art. 11 CCPR) and of human rights relating to self-generation of employment (Art. 6 -8 CDESCR), cf General Comment on the Right to Food, para. 26., FAO Voluntary Guidelines on the right to food, Guideline 8.

¹⁵ Art. 6 CDESCR, FAO Voluntary Guidelines Right to Food, Guidelines 8.8, 8.9. General Comment on the right to food, para. 26.

¹⁶ Art. 7 CDESCR, art. 15 Banjul-Charter.

¹⁷ Art. 8 CDESCR, art. 10 Banjul-Charter.

¹⁸ SRA 1.2.

¹⁹ SRA 1.2.

²⁰ SRA 4.2.

²¹ As can be seen in the UN General Comment on the Right to adequate food (1999), paras. 2, 4 and in the FAO Guidelines.

as a precondition for access to food is dependent on access to land and water, education and ultimately political power.

Human Rights in SRA

The 2004 Strategy for Revitalising Agriculture as the basis for Kenyan Agricultural Policy, which PSDA aims to support, does not explicitly refer to human rights. In substance, however, several aspects of SRA relate to human rights: e.g. the question of access to land is identified as a problem for the development of the agricultural sector²². In that regard the issues of land rights of women and of minimum parcel size for agricultural uses are explicitly addressed²³. The difficulties relating to access micro-credits are likewise discussed²⁴, and the preparation of a comprehensive study as well as the adoption of a Microfinance Act is envisaged²⁵. Further human rights issues which are considered, are: the right to the highest attainable standard of health²⁶, the right to (vocational) education and training²⁷ and freedom of association, which in the Strategy relates to the strengthening of self-organisation capacities of farmers' organisations²⁸.

The SRA furthermore embodies the human rights principles of empowerment and participation and also of non-discrimination, although, again, without explicitly linking them to the topic of human rights, whereas transparency and accountability issues are not addressed.²⁹ According to the Strategy empowerment and participation are important elements in shaping an institutional framework for the future of agriculture in Kenya³⁰ with the local authorities entrusted with a central role in planning and implementation in their respective areas, but obliged to consult and include community based organisations and farmers' groups.³¹ In the area of non-discrimination the Strategy includes special measures for vulnerable groups which are often excluded, e.g. it aims at particular support for farmers with HIV/Aids³², entails commitments towards gender main-streaming³³, also addressing the specific problems of women with regard to access credit³⁴ and land³⁵ and commits itself to special measures to encourage and support youth towards farming.³⁶

²² SRA, 6.3.1. on farm inputs for production services: the government commits itself to "... finalise outstanding land registration to facilitate the issuance of titles that could be used as collateral to produce inputs..".

²³ SRA 6.4.1. dedicated to present problems relating to access to land.

²⁴ SRA 2.3.4, 6.3.5.

²⁵ SRA 9.2.3.

²⁶ SRA 8.4. which is dedicated to health issues with a particular focus on HIV/AIDS: MoA in cooperation with others will undertake a study to identify the most vulnerable farming communities and design viable mechanisms for support for households to cope with the effects of the disease; issues of HIV and malaria will be integrated in curricula of training institutions; MoA and MoLFD will jointly introduce measures to address the growing number of HIV/AIDS "orphan farmers".

²⁷ SRA 6.1.3. on agricultural training.

²⁸ SRA 9.2.1 entailing commitments towards streamlining procedures for legal registration and supporting membership education and management.

²⁹ Only mentioned in regard to Civil Society Groups, 9.3. SRA.

³⁰ SRA 9 and 10.

³¹ SRA 9.1.2, 10.1.3.

³² SRA 8.4.

³³ SRA 8.5.1.

³⁴ SRA 8.5.1. ii).

³⁵ SRA 6.4.1. vi).

³⁶ SRA 8.5.2.

Besides the substantial references in the SRA the Kenya State of Human Rights Report 2003-2004 by the Kenya National Commission on Human Rights³⁷ also contains an entire chapter on the right to food, with numerous references to agricultural production in Kenya.³⁸

IV. Human rights relevance of GTZ-supported programme “Promotion of Private Sector Development (PSDA) in Agriculture”

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 substantial potential for growth. In that regard the Strategy for the Kenyan-German Cooperation in Private Sector Development in Agriculture of 2003 anticipates the target of the Kenyan Strategy for Revitalizing Agriculture (SRA), which has been formulated in 2004. It is assumed that improvement of production and income on these farms will lead to an expansion of local food production and additional agricultural jobs for the poor.

The core partner on behalf of the Kenyan government is the Ministry of Agriculture (other governmental departments involved are the Ministries of Livestock and Fisheries Development, Cooperatives Development and Marketing, and Water and Irrigation respectively). Cooperation entails activities at micro-, meso and macro level.

Support at macro level is, for example, provided through advisory services to and close cooperation with the Ministry of Agriculture on the improvement of framework conditions for the private sector in agriculture. Meso-level support entails cooperation with KENFAP as well as assistance and advice for farmers' associations. At micro level farmers' groups receive support in selected value chains.

PSDA's value chain approach covers all stages of the production process from the production input to marketing for consumption for selected agricultural products. It is unique, and therefore, the special aspect of the programme.

The programme framework provides several entry points for human rights mainstreaming, but does not yet apply a systematic and coherent human rights-based approach. Therefore, questions of a human rights-based approach will be discussed with regard to programme objectives (1.), indicators (2.), methodology (3.), activities (4.), and monitoring + evaluation (5.) – with a particular focus on the theme of activities since this was the main working area during the mission in Kenya.

1. Objectives

The overall objective of the programme is *“To support small and medium-sized farms in value-adding chains for selected agricultural products to make increasing use of their market opportunities under improved framework conditions”*.

In its focus on strengthening and promoting small agricultural production units with potential for marketing, the programme is in line with SRA which quite similarly has the primary objective *“... to provide a policy and an institutional environment that is conducive to increasing agricultural productivity, promoting investment and encouraging private sector involvement in agricultural enterprises and agribusiness”*. Both, the SRA and the PSDA have the overall objective of contributing towards poverty reduction.³⁹

³⁷ The Kenya National Commission on Human Rights has the statutory task to give an annual assessment of the performance of the government of Kenya in the field of human rights, Sec. 21, The Kenya National Commission on Human Rights Act, 2002.

³⁸ <http://www.knchr.org>, p.43 et seq.. of the report.

³⁹ SRA 4.1., AURA-Angebot 3.3.

Although the overall programme objective of PSDA does not explicitly refer to human rights aspects, it takes up some issues substantially relating to human rights - primarily on the right to food (a.), but also on rights relating to the working process (b.) and aiming at empowering small scale farmers it entails an important human rights principle. As long as the programme aims at these human rights issues the question whether the programme should re-orientate and also target if subsistence farming is of a political nature and not one indicated by human rights concerns (c.). However, more explicit human rights references in the programme objectives would be desirable (d.).

a. The right to food

The programme explicitly wants to make a contribution towards food security and the realisation of the right to food in Kenya⁴⁰, which to a considerable extent depends on the capability to use the agricultural potential of the country.⁴¹

Although one important feature of the right to food⁴² is the requirement of direct and immediate measures to ensure access to adequate food as part of a social safety net⁴³. The second aspect entails investment in productive activities to improve the livelihoods of the poor and hungry in a sustainable manner. This requires, " *the development of appropriate institutions, functioning markets, a conducive legal and regulatory framework, and access by the poor to employment, productive resources and appropriate services.*"⁴⁴

Through the above quoted Guideline 2.4. the member states of FAO explicitly acknowledge, that support for market activities can also constitute a valuable contribution towards the realisation of the right to food.⁴⁵ The FAO Guidelines on the Right to Food have been agreed upon by the FAO member states, including Kenya and Germany, in 2004⁴⁶, as interpretation of the contents of an international human right to food and in therefore complement the UN General Comment adopted by the Committee on Economic Social and Cultural Rights as the authoritative source on the contents of the right to food.

⁴⁰ Aura-Angebot 3.3.

⁴¹ SRA 1.2., 4.1.-4.3.

⁴² As guaranteed in Art. 11 of ICESCR which states:

1. The States Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realisation of this right, recognising to this effect the essential importance of international cooperation based on free consent.
2. The States Parties to the present Covenant, recognising the fundamental right of everyone to be free from hunger, shall take individually and through international cooperation, the measures, including specific programmes, which are needed:
 - a. To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilisation of natural resources
 - b. By taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

⁴³ UN General Comment on the right to adequate food (1999), paras. 6 et seq..

⁴⁴ FAO Voluntary Guidelines Right to Food, 2.4, adopted by the 127th session of the FAO Council, 22-27 Nov. 2004, <http://www.fao.org>.

⁴⁵ To be corroborated by FAO Guideline 4.1., which states: "States should, in accordance with their national law and priorities, as well as their international commitments, improve the functioning of their markets, in particular their agricultural and food markets, in order to promote both economic growth and sustainable development, *inter alia*, by mobilizing domestic savings, both public and private, by developing appropriate credit policies, by generating sustainable adequate levels of national productive investment through credits in concessional terms and by increasing human capacity."

⁴⁶ Adopted by the 127th session of the FAO Council, 22-27 Nov. 2004: " *The development of appropriate institutions, functioning markets, a conducive legal and regulatory framework, and access by the poor to employment, productive resources and appropriate services.*"

b. Rights relating to the working process

Within the framework of the overall goal, the programme follows four sub-goals (components), which are all related to the working process and situation of small-scale farmers. Again human rights aspects relating to income generating activities are not explicitly listed. However, especially sub goal 3 “*strengthening of the self-organisation capacities and lobbying of private sector associations*” features a considerable degree of human rights relevance and so does sub goal 2 “*improvement of the range of services for small and medium-sized enterprises in the ...value chains..*” as it contributes to the improvement of working, production or marketing conditions for small-scale farmers.

In addition, sub goal 3 directly pursues the aim of empowering small-scale farmers and hence, the realisation of a principle which is central for the realisation of human rights (see above).

Therefore the programme objectives, although not explicitly relating to human rights, in substance tackle several human rights issues.

c. Targeting subsistence farming?

However, the focal area strategy and thus the programme might not focus on the most urgent human rights problems in the agriculture sector in Kenya since they do not directly address the desperate situation of those affected by droughts, of the landless people or the situation of subsistence farmers who have no means to fulfil their basic personal needs.

Although discussions with staff indicate that some situations of subsistence farming are sometimes covered during start-ups, e.g. in dairy goat breeding, subsistence farmers certainly do not belong to the target group of PSDA.

It is sometimes argued that “proper” human rights mainstreaming in the area of food necessitates direct targeting of the poorest parts of the population, which in the area of agriculture would most certainly include subsistence farmers and pastoralists.

In fact, a human rights-based approach relating to food security and the right to food requires that the programme objective also encompasses the very poor groups of society, i.e. the subsistence farmers⁴⁷. The principal obligation inherent in the right to food requires states and hence official state-run development cooperation “...to take steps to achieve progressively the full realisation of the right to adequate food...”⁴⁸ i.e. to work towards the objective that “... everyone ...[under its jurisdiction has].. access to essential food which is sufficient, nutritionally adequate and safe, to ensure their freedom from hunger”⁴⁹.

Within these legal framework obligations, however, states enjoy a considerable margin of discretion relating to the kind of efforts they undertake towards realisation of the right to food. The UN Committee on Economic and Social Rights has explicitly stated this in its interpretation of the right to food⁵⁰. Support for subsistence farmers does not have to be the immediate and direct focus of the support programme. But expected improvement of their situation can also be an intended *indirect* outcome, e.g. through support for small-scale farming to increase food production and to generate employment for the poor⁵¹.

As long as the programme objectives can be shown (through respective indicators) to contribute towards improving the food security of the very poor groups of society, the goal of

⁴⁷ UN General Comment on the right to adequate food (1999), paras. 13, 15.

⁴⁸ UN General Comment on the right to adequate food (1999), para. 14.

⁴⁹ S.a. fn. 51.

⁵⁰ UN General Comment on the right to adequate food (1999), para. 21.

the programme is presumed to be in line with the right to food regardless of whether it is obtained through direct targeting or, alternatively, through indirect means, e.g. through support for small-size private farming with a potential for further indirect improvements for subsistence farmers.

Furthermore, rigid limitation of agriculture programming in favour of support to subsistence farming and/or pastoralists might seriously affect other groups of the farmers' community, which might have to stop production because of the difficult farming conditions. The danger of impoverishment of small sized farmers into subsistence farmers constitutes one of the motives⁵² for PSDA to target the small agricultural production entities.

Additionally, indivisibility of the international human rights framework as a rule prohibits rigid prioritising in favour of one human rights guarantee on the expense of another (e.g. right to food against farmers' right to (vocational) education, rights related to the working process, freedom of association etc.)⁵³. However, since not all rights can be fulfilled at the same time or at the same place, the principle of "progressive realisation"⁵⁴ recognises that some rights may have to be given priority over others⁵⁵. Human rights standards themselves can hardly resolve complex policy choices and trade offs, hence the question which priorities are set in a given sector is generally considered a political decision, taken in the course of governmental consultations, and not one indicated by the international human rights framework. Yet there are certain core obligations which cannot be traded off and therefore set binding constraints: states have a core obligation derived from the rights to life, food and health to ensure that all individuals within their jurisdiction are free from starvation⁵⁶. These core obligations are binding upon the Kenyan government when implementing SRA, but also have to be taken into consideration by official German development cooperation when supporting the Kenyan partner, i.e. by PSDA.

From the political perspective it might certainly be questionable whether it is advisable to work in parts of Eastern and Central provinces with a high potential for agricultural growth when poorer areas with lesser potential are not targeted. On the other hand the idea that promotion of growth in these areas might improve the market supply and consequently contribute to a decrease in food prices on the one hand and generate employment opportunities for the poorest on the other hand might prove successful and thereby contribute to food security of the poorest.

d. Explicit human rights references desirable

Given the human rights links inherent in the programme objectives a more explicit and direct reference and thereby focus towards the realisation of human rights would be desirable in order to provide a clear link to international human rights standards. The framework of objectives as it is currently drafted would not have to undergo great substantial changes.

Such an explicit link would clarify the relevance of human rights as joint reference framework for donors and partners alike, which – as has been indicated above - would additionally contribute to sustainability of results.

⁵¹ This has been clearly stated in the FAO Voluntary Guidelines on the Right to Food, FAO Voluntary Guidelines Right to Food, 2.4, adopted by the 127th session of the FAO Council, 22-27 Nov. 2004, <http://www.fao.org>.

⁵² AURA-Angebot, 3.1.

⁵³ See OHCHR, FAQ, Questions 2, 14.

⁵⁴ The concept of progressive realisation constitutes a recognition of the fact that full realisation of economic or social rights will generally not be able to be achieved in a short period of time, and therefore generally accepts realisation over time, or in other words progressively. See General Comment on the nature of States parties obligations (No. 3), para.9.

⁵⁵ See OHCHR, FAQ, Question 14.

⁵⁶ See General Comment on the nature of States parties' obligations (No. 3), para. 10, referred to in OHCHR, FAQ, Question 14.

2. Indicators

The indicators against which the implementation of PSDA is currently measured already include several human rights aspects, which, however, could be supplemented to strengthen the human rights focus of the objectives.

The analysis of the indicators of PSDA will begin with an analysis of the existing indicators before proposals for a range of human rights indicators will be made which could be integrated into the programme concept.

a. Indicators relating to substantial human rights guarantees

From a human rights perspective any programme which aims to make a contribution towards realisation of the **right to food** through food security should also include efforts to improve the food situation of the very poor population – whether directly or indirectly, e.g. through support for small-scale farming to increase food production and to generate employment for the poor as PSDA has chosen. This would be shown through specific indicators.

The indicators listed in the programme framework do not explicitly measure the realisation of the right to food for any segment of the population. Thus, in this point the programme does not contain any indicator related to the overall framework objective to support food security in Kenya. From a human rights perspective, however, that would be a must for any programme providing assistance to the partner's efforts to realise the right to food. Such indicators can seek to directly measure improvement of nutrition or food security among the population, including differentiated data on the poorest groups. Alternatively, contribution to food security of the population can also be indirectly verified, e.g. through information on the success of the programme in contributing towards employment of very poor groups of the population, which in the agricultural sector would be those otherwise living on subsistence farming. Again differentiated data would be needed.

Indicators explicitly relating **to human rights in the employment sector** do not exist, but the indicators listed nevertheless contain elements, which are suitable to indicate progress in the realisation of these rights. They also implicitly relate to the **right to the highest attainable standard of health**.

In fact, the indicator (related to the overall programme objective,) which measures whether the programme has contributed to better coping with the consequences of HIV/Aids infection among the farmers targeted, has a strong human rights implication linked to the right to the highest attainable standard of health.

The indicators for component 2 *“improvement of the range of services for small and medium-sized enterprises in selected value-adding chains”* and also for components 3 *“Strengthening of self-organisation capacities of private sector”* relate to the position of the farmers within their working environment or their self-organisation capacities respectively, and consequently are able to measure progress with regard to the realisation of the **right to work**.

b. Indicators relating to human rights principles

Whilst substantial human rights realisation is measured rather indirectly, the present programme indicators contain several direct references to the human rights principles of non-discrimination and participation and empowerment. However, there is still room for complementation in order to show the substantial contribution and potential of the programme in that regard.

The programme indicators take up the concerns of vulnerable groups and thereby measure the support for the principle of non-discrimination through:

- the indicator that relates to coping with HIV/Aids (s.a., indicator for the overall objective),- an indicator which measures the number of women participants in vocational training courses ("Farming as a business") and their satisfaction with the training.

The indicators for the realisation of component 3 ("*strengthening of self-organisation capacities*") entail progress on participation and empowerment of farmers through:

- appraisal of the number of self-organised farmers' associations,
- rating of number of private sector organisation in the agricultural sector that work applying democratic principles,
- measurement of interest and engagement in policy formulation.

c. The need for specific indicators relating to the ***right to food***

From a human rights focus the overall objective of the programme to contribute to food security in Kenya would have to be measured using specific indicators which differentiate between different groups of society, so that the contribution to nutrition of the very poor parts of the population could be demonstrated.

The programme has considerable potential as a contribution towards food security in Kenya: The value chain approach aims at improvement of production conditions. As a consequence agricultural production should be increased and hence, more *food* stuff be made available. Therefore food prices should decrease. Hence, the population would have more food available to lower prices, which might enable also the poorer parts of the population to gain access and thereby realise their right to food. Another idea of the programme⁵⁷ is to generate employment through small-and medium scale farming which could be another option for the poorest groups of the agricultural population to obtain a regular income and be able to buy food.

Yet these links are not explicitly stated and measured through indicators but can only be presumed. From a human rights perspective this is not sufficient. Specific impact indicators relating to the overall programme objective would have to be included.

Admittedly, measurement of these indirect effects towards food security of the very poor parts of the population is not easy, but might be done through surveys or through measurement of the nutritional status of children attending primary school (primary school education in Kenya is free and obligatory):

- 30 % of the subsistence farmers in 2 programme regions express the opinion that their access to food has improved through improved local market situation (more food available at cheaper prices).
- X farmers have started to employ subsistence farmers or persons without land for support in farming.
- 80 % of the children attending primary schools in 2 programme regions have a satisfactory nutritional status.

d. Potential for strengthening human rights aspects through additional indicators

Human rights aspects, inherent in the programme, could however be considerably strengthened through the introduction of specific indicators.

- Additional indicators on participation and empowerment could measure the realisation of the considerable programme potential in this area. (i.)
- Indicators on transparency and accountability could be integrated, as these are important human rights principles (s.a.). (ii.)

⁵⁷ Aura-Angebot 3.3.

- Indicators should be more differentiated in order to be able to verify whether the programme thereby contributing to non-discrimination adequately meets the special needs of vulnerable groups. (iii.)

In the following subsections indicators shall be proposed for measurement of the human rights effects of the programme. From these proposals indicators could be selected and integrated into the programme framework, which would have to be adjusted accordingly. Precise and detailed recommendations on structure and adjustment of the programme framework in order to enable systematic and coherent human rights monitoring would, however, go beyond the scope of this report and require specific advice.

i. Additional indicators on **participation** and **empowerment**

Those indicators could be included in component 3 on strengthening self-organisation of the farmers' organisations and might be formulated as follows:

- X farmers in supported chains express the opinion that their position in marketing their produce has been strengthened through the work of the farmers' groups or farmers' associations.

- X farmers in supported chains express the opinion that cooperation in farmers' groups and/or associations enables them to better articulate their interests at the regional level.

- X supported farmers' organisations have information about their rights and consider that information useful for their situation.

Explanation: Awareness on rights and entitlements often constitutes an important element if not a precondition for empowerment.

- X supported farmers' groups pursue joint activities in at least two other areas in addition to the value chain.

Explanation: measures a multi-sector approach which indicates sustainable empowerment

- X supported farmers' organisations have established any form of small-credit system to support one another.

Explanation: another indication for empowerment

ii. Additional indicator on **transparency** and **accountability**

Anchorage points to measure transparency could be included into two programme components.

Component 1 could be supplemented and measure the transparency of the legislative, administrative, fiscal and institutional processes in improving the framework conditions for the private sector in agriculture, e.g.:

- The administrative reforms in private sector agriculture are published in the Official Gazette.
- The legislative processes relating to private sector agriculture include public hearings.

Furthermore, an indicator could also be included in component 3 on strengthening self-organisation of farmers' organisation.

- X activities in farmers' groups and in farmers' associations respectively are scrutinized through participatory M+E processes, which held farmers' representatives accountable and forced them to be transparent.

iii. Additional indicators relating to **vulnerable groups**

In general those indicators could ask for data which should differentiate more strongly between the various vulnerable groups, including women, young persons, and persons with HIV/Aids etc. in order to prevent discrimination and enable these groups to have access to production and markets and be able to articulate themselves within farmers' organisations.

Currently PSDA does not contain any indicator referring to the involvement of young people in farming despite the fact that it is one of the priorities of SRA.⁵⁸

That is why the current indicator relating to the participation and satisfaction of women in vocational training courses "Farming as a business" (component 2) should be extended to young people and explicitly ask for their participation and satisfaction with these courses.

Component 3 (self-organisation capacities of private sector associations) could be supplemented by the following two indicators relating to vulnerable groups:

- X supported farmers' groups have women or young people in a leading position.
- X farmers' associations have women or young people in a leading position.

3. Methodology of PSDA-programme: applying the value chain approach

The programme approaches agricultural development through the value chain method. Currently it is unique in Kenya's agricultural sector.

PSDA intervenes in the following value chains: passion, mangoes, French beans, Irish potatoes, poultry, beef, dairy goats, fish and mushrooms.

Pursuing a value chain approach means that products are analysed in their entire value chain, starting with production inputs, production itself, product transformation, transportation and marketing up for consumption. As applied in GTZ-PSDA, implementation of the value chain approach inherently also requires participation of important stakeholders. Moreover it is carried out on a demand-driven base starting with an analysis of the sub-sector examining bottlenecks and loopholes and taking farmers' priorities into consideration. Thereafter a chain will only be initiated for those farmers who are interested in the relevant product and prepared to cooperate.

Hence, the structures and method of the value chain approach are compatible with the human rights principles of participation and empowerment, as it is carried out demand-driven and thus, bottom-up.

4. Activities

The programme activities take place in southern parts of Rifts Valley, Western, Eastern, Nyanza and Central provinces.

Exchange with staff of PSDA and with KENFAP and ATC, discussions with farmers' groups, representatives of farmers' associations and district agricultural officers and observations during the field trip to Meru and Nyeri and consideration of the programme framework allow the conclusion that human rights aspects are already included at several levels but that there is room for considerable strengthening, e.g. attracting the potential of young people or developing sensitivity within the local communities on lands issues.

Programme activities take up issues of the right to food (a.), rights related to the working process including freedom of association (b) and also the right to the highest attainable

⁵⁸ SRA 8.5.2.

standard of health ©. The programme strongly supports participation and empowerment (d.) and addresses some problems relating to discrimination of vulnerable groups (e.); however programme activities do not yet address problems relating to land (e.).

Discussions with various stakeholders during the mission revealed that human rights language was generally not in use in programme activities. On the other hand, programme as well as government staff was familiar with the human rights terminology, while farmers would not know much about human rights. However, in meetings with farmers' groups the members of these groups demonstrated self-confidence about what they achieved jointly more so in the dairy goat sector than in the area of potato crops⁵⁹, which might be related to the fact that the dairy goat breeding had already been part of a predecessor project and is supported since 1995, whilst the potato crops have only been supported since 2004.

During training sessions with selected staff in the Ministry of Agriculture, interest was expressed that further human rights sensitisation in the Ministry be carried out by the PSDA-programme as part of programme activities. (f.)

Human rights aspects included:

a. The right to food

Most programme activities relating to value chains – though indirectly – support the MoA in realisation of the right to food: e.g. through their activities the programme officers encourage farmers to work in groups⁶⁰. Sometimes groups, which had been formerly supported by NALEP are specifically addressed and encouraged to continue their joint work⁶¹. Programme activities of PSDA include support in production, support to purchase or production of crop seeds or livestock for breeding. Programme initiatives also aim at facilitating access to markets and improvement of trading conditions. Quite a few of programme activities are carried out in close cooperation with KENFAP. However, as the programme only began in 2004 PSDA intervention do yet only cover certain segments of the entire chains.

To give two examples: in Meru district marketing of dairy products is supported through the establishment of a milk collection system and a marketing centre. With regard to the potato chain PSDA contributed significantly to the development of market standards, backed by a legal notice. At a second stage, farmers are encouraged and supported to build storage facilities.

The programme furthermore assists with the establishment of farmers' associations in the respective areas – cooperating closely with KENFAP. The idea is that the respective associations will help the farmers in marketing of their produce or provide support in the production processes through trainings and through practical support. For example the Dairy Goats Association of Kenya⁶² and the Meru Goats Breeder Association respectively assist farmers with the sale of the goats – against a fee of 10 % of the price obtained⁶³ – and also carry out trainings on a regular basis.

⁵⁹ Those were the two components visited.

⁶⁰ As the programme has chosen to address farmers through farmers' groups and only exceptionally on an individual basis.

⁶¹ NALEP's programme practice currently is to provide support to selected focal areas forming common interest groups. Direct support, which aims at empowering the communities, which are targeted, is generally only provided for a fairly short amount of time (approximately 18 months). The objective during this period is that a process be initiated which thereafter could be continued by the farmers themselves.

⁶² The relevant goats breeders association in the district of Nyeri.

⁶³ During the mission 70 goats were sold to Rwanda through the Meru Goats Breeder Association.

Moreover, the programme supports training courses for farmers, mostly through the Agribusiness Training Centre, which is supported by the programme. By teaching modern business and marketing methods it is hoped that the lessons learnt during these courses will contribute to increase farmers' income from agricultural production.

As already stated programme implementation is still in its early stages. Thus with the exception of those products which have already been supported by predecessor programmes, e.g. dairy goats, many activities have just been taken up. Therefore these findings have to rely largely on plans and start-up initiatives. However, should realisation be continued accordingly, programme activities would contribute to augmentation and improvement of food production and better marketing in line with the objectives of SRA so that programme activities have the potential to add to food security and thereby generate realisation of aspects of the right to food.

The contribution takes effect on a rather indirect basis due to the political decision to focus on improving production, value addition and marketing of small- and medium size private farming. On the other hand successful implementation of programme activities might have a rather sustainable effect towards food security through increased production and marketing and consequently cheaper prices.

b. The right to work (self-provision of income-generating activities)

The programme can also make a contribution towards the realisation of human rights in the working process through its efforts to promote vocational training, through strengthening self-organisation capacities and generally through improvement of production conditions.

The programme has initiated numerous vocational training measures for farmers, staff of farmers associations and also for districts' agricultural officers. These courses are mainly conducted through the Agribusiness Training Centre, but also through KENFAP and sometimes Farmers Associations⁶⁴ and mostly focus on "Farming as a Business" (entrepreneurship, microfinance, selection of produce which is cultivated). The success of vocational training will depend on whether all stakeholders are reached through the courses, including women and young persons and also on whether viable follow-up mechanisms will be established.

In addition, programme activities strengthen the self-organisation capacities of farmers through support of farmers' groups, farmers' associations and through cooperation with KENFAP and thereby contribute to the realisation of collective rights in the working area.

The value chain concept and the related programme activities aim at the improvement of production conditions, which in turn is an important element of the successful realisation of income-generating activities in the agricultural sector. Also in this regard the programme contributes to the realisation of human rights in employment.

c. Right to the highest attainable standard of health

The programme supports the Kenyan government in its efforts to realise aspects of the human right to the highest attainable standard of health through its efforts to in HIV/Aids mainstreaming and through improvement of production.

The programme has one officer who dedicates 50 % of his work force to issues of HIV/Aids. HIV/Aids sensitisation is addressed in training courses; farmers' groups are encouraged to support one another in cases of illness, among others HIV/Aids. Accordingly, members of all farmers' groups, which were met in the course of the field trip⁶⁵ spoke about their mutual

⁶⁴ E.g. the Dairy Goats Association of Kenya

support in situations of illnesses, among them HIV/Aids. The Chair of the Dairy Goat Association of Kenya reported about mutual assistance of farmers in situations of HIV/Aids.

The programme has established a value chain in mushroom cultivating since mushrooms provide nutritional elements, which strengthen the immune system and therefore are particularly beneficial to persons with HIV/Aids. In PPP cooperation with Unilever support for those infected with HIV/Aids is an important element.

Besides, the programme also contributes to the improvement of the health status of those addressed in very general terms: support for farmers increases their incomes and consequently enables them to have sufficient means for food so that they can stay healthy.

d. Participation and Empowerment

One of the strengths of the programme activities in relation to human rights is the focus on participation and empowerment of farmers in the selected chain areas. In these areas the programme activities constitute a driving force for the Kenyan government to implement anchorage points for participation and empowerment as laid down in SRA.⁶⁶

Initiation of processes and support in the selected chains only takes place upon demand. The process is started with an analysis of the sub-sector examining bottlenecks and loopholes and taking farmers' priorities into consideration. Farmers decide whether they want to join in. However, according to the programme principles, only farmers' groups are supported. Therefore the farmers have to take up a certain degree of initiative to found a group or to join an already existing organisation⁶⁷. Even after a certain value chain process has been initiated by the programme, e.g. through the initial facilitation of access to improved seed or livestock, the production process entirely remains in the hands of the farmers. PSDA activities do not always cover a value chain in its entirety, but interventions focus on those elements where support is needed and requested.

In discussions with the three farmers' groups met in the course of the field trip⁶⁸, members of the groups stated that it would be profitable to share resources as reasons for their participation in the groups. This feeling was strongly expressed by the two dairy goats groups who had already cooperated for some time, while the position was more doubtful among the members of the Kiambogo Mwiteithia group focussing on potato farming potentially due to the fact that activities in the potato sector have only started in 2004, for this reason experience of group work are still short. On the other hand the potato farmers emphasised the strengthening of their position towards the middlemen involved in potato trade through joint sale. Joint trading through the farmers' group would increase their authority at the market and allow them to find an honest broker for their merchandise.

The programme in cooperation with KENFAP furthermore encourages farmers' groups existing in a certain sub-sector, e.g. in the area of dairy goats or potatoes, to form farmers' associations which can provide support to the farmers in their efforts to market their produce and also enable them to articulate and implement their interests at a regional level. The programme strongly advises these associations to work according to democratic principles and be transparent and accountable towards their members. This has been achieved with regard to the Dairy Goat Association of Kenya as can be seen from its constitution⁶⁹, but was

⁶⁵ Kiamagua self-help group (Nyeri, dairy goats), the Kiambogo Mwiteithia (Nyeri, potato crops), Meringana Goats Breeders (Meru).

⁶⁶ SRA 9 (9.1.2.),10 (10.1.3).

⁶⁷ A process which is also actively supported by KENFAP sending officers to the field and encouraging the formation of farmers' groups.

⁶⁸ Kiamagua self-help group (Nyeri, dairy goats), the Kiambogo Mwiteithia (Nyeri, potato crops), Meringana Goats Breeders (Meru).

⁶⁹ Dairy Goat Association of Kenya. Constitution. Revised Edition. Printed in May 2005.

challenged by difficulties relating to the administration of the Kenya National Potato Farmers' Association and KEPOVA the organisation claiming to represent the poultry farmers.

The farmers in the groups are targeted for vocational training measures subsidised by the programme and receive advice and support through farmers' associations and also through KENFAP. E.g. the Dairy Goat Association of Kenya and the Meru Goats Breeders Association respectively assist the farmers to sell their goats.⁷⁰ In the potato sector KENFAP supports the farmers in obtaining the standardised bags required for certified potatoes.

Support of the programme focuses on farmers' groups that apply democratic principles and develop their own rules. KENFAP, programme staff and – as experienced during field trips to Nyeri and Meru – also district agricultural officers provide support and encouragement in that regard. The three farmers' groups which were met during the field trip, the Kiamaigua self-help group (Nyeri, dairy goats), the Kiambogo Mwiiteithia (Nyeri, potato crops), Meringana Goats Breeders (Meru), met regularly and had their own accounts.

The Kiamaigua self-help group (Nyeri, dairy goats) and the Meringana Goats Breeders (Meru) cooperate in multi-sectored initiatives: The Meru goats' breeders also have joint projects in the area of water, health and education. The Kiamaigua self-help group additionally and originally works on women's issues. In all three groups visited farmers told that they would assist one another in situations of illnesses and explicitly mentioned HIV/Aids in that regard. The Kiamaigua self-help group has a mutual credit system in operation.

In sum, programme activities select produce chains following farmers' demands as established through baseline surveys. Therefore the programme works demand driven. This also applies for the support given to the work of farmers' groups once a chain has been started.

The fact that the programme mainly addresses farmers which have organised themselves in groups ensures a certain degree of initiative and demand on the side of the farmers and thereby generates ownership. Farmers' groups seem to regularly undertake multi-sectored initiatives which 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.

e. Non-discrimination and inclusion of vulnerable groups

Programme activities also include measures to address the issue of discrimination, especially relating to persons with HIV/Aids or other illnesses as required by SRA.⁷¹ However, the programme only undertakes few measures to promote women, (i) and the specific problems of young farmers are not yet adequately addressed (ii).

As demonstrated above, activities initiated by the programme include manifold measures to address the issue of HIV/Aids. Discussions with three farmers' groups in the districts of Nyeri and Meru furthermore revealed that the farmers support one another in situations of illnesses including HIV/Aids.

i. Women

The farmers' groups met during the field trip had a considerable number of women among their members which were also present in the meetings:

- Kiamaigua self-help group: 12 women out of 21 farmers with a woman as a treasurer. (The group had originally worked as a women's group before taking up dairy goat breeding.)
- Kiambogo Mwiiteithia Group: 10 women out of 30 farmer members

⁷⁰ Against a fee of 10 % of the market price.

⁷¹ SRA 8.4., 8.5.1., 8.5.2.

- Meringue goats' breeders: 17 women out of 32 members with a woman as treasurer.

However, when asked for the ownership of the farms only three of all women present in the groups stated that they are the owner of the land (one of them a widow); otherwise the land was formally in the hands of the husband, but the women would cultivate it.

Discussions with the (male) chairmen of the Dairy Goats Association of Kenya and of the National Potato Farmers Association respectively gave the picture that the position of the treasurer in farmers' groups would regularly be undertaken by women ("*.. as they are better with the money...*"), but women have not yet taken on leading roles in farmers' associations. Whilst the chairman of the Dairy Goats Association stated that particularly widows would be active in farmers' groups and thereby seek security, the chairman of the National Potato Farmers Association expressed the opinion that the lack of representation of women in farmers' associations might be due to the fact that women refuse responsibility and do not like senior offices.

KENFAP maintains a quota, which requires 3 out of 9 board members to be women.

Neither the GTZ-supported programme, nor the Agribusiness Training Centre nor KENFAP have yet organised special training courses for women since they prefer to approach gender issues from an integrative perspective.

Whilst KENFAP applies quota for women in their training courses, selection procedures in GTZ-PSDA do not generally apply such a requirement. However, selection procedure is mostly carried out through farmers' groups, which are asked to select a certain number of persons whom they want to attend training. According to the staff of ATC, which is entrusted to carry out courses on behalf of GTZ-PSDA, the number of women attending training courses (mostly "Farming as a Business") is low. They presume that their husbands, who would prefer to attend these courses themselves as it is considered prestigious within the farmers' community, might deny women permission. However the staff of ATC ensured that gender issues are discussed during training courses as part of the curriculum.

Although women seem to be present and active within the farmers' groups it is indicated that they are still under-represented in training and also in leading positions within farmers' associations. The programme should therefore focus more strongly on the recruitment of women for training courses and also encourage farmers' associations to attract women for leadership positions. Introduction of a quota in line with the approach undertaken by KENFAP might be a reasonable option.

ii. Young farmers

Visiting farmers' groups in Nyeri and Meru gave the impression that young persons (up to the age of 35) were hardly present in the farmers' community. Within the 3 farmers' groups met not a single person from this age group was represented. Discussions with members of farmers' associations⁷² and also with programme staff confirmed this impression. Due to the subdivision of farm holdings in very small units as inheritance young farmers have considerable problems to make a sustainable livelihood out of farming. That is why farming is not sufficiently attractive to young persons anymore and they therefore leave the farms for town. Another problem, which was reported, is that young persons often face difficulties in gaining the respect of their parents and of the village elders despite the fact that they are generally among the best-educated persons in the villages.

The incentive of SRA to lay a particular focus on young farmers⁷³ to attract them to farming is not yet comprehensively taken up by PSDA.

⁷² E.g. Chairman of the Dairy Goats Association of Kenya.

⁷³ SRA 8.5.2.

In the area of development and promotion of young farmers PSDA's main efforts are carried out through KENFAP⁷⁴. KENFAP undertakes efforts to bring agriculture back into the school curricula and through this and TV programmes link agricultural productions to market activities to attract the interest of young people. A similar approach is followed by ATC within their curricula (especially in "Farming as a Business"). However, ATC has not yet organised special training courses for young farmers.

The need to more strongly attract young persons to farming is widely seen since they have a high potential due to their education and workforce. Hence, special measures should be developed to specifically target this age group, e.g. through special training courses.

f. Land issues

The human right to be granted access to land ownership without discrimination is an inherent part of the right to food⁷⁵ and of human rights relating to working processes⁷⁶. It is furthermore explicitly guaranteed in the Universal Declaration of Human Rights⁷⁷ and also embodied in the African Charter of Human and Peoples Rights⁷⁸. Hence, discrimination of women relating to access to land violates international human rights.⁷⁹

When shaping the programme it had not been intended by either the Kenyan or the German partner that PSDA should specifically address the question of land on a political level. In contrast, SRA explicitly discusses land issues and possibilities to resolve problems in that area.⁸⁰

In the course of the field trip to Nyeri and Meru, which provided the chance to familiarise with selected programme activities, the relevance of land issues for the implementation of the PSDA at the practical level became apparent. It relates to women's lack of access to land ownership (i.) and to the subdivision of farm holdings in very small units (ii):

i. Women's access to land

Of those female farmers met (all together around 20) only 3 women were in ownership of the land they cultivated (one of them was widowed), whilst the others would work their husband's farms. These impressions reflect the overall situation in Kenya where women account for just 5 % of registered landholders nationally, although they contribute over 80% of the agricultural labour force, 64 % of subsistence farmers and produce approximately 60% of farm derived income.⁸¹

⁷⁴ GTZ-PSDA works in close cooperation with KENFAP. KENFAP is a member of the steering committee of PSDA, and PSDA co-finances many of KENFAP's activities.

⁷⁵ See General Comment on the right to food, para. 26; Guideline 8 of the FAO Voluntary Guidelines on the right to food.

⁷⁶ Art. 6-8 CESCR; art. 10, 14 Banjul-Charta.

⁷⁷ Art. 17 Universal Declaration of Human Rights:

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

⁷⁸ Art. 14 Banjul Charta:

The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws.

⁷⁹ Also Art. 18 (3) Banjul Charter:

"The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions." and more generally the provisions of the International Convention on the Elimination of All Forms of Discrimination against Women, which have both been ratified by Kenya.

⁸⁰ SRA 6.4.1.

Women's access to land ownership is often prevented through traditional rules of ownership and inheritance.⁸² Although women generally carry out the bulk of work on the farms, they have no security that they can stay on the land and continue making a living should the husband die or decide to divorce them. Furthermore, access to credit generally requires land as collateral. Consequently, women can hardly obtain credit, which also limits their farming options and can even endanger their existence. The main source of this kind of discrimination lies in customary practices that discriminate women in relation to land ownership and inheritance⁸³. And although the Kenyan constitution includes a general provision on gender equality⁸⁴, the provision allows exemptions with respect to adoption, marriage, divorce, and devolution of property at death.⁸⁵ Hence, as long as specific statutory legislation on land ownership and inheritance is not in place, ensuring effective protection of women's rights to land and related resources, legal space for the customary rules is preserved.

ii. Subdivision of farm holdings into very small units

Most farmers, which were met during discussions in the course of the field trip, had less than 3 acres of farm land, often even below 2 acres, a size of land which makes it difficult to carry out farming activities which lead to more than subsistence.

Subdivision of land in very small units is a consequence of a system of inheritance law, which subdivides the land into equal shares, which is then passed to all sons (under traditional law, otherwise also daughters might be eligible). During autumn session of parliament a bill had been introduced prohibiting subdivision of farm holdings below 2, 5 acres. After a highly controversial public debate, however, the bill was withdrawn with the intent to ensure support for the constitutional draft in the November referendum.

The problems resulting from subdivision into very small farm holdings have been intensified through chronic and the widespread land grabbing in the past.⁸⁶ Due to the wanton and illegal allocation of public or communal land to private individuals and corporations community land, which might otherwise have been open to joint cultivation or to orderly transfer to members of the communities, is not available anymore. Instead communal land has been considerably reduced and scarcity of farming land has been intensified.

GTZ-PSDA activities do not specifically target the consequences of subdivision of land into very small farm holdings. However, they encourage farmers to use production methods which require only small entities of land like breeding dairy goats or which have very high potential like mushroom farming.

Moreover ATC course "Farming as a business" also includes the topic. Farmers are encouraged to rent additional land if they have the means and are also sensitised towards high potential production methods.

iii. Potential for programme activities

Besides support for statutory legislation on the subdivision of land and on protection of women's property rights – which in discussions with programme managers and officers were considered to be beyond the programme boundaries – a range of activities at village level

⁸¹ Ministry of Lands and Housing, National Land Policy, Issues and Recommendations report, August 2005, p.74.

⁸² Cf From Despair to Hope. Women's right to own and inherit property, KNCHR (2005).

⁸³ Disinheritance of women in relation to immovable property.i.e.land under customary law.

⁸⁴ In art. 82.

⁸⁵ Art. 83 (4).

⁸⁶ Report of the Ndungu Commission on Illegal/Irregular Allocation of Public Land.

and in training courses might contribute towards awareness-raising and sensitivity on problems related to land:

Programme staff could be encouraged and trained to inform farmers' groups and raise their awareness on the topic, including the possibility already existing under statutory law to transfer ownership of land to women. Staff could furthermore seek to persuade farmers' groups and associations to address women's limited access to land as well as the subdivision of farm holdings within farmers' groups. This might entail the advantage, that low-level solutions could be sought by those affected, which would contribute to ownership and sustainability. Similarly the issue could be discussed within farmers' associations and also be taken up by KENFAP. ATC and other vocational training institutions should be supported in their efforts to explicitly and intensively discuss problems related to the subdivision of land into very small units and to the problems of women to own land.

g. Human rights sensitisation and training as part of programme activities

During the two training sessions for selected staff of the MoA, which were carried out in the course of the mission, the civil servants present expressed interest on further sensitisation on human rights issues in agriculture relating to implementation of SRA and on the topic of monitoring + evaluation. The head of the M+E unit as well as the head of the Extension unit of the Ministry of Agriculture had expressed a similar interest before the beginning of the mission and reiterated it in conversations during the mission.

However, it is not clear whether the adequate commitment from the heads of units is already there. On the other hand the lower ranking and especially the young executive staff actively participated in the training sessions and demonstrated and expressed strong interest in human rights issues.

Similar meetings with farmers' groups during the field trip revealed a considerable interest in questions of human rights and their relevance for their farming activities.

Within PSDA itself programme staff took a great interest in human rights questions and demonstrated considerable awareness and knowledge on these issues. Executive staff was always open to and active in discussions with the advisor.

In order to strengthen human rights sensitisation and to answer the different demands for more human rights sensitisation:

- Human rights aspects could be integrated in vocational training sessions.
- Cooperation with MoA (relating to the institutional framework, comp 1) could also include demand-driven human rights sensitisation, trainings and advice provided. However, it is questionable whether PSDA were able to meet this demand with the existing personnel capacity.

5. Monitoring + Evaluation

A human rights-based approach to programming also covers monitoring and evaluation of the programme.

Human rights-based monitoring entails two aspects: WHAT is monitored and HOW is it monitored.

It would have effects on WHAT is monitored. In that regard, human rights monitoring examines the integration and implementation of relevant human rights standards, e.g. the right to food within the programme. It also verifies the integration and realisation of human rights principles, that is empowerment and participation, transparency and accountability, equality and non-discrimination within the programme.

The second effect of a human rights-based approach for M+E is that the monitoring exercise has to be carried out in application of human rights principles. That means that monitoring as of necessity has to be participatory and include all stakeholders and target groups. It must not exclude and discriminate vulnerable groups, e.g. women and young persons who also have to be included in the monitoring. M+E furthermore has to be carried out in a transparent manner in order to enable accountability of those in charge of the monitoring and evaluation process.

Whether programme monitoring is carried out according to these standards could not be verified by the advisory mission, which focussed on programme objectives, indicators and activities and did not have access to M+E processes. In order to inform and sensitise on questions of human rights monitoring, an additional mission would be needed which has the chance to be involved in M+E activities. Such a mission could be integrated into the Evaluation and Progress Review process which is regularly carried out by the PSDA –team in cooperation with MoA and MoLFD.⁸⁷

V. Recommendations

1. General

Subsistence farming

In general, the question whether and to what extent the programme should be specifically directed towards the support of subsistence farmers is a political decision and therefore beyond the programme level.

However, it has been agreed upon by the Kenyan and German governments respectively that the GTZ-PSDA-programme should support the Kenyan government in realising food security in the agriculture sector. Given the close link of the overall programme objective to the right to food, a human rights perspective demands that those unable to produce also have to be included in the focus. This too can be realised through indirect targeting as pursued by PSDA: e. g. through support for small scale farming to increase food production and to generate employment for the poor and through strengthening small –scaled farmers and prevent their impoverishment and stoppage of production⁸⁸. Yet indicators have to be available to measure progress towards the realisation of food security for the very poor parts of the population.

Given the situation in Kenya where a considerable amount of the people in the rural areas live on subsistence farming and often face food insecurity and consequently serious human rights concerns⁸⁹, it is furthermore recommended that subsistence farmers should not be strictly excluded from direct support through farmers' groups. During the field trip the advisor and one farmers' group discussed ⁹⁰ possibilities for integration of two poor farmers yet without goats and the options to assist these persons to eventually obtain a goat and thereupon join in the dairy production and breeding.

Upon demand and decision by farmers' groups individual situations of subsistence farmers should therefore be supported through their inclusion in farmers groups and through provision with some potential by the programme to encourage their production.

Follow-up

⁸⁷ See Evaluation and Progress Review Report of Dec. 2005.

⁸⁸ AURA-Angebot, 3.1.

⁸⁹ See Kenya National Food and Nutrition Policy (Draft of July 2005), 2.1.

⁹⁰ Meringue Goats Breeders, Meru.

Implementation of GTZ-PSDA still is at an early stage. Therefore some of the observations relating to anchorage points for human rights within the programme as of necessity must be of a preliminary nature. Moreover the observations of programme practice are mainly limited to the dairy goats and Irish potato chains respectively.

Hence further follow up would be advisable to verify whether the given findings hold true and to consider the further development of the programme on human rights issues.

2. Programme objectives

Given the human rights links inherent in the programme objectives a more explicit and direct reference and thereby focus towards the realisation of human rights would be desirable in order to provide a clear link to international human rights standards. The framework of objectives as it is currently drafted would not have to undergo great substantial changes. Such an explicit link would clarify the relevance of human rights as joint reference framework for donors and partners alike.

3. Indicators

From a human rights focus the overall objective of the programme to contribute to food security in Kenya would have to be measured through specific indicators, which differentiate between different groups of society, so that the contribution to nutrition of the very poor parts of the population could be demonstrated.

Further the human rights impact of the programme could be measured through the introduction of additional indicators relating to empowerment and transparency:

- Additional indicators on participation and empowerment could generate the realisation of the considerable programme potential in this area.
- Additional indicators on transparency and accountability could be integrated, as these are important human rights principles.

It is generally recommended that indicators be more differentiated since this would enable to verify whether the programme thereby contributing to non-discrimination adequately meets the special needs of vulnerable groups.

4. Activities

- *Intensify programme measures directed towards empowerment of female farmers*

Although women seem to be present and active within the farmers' groups, it is indicated that they are still under-represented in training and also in leading positions within farmers' associations. The programme should therefore focus more strongly on the recruitment of women for training courses and also encourage farmers' associations to attract women for leadership positions. Introduction of a quota in line with the approach undertaken by KENFAP might be a reasonable option.

- *Undertake special programme measures targeting young farmers*

The need to more strongly attract young persons to farming is widely seen, since they have a high potential due to their education and workforce. Therefore, special measures should be developed to specifically target this age group, e.g. through special training courses.

- *Support efforts to resolve the problems related to the subdivision of land in small farm holdings and to the discrimination of women on access to land*

Programme measures could include additional awareness raising among farmers on land Programme staff could inform farmers groups and raise their awareness on the topic, including the possibility already existing under statutory law to transfer ownership of land to women. Staff could encourage farmers' groups and associations to address women's limited access to land as well as the sub-division of farm holdings within farmers' groups. This might entail the advantage that low-level solutions could be sought by those affected, which would contribute to ownership and sustainability. The issues could be discussed within farmers' associations and also be taken up by KENFAP.

- Strengthen human rights sensitisation

In order to strengthen human rights sensitisation and to answer the different demands for more human rights sensitisation:

- Human rights aspects could be integrated in vocational training sessions.
- Cooperation with MoA (relating to the institutional framework, comp 1) could also include demand-driven human rights sensitisation, trainings and advice provided.

5. Monitoring + Evaluation

In order to inform and sensitise on questions of human rights monitoring an additional mission would be needed which has the chance to be involved in M+E activities. Such mission could be integrated into the Evaluation and Progress Review process, which is regularly carried out by the PSDA-team in cooperation with MoA and MoLFD.

ANNEXES

- I. List of Abbreviations
- II. Mission schedule
- III. Interview partners
- IV. Documents
- V. Terms of Reference

I. List of Abbreviations

| | |
|--------|--|
| Art. | article |
| ATC | Agribusiness Training Centre |
| CAT | Convention against Torture |
| CCPR | International Covenant on Civil and Political Rights |
| CEDAW | International Convention on the Elimination of All Forms of Racial Discrimination |
| CERD | International Convention on the Elimination of All Forms of Racial Discrimination |
| CESCR | International Covenant on Economic, Social and Cultural Rights |
| Cp. | compare |
| CRC | Convention on the Rights of the Child. |
| DED | Deutscher Entwicklungsdienst; German Development Service |
| FAO | Food and Agriculture Organisation of the United Nations |
| GTZ | Deutsche Gesellschaft für Technische Zusammenarbeit; German Agency for Technical Cooperation |
| KENFAP | Kenya National Federation of Agricultural Producers |
| KFW | Kreditanstalt für Wiederaufbau; German Bank for Reconstruction and Development |
| KNCHR | Kenya National Commission on Human Rights |
| MoA | Ministry of Agriculture |
| MoLFDP | Ministry of Livestock and Fisheries Development |
| NALEP | National Agriculture and Livestock extension programme (sponsored by the Swedish International Development Cooperation Agency) |
| p | page |
| PPP | Public-private partnership |
| para. | paragraph |
| PSDA | Promotion of Private Sector Development in Agriculture |
| Quot. | quoted |
| s.a. | See above |
| SIPMK | Smallholder Irrigation Programme |
| SRA | Strategy for Revitalisation of Agriculture |
| UN | United Nations |
| Vol. | volume |

II. Mission schedule

Mon., 27 March 2006

- meeting with *Reimund Hoffmann*, priority coordinator Kenyan-German Agriculture programme, programme director GTZ-PEDA
- meeting with *Andrew Mugambi*, Deputy Director Programmes/Projects, MoA
- briefing for field trip with *Joshua Inoti*, PEPDA programme officer
- meeting with *Erika Lind*, Land Rights Programme, UN-Habitat

Tue., 28 March 2006

- field trip to Nyeri and Meru districts focussing on dairy goats and Irish potato chains respectively

Wed., 29 March 2006

- field trip to Nyeri and Meru to be continued

Thurs., 30 March 2006

- meeting with programme staff
- attendance of meeting of Development Partners on Land group

Frid., 31 March 2006

- human rights training course with selected staff of MoA
- meeting with *Kanyuithia Mutunga*, Chief Executive, KENFAP

Mon., 3 April 2006

- presentation of preliminary findings in team workshop
- meeting with *Anton Glaeser*, Agriculture Sector Coordinator, DED
- meeting with *Mark Cocker*, Project Manager, SIPMK
- meeting with *Arne Eriksson*, Programme Advisor, NALEP

Tue., 4 April 2006

- meeting with *Lucy Kinyua*, Head of ACT and *Wolfgang Hesse*, Technical Advisor DED
- meeting with Programme staff

Wed., 5 April 2006

- meeting with *K. Njero*, Director of Extension Services Programme, MoA
- meeting with *Moses M. Kamau*, Policy Development & Monitoring Unit MoA
- meeting with programme staff

Frid., 7 April 2006

- human rights training course with selected staff of MoA

III. Interview partners

GTZ-PSDA staff

| | |
|-----------------|----------------------------|
| Reimund Hoffman | Programme Manager PSDA/GTZ |
| Philip Karuri | Programme Manager PSDA/MoA |
| Gladys Maingi | Project Officer PSDA |
| Joshua Inoti | Project Officer PSDA |
| John Njoroge | Project Officer PSDA |
| Heike Hoefler | Project Officer PSDA |
| Margaret Orina | Project Officer PSDA |
| Miriam Wanyonyi | Project Officer PSDA |
| Tony Mbandi | Project Officer PSDA |

Contacts during field trip

District staff

Nyeri district:

- District Agricultural Officer
- District Officer, Livestock Production
- District Officer, Crop Development

Meru district:

- District Officer, Extension Coordination
- District Officer, Livestock Production

Farmers' associations

- Dairy Goats Association of Kenya: chairman, accountant, national coordinator, technical manager
- Meru Goat Breeders Association
- Kenya National Potato Farmer Association: chairman

Farmers' groups:

- Kiamaigua self-help group, Nyeri
- Kiambogo Mwiteithia Group (potatoes), Nyeri,
- Meringene Goats Breeders, Meru

MoA staff

| | |
|----------------|---|
| Andrew Mugambi | Deputy Director Programmes/Projects, MoA |
| K. Njero | Director of Extension Services Programme, MoA |
| Moses M. Kamau | Policy Development & Monitoring Unit MoA |

and participants of the 2 human rights training courses conducted during the mission
(lists of participants left with PSDA programme coordinator)

Others

| | |
|--------------------|-------------------------------------|
| Erika Lind | Land Rights Programme, UN-Habitat |
| Anton Glaeser | Agriculture Sector Coordinator, DED |
| Wolfgang Hesse | Technical Advisor DED |
| Mark Cocker | Project Manager, SIPMK |
| Arne Eriksson | Programme Advisor NALEP |
| Kanyuithia Mutunga | Chief Executive, KENFAP |
| Lucy Kinyua | Head of ACT |

IV. Documents

1. Relating to PSDA

Strategy for Kenyan-German Cooperation in the Priority Area of Private Sector Development in Agriculture (Apr. 2003)

GTZ, Angebot zur Durchführung des Vorhabens/Programms: Programm Förderung des Privatsektors in der Landwirtschaft, Kenia, PN 2004.2061.2

Republic of Kenya, Ministry of Agriculture and Ministry of Livestock & Fisheries Development, Promotion of Private Sector Development in Agriculture, Evaluation and Progress Review Report (Dec. 2005). (quot.: Evaluation and Progress Review Report)

2. National

a. specifically relating to agriculture

Government of Kenya, Ministry of Agriculture, Strategy for Revitalising Agriculture (March 2004)

Government of Kenya, National Food and Nutrition Policy (Draft of July 2005)

Government of Kenya, Kenya Rural Development Strategy (2002-2017) (Final Draft, March 2002)

Government of Kenya, Ministry of Lands, Draft National Lands Policy (Dec. 2005)

Government of Kenya, Ministry of Lands, Issues and Recommendations Report (August 2005)

Government of Kenya, Report of the Commission of Inquiry into the Illegal/Irregular Allocation of Public Land (Ndungu Report, Dec. 2004)

b. general policy documents

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

The Kenya National Commission on Human Rights Act, 2002
Kenya National Commission on Human Rights (ed.), The State of Human Rights Report 2003-2004 (Nairobi 2005)

The Constitution of the Republic of Kenya, 1969 (as amended to 1997)

3. International

a. Binding treaties

UN, International Covenant on Economic, Social and Cultural Rights of 19 Dec. 1966, United Nations Treaty Series vol. 993, p.3.

UN, International Covenant on Civil and Political Rights of 19 Dec. 1966, United Nations Treaty Series, vol. 999, p. 171

UN, Convention on the Elimination of All Forms of Discrimination against Women of 18 Dec. 1979, United Nations Treaty Series vol. 1249, p. 13.

UN, Convention on the Rights of the Child of 20. Nov. 1989, United Nations Treaty Series, vol. 1577.3.

b. declarations

UN, Universal Declaration of Human Rights of 10 Dec. 1948, UN GAOR, 3rd Sess., Resolutions part. I, p. 71.

FAO, Voluntary Guidelines to support the progressive realisation of the right to adequate food in the context of national food security, adopted by the 127th session of the FAO Council, 22-27 Nov. 2004, <http://www.fao.org> (quot.: "Voluntary guidelines on the right to food").

c. others

UN, Human Rights Committee, General Comment No. 18 (1989), Non-discrimination, CCPR General Comment No. 18 (General Comments), 37th sess. 1989 (quot.: General Comment on Non-discrimination)

UN, Committee on Economic, Social and Cultural Rights, The right to work (Art. 6), General Comment No. 18 (2005), UN Doc. E/C.12/GC/18 (quot.: General Comment on the right to work)

UN, Committee on Economic, Social and Cultural Rights, The right to water (Art.11,12), General Comment No. 15 (2002), UN Doc. E/C.12/2002/11 (quot.: General Comment on the Right to Water).

UN, Committee on Economic, Social and Cultural Rights, The right to the highest attainable standard of health (Art. 12), General Comment No. 14 (2000), UN Doc. E/C.12/2000/4 (quot.: General Comment on the right to the highest attainable standard of health)

UN, Committee on Economic, Social and Cultural Rights, The right to adequate food (Art. 11), General Comment No. 12 (1999), UN Doc. E/C.12/1999/5., (quot.: General comment on the right to food)

UN, Committee on Economic, Social and Cultural Rights, The nature of States parties obligations (Art. 2, para. 1), General Comment. No. 3 (1990), (quot.: General comment on the nature of States parties obligations).

UNDP, Indicators for Human Rights Based Approaches to Development in UNDP-Programming: A User's Guide (March 2006)

Office of the United Nations High Commissioner for Human Rights, Frequently Asked Questions on a Human Rights-based Approach to Development Cooperation (2006), http://www.ohchr.org/english/about/publications/docs/FAQ_en.pdf, (quot.: OHCHR, FAQ).

c. regional treaties

African (Banjul) Charter on Human and Peoples' Rights of 27 June 1981, International Legal Materials 1982, p. 58. (quot.: Banjul Charter)

African Charter on the Rights and Welfare of the Child, of 1990, OAU Doc. CAB/LEG/24.9

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women, Adopted by the 2nd Ordinary Session of the Assembly of the Union, Maputo, July 11-August 13, 2003

d. others

Documentation of Rights Based Approach to Development as promoted in NALEP, Case Studies (2005-06)

From Despair to Hope. Women's right to own and inherit property, KNCHR 2005.

V. Terms of Reference

Advisory mission Strengthening the human rights orientation of the GTZ supported programme “Promotion of the Private Sector in Agriculture” and the M+E unit of the Kenyan Ministry for Agriculture

Dr. Monika Lüke

I. Background

The particular importance of human rights has been increasingly recognised in development policy since the late 1990s. However, until today only occasionally development cooperation is explicitly and systematically linked to human rights obligations and principles.

Against this background, in July 2004 the German Federal Ministry for Economic Cooperation and Development (BMZ) adopted the Development Policy Action Plan on Human Rights 2004-2007, with the objective of orienting German development policy more closely towards human rights and mainstreaming human rights as a cross-sectoral theme in development cooperation. The GTZ supra-regional project “Realising Human Rights in Development Cooperation” was launched in June 2005 and provides advisory support to BMZ and its governmental implementing organisations in achieving this objective.

Kenya (along with Guatemala) was chosen by BMZ in 2004 as one of two countries to pilot a human rights-based approach. The aim is to strengthen the human rights dimension in all key areas of German development cooperation in these two countries.

The human rights-based approach as understood by the BMZ aims at

- a more explicit and systematic orientation of German DC with regard to existing human rights obligations concerning economic, social, cultural, civil and political rights;
- and an application of the so-called human rights principles: empowerment and participation; non-discrimination and equality; accountability and transparency.

Kenya is a priority partner country of German development cooperation. With the exception of the UN Convention on the Protection of the Rights of Migrant Workers, Kenya has ratified all UN human rights conventions and bound itself to the realization of international human rights standards⁹¹. Consequently the Kenyan Government has committed itself under international law to assess its domestic legal system and the implementation of its policies taking into account human rights obligations. The Kenyan National Commission on Human Rights, the national human rights institution, which was established in 2003 to act as the chief agent of Kenya’s compliance with regard to its

⁹¹ International Pact on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child (including optional protocols on the legal position of children in armed conflicts) and the Convention on the Elimination of All Forms of Discrimination against Women.

international human rights commitments, actively supports efforts to implement a human rights-based approach into Kenyan policy.

The international human rights obligations form a broad basis for a systematic alignment of German-Kenyan development cooperation with human rights. Health, water and private small-scale agriculture are the central themes in DC with Kenya. All three areas relate to fundamental human rights such as the right to the highest attainable standard of health, right of access to drinking water, access to sufficient food, or fair production conditions. At the same time, the human rights principles - that is non-discrimination aiming at equality, accountability providing transparency and participation leading to empowerment – provide tools and a clear orientation for strategies and approaches applied in the various sectors.

Human rights and agriculture are closely interrelated. Along with the right to food and the right to an adequate standard of living, other human rights such as the right to life, the right to water, property rights, the right to just and favourable, safe and healthy working conditions, rights with regard to production methods and the right to organise collectively and form trade unions are highly relevant to the achievement of objectives in the agricultural sector.

II. German-Kenyan Cooperation in the Agriculture Sector

Within the overall objective of poverty reduction Kenyan-German cooperation in the agricultural sector focuses on small and middle scale private farms, considering them to have a considerable potential for growth. In that regard the Strategy for the Kenyan-German Cooperation in Private sector Development in Agriculture of 2003 anticipates the target of the Kenyan Strategy for Revitalizing Agriculture (SRA), which has been formulated in 2004. It is assumed that improvement of production and income on these farms will lead to an expansion of local food production and additional agricultural jobs for the poor. Hence, also landless population should benefit even though they are not a direct target group.

The core partner on behalf of the Kenyan Government is the Ministry of Agriculture (other governmental departments involved are the Ministries of Livestock and Fisheries Development, Cooperatives and Marketing and Water and Irrigation respectively). Cooperation entails activities at micro-, meso and micro level. Support at macro level is e.g. provided through advisory services to and close cooperation with the Ministry of Agriculture on the improvement of framework conditions for the private sector in agriculture.

The objectives of the GTZ-supported programme - to support small and medium-size farmers in value-adding chains for selected agricultural produce (potatoes, fresh vegetables, fruit, cooking and medicinal herbs, fish, meat and honey) to make increasing use of their market opportunities under improved framework conditions- fit into the priorities set by the Kenyan-German strategy in private sector development in agriculture.

Human rights aspects of the GTZ programme primarily lie in the areas of farming/working conditions and self-organisation. However, the programme also aims at contributing to the realisation of the right to adequate standard of living and the right to food as the strengthening of the private sector is considered to be of central importance in combating poverty. The programme does not address problems relating to access to and ownership of land.

Achieving the objectives of the Kenyan Strategy for Revitalising Agriculture and the respective objectives of the GTZ-supported programme requires the establishment and strengthening of adequate framework conditions: that is legal, administrative, fiscal and institutional structures for the sustainable development of small scale private agriculture along human rights. It also requires monitoring and evaluation of progress.

The M & E unit of the Ministry of Agriculture has the overall task to monitor and evaluate all governmental activities in the implementation of SRA– whether at national, regional or local level. The GTZ supported programme “Promotion of the Private Sector in Agriculture” has already gained some experience in cooperation with the M & E Unit of the Ministry of Agriculture, which will serve as the basis and impulse for this mission.

III. Objectives of the Assignment

The advisory mission has the overall objective to contribute to the strengthening of a human rights-based approach in the agricultural sector in Kenya and specifically in the implementation of SRA, with a particular focus on Kenyan-German cooperation in the priority area of private sector development in agriculture.

Specifically, the mission will

- provide information and support sensitization about the content and significance of the human rights-based approach in the implementation of SRA;
- initiate and support a reflection process with the team of the GTZ programme and partners, including the monitoring unit respectively on existing elements of a human rights-based approach in their work, actual strengths, potential shortcomings and possibilities for further action.

The objectives of the mission relate to both, to the GTZ supported programme “Promotion on the Private Sector in Agriculture” (part 1) and to the work of the M+E Unit in the Ministry of Agriculture (part 2).

IV. Activities within the Framework of the Advisory Mission

Part 1: Identification of existing and additional elements of a human rights-based approach in the GTZ-supported programme “Promotion of the Private Sector in Agriculture”

Preparation in Germany: gathering information and background material on the programme, its different stakeholders and components.

In Kenya: 5-day assignment, comprising

- session with team on core elements of a human rights based-approach in agriculture
- field trips to familiarise with programme practice in the various components, including discussions with programme staff, partner organisations, target groups and – if possible – (subsistence) farmers not included in the programme⁹².
- wrapping up with members of the GTZ-team

Part 2: Identification and strengthening of human rights elements in the work of the M+E unit in the Ministry of Agriculture

⁹² It would be welcomed to spend at least two days, including overnight stay, in a local village.

- Preparation in Germany: gathering information about the sector policy in agriculture with a particular focus on SRA, the work of the M & E Unit of the Ministry for Agriculture and Livestock Development (structure, composition, tasks, specific tasks and working experiences in the implementation of the Kenyan-German programme);
- in Kenya: 5-day assignment comprising the following elements:
 - Introduction to the content and core elements of a human rights-based approach in the context of agriculture and joint discussion/reflection on impact in the area of M+E with M+E unit of the Ministry of Agriculture.
 - Assessment of the existing M+E system and practise (impact indicators, methods and tools) with regard to relevant human rights elements
 - Identification of additional elements of specific and particular relevance relating to human rights (Which aspects would have to be strengthened? What would have to be changed?)
 - Exemplarily:
 - M+E relating to the Kenyan-German programme
 - Assessment of existing system and practice
 - Role and experiences of the M+E unit
 - Potential changes indicated through a focus on human rights
 - Summing up of experiences (jointly with seconded experts of Kenyan-German development programme)
 - Joint Formulation of further steps towards the integration of new elements into the M& E system and practise/ operationalizing.

VI. Time Frame

The assignment shall take place in Kenya for approximately 14 days commencing on 27 March 2006.

VII. Report

A draft report in English shall be provided by the end of April 2006, in which the working process and the most important results of the mission are recorded. Revision of the report after the receipt of feedback shall be carried out by mid-May.