



Report of the advisory mission
***“Strengthening the human rights orientation of the
Smallholder Irrigation Programme Mount Kenya Region
(SIPMK)”***

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GTZ cross-sectoral project:
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Part I: SUMMARY

This first advisory mission in the KfW/MoWI “Smallholder Irrigation Programme Mount Kenya (SIPMK)” took place from 11th to 19th of July 2006.

I. Course and Objective of the mission

The particular focus of the assignment was to provide advice to SIPMK and to inform and sensitise on human rights issues. It was intended that this The intended outcome of the mission was to initiate a reflection process within the team of SIPMK, including DED and its partners, on existing elements of a human rights-based approach in their work, actual strengths, potential shortcomings and possibilities for further action.

Advice was predominantly given by way of various workshops (one day each). These were held in the programme region, with the PMU of SIPMK, DED, and staff of the Irrigation Unit of the MoWI, with District Officers for Irrigation, Agriculture, Social services and Cooperatives who all are involved in the implementation of the programme¹. Workshops also were held with the farmers of the two already established Water User Associations (WUA), the Kioru Giaki and the Nkabune Miguna Igoki Kioru schemes. These workshops also served to discuss the framework and implementation of the programme.

II. Human rights relevance of the programme and potential anchorage points for human rights strengthening

The overall objective of the programme is “...to improve the living conditions of the farming population in the project area through sustained use and improved management of natural resources and water resources in particular...”. The specific objective of the programme is to “sustainably increase the agricultural productivity and production and subsequently farm incomes in selected irrigation schemes of the programme area.”.

These objectives do not contain explicit references to human rights, but rather focus on economic growth; to this end the programme primarily targets high-potential smallholders with an average farm size of 1 to 5 hectare². A human rights and poverty reduction approach would require the programme (by means of improving production and living conditions of smallholders) to aim at improving food security of the very poor and thereby contribute to the realisation of the right to food. In that regard, adjustment of the objective and respective indicators would be needed for the human rights impact of the programme to be measured.

Given the early stage of programme, nothing can be said about the implementation of the irrigation schemes and their effects on human rights. The programme mainly operates through WUAs. SIPMK’s support for the establishment of WUAs has the potential to contribute to the realisation of important human rights principles, ie participation of farmers in the programme activities leading to their empowerment. In this respect the two selected pilot schemes reveal different pictures. Whilst Kiou Giaki attracts a high interest and engagement of farmers, participation in Nkabune is moderate and progress slow. This casts considerable doubts on the issue of genuine demand for irrigation by the farmers.

The selection criteria for the next four schemes include questions of empowerment and in that regard refer to human rights standards. The selection criteria do not directly address the issues of non-discrimination and inclusion. From a human rights perspective, however, it is recommended to also consider involvement of female and young farmers in the groups. The

¹ In the evaluation of the workshops the satisfaction expressed by the participants rated 1,8 (on a scale from 1 to 5, with 1= very satisfied, 5 totally dissatisfied) Often the value of the interactive elements were emphasised.

² Programmpruefungsbericht of Oct. 2003,2.11.

programme should encourage the WUAs to pay special attention to other vulnerable groups, eg persons with HIV/Aids.

III. Core recommendations

From a human rights perspective an explicit reference to the potential contribution, which could be made to food security for the poor parts of the population in the programme objectives would be desirable. This would provide a clear link to the right to food. Such an explicit link would clarify the relevance of human rights as joint reference framework for donors and partners alike. It should be measured through respective indicators.

The following are the core recommendations relating to programme activities:

- Strengthening of the programme component on extension and marketing, since it stabilizes the sense of commitment and community of the farmers and may contribute to their empowerment.
- Strengthening of human rights principles in the work of the WUAs, including increased focus on non-discrimination and inclusion of female farmers, young farmers and on special measures for persons with HIV (HIV/Aids mainstreaming).
- Strengthening of human rights awareness-raising and education through inclusion of human rights issues in trainings. Various stakeholders expressed an interest in further trainings; at present the Ministry of Water and Irrigation is considering cooperation in carrying out a training of trainers. These incentives should be supported and if necessary additional financial means be provided given the fact that Kenya serves as a pilot country for the implementation of a human rights-based approach.

Part II: RECOMMENDATIONS

I. Recommendations

In the following the consultant will offer a range of recommendations for the programme from a human rights perspective. Some of the measures suggested might require additional resources for an appropriate budget.

1. General

The focus of the current programme is to increase production of smallholders with a high potential and an average farm size from 1 to 5 hectare, and consequently stabilise and improve their economic situation. Due to political decision of the Kenyan and German governments respectively SIPMK does not have a human rights focus. However, it has the potential to contribute to participation and empowerment of the targeted farmers and therefore of the two core human rights principles. To tap the full potential in future programme decisions, consequent implementation of the Human Rights Action Plan for Development Policy would be required to address the human rights relevance and to emphasise the human rights aspects of a programme.

From a human rights perspective it would be desirable to monitor the impact of the programme up the poor and marginalised groups of society. In that regard the contribution of the programme to the realisation of the right to food for the poor could be tracked and emphasised: by means of employment creation for the poorest and landless parts of the population or through cheaper food prices as a result of increased production.

The monitoring could be undertaken by those managing the programme without greater amendments in the political framework, particularly since the programme still is at its early stages. In the longer term, a study could be mandated to measure the impact of SIPMK upon the poor and vulnerable groups in the programme area as envisaged in the programme framework³.

2. Relating to the Programme Objective

The programme objectives do not address the potential human rights impact of SIPMK. From a human rights perspective, however, an explicit reference to the potential contribution towards food security for the poor parts of the population would be desirable in order to provide a clear link to the right to food. It would not be necessary for the present draft of the framework of objectives to undergo substantial changes in order to establish this link. Nevertheless, such an explicit link would clarify the relevance of human rights as a joint reference framework for donors and partners alike.

3. Relating to Indicators

In order to measure the human rights impact of the programme additional indicators would be needed relating to the right to food and to the human rights principles of participation and empowerment, non-discrimination and inclusion, and to transparency and accountability.

³ Programmprüfungsbericht of October 2003, 2.11. Another option would be to carry out a Poverty and Social Impact Analysis as currently promoted by the Worldbank, cp. <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPOVERTY/EXTPSIA/0,,menuPK:490139~pagePK:149018~piPK:149093~theSitePK:490130,00.html>

It is generally recommended that indicators should be more differentiated, since this would make it easier to verify whether the programme while contributing to non-discrimination adequately meets the special needs of vulnerable groups.

4. Relating to Programme Activities

Programme activities are still in their early stages and construction of the irrigation systems and subsequent extraction of water have not yet started. This provides the chance to take into consideration certain human rights requirements *ab initio*. A key human rights aspect of the programme is the participation and empowerment of farmers through WUAs.

Therefore the following recommendations:

- Work demand-driven, taking into account the principle of non-discrimination when selecting the schemes.

This would require not to primarily target those smallholders that already demonstrate a high potential, but to focus on those areas within the programme region where smallholders with lesser-potential and no access to irrigation are located and demand support. Furthermore, inclusion of female farmers and young farmers should be a relevant point in the selection process.

- Particularly monitor the following human rights concerns (primarily relating to non-discrimination and inclusion of vulnerable groups) during implementation

- What is the impact of irrigation upon the poor and vulnerable groups in the programme region?
- Is their access to water improved or impaired by the schemes?
- Has the construction of the schemes or the increase in crop production provided them with additional employment opportunities?
- Are the jobs created through irrigation actually taken up by the poor groups of society? Or do the farmers seek to cover this demand out of their household resources, above all through their children, hence the danger of child labour and abuse?
- Does irrigation also contribute to access to drinking water? If so is education and training provided relating to the necessary purification of the water? (Otherwise the farmers' health might be seriously affected.)
- Do all those who are interested have access to WUAs/ the irrigation schemes respectively?
- Do any of the formal requirements for participation in the schemes turn out to have de facto exclusionary or discriminatory effects?
- Does the requirement imposed by the Equity Bank for land to serve as collateral, exclude or discriminate certain groups, especially young farmers or women, who might not hold formal land titles due to traditional practices?

- Strengthen complementary measures of the programme, ie support and advise for WUAs
WUAs have the potential to fulfil an important function for participation and empowerment of the farmers and therefore for the realisation of human rights principles. In their work inclusion of vulnerable groups and particular support for women and young farmers could be core elements. Hence, the complementary component of SIPMK should be strengthened in future, taking into account the above mentioned core human rights principles.

- Strengthen the programme component on extension and marketing

For increased ownership and empowerment, it is essential to support farmers' cooperation through joint activities. As long as it is not clear when the construction of the schemes can

begin, it is recommended to encourage farmers' cooperation in other programme areas, ie extension and marketing, even more so as it is an important contribution towards strengthening farmers' capacity to raise the up-front contribution for the loans.

- Strengthen human rights principles in the work of the WUAs

WUAs should be supported to adopt by-laws that contain commitments towards good governance, human rights and the relevant principles, including regular democratic elections for the committees, certain quota for women and young farmers, requirements for transparency and accountability of the committee towards the members, and also mechanisms for participatory monitoring and evaluation.

Experiences from the Kilifi District Development Project (KDDP) might serve as good practice example. The Kilifi project originally started with the formation of WUAs and later successfully expanded into a multi-sectoral project focussing on participatory integrated development and hence on participation and empowerment⁴.

- Intensify programme measures directed towards empowerment of female farmers

Although women seem to be present and active within the farmers' groups (due to the fact that they cultivate the majority of the land in the programme area), it is indicated that they are still under-represented and prefer to remain in the background. The programme should therefore increase sensitisation to gender equality and include these issues into the trainings of farmers. A quota for the representation of women in the committees chairing the WUAs might be a further option.

- Undertake special programme measures targeting young farmers

The need to more strongly attract young persons to farming is widely accepted, since they have a high (work / employment) potential due to their education and ability to engage in physically demanding work. Therefore, special measures should be developed to specifically include this age group. Moreover, programme staff might want to highlight the achievements and potential of young farmers when working with the farmers groups or conducting training sessions to generate respect and intergenerational dialogue.

- Include HIV/Aids- mainstreaming into the Programme

Within the training framework, the programme should address the issue of HIV/Aids and the special needs and rights of those affected. Moreover, it is desirable for the programme to consider the special situations of those smallholders affected and provide special support for their inclusion into the schemes. The WUAs should be encouraged to provide special support for these persons and their families; eg the farming community could undertake efforts to temporarily assist persons suffering from the symptoms of HIV with their contributions to the scheme or with farming activities.

- Strengthen human rights sensitisation/education

Human rights aspects could be mainstreamed into farmers' trainings that are already being carried out and to be continued in the future. The farmers expressed demand and interests for a follow-up to the workshops which were conducted particularly welcoming the interactive methods used⁵. The Ministry of Water and Irrigation considers cooperation in carrying out a ToT. These initiatives should be supported and if necessary additional financial means be provided given the fact that Kenya serves as a pilot country for the implementation of a human rights-based approach. Additional trainings could help to sensitize partners, namely

⁴ <http://www.kddp.com>.

⁵ In the evaluation of the workshops the satisfaction expressed by the participants rated 1,8 (on a scale from 1 to 5, with 1= very satisfied, 5 totally dissatisfied).

at district level, and also include the partner banks. The cross-sectoral project on human rights in German official development cooperation and the consultant offer support to design the respective curricula and also provide some tools in addition to those handed out to PMU and partners as follow-up to the workshops during the mission.

Part III: REPORT

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I. Background and course of the mission

Kenya was chosen by the German Federal Ministry for Economic Cooperation and Development (BMZ) in 2004 as one of two countries to pilot a human rights-based approach in German development cooperation. The GTZ cross-sectoral project “Realising Human Rights in German Development Cooperation” commissioned by the BMZ and launched in June 2005 offers advisory services in achieving a stronger human rights orientation. Its services are based on the understanding that external support is of a facilitating nature, ie accompanying ongoing processes of the participating actors in development cooperation.

This first advisory mission in the KfW/MoWI “Smallholder Irrigation Programme Mount Kenya (SIPMK)” took place from 11 to 19 July 2006. Its aims were to contribute to the strengthening of a human rights-based approach in the agricultural sector in Kenya. Within this framework, the particular focus of the assignment is to provide advice to SIPMK and to inform and sensitise on human rights issues. In so doing, one could initiate a reflection process with the team of SIPMK including DED and its partners on existing elements of a human rights-based approach in their work, actual strengths, potential shortcomings and possibilities for further action.

The advisory services began with an introductory meeting and clarification of the objectives of the advisory mission and expectations with the deputy head of the Irrigation Unit of the MoWI and some of his colleagues, with the KfW-country director, the programme manager, the national coordinator and one of the two DED-technical advisors. Advice was essentially given in the context of various workshops (one day each).

They were held in the programme region. Two sessions were conducted, with the PMU of SIPMK, DED, and staff of the Irrigation Unit of the MoWI, with District Officers for Irrigation, Agriculture, Social services and Cooperatives that are involved in the implementation of the programme. The workshops provided an introduction on the features of a human rights-based approach in development cooperation and its intended effects; particular focus was laid on human rights in agriculture. The facilitator made use of inter-active elements like the power walk, group works and case studies.

Workshops were also held with the farmers of the two WUA already established, the Kioru Giaki and the Nkabune Miguna Igoki Kioru schemes. On the occasion of these workshops the framework and implementation of the programme were also discussed. A further one-day field trip was carried out to the project area of the Eastern Province Horticultural and Traditional Food Crops Project financed by IFAD and talks with members of the Kamavindi (irrigation scheme) cooperative were held. SIPMK intends to work along the lines and with a very similar concept of WUAs as IFAD. The mission was concluded with a further meeting in MWI.

A human rights –based approach in Kenyan-German agricultural cooperation

The international human rights commitments⁶ which both, the Republic of Kenya and the Federal Republic of Germany, have entered into, form a broad basis for a systematic alignment of German-Kenyan development cooperation with human rights.

⁶ 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). For Kenya additionally the African Charter on Human and Peoples’ Rights, including the Protocol on the

The following elements are recognized as basic essentials of the human rights-based approach in development cooperation:

- Development cooperation and the implementation of programmes must not violate international human rights standards.
- Systematic orientation and explicit reference towards human rights realisation. If the programme in its objective already contains a human rights focus, this is to be achieved by means of human rights mainstreaming. Otherwise through human rights sensitization and strengthening of human rights aspects and anchorage points within the programme.
- Support of capacity development for “duty bearers” and “rights holders” in their respective roles and responsibilities.
- Adherence to and promotion of human rights principles: participation, empowerment, transparency, accountability, non-discrimination.

The SIPMK programme does not belong to those programmes which have a human rights focus and hence, provide a basis for human rights mainstreaming. However, the programme framework contains several linkages to human rights protection and promotion in Kenya in the context of SRA. Among the particular potential of the programme in the human rights context are its achievements towards empowerment of farmers.

Agriculture has a number of important human rights dimensions. Along with the right to food and the right to an adequate standard of living, other human rights such as the right to life⁷, the right to water⁸, property rights, especially the right to own land⁹, the right to conditions that are favourable to the generation of employment¹⁰, the right to fair and adequate employment conditions, rights with regard to production methods¹¹ and the right to organise collectively and form trade unions¹² are highly relevant to the achievement of sustainable development in agriculture and are mutually interlinked.

At this point, it is necessary to briefly explain the contents and scope of the right to an adequate standard of living, which is also referred to in the programme framework¹³. The right to an adequate standard of living does not confer a general entitlement towards improvement of living conditions, but includes those needs which are essential for securing a decent standard of living such as water, food, clothing and housing¹⁴. States are committed to strive for progressive improvements in these areas eventually leading to better living conditions.

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

⁷ Art. 6 (1) CCPR, art. 4 Banjul Charter.

⁸ 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.

⁹ 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.

¹⁰ Art. 6 CDESCR, FAO Voluntary Guidelines Right to Food, Guidelines 8.8, 8.9. General Comment on the right to food, para. 26.

¹¹ Art. 7 CDESCR, art. 15 Banjul-Charter.

¹² Art. 8 CDESCR, art. 10 Banjul-Charter.

¹³ Ergänzender Programmprüfungsbericht of August 2005, 2.12.

¹⁴ See e.g. UN Committee on Economic and Social Rights, General Comment, Right to Water, para. 3.

The issue of irrigation is closely related to the right to food, since irrigation is meant to increase agricultural production, which is one of the necessary prerequisites for the realisation of food security and therefore the right to food in Kenya. Irrigation also has an impact on working conditions - and hence the right to work: - as it may make the work of farmers easier. On the other hand, an increased workload due to higher production as a result of irrigation, might also negatively affect the working conditions of those who are employed on the farms.

At the same time, the human rights principles - that are non-discrimination aiming at equality, accountability and transparency, participation and empowerment – facilitate tools and a clear orientation for the implementation of development programmes. These principles apply regardless of the sector of cooperation.

The SIPMK is part of the Kenyan-German financial cooperation based on a bilateral cooperation agreement between the Kenyan MoF and KfW. KfW has mandated AHT Group AG, a private consultancy based in Essen, and its partner (GIIBB Africa) with the implementation of the programme. Formal lead in the execution of the programme lies with the Ministry of Water and Irrigation, but the Ministry of Agriculture is also involved. The programme is furthermore supported by two technical advisors from the DED.

Hence, the commitment to implement a human rights-based approach binds all these actors involved in the programme framework, each within their respective scope of responsibilities within the programme context.

From the perspective of official German development cooperation KfW has the overall responsibility for the implementation and performance of the programme except for those components which are managed by the DED. In keeping with the KfW's particular role as a bank, its most substantial contributions consist of providing money, whilst others, mostly private consultant agencies are mandated with the implementation of the programme framework, . Nevertheless, this distribution of responsibilities does not relieve the KfW from its human rights obligations. The KfW has designed the programme framework in agreement with the BMZ and is responsible for its implementation in accordance with the above mentioned human rights standards. Therefore, it has to support and if necessary supervise the implementing consulting agencies so as to ensure that implementation is carried out in accordance with human rights standards and principles. It is also within the responsibility of KfW to see that existing human rights aspects inherent in the programme are strengthened and the necessary sensitisation of all stakeholders takes place.

II. Objectives, intended effects and target groups

1. The programme objectives and target groups as outlined in the programme framework

Programme objectives and target groups as outlined in the programme framework do not contain references to human rights, but rather focus on support for economic growth. However, they contain anchorage points for human rights issues to be supported by SIPMK.

The overall objective of the programme is “...to improve the living conditions of the farming population in the project area through sustained use and improved management of natural resources and water resources in particular...”:and thus, is in line with SRA. SRA has a similar 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”.

The specific objective of the programme is to “*sustainably increase the agricultural productivity and production and subsequently farm incomes in selected irrigation schemes of the programme area.*”.

The programme primarily targets smallholders of a size of less than 5 hectares. To be eligible for inclusion in the programme, farmers have to be able to make an up-front contribution of up to 10 % for the irrigation system in cash. According to the programme outline the intended effects of the programme should also improve the situation of some parts of the very poor groups of the population. This is to occur through the provision of employment opportunities on the smallholder farms due to increased production as a result of irrigation.

This focus fits into the Kenyan Agricultural Policy as expressed in SRA, which states that irrigation in smallholder schemes, controlled by the relevant stakeholders, can play an important role in increasing the quality /output of Kenya’s agricultural products”¹⁵

SRA emphasises that its primary objective, to increase agricultural production, is considered an essential element for its overall goal, which is poverty reduction through provision of food security¹⁶. Accordingly, German development policy focuses on poverty reduction as the major objective¹⁷. Moreover, – through its Development Policy Action Plan for Human Rights 2004-2007¹⁸, – it has decided to mainstream human rights in development policy.

Neither poverty reduction nor human rights are mentioned as a framework objective in SIPMK. Although within the explanatory note of the programme proposal a link is established between improvement of living conditions and the human right to an adequate standard of living and the human right to food¹⁹, this connection is not reflected in the objectives of the programme. Given the overall economic situation of the primary target group in the programme area, which is one of the high potential areas for Kenyan agriculture, improvement of living conditions rather relates to the provision of economic growth than to the right to food and poverty reduction. Hence, it is questionable how this programme fits into the priorities of official German development policy at the political level.

2. Anchorage points for human rights in the programme objectives

The objectives of the programme offer anchorage points for human rights. These could be broadened to establish an orientation towards poverty reduction and also emphasise its human rights relevance.

Certainly economic growth could contribute to achieve poverty reduction and the progressive realisation of the right to food (as an indirect objective). However, it would be necessary to explicitly establish this link within the programme objectives and reinforce it through respective indicators measuring the contribution of the programme towards improvement of the situation of the poor and marginalised groups of society. With regard to employment creation for poor groups of society, this link is already made when defining the target groups of the programme²⁰. One of the intended effects of the programmes is the creation of

¹⁵ SRA 2.2.5, 6.4.3.

¹⁶ SRA 4.1.

¹⁷ See Aims of German development policy, <http://www.bmz.de/en/principles/aims/index.html>;
<http://www.bmz.de/en/principles/aims/programme2015/index.html>.

¹⁸ <http://www.gtz.de/human-rights>.

¹⁹ Ergänzender Programmprüfungsbericht of August 2005, 2.12.

²⁰ KfW-Projektcurdarstellung. Programmprüfungsbericht of October 2003, 2.11., Ergänzender Programmprüfungsbericht of August 2005, 2.08.

employment opportunities for seasonal workers, which are meant to be recruited from the very poor and landless parts of the population²¹.

The current framework of objectives would not have to undergo far-reaching changes but could be complemented by linking economic growth to poverty reduction. Furthermore, the human rights relevance of increased agricultural production should be made explicit: ie its contribution to food security and therefore towards the realisation of the right to food, eg through the fact that increased production of smallholders might lead to an increase in the amount of food available on the market. Growth in production of local foodstuff, such as mais, beans, bananas and mangos²², would lead to a decrease in food prices. This, in turn, could enable poorer parts of the population to buy foodstuff.

Moreover, such an amended framework would reflect the way in which the farmers view their own role. When farmers request assistance from the programme, they always mention food security as their first objective²³. As already mentioned in the programme framework creation of employment opportunities for the very poor parts of the population might enable them to (better) support themselves.

These explicit links would clarify the relevance of human rights as joint reference framework for donors and partners alike, which could additionally contribute to sustainability of results.

3. The question of target groups from a human rights perspective

The programme targets smallholders that have sufficient resources to financially contribute to the costs of irrigation scheme (50 % of the costs with an upfront contribution of 10 % in cash), but also as a (side-) effects intends to create employment opportunities for the very poor groups on these farms.

The question is whether a “human rights lens” would require the programme to directly target the very poor and vulnerable groups of society.

In fact, from the perspective of non-discrimination and inclusion a human rights-based approach requires the programme to focus on the very poor groups of society, ie the subsistence farmers or the landless population²⁴ in its impact chains, at least in terms of indirect impact. Expected improvement of their situation can also be an intended *indirect* outcome, eg through support for small-scale farming to increase food production and to generate employment for the poor²⁵.

As long as the programme objectives can be shown (through respective indicators) address the situation of the very poor groups of society, the goal of the programme is expected to be in line with the principle of non-discrimination and inclusion regardless of whether it is obtained through direct targeting or, alternatively, through indirect means, eg through support for small-size private farming with a potential for further indirect improvements for subsistence farmers.

²¹ S.a. footnote 15.

²² These products are cultivated in the region.

²³ Which according to the programme framework is a necessary requirement of the initiation of programme support. In the respective statement Nkabune farmers' expectation towards the programme were: food security, education of children, lifting the standard of living, improving the health status through provision of quality food, improving the environment. Kioru Giaki farmers expected the programme to: - eradicate hunger; acquire a higher standard of farming, economical uplifting, water.

²⁴ UN General Comment on the right to adequate food (1999), paras. 13, 15.

²⁵ 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>.

Furthermore, rigid limitation of agriculture programming in favour of support to subsistence farming and/or pastoralists might not lead to sustainable poverty reduction, since subsistence farmers might not be able to lift themselves out of poverty due to illnesses, lack of soil and manpower etc. In contrast development assistance for smallholders might indirectly benefit subsistence farmers and also improve their access to food.

From the perspective of human rights and poverty reduction it might certainly be questionable whether it should be a priority to work in the Mt. Kenya region, considering its high potential for agricultural growth, when poorer areas with lesser potential are not targeted. On the other hand the promotion of growth in these areas might improve the market supply and consequently contribute to a decrease in food prices and generate employment opportunities for the poorest, thus serving as an effective means to contributing to food security of the poorest.

III. Programme Indicators

The programme proposes indicators for the attainment of the overall programme objective and also for the specific programme objectives, which have been further specified within the technical proposal.

1. The current system of indicators

Neither the overall programme objective *“... to improve the living conditions of the farming population in the programme area...”*²⁶ nor the specific programme objective *“to sustainably increase the agricultural productivity and production and subsequently farm incomes in selected irrigation schemes of the programme area.”*²⁷ Include indicators relating to human rights. A human rights and poverty reduction approach, however, would require the programme (through improvement of production and living conditions of smallholders) to assure a trickle-down effect to the improvement of the food security of the very poor. For this reason, respective indicators also would be needed to measure the realisation of the right to food.

In addition, the programme framework does not contain any indicator implementing HIV/Aids mainstreaming and hence, does not contribute to the right to access to health care, although HIV/Aids mainstreaming has been established as a cross-cutting issue for all official German development programme and projects and is also one of the central issues of SRA²⁸.

²⁶ Indicator for the overall programme objective:

Increase in net income of those households participating in the programme five years after the completion of the irrigation scheme.

This indicator has been specified in the technical proposal:

Increase in the average net farm income from 1,050 EURO per household in 2001 to 4,500 EURO per household five years after the completion of the irrigation schemes.

²⁷ Indicator for the specific programme objective:

Increase in intensity of cultivation in the irrigated area (from currently 166 % to at least 220 %)

Again this indicator has been specified in the technical proposal as follows:

- efficient functioning of WUAs in the selected schemes;
- establishment of 6 irrigation schemes with an overall irrigated area of around 4000 ha;
- farmers have deposited the up-front sums and loans are transferred to them via the WUAs;
- increase in average cropping intensity from 166 % without Programme to an average of 220 % three years after completion of the construction.

²⁸ http://www.bmz.de/en/issues/Health/HIV_Aids/deutscherBeitrag/index.html

None of the human rights principles, participation and empowerment, transparency and accountability, non-discrimination and inclusion, are addressed within the current framework of indicators. However, the SIPMK has considerable potential in these areas, particularly in relation to participation and empowerment, through its focus on working with farmers groups, who are supposed to manage the irrigation schemes autonomously.

To monitor the potential of including human rights principles, additional indicators are needed. In the following subsections indicators shall be proposed for monitoring the human rights effects of the programme. From these proposals some indicators could be selected and integrated into the programme framework. The latter 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.

2. Proposals for additional indicators

In order to measure the human rights impact of the programme, additional indicators are needed that relate to the right to food and to the human rights principles of participation and empowerment, non-discrimination and inclusion, and to transparency and accountability.

a. The right to food

In order to measure the intended effects of the programme towards the realisation of the right to food one option relates to the issue of employment for very poor and landless parts of the population: Currently “... *the creation of ca. 1,200 posts of full-time employment in the programme region, mainly consisting of the landless and poorest parts of the population in the region.*” is considered in the programme conception under the heading of intended effects of the programme. Instead it could be included within the list of indicators measuring the achievement of programme objectives.

Such an indicator could indirectly measure the success of the programme towards the realisation of the right to food for the poor groups of society, since cash income from employment would provide the very poor groups, eg landless people, with the means to buy food for subsistence.

Another possibility to indicate the programme potential towards improvement of food security in Kenya could be linked to some indirect effects: As a consequence of increase of agricultural production more foodstuff is made available, eg: mais, beans, mangos and bananas, which are produced in the region. Therefore food prices should decrease. Hence, the population would have more food available at lower prices, which might also enable poorer parts of the population to aliment and thereby realise their right to food.

Nonetheless, 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, eg:

- 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).

b. HIV/Aids

To implement HIV/Aids mainstreaming as required by official German development policy²⁹ and required by SRA³⁰ an additional indicator could be developed. Such an indicator would measure the contribution of the Programme towards the realisation of the human right to the highest attainable standard of health, eg:

- As a result of the programme activities the x supported smallholders are enabled to better cope with the consequences of the HIV/Aids pandemic (verified through interviews).

c. Participation and empowerment

The programme has considerable potential in the areas of participation and empowerment. These could be monitored through appropriate indicators.

Anchorage for the realisation of participation and empowerment within the programme framework are the WUAs. Through cooperation in WUAs smallholder's active participation in the programme framework is effected; at the same time WUAs can serve as an important instrument for the empowerment of the participating farmers. The current indicator on WUAs within the specific programme objective³¹ ("efficient functioning of WUAs in the selected schemes") should be expanded and supplemented by additional indicators.

The following amendment of the current indicator is suggested:

- "efficient functioning of WUAs in the selected schemes, *working according to democratic principles*.

Additional indicators could be formulated as follows:

- X farmers in WUAs believe their position in marketing their produce has been strengthened through the work of the farmers' groups.

- 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 a form of small-credit system to support one another.

Explanation: another indicator for empowerment

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

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

d. Transparency and accountability

Although the technical proposal³² mentions the contribution of the programme to transparency and accountability, references remain general and have not yet led to specific

²⁹ S.a. footnote 22.

³⁰ SRA 8.4., 8.5.1., 8.5.2.

³¹ I.e.

³² P. 17.

indicators. Hence, the following indicator is proposed for reflecting the core function of WUAs in the programme and the strengthening of its human rights aspects:

- X WUAs apply participatory M+E processes, which hold the committees accountable and encourage them to be transparent.

e. Non-discrimination and inclusion

Inclusion and non-discrimination are two important human rights principles. To monitor these principles, there is a need for data that differentiates between the various vulnerable groups, including women, young persons, and persons with HIV/Aids etc.. Furthermore, it would be advisable for the programme to collect this type of data, in order to prevent discrimination and enable these groups to have equal access to irrigation and thus to increased production and markets and be able to articulate themselves within farmers' groups/WUAs.

Currently SIPMK does not contain any indicators referring to the involvement of women, persons with HIV/Aids or young people in the WUAs despite the fact that it is one of the priorities of SRA.³³

That is why the current indicator relating to WUAs could be complemented by an additional indicator such as:

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

Adequate consideration of the special concerns of persons with HIV/Aids could be measured through HIV/Aids mainstreaming as suggested above.

IV. Activities in the Programme

The Smallholder Irrigation Programme Mt. Kenya Region (SIPMK) covers three districts in Eastern Province, namely Embu, Meru Central and Meru South Districts, and one district in Central Province, namely Kirinyaga District.

The Programme started operations in Sept. 2005. However, the subsidiary loan agreement between the GoK and the two selected banks (Cooperative Banks and Equity Bank) has not yet been signed and the construction of the irrigation schemes has not started³⁴.

The farmers in the WUAs of the two intended pilot schemes, the Kioru Giaki and the Nkabune Miguna Igoki Kioru schemes, were established as self-help groups, but are not yet registered as cooperative societies. Thus, they still lack the legal personality required for access to loans.

One of the groups, Kioru Giaki, has already raised the required 10 % up-front contribution for the loan financing the schemes and hence is essentially eligible for the payment of the loan³⁵. Therefore this group can take the loan and construction of the irrigation scheme can begin, as soon as the subsidiary loan agreement is signed and provided registration as a

³³ SRA 8.5.2.

³⁴ At the time of this report signature of the subsidiary loan agreement is scheduled for end of July 2006.

³⁵ Farmers are expected to take a loan equivalent of 50 % of the total investment costs and raise an up-front contribution of 10 % before loaning. The other 50 % of the investment cost is a grant to the WUAs/ farmers' organisations. The funds will be channelled through identified partners' banks (currently Co-operative and Equity Banks).

cooperative can be achieved. Nkabune group still is in the process of raising the required up-front contributions, which turns out not to be easy. Both WUAs are currently in the process of drafting their by-laws, another requirement for registration as a cooperative society.

It was decided by the programme that the up-front contribution is an essential element to generate ownership of the farmers for the schemes and hence, to achieve sustainable interest and cooperation in the achievement of the programme objective.

Over the last months the efforts of the programme staff have focussed on supporting the farmers in the process of founding WUAs, which is one of the essential complementary measures included in the programme³⁶. The farmers' groups /WUAs have been advised and trained on institution-building and also on the conditions for the loans for the irrigation schemes. Moreover DED has started to sensitize, support and train the farmers on marketing issues.

Given the early stage of programme nothing can be said about the implementation of the irrigation schemes and their effects on human rights, eg:

- fair and equitable allocation of water,
- potential collateral effects,
- inclusion of gender issues and concerns of other vulnerable groups within the process,
- about the way how the responsibility for operation and maintenance of the schemes is carried out,
- how the persons in charge within the WUAs are held accountable for their management,
- whether conflicts are likely occur between the use of water for domestic and agricultural purpose,
- whether irrigation also contributes to the availability of drinking water (drinking water versus irrigation?- right to water versus right to food?),
- whether the expectations that additional employment will be provided for poor people can be realised or whether the farmers rather rely on cheaper family labour, including the danger of exploitation of children³⁷.

The project intends to work along the lines and in cooperation with the Eastern Province Horticultural and Traditional Food Crops Project financed by IFAD³⁸. The PMU is in close contact with the IFAD-Project in order to learn from the experiences gained and to avoid errors that may impede the implementation of the project, eg in relation to the constitution and work of WUAs, which are also form a core element of the IFAD-project.

Moreover, the process surrounding the establishment of the two pilot WUAs, Kioru Giaki and the Nkabune Miguna Igoki Kioru, already addresses important human rights issues. This report will therefore focus on WUAs.

WUAs have a core function in realising participation and empowerment and also have an important role in achieving non-discrimination and inclusion of vulnerable groups. They can also contribute to transparency and accountability within the programme. In the following the the programme's support for the selection of criteria as well as the structural issues, which are relevant when working with the groups, will be considered from a human rights perspective.

³⁶ Programmprüfungsbericht of October 2003, 3.12.

³⁷ Concern expressed by one programme staff.

³⁸ Technical Proposal of June 2005, p. 20.

a. Selection of WUAs

By July 2006, two areas and respective farmers' groups have been selected for piloting SIPMK; four additional groups are currently in the process of being selected. The selection proposals to be made by PMU upon recommendation have meanwhile been made and will be forwarded to PSC for final agreement.

From the perspective of human rights the selection process is of high relevance. It is considered a useful tool to strengthen the principles of empowerment and participation in the process of programme implementation. The selection process can also be relevant to further inclusion and non-discrimination of vulnerable groups.

aa. Selection of the two pilot schemes

The first two schemes for implementation have been pre-selected based on the Pre-Feasibility Studies carried out by GFA Terrasystems GmbH and CES Consulting Engineers Salzgitter GmbH in 2002. This study obviously serves as an important means for selection related to the economic and social viability of the schemes.

Both groups are located near Meru town. Kioru Giaki is located in a remote area without any source of water being accessible for farming. Therefore water for farming as well as for household purposes is collected from the nearby river. Due to remoteness, markets and employment possibilities are difficult to reach. Therefore the farmers have a high demand for irrigation.

The other area chosen is Nkabune Miguna Igoki Kioru, an area not too far from Meru Town and near the main road. A considerable amount of those members of the group present during the workshops did not solely on farming but also pursued other activities, eg teaching, working as a watchman etc. Hence, it is doubtful whether selection of Nkabune has only been motivated by the criteria laid down as programme focus in the framework: participation and empowerment, and working demand-driven.

Both pilot schemes are located next to one another in Meru Central, but not in other areas. This raises issues of inclusion with respect to less favourable areas.

Considerable potential of the programme in the area of human rights lies in the areas of participation and empowerment generated through the involvement of farmers' groups organised in WUAs. These principles do not only constitute core elements of a human rights-based approach as pursued by German development policy, but are also commitments of the Kenyan government, expressed in its SRA.³⁹

The two pilot schemes established under the SIPMK-programme, Kioru Giaki and the Nkabune Miguna Igoki Kioru, reveal different pictures as far as farmers' efforts and their empowerment is concerned.

Altogether 186 Farmers are organised in Kioru Giaki. They show a genuine commitment towards programme progress, eg they have already raised the necessary up-front contributions of 7000 KSH each⁴⁰. According to the WUA expert, farmers had to take up loans from friends or sell their trees to be able to raise the money, but were willing to find all available means, since they urgently needed and wanted irrigation. The farmers' group has already drafted a by-law, a necessary requirement for registration as a cooperative and for the ability to draw the loan. These achievements of the group show their commitment to the programme.

³⁹ SRA 9 (9.1.2.),10 (10.1.3).

⁴⁰ Which is around 80 Euros.

The current draft prescribes democratic election of the committee, and also entails requirements to realise transparency and financial accountability. Another sign of commitment was the high attendance in the workshop with the consultant (40 out of 180 were invited, and 43 turned up) and their very active participation in the discussions.

The WUA expert of PMU explains the strong interest of the farmers in Kioru Giake from the fact that the farmers in the scheme urgently need irrigation, since there is no other source of water for farming available in the area. In principle farmers in Kioru Giake have fulfilled the necessary requirements for the start of the irrigation works.

Currently the joint objective to have access to irrigation is the substantial tie that links the farmers. Cooperation and joint efforts in other sectors do not exist. Therefore DED's efforts to create further areas for cooperation within the farmers' groups in the field of extension, input supply and marketing are crucial to the future success and sustainability of the groups and should be adequately considered and strengthened in the following phases of the programme. They contribute to consolidate farmers' sense of community and therefore empowerment and ownership.

The start of the implementation process in Kioru Giake is even more desirable, seeing that Kioru Giake scheme could serve as a good practice example and hence be of considerable value for further schemes planned within SIPMK.

The official number of farmers in Nkabune scheme is 251. However, only 85 farmers are currently registered in the WUA. This already reflects the current doubts with regard to the commitment of the farmers within this scheme towards the project. The farmers in Nkabune – although on average better off than their colleagues in Kioru Giaki - have problems in raising their contribution. It is also possible to derive that their interest seems to be more limited considering their weak presence in the workshop offered by the consultant: out of 40 farmers invited only 24 were in attendance. Progress in Nkabune is slow; farmers just managed to raise around 1/3 of the necessary up-front contribution, of 1,5 Mio KSH. From discussions with the farmers the consultant gained the impression that water demand might be primarily related to household use. Albeit being a basic human right, providing drinking water is not within the objectives of SIPMK.

bb. The selection process for future schemes

The selection process for the 4 additional schemes is currently carried out by PMU to be confirmed by PSC.

The official selection criteria include economic criteria and, among others, consideration of the technical feasibility, accessibility of markets, farmers income and their technical knowledge. Selection criteria also refer to the strengths of farmers' organisation and initiative, and thus include the degree and potential for participation and empowerment⁴¹. It is recommended, that selection criteria also reflect a policy of inclusion and non-discrimination.

i. Participation and empowerment

The current selection criteria "Strength's of farmers organisation", and "Farmers' initiative" should be expanded. It is crucial to already consider the potential for farmers' empowerment and the extend of their demand in participation in the programme scheme during the selection process. This is even more so since empowerment of farmers through a demand-driven approach is outlined in the programme framework to constitute one of the key principles for programme implementation. Hence, it should be assured that only those groups

⁴¹ Inception Report of March 2006, Annex E.

are selected to be supported by the programme that demonstrate a genuine need for and interest in irrigation.

Therefore, groups already maintaining joint activities in other areas, eg breeding of goats or education of children, might be given preference for support. (Through their existing activities the farmers show their serious commitment towards mutual cooperation, their strength as a group, and therefore their empowerment.)

Working with pre-existing groups with joint activities already in other areas might furthermore help to make the achievement of the programme objective more sustainable, since these groups are less dependent on difficulties arising in the course of implementation of the irrigation scheme, sometimes brought forward by external circumstances beyond farmers' control (as in the case of the subsidiary loan agreement). They might also be more confident towards the achievement of a common goal. In addition, those farmers might be more open to provide mutual support for one another in the efforts to raise the up front contribution, since they have already worked together for a couple of years and therefore know one another well and have already developed mutual trust.

ii. Non-discrimination and inclusion

The human rights principles of non-discrimination and inclusion require that funding and development support should primarily target those, who are still in need of a certain service, ie irrigation, and therefore disadvantaged, and not those who have other means to obtain water for farming.

In addition, the principle of non-discrimination would require not to primarily target those smallholders, who have a high potential anyway. Instead, focus should lie on those areas within the programme region where smallholders with lesser-potential and no access to irrigation are located and demand support. Another aspect relating to non-discrimination is the involvement of female and young farmers in the groups and also possibly special engagement of the groups towards other vulnerable groups, eg persons with HIV/Aids, which should be encouraged. This could also be taken into consideration when selecting groups for irrigation.

b. WUA structures

The WUAs are meant to fulfil central functions in the implementation of SIPMK: they are relevant for farmers' empowerment and could help to overcome the issue of discrimination relating to questions of land, gender issues, and the role of young farmers and also to HIV/Aids.

aa. Participation and empowerment

In the schemes the farmers act as autonomous entities who largely administer themselves: they are in charge of the administration of the loans, ie to collect the farmers' contributions and eventually to draw the loan and administer the money for the establishment of the schemes, and also have the full responsibility for the operation and maintenance of the schemes. In practice, the implementation of the programme and hence its success therefore largely depends on participation of the farmers and on their empowerment. In that respect the programme has the potential to become a driving force in the implementation of human rights principles.

This, however, additionally requires that the farmers' groups firmly rely on democratic principles when developing their internal structure, making sure that the chairing committee is properly elected by the members of the groups and is transparent in its work, accounting for the goals that have been achieved and those that so far have not been reached, as well as accounting for how the money is spent.

During the mission, the issue of up-front contributions and the difficulties to raise the money was regularly brought up by the farmers, particularly since this problem never arose in early schemes in the eighties (also managed by IFAD) that were largely based on grants (but not successfully implemented). From a human rights perspective, a reasonable contribution by the farmers towards the schemes is an adequate tool to generate their commitment even if this requirement might cause delays in programme implementation. Through farmers' up front contributions towards the loan the necessary ownership in the process is generated, which is a prerequisite and at the same time constituent element for substantial participation and thereby empowerment.

In addition, the difficulties faced in raising the money might be partly overcome through mutual loans between the farmers participating in a certain groups. In that regard the approach of the IIFAD- Kamavindi group could serve as a good practice example for the WUAs established under SIPMK: In Kamavindi, those farmers who were financially better off offered loans to their fellows to speed up the collection of the necessary up-front contribution. They developed their own system of securing the repayment of these mutual loans, which was shown to the consultant: property items were offered as collaterals and subsequently documented (including their value) within a log-frame book administered by the WUA. This process revealed the sense of ownership of this group and also their empowerment.

bb. Non-discrimination

Other important human rights issues that could be addressed by the programme are the principles of non-discrimination and inclusion of vulnerable groups. Again cooperation within WUAs would be the entry point.

There are several issues to be addressed: are the requirements for participation within the irrigation schemes exclusionary or discriminatory, eg through the fact that formal ownership of land might be a necessary requirement? To what extent do women or young farmers participate in the schemes and are persons with HIV/Aids included in the irrigation work? What are their functions within the WUAs?

Special focus on these vulnerable groups would take due account of the respective policy commitments in SRA and also in the Water Resources Management Strategy, ie the commitment for special measures for farmers with HIV/Aids⁴², the commitment towards gender main-streaming⁴³, including due account of the specific problems of women with regard to access to credit⁴⁴ and land⁴⁵ and also the need for special attention towards young farmers.⁴⁶

i. Ownership of land

The human right to be granted access to land ownership without discrimination is an inherent part of the right to food⁴⁷ and of human rights relating to working processes in agriculture⁴⁸. The problems surrounding access to formal ownership of land might in actual fact discriminate women and young farmers and hinder their participation in the scheme and above all violate their human rights.

⁴² SRA 8.4., WRMS 1.1.

⁴³ SRA 8.5.1., WRMS 5.3.

⁴⁴ SRA 8.5.1. ii).

⁴⁵ SRA 6.4.1. vi).

⁴⁶ SRA 8.5.2.

⁴⁷ See General Comment on the right to food, para. 26; Guideline 8 of the FAO Voluntary Guidelines on the right to food.

⁴⁸ Art. 6-8 CDESCR; art. 10, 14 Banjul-Charta.

The problems caused through discriminatory practices regarding the ownership of land are regarded by both, programme staff as well as farmers, as a considerable impediment for the success of the programme. Women's access to land ownership is often prevented through traditional rules of ownership and inheritance.⁴⁹ The problem to have access to titles in a non-discriminative way is a far-reaching problem, which is beyond the scope of the programme⁵⁰. However, pragmatic and low-level approaches to this problem could be sought to be developed by the programme, since land is an essential issue and prerequisite for the development of smallholder irrigation.

Although many farms in the programme area are effectively cultivated by women, formal ownership often remains with the head of family, eg out of 13 women present in the meeting with Kioru Giake only 3 owned the land; the others worked land owned by their husbands. Similarly in Nkabune only two women present at the meeting formally owned the land, whilst even the female treasurer's land was formally owned by her husband. Likewise young farmers (ie in Kenya farmers under the age of 40) often only have a chance to be vested with formal ownership of the farm after their father has passed away, regardless of the fact that they cultivate the land. In Kioru Giake even farmers who probably were above the age of 50 bring in land for irrigation that is not formally owned by them but by their fathers and hence, requires their fathers' consent to access the loan

SIPMK seeks to encourage a number of low-level and pragmatic solutions to this problem: In interviews with project officers and with the farmers in Kioru Giaki and Nkabune it was generally stated that participation in the farmers groups would not require formal ownership of the land brought in for irrigation, but necessitate the consent of the formal owner. However, one of the two loan banks of SIPMK, the Equity bank will ask for land to serve as collateral for the loan agreement between the farmer and the bank.

In discussions with programme staff and also with Kamavindi group under the IFAD scheme, it was said that it would be sufficient for the bank if the owner of the land formally consented to the loan. However the question remains what happens if the formal owner either rejects or is not available to give formal consent, e.g. due to the fact that he lives in another region, which is very common in cases where women cultivate a farm after the death of their husband while the sons have migrated to one of Kenya's cities.

In order to overcome some of these difficulties, SIPMK has developed an integrative approach: the commitment of the farmers towards the bank through countersignature has to be on the basis of the family, ie in each case two members of the participating family will have to sign in, either husband and wife, or else son and father. It is hoped that through this family consensus can be reached and therefore the problems relating to questions of formal ownership of land be resolved.

From the perspective of discrimination it would, however, be good if the programme could influence the subsidiary loan agreement so that the requirement for collateral currently demanded by the Equity Bank is eliminated. Otherwise farmers' groups could be encouraged to support women or young farmers (whose eligibility for loans might be affected by the lack of consent by the owner of the land) and help out with their land as collateral.

At the current stage the programme has the chance to contribute to practical approaches for the solution of the issues related to the separation of land between a female user and a male

⁴⁹ Cf From Despair to Hope. Women's right to own and inherit property, KNCHR (2005).

⁵⁰ 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, Ministry of Lands and Housing, National Land Policy, Issues and Recommendations report, August 2005, p.74.

owner and thus generate good practice. In this way the programme would make a substantial contribution to the realisation of human rights.

ii. Women

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

- out of 9 members of the steering committee of the IFAD-Kamavingi group 2 were women; the members of the committee claim the majority of the 120 active members of this group to be women, however, without specifying their number
- The Kioru Giaki: around 30 % of the members are women, 3 women are committee members (The committee consists of 9 persons). The workshop with the consultant was attended by 13 women (out of 41 participants).
- Nkabune: The workshop with the consultant was attended by 9 women (out of 24 participants). The groups have a female treasurer.

Farm work in the programme area is mostly carried out by women. This fact is not yet reflected in the irrigation schemes where only around 1/3 of the members are female farmers. Apart from one or two women who were members of the committees and outspoken, the other female members met remained background and rather quiet. The WUA officer reported male efforts to dominate those women elected into the committees of the farmers groups. He furthermore expressed concern about the proportionally low representation of women in the WUAs: since they do not own the land, they need their husbands consent. It is therefore important for SIPMK to continue its efforts to address the problem and find informal solutions, eg through an integrated approach which requires the consent of both spouses for any decision relating to the land. Furthermore, gender issues could be included in trainings.

iii. Young farmers

Only very few young farmers participate in the two pilot groups: around 10 %. In Kioru Giaki no farmer seems to be under 40 and thereby, fall under the Kenyan definition as a young farmer (under 40). In the meeting with Nkabune group, 4 or 5 farmers (out of 24 present) seemed to be around 40.

This is due to the fact that most of those farmers still do not formally own the land, but the land is owned by the fathers. In the Kioru Giaki workshop, out of 28 male farmers present six men, between 50 and 60 years of age, revealed that the land was still owned by their fathers. Hence, to obtain credit for irrigation they would still need the formal permission of their fathers. In the meeting with Nkabune group, 2 farmers hinted at the fact that the land was still formally owned by their fathers. This affects their self-esteem and the way in which they are regarded and respected in the community. In fact, young farmers often face difficulties in gaining the respect of their parents and village elders despite the fact that they are generally among the best-educated persons in the villages.

Another problem for young farmers is the subdivision of farm holdings into very small units as inheritance. In Nkabune 3 farmers mentioned that they shared the land with their brothers leading to units of around 1 acre each. Therefore young farmers have considerable problems to make a sustainable living out of farming. That is one of the reasons why farming is not sufficiently attractive for young persons anymore and they therefore leave the farms for town.

For all these reasons and also for the high potential for the future of Kenya's agriculture embodied in able and active young farmers within the community it is recommended that the programme in its work with WUAs and also in the training courses explicitly addresses the problems faced by young farmers and seeks to sensitize the farming community and district officers.

iv. Persons with HIV/Aids

The consultant did not receive any information on the issue of HIV/Aids in the programme area, but enquiries whether the issue had been discussed with and within the farmers' groups were declined referring to the sensitivity of the issue.

Since German development cooperation has committed itself to HIV/Aids mainstreaming and due to the high relevance of HIV/Aids for the health status of the population and thus for the realisation of the human rights to the highest attainable standard of health, it is highly recommended to include HIV/Aids sensitizing in the programme framework.

Part IV: ANNEXES

I. List of Abbreviations

Art.	article
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
GoK	Government of Kenya
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit; German Agency for Technical Cooperation
IFAD	International Found for Agricultural Development
KDDP	Kilifi Disstrict Development Programme
KFW	Kreditanstalt für Wiederaufbau; German Bank for Reconstruction and Development
KNCHR	Kenya National Commission on Human Rights
MoA	Ministry of Agriculture
MoF	Ministry of Finance
MWI	Ministry of Water and Irrigation
NWRMS	The National Water resource Management Strategy
p	page
PMU	Project Management Unit
para.	paragraph
PSC	Project Steeering Committee
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
ToT	Training of Trainers
Vol.	volume
WUA	Water User Association

II. Mission schedule

Tue., 11 July 2006

- Meeting in MWI, Nairobi with W.O. Ochanke (Deputy Head of the Irrigation Unit, MWI, P.W. Muchnaga (Irrigation Unit, MWI), Joerg Dux (country director, kfw), Marc Crocker (project manager SIPMK), Bethoven Njoka (national coordinator, SIPMK), Hermann Kamprath (technical advisor SIPMK, DED,) to clarify the assignment of the consultant and in order to discuss and prepare the further course of the mission.

Wed., 12 July 2006

- One day workshop in Embu, with PMU, DED, members of the Irrigation Unit of the MWI, and Provincial Irrigation Officers.

Thurs., 13 July 2006

- One day workshop in Embu, with district irrigation officers, district agricultural officers, and district social services officers.

Frid., 14 July 2006

- Field trip to Kamavindi irrigation scheme (IFAD) with project staff and district agricultural officer, meeting with the committee of the respective WUA.

Mon., 17 July 2006

- Workshop with farmers of Kioru Giaki farmers groups, Meru together with WUA specialist of SIPMK and district irrigation officer, Meru Central.

Tue., 18 July 2006

- Workshop with farmers of Nkabune farmers groups, Meru, together with WUA specialist of SIPMK and district irrigation officer Meru Central.

Frid., 21 July 2006

- Meeting in MWI, Nairobi with Meeting in MWI, Nairobi with W.O. Ochanke (Deputy Head of the Irrigation Unit, MWI, P.W. Muchnaga (Irrigation Unit, MWI), Marc Crocker (project manager SIPMK), Bethoven Njoka (national coordinator, SIPMK), Nathan Andika (WUA specialist, SIPMK) to discuss the findings of the mission and potential follow –up.

III. Interview partners

Dr. Joerg Dux	Country Director, KfW, Kenya
W.O. Ochanke	Deputy Head, Irrigation Unit, Ministry of Water
P.W: Muchanga	Irrigation Unit, Ministry of Water
Mr. Kahuro	Provincial Irrigation Officer, Central Province
Mr. Marc Crocker	Project Manager, PMU

Hermann Kamprath	Technical Advisor, DED
Mr. Bethoven Njoka	National Coordinator, PMU
Nr. Nathan Andika	Water User Association Specialist, PMU

- District Irrigation Officers, District Agricultural Officers, District Social Service officers of the 4 districts in the programme region (Embu, Meru Central, Meru South and Kirinyaga District).
- Farmers of the Kamavindi Irrigation group (IFAD), and also of the two pilot groups in SIPMK, the Kioru Giaki and the Nkabune Miguna Igoki Kioru.

IV. Documents

1. Relating to SIPMK

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

KfW, Kleinbewässerung Mt. Kenya, Projektkurzdarstellung

KfW, Kleinbewässerung Mt. Kenya II, Ergänzender Programmprüfungsbericht (Frankfurt August 2005)

KfW, Smallholder Irrigation Programme Mt. Kenya, Technical Proposal (June 2005)

KfW, Smallholder Irrigation Programme Mt. Kenya, Inception Report (March 2006)

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)

b. specifically relating to water and irrigation

Government of Kenya, Ministry of Water and Irrigation, The National Water Resource Management Strategy (NWRMS), (Jan 2006)

b. general policy documents

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V. Terms of Reference

Terms of Reference

Advisory mission

Human rights in Smallholder Irrigation Programme Mt. Kenya (SIPMK)

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 standards⁵¹. 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 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 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.

In this context, KfW, through SIPMK, supports irrigation projects in Mount Kenya region (Meru Central, Meru South, Embu, Kirinyaga). In this area the programme assists with the establishment of community-managed schemes, which shall be backed with the involvement of credits by private banks to enable the farmers to finance the irrigations set-ups. The core cooperation partner in this context is the Ministry of Water and Irrigation, Irrigation and Drainage Department.

⁵¹ International Pact on Civil and Political Rights (IPCPR), 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.

The programme activities involve participatory planning, implementation and operation of the schemes with the farmers themselves via Water User Associations and design of credit schemes for finance the investments under a cost-sharing approach. During the initial phase of the programme one focus of the interventions is the development of the organisational, technical, administrative and financial management capacities of the Water User Associations (WUA). Capacity building and training activities shall also include the national personnel of the PMU and the personnel of the involved District Offices.

PMU is reinforced by two technicians of the German Development Service (DED), who will assist the WUAs in organisational, administrative and financial management issues.

The specific programme objective is to “sustainably increase the agricultural productivities and production and subsequently farm incomes in selected irrigation schemes of the programme area in Mount Kenya region”. It fits into the priorities set by the Kenyan-German strategy in private sector development in agriculture.

Human rights aspects of the SIPMK- programme primarily lie in the area participation and empowerment through capacity-building and strengthening self-organisation capacities of farmers. 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, e.g. through increasing food production or through generating employment for the very poor groups of society.

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. Within this framework the particular focus of the assignment is to provide advice to SIPMK.

Specifically, the mission will

- provide information and support sensitization about the content and significance of the human rights-based approach in the agricultural sector
- sensitise on the human rights aspects of SIPMK
- Initiate and support a reflection process with the team of the SIPMK programme and partners on existing elements of a human rights-based approach in their work, actual strengths, potential shortcomings and possibilities for further action.

The advisory services will be addressed towards the members of the PMU, the DED-experts involved in the programme, the members of the Irrigation and Drainage Department of the Ministry of Water and Irrigation, the district officers involved and selected farmers as organised in WUAs.

IV. Activities within the Framework of the Advisory Mission

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

In Kenya: 8-day assignment, comprising

- one day workshop with PMU team and DED- experts on core elements of a human rights based-approach in agriculture and on human rights linkages of SIPMK;
- one day workshop with Irrigation and Drainage Department of the Ministry of Water and Irrigation, on human rights in SRA with a particular focus on irrigation;
- Field trip to programme area to familiarise with programme practice, including discussions with programme staff, partner organisations, target groups;
- one day workshop with the relevant district officers the programme region on human rights in SRA with a particular focus on irrigation and linkages to SIPMK;
- One day working sessions with each of the two WUAs supported by the SIPMK on human rights and agriculture with a particular focus on irrigation and linkages to SIPMK.

V. Methodological Approach

Years of experience with other cross-sectoral issues have shown that constructive learning processes will only take place if people involved, such as German development experts and their partners, actively participate in such advisory missions. Consequently, this mission will have a participatory character and make use of the expert knowledge offered by the programme team and partners throughout the mission and also work with the programme target groups. Hence, the consultant will on the one hand provide information, conceptual inputs and an expert view related to human rights. On the other hand, the consultant will take a facilitating role in supporting the team and the partners in a reflection process on their current work through human rights lenses. The participatory approach of the consultant will furthermore be reflected in workshops with the relevant stakeholders of the programme.

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

VI. Time frame

The assignment shall take place in Kenya for approximately 8 working days commencing on 12 July 2006.

VII. Report

A draft report in English shall be provided by mid-August 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 the end of August.