



Policy Paper No. 22:

Human Rights require Accountability: Why German bilateral development cooperation needs a human rights complaint mechanism

[Attachments: English Translation of the
Table of Contents and the Executive Summary]

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Human Rights require Accountability:

Why German bilateral development cooperation needs a human rights complaint mechanism

The Policy Paper recommends the introduction of a complaint mechanism in German bilateral development cooperation. It argues that such a mechanism is a necessary part of the state's extraterritorial human rights obligations. Its introduction would close the current accountability gap: Persons in partner countries will gain access to independent redress mechanisms if their human rights have been infringed by measures of German development cooperation.

The Table of Contents and the Executive Summary are enclosed in English. For the full Policy Paper (only available in German) please consult the following link:

http://www.institut-fuer-menschenrechte.de/uploads/tx_commerce/Policy_Paper_22_Mehr_Menschenrechte_durch_Rechenschaftslegung.pdf



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Executive Summary

Development cooperation is supposed to further human rights. While it often does, it does not do so by default. There have been complaints about development programmes in partner countries supported by German development cooperation, often because of alleged forced evictions, not compliant with international human rights. Some of the complaints were dealt with before the United Nations Committee on Economic, Social and Cultural Rights. The Committee recommended to the German government to ensure that its development cooperation policies contribute to the promotion of economic, social and cultural rights and do not result in their violation.

Governments of countries supported by development cooperation are primarily responsible for the human rights compliance of their development programmes. However, donor countries contribute to those programmes through financial or technical assistance; without donor funding, some countries would not be able to implement their development programmes at all. Donor countries are therefore responsible as well when it comes to impacts and side effects of development cooperation. Contrary to the development banks, Germany does not have a central independent transparent mechanism for its bilateral development cooperation, which considers complaints and publishes the outcomes. Such a mechanism would give those a voice in development cooperation who are primarily affected by it. In addition, it would assess how donor interventions have triggered or contributed to - negative - human rights-related outcomes. This is where a human rights-based complaint mechanism differs from evaluations or impact assessments: evaluations assess programmes according to their development impact and impact assessments are usually initiated by donors.

This publication argues that human rights require introducing such a complaint mechanism and that it would close an accountability gap of German bilateral development cooperation. From a human rights perspective, a complaint mechanism for development cooperation is grounded in extraterritorial human rights obligations and states' obligation to provide for effective redress. Also, requests for donor accountability have become a central issue as adamantly underscored by the proposal of the German NGO umbrella organisation Forum Menschenrechte for a human rights complaint mechanism for development cooperation as well as the discussions taking place within and around the post-2015-debate.

From a development perspective, such a mechanism leads to more ownership as the beneficiaries of development measures control their impact. It also provides donors with the opportunity to learn through complaints about whether risks of their

engagement have materialized which, in turn, enables them to adapt their engagement at an early stage. Thus, a complaint mechanism would ideally be an instrument of preventive risk management, which contributes to the prevention of human rights infringements. Furthermore, a complaint mechanism might facilitate dialogue with civil society, both in Germany as well as in the countries where German development cooperation is active. It can also enrich the quality of the debate about possibilities and limits of development cooperation. Apart from this, a systematic analysis of the cases brought forward could also further and deepen the debate about scope and limits of extraterritorial obligations of donor states. Concerns which might arise among partner institutions about whether to cooperate with a donor in with an established complaint mechanism in place are challenges that human rights-based development cooperation must be able to cope with.

The current state of the art is a two-fold mechanism. First a confidential procedure focused on problem-solving, preferably in the countries where development cooperation takes place, followed by a centralized, independent and transparent human rights compliance mechanism. While the former is a kind of mediation, the latter is an independent procedure whose steps and outcomes are documented in a transparent manner. The former provides development institutions with the opportunity to search expeditiously and in good faith for a jointly acceptable solution, the latter is necessary in cases where the parties concerned do not reach an agreement or the harmful impact is already irreversible. The implementing agencies, Gesellschaft für internationale Zusammenarbeit (GIZ) and the development bank of the Kreditanstalt für Wiederaufbau (KfW), report having internal confidential mechanisms by which they deal with complaints, and which could be further developed into problem-solving mechanisms.

The German Institute for Human Rights recommends the Federal Ministry for Economic Cooperation and Development to establish such a complaint mechanism with an independent, transparent and accessible human rights compliance function by mid legislative term. It suggests to the implementing agencies, in particular GIZ and KfW, to recognize the opportunities such a complaint mechanism offers and to work constructively towards its establishment. Concurrently the agencies should develop their own internal mechanism into a problem-solving procedure along international good practice and Germany's human rights obligations. Last but not least, it recommends to the Committee on Economic Cooperation and Development and the Committee on Human Rights and Humanitarian Aid of the German Bundestag, to request an annual report from the German Ministry for Economic Cooperation and Development, which summarises complaints about development programmes supported by Germany, and to discuss this report in a joint and public meeting.