**CONTRIBUTION OF DEVELOPMENT
TO THE ENJOYMENT OF ALL HUMAN RIGHTS**

**Questionnaire for STATES**

**German Submission**

**Introductory paragraph:**

"We remain strongly committed to promoting respect, protection and fulfilment of all human rights and fundamental freedoms. As enshrined in Art. 10 of the Vienna Declaration, development facilitates the enjoyment of all human rights, which are universal and indivisible.

Lack of development may not be invoked to justify the abridgement of internationally recognized human rights. Sustainable development can only be achieved with respect for and protection and fulfilment of all human rights, including those of marginalised individuals and those belonging to minorities; as well as the full realisation of civil and political rights, together with economic, social and cultural rights.

Human rights are at the beginning and part of the process of development, not at the end. Development is not a precondition for human rights to come, but human rights are a means of furthering development and overcoming poverty.”

**QUESTIONS**

1. How, in the view of your Government, can development plans and programmes be used to promote and realize all human rights including the right to development for all? Please provide concrete examples of policies, action plans and any other best practices as regards, specifically, the contribution of development to the enjoyment of all human rights.

What constitutes “development” means different things to different people. For a development plan, this needs to be defined, by all those concerned, and in such a way, that all - irrespective of their social position and access to power - can contribute to it on an equal footing.

**German development policy is guided by, and based on, human rights. The human rights-based approach is actively promoted in German development cooperation[[1]](#footnote-1)**. This includes the realisation of all human rights, for example the rights to water and sanitation, to health, to education, and the guarantee of the rights to freedom of assembly and association.

A human rights-based approach is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. It seeks to analyse inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress.

A human rights-based approach helps to formulate development plans and programmes, policies, legislations, regulations and budgets that clearly determine the particular human right(s) to be addressed—what must be done and to what standard, who is accountable—and ensures the availability of needed capacities (or resources to build the lacking capacities). Development plans and programmes can be best used to promote and realize all human rights, if they make human rights not only their objective, but also a means and a tool to define and achieve development. Lack of development may not be invoked to justify the abridgement of internationally recognized human rights. Sustainable development can only be achieved with respect for and protection and fulfilment of all human rights, including those of marginalised individuals and those belonging to minorities; as well as the full realisation of civil and political rights, together with economic, social and cultural rights.

The approach helps to make the process participatory for all, in particular marginalized people, more transparent, and empowers people and communities to hold those who have a duty to act accountable, ensuring effective remedies where rights are violated.

Example of a human rights-based approach in German Development Cooperation, Kenya: Water and sanitation - Ensuring access in informal urban settlements

Half of Kenya`s population has no access to safe drinking water and adequate sanitation, especially in more than 2.000 urban informal settlements, in which more than 8 million people live. As one of the first countries worldwide, Kenya enshrined the human right to water and sanitation in its constitution in 2010. German Development cooperation has supported the reform of the water sector and its human rights based approach. Pro poor service strategies have led to quick and sustainable access to safe drinking water for 1,6 million people in urban informal settlements, and likewise access to improved sanitation for 240.000 people. Progressive tariff systems and cross subsidization enhanced availability for poor citizens. Informal services were formalized and water quality is controlled.

Another example of German development cooperation are the complaint mechanisms of Germany’s bilateral development agencies, modelled upon similar mechanisms instituted by international development banks as well as increasingly bilateral donors.[[2]](#footnote-2) They give a voice to those directly concerned by development contributions we provide and which we coordinate with the respective national governments:

**GIZ** has been introducing its complaint mechanism over the past two years.[[3]](#footnote-3) Complainants are provided with an e-mail address. Complaints are handled by GIZ’s Inhouse Compliance and Integrity Unit. The number of the complaints are reported in GIZ’s annual sustainability report plus GIZ’s self-assessment[[4]](#footnote-4). **KfW** (development bank) provides also a mechanism[[5]](#footnote-5) since 2016[[6]](#footnote-6) with a detailed online complaint form.[[7]](#footnote-7) Complaints are assessed against KfW’s Sustainability Guideline[[8]](#footnote-8), which includes human rights aspects. According to the 2016 Update of KfW’s Sustainability Report[[9]](#footnote-9), “Beginning in 2016, the Development Bank section of the KfW annual report will contain a summary of the complaints as well as – in case it is applicable – the resulting consequences.” **BGR** and **PTB** are currently in the process of setting up mechanisms.

1. What, in the view of your Government, can be included in the report to explain the conceptual context and comprehensive interpretation of ‘contribution of development to the enjoyment of all human rights’?

**Human rights are at the beginning of development, not at the end**: After all, “Peace, development and human rights are interlinked and interdependent”, as Kofi Annan famously stated. **There is no hierarchy between them: development is not a precondition for human rights to come, but human rights are a means of furthering development**: better housing, welfare, education – to name just a few - seldom come out of benevolence, but need to be claimed from those in power who have to be held accountable in order to realize them. Human rights are also rights, their respect a state duty.

The notion of “development” thus comprises the realization of both civil and political as well as economic, social and cultural rights, as laid out in the UN Declaration on the right to development[[10]](#footnote-10). **All those rights require the state to respect, protect and fulfil them**, even if degrees might vary: respect those rights and abstain from violating them, protect them from interference by third parties as well as work towards their fulfilment. International human rights law today is the product of all states, who contribute inter alia through experts equally coming from all world regions to the bodies responsible for the interpretation of international human rights treaties. Existing human rights law including its mechanisms as they are constitute a common fundament of rights, values and corresponding procedures.

The progressive implementation of those rights - especially of those which require resources - does hinge on the level of economic development, but not exclusively: **Above all, states have to ensure that all citizen and persons residing in their territory have equal access to the existing level of human rights implementation. Non-discrimination is an immediate obligation of states as well as a fundamental requirement of development, in order to “Leave no one behind”.**

Human Rights implementation does depend on an international enabling environment and global standards such as the Sustainable Development Goals. Similarly at the local level: **states have to ensure that all persons residing in their territory know their rights and have the means, capabilities as well as legal and institutional framework to claim them and hold states accountable for them.**

1. What are, in the view of your Government, challenges or obstacles that countries face, or may face, in promoting and realizing all human rights including the right to development for all due to the lack of development?

**Human rights implementation is not contingent upon development: Governments cannot excuse their lack of human rights implementation with a lack of development. Universality means that all people have human rights, even if resource constraints imply prioritization. There is an immediate obligation to start implementing all human rights**, starting with non-discriminatory access. It does not mean that all problems of all people must be tackled at once.

**Some rights require less resources than others and are to be implemented immediately** and they can be, such as the right to freedom of opinion, the right to free assembly and association and above all the right to non-discrimination based on whichever status. This guarantee of non-discrimination even applies to rights which arguably might require resources, such as education, social security: while the level of those basic services might be contingent upon a nation’s economic development, its access to whatever level exists cannot be limited in a discriminatory manner.

1. What would be your Government’s conclusions and recommendations drawn from challenges and best practices of ensuring contribution of development to the enjoyment of all human rights for inclusion into the report of the Advisory Committee?

**Human rights are at the beginning of development, not at the end.** **The process and the objectives of development shall be human rights-based.** Promising Practices have shown that a human rights-based approach leads to sustainable development efforts and greater returns on investments. Human rights principles and standards provide guidance about what should be done to achieve freedom and dignity for all by building capacities of state actors and citizens, strengthening social cohesion with focusing on the most marginalized, and anchoring human rights entitlements within a framework of laws and institutions as well as institutionalizing democratic processes.

1. Is there any other matter regarding the contribution of development to the enjoyment of all human rights that your Government would recommend for mentioning in the report of the Advisory Committee?

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**Deadline for submission of responses:**

All parties are encouraged to submit their responses via email or fax as soon as possible but no later than **1 June 2018** to:

**hrcadvisorycommittee@ohchr.org**[Subject: HRCAC Development]

or

Secretariat of the Human Rights Council Advisory Committee

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Thank you in advance for your contribution.

For more information about the Advisory Committee, please visit <http://www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/HRCACIndex.aspx>

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1. BMZ, Human Rights in German Development Cooperation, 2011, <https://www.bmz.de/en/publications/archiv/type_of_publication/strategies/Strategiepapier305_04_2011.pdf> [↑](#footnote-ref-1)
2. **Short overview of the structure of German development cooperation**

BMZ, the Ministry for Economic Cooperation and Development (Bundesministerium für wirtschaftliche Entwicklung und Zusammenarbeit), is the political head of Germany’s bi- and multilateral development cooperation. With seats in Bonn and Berlin, it mandates and monitors four implementing agencies. The two larger ones are the German agency for technical cooperation, **GIZ** (Gesellschaft für internationale Zusammenarbeit), and the development cooperation branch of Germany’s national development bank, **KfW** (Kreditanstalt für Wiederaufbau), which implements financial cooperation with development partners. An independent subsidiary of KfW, the **DEG** (Deutsche Deutsche Investitions- und Entwicklungsgesellschaft), promotes private sector cooperation. In addition, two smaller agencies are the Federal Institute for Geosciences and Natural Resources, **BGR** (Bundesanstalt für Geowissenschaften und Rohstoffe), which executes projects in the fields of mining, resources, groundwater, soil, georisks, geology, and environmental and resource protection, and the National Metrology Institute of Germany, **PTB** (Physikalisch-Technische Bundesanstalt), whose cooperation with development partners mainly relates to the establishment of institutions for quality infrastructure in partner countries. [↑](#footnote-ref-2)
3. https://www.giz.de/en/aboutgiz/37500.html [↑](#footnote-ref-3)
4. Last one available is from 2015, https://www.giz.de/en/downloads/giz2015-en-progress-report-sustainability.pdf [↑](#footnote-ref-4)
5. https://www.kfw-entwicklungsbank.de/International-financing/KfW-Development-Bank/KfW-Development-Finance-Complaint-form.html [↑](#footnote-ref-5)
6. https://www.kfw.de/PDF/Download-Center/Konzernthemen/Nachhaltigkeit/englisch/Facts-and-Figures-Update-2016.pdf [↑](#footnote-ref-6)
7. <https://www.kfw-entwicklungsbank.de/formulare/Forms/FZ-Beschwerdeformular/> [↑](#footnote-ref-7)
8. <https://www.kfw-entwicklungsbank.de/PDF/Download-Center/PDF-Dokumente-Richtlinien/Nachhaltigkeitsrichtlinie_EN.pdf> [↑](#footnote-ref-8)
9. P. 17f., <https://www.kfw.de/PDF/Download-Center/Konzernthemen/Nachhaltigkeit/englisch/Facts-and-Figures-Update-2016.pdf> [↑](#footnote-ref-9)
10. A/RES/41/128, 1986 [↑](#footnote-ref-10)