HUMAN RIGHTS IN GERMAN DEVELOPMENT POLICY

Part 1: The Human Rights Strategy and its Implementation

Executive Summary

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IMPRESSUM

EXECUTIVE SUMMARY

Context and relevance of the evaluation

With the adoption of the Universal Declaration of Human Rights (UDHR) in 1948, individual rights were formulated at an international level for the first time. Following international agreements which then addressed specific aspects of the UDHR in more detail, human rights became binding under international law. Since then the number of human rights treaties, and the number of countries ratifying them, has increased continuously (UN, 2012). In many places the human rights situation has improved in the course of these developments (Fariss, 2014).

Recently, however, restrictions on civil liberties and civil society space have become evident in a number of countries (Aghekyan et al., 2018; Amnesty International, 2018; Auswärtiges Amt, 2016a; Würth, 2017). Humanitarian, economic and environmental crises, some of which are linked to displacement and migration, are exacerbating the current human rights challenges. This also applies to government measures in connection with the Covid-19 pandemic. These measures may conflict with human rights (Repucci and Slipowitz, 2020).

the above aspects delineate the context for the human rights work of German development policy. The foundation for this work is the human rights-based approach (HRBA) formulated in the human rights strategy paper of Germany's Federal Ministry for Economic Cooperation and Development (BMZ). The strategy paper defines human rights as a 'guiding principle' for German development policy. Accordingly, human rights should play a role in shaping all 'Germany's development policy objectives, programmes and approaches in cooperation with partner countries' (BMZ, 2011a, p. 3). The strategy is thus designed to effectively support partner countries in realising human rights (BMZ, 2011a).

The subject of this evaluation is the BMZ's strategy on human rights. The strategy has now been in place a long time. The evaluation therefore focuses in particular on the changed setting in which the HRBA is now to be implemented. As well as the change in the human rights context worldwide, this also includes the international frameworks for development policy as a whole. The 2030 Agenda, for instance, which has been in place since 2016, contains fresh guidelines for socio-economic and political development. Also, since the 2000s the role of so-called new development actors in realising human rights has also become part of the debate (Chahoud, 2008; Swedlund, 2017b).

Furthermore, German development policy itself is also changing. It is currently undergoing one of the most major reform processes of recent years. In the course of the 'BMZ 2030' reform agenda, German development policy will be thematically and geographically re-focused. This also affects the role of human rights in development policy. Together with gender equality and disability inclusion, human rights will be made one of six quality criteria of German development policy (BMZ, 2020a).

Consequently, German development policy faces the challenge of implementing the guiding principle of human rights against the backdrop of changes on various levels – in partner countries, multilaterally and nationally. This first comprehensive evaluation of Germany's HRBA is therefore all the more important. The evaluation examines the approach against the background of current challenges, and is thus designed to support the alignment of the BMZ's human rights work with the changed contexts and current challenges. At the same time the reform process gives the BMZ the opportunity to take into account the evaluation's empirical findings on the relevance and implementation of the HRBA when designing the new quality criterion.

Box 1	Overall assessment of the relevance and implementation of the HRBA

Although in place since 2011, the human rights strategy paper and the German HRBA remain largely relevant. This is the case both with respect to current global human rights challenges, and compared to approaches of other development partners. Especially important are the high standards which the human rights strategy applies to development policy. The strategy's scope, and its holistic approach that encompasses the whole of development policy, make Germany an important human rights partner. At the

same time, the evaluation also identifies gaps in the approach. Gaps exist for instance concerning human rights violations in the context of advancing digitalisation, and concerning the validity and reach of the approach.

In practice, however, German development policy meets the high standards of its own HRBA only partially. Most of the areas of action in the human rights strategy are only partially implemented. It is true that human rights aspects are largely mainstreamed in the procedures and processes of the BMZ and the implementing organisations. They are also mainstreamed in the knowledge management and training modules of the implementing organisations. For most of the other areas of action of the HRBA, however, this is only partially true:

- Mainstreaming at project level: Despite explicit instructions contained in binding guidelines, the HRBA has been fully mainstreamed as a cross-cutting theme in only a few projects of bilateral development cooperation. There are a few projects whose planning documents contain all dimensions of the HRBA covered by the evaluation, but the majority of projects contain only individual aspects.
- Implementation of specific human rights projects: Although the funds spent in connection with specific human rights projects did rise in absolute terms between 2007 and 2017, their relative share of the BMZ's overall portfolio remained largely stable during this period. Since publication of the strategy paper in 2011, there was also no significant increase in funds in absolute terms. The BMZ's country strategies, too, which form the basis for shaping the bilateral country portfolios, include human rights aspects only partially.
- Mainstreaming of human rights in political dialogue and human rights conditionality: In government negotiations, human rights issues are mentioned explicitly only in individual cases. Often it is possible to identify indirect links to human rights, such as when environmental and social standards are addressed. Statistically, there is no robust relationship between the BMZ's funding pledges for development cooperation, and the human rights situation in partner countries.
- Human rights coherence of national and international policies: In the BMZ's sector strategies, which often form the basis for contributions to policy coherence, the HRBA is only partially included. Beyond that there are development policy initiatives which aim to establish the coherence of national and international policies with human rights standards and principles. However, methodological restrictions meant that insufficient information was available for a comprehensive assessment.

Germany's holistic HRBA is based on the above four 'tracks'. The underlying assumption is that these combine to generate results and synergies in Germany's partner countries for development cooperation. In practice, however, there is barely any indication that these tracks are being integrated explicitly and intentionally.

Subject of the evaluation and objectives of Part 1

The subject of this evaluation is the BMZ strategy published in the paper 'Human rights in German development policy' (BMZ, 2011a), which formulates the HRBA of German development cooperation. To deliver results for updating the human rights strategy quickly despite the breadth of the approach, the evaluation has been split into two parts that will be performed and published consecutively. Part 1 of the evaluation presented here examines two aspects: (i) the content of the strategy with regard to its relevance, and (ii) implementation of the HRBA by the BMZ and the implementing organisations. Part 2 of the evaluation studies the effectiveness of German development policy in the partner countries of German development cooperation. In both parts the evaluation pursues the following three objectives:

- Enable learning: The evaluation aims to supply findings on the content of the human rights strategy and its implementation and effectiveness in practice, and on the BMZ's HRBA.
- Strengthen strategic management: The findings of the evaluation will be used to further develop the HRBA strategically and implement it effectively.
- Provide accountability: The evaluation will also serve to provide accountability concerning the relevance of the HRBA and implementation of the human rights strategy to date.

The HRBA encompasses four tracks for achieving its objective, which is to support and help improve respect, protection and fulfilment of human rights in partner countries:

*   the explicit inclusion of human rights in the political dialogue
*   the implementation of specific human rights projects
*   the mainstreaming of human rights across all projects of bilateral development cooperation
*   contributions towards the coherence of national and international policies with human rights.
*
*   The human rights strategy also defines twelve areas of action for operationalising these tracks.

Evaluation questions

The first part of the evaluation examined the relevance of the German HRBA and its practical implementation. Accordingly, Part 1 of the evaluation looks at the evaluation criterion 'relevance' and lays the foundation for assessing the effectiveness of the HRBA.

The relevance of the HRBA was examined in relation to the following evaluation questions:

1. How relevant is the human rights strategy compared to approaches of other development partners and in light of the human rights situation worldwide?
2. How relevant is the human rights strategy compared to approaches of other bi- and multilateral development partners?
3. How relevant is the human rights strategy in the current political and normative human rights situation worldwide?

To assess whether the human rights strategy has been effective in guiding actions, the evaluation team studied the implementation of the HRBA by the BMZ and the implementing organisations. Here the key evaluation questions were as follows:

4. To what extent does a shared understanding of human rights as the guiding principle exist at the BMZ, and to what extent does it guide actions?
5. To what extent are the BMZ and the official implementing organisations implementing the human rights strategy and the areas of action it specifies?
6. What factors affect the implementation of the human rights strategy's areas of action by the BMZ and the official implementing organisations?
7. What role do the cross-cutting coordination function and the steering structure of the BMZ sector division play in the implementation of the human rights strategy?
8. What role do other factors play in the implementation of the human rights strategy?

Methodology

The design of the evaluation is based on a strategy evaluation approach (Patton and Patrizi, 2010). The human rights strategy and its HRBA were examined in relation to four functional attributes of a strategy: the HRBA as plan, pattern, position and (shared) perspective (Mintzberg, 1987). The evaluation thus focuses on the intended strategy, i.e. the HRBA as formulated in the BMZ strategy paper, and the executed strategy, i.e. the strategy as actually applied and implemented.

The evaluation follows the methodological principle of data triangulation, in which different sources of data are combined. It also applies a mixed method approach, in which qualitative and quantitative methods are combined if possible. This is done to ensure high-quality empirical findings. Furthermore, the evaluation incorporates elements of a human rights-based evaluation (HRBE). This is designed to guarantee compliance with human rights standards and principles as far as possible in the evaluation process and methodology themselves.

Overall, different data collection and data analysis methods were used for each evaluation question:

- The answers to evaluation question 1 are based on (i) analyses of strategies of other OECD-DAC development partners that are members of the Development Assistance Committee (DAC) of the Organisation for Economic Co-operation and Development (OECD), (ii) documents on the human rights situation worldwide, and (iii) comparable cross-country quantitative human rights indices. Furthermore, an online survey of national human rights institutions (NHRIs) took place in countries of the Global South.
- Evaluation questions 2 and 4 are answered on the basis of data from interviews conducted one-on-one and in small groups, as well as group discussions, with the actors responsible for implementing the human rights strategy.
- The discussion of evaluation question 3 is also based on qualitative interviews conducted one-on-one and in small groups, as well as group discussions. The evaluation team also conducted statistical analyses of secondary data, qualitative and quantitative content analyses and desk studies for specific areas of action.

Findings

Relevance of the human rights-based approach

Overall, the German HRBA remains up-to-date. It is rated as largely relevant. Both in comparison with the HRBAs of other development partners, and in light of the current global human rights challenges, most of the content of the human rights strategy meets the current requirements.

With its HRBA in place, Germany belongs to a comparatively small group of development partners that have formulated a separate and comprehensive HRBA, and thus high human rights aspirations for their own development policy. The fact that Germany's HRBA has been in place for so long limits its relevance only with respect to a small number of points by international comparison. Most approaches of other development partners arose roughly at the same time and encompass similar content. Nonetheless, this comparison does reveal gaps: There are a few cases of significantly more recent approaches that refer to developments which have taken place in the meantime – such as the adoption of the 2030 Agenda. The interministerial division of responsibilities for development cooperation and humanitarian assistance between BMZ and the Foreign Office is also reflected in this comparison. Understandably, this means that in the BMZ strategy aspects of international humanitarian law receive less attention than is the case with other development partners. The treatment of these aspects by the Federal Foreign Office is not the subject of this evaluation. Furthermore, there are approaches of other development partners which are more ambitious in terms of the binding nature of the HRBA for civil society and private sector actors. A more binding approach would be conceivable in German development cooperation despite the specific allocation of roles.

The HRBA includes references to most of the current human rights challenges worldwide. For example, despite the BMZ's limited ministerial mandate, human rights violations in the context of humanitarian crises are mentioned, as in particular are the structural disadvantages suffered by affected groups in partner countries. The recently observed restrictions on civil and political rights are also covered by the strategy. However, gaps do exist with respect to human rights violations in the context of advancing digitalisation, and the fight against terror and crime. Also, human rights violations against marginalised groups are mentioned only peripherally.

Implementation of the human rights-based approach

Implementation of the human rights strategy is rated as partially achieved. This means that German development policy meets its own high aspirations only to some extent. In practice, most of the areas of action in the German HRBA are not fully implemented.

However, there are action areas in the human rights strategy that fully or nearly fully implement the requirements of the HRBA. In two of the areas the HRBA is mainstreamed more extensively: in procedures and processes, and in knowledge management and training in the implementing organisations. Almost all relevant procedures of the BMZ include aspects of the HRBA. And in the implementing organisations, too, procedures and processes exist that are designed to guarantee the mainstreaming of human rights standards

and principles in projects. Regarding knowledge and knowledge management, the implementing organisations achieve above-average implementation of the HRBA. One contributory factor here is extensive training in almost all the implementing organisations.

By contrast, three other areas of action are implemented to a below-average degree: human rights coherence in the partner country, knowledge management and training at the BMZ, and monitoring of the HRBA. Concerning German development cooperation's contributions towards the coherence of partner country policies with human rights standards and principles, only a few projects can be identified that are actively making such contributions. Also, human rights are barely integrated in the field of knowledge and knowledge management at the BMZ. This is because HRBA-related training was still at the planning stage when the evaluation was carried out. Furthermore, no systematic monitoring of the HRBA exists.

Most of the HRBA's other areas of action are being partially implemented:

- The mainstreaming of human rights across projects – the first track for the HRBA – is being fully implemented in only a few projects. However, half of all the analysed projects do include three of the nine dimensions of the HRBA looked at. Risk prevention measures and aspects of participation in particular are integrated very comprehensively here.

- Over the period covered by the evaluation, the financial scope of specific human rights projects and projects that strengthen marginalised groups as a principal objective did increase slightly in absolute terms. Relative to the BMZ's total annual funding, however, it remained largely the same. These projects are the core elements of the second track. Both the implementing organisations and civil society actors make an important contribution towards implementing these projects. The BMZ's country strategies, too, which form the basis for shaping the bilateral development cooperation portfolios, include human rights standards and principles only partially.

- The HRBA is only partially being implemented through political dialogue and political conditionality – the third track in the HRBA. In government negotiations, human rights aspects are addressed explicitly only in a few cases. Somewhat more frequently it is possible to link the topics addressed with human rights implicitly or indirectly, for instance in the case of environmental and social standards that are not specified in any further detail. This matches the findings on conditional funding: There is no clear and statistically robust relationship between the human rights situation in partner countries, and the amount of development cooperation funding allocated to those countries. Only in particular cases – where economic or geopolitical interests are weaker – is there a weak association between the country-specific human rights situation and a decline in funding.

- It was not possible to comprehensively assess the BMZ's contributions towards the coherence of national and international policies with human rights – the fourth track of the HRBA – because too few actors were available for interviews. This meant that a criteria-based selection of interviewees could not be guaranteed. In the policy fields that were investigated using qualitative interviews, however, it did emerge that the BMZ makes several comprehensive and positive contributions in line with the HRBA. This is also reflected in the findings on the mainstreaming of human rights in sector strategies. These form the basis for the thematic design of German development policy. To some extent they incorporate aspects of the HRBA. Overall, however, the evaluation findings indicate that development policy initiatives do not always contribute towards an actual increase in the coherence of policies with human rights.

Factors influencing implementation

Implementation of the four tracks of the HRBA is affected by a number of factors. First of all, individual factors are important: In very many cases, implementation of the HRBA is based on individual decisions that are dependent on the given situation and the persons involved in taking them. This means that the convictions of the individuals involved become especially important, which makes it more difficult to implement the human rights strategy systematically and consistently. Furthermore, limited resources and capacities – both among the actors responsible for implementation and in the BMZ human rights division – prevent comprehensive implementation of the HRBA.

Conceptual factors are also important for implementation of the tracks in the human rights strategy. The lack of conceptual precision in the formulation of some aspects of the HRBA, for instance, means that fewer specific human rights projects are implemented. This is linked to the conceptual understanding of the HRBA at the BMZ, which tends to involve individual aspects of the HRBA rather than its holistic approach with all four tracks.

Added to these factors at the individual level are institutional factors. Explicit targets and values for particular themes or countries, for instance, allow little latitude for portfolio design. This makes it more difficult to implement the HRBA, and specific human rights projects in particular. In the context of the thematic re-focusing of the BMZ portfolio, this is also reinforced by the perception that specific human rights projects lead to fragmentation of the portfolio because they cannot be assigned to any priority area or sector of development policy. The large number of different cross-cutting themes to be mainstreamed, plus sector strategies, also constrains mainstreaming of the HRBA in practice, because human rights then compete with other cross-cutting themes.

In some areas, mainstreaming of the HRBA may be down to the initiative of the BMZ and its leadership. External public or parliamentary pressure, and the attention which this generates, can contribute towards implementation of the HRBA. Beyond that there are factors at the national and international levels which constrain implementation of the HRBA. One example is coordination with other federal government ministries, which BMZ personnel perceive as challenging.

Conclusions and recommendations

The findings of this evaluation indicate that German development policy only partially fulfils the high aspirations of its own HRBA in practice. While the HRBA is largely mainstreamed in a few areas of action, in most areas of action there is room for improvement. This finding should not, however, lead to the conclusion that the requirements of the HRBA should be lowered. The evaluation findings also show that despite its age, the HRBA remains largely relevant both on its own terms and by comparison with other development partners. The first key reason for this is that the content of the human rights strategy is largely complete, which helps ensure that many currently relevant topics are covered. The second key reason is the holistic approach of the HRBA, which aspires to guide German development policy comprehensively – an approach that only few other development partners have formulated. Departing from a genuine HRBA would entail the risk of reducing the BMZ's importance as a human rights actor.

The evaluation therefore concludes that the holistic, extensive HRBA should retain its validity. To further boost its mainstreaming in development cooperation practice, factors that enable its implementation should be strengthened. For instance, the BMZ should further develop the HRBA conceptually. At the same time, the content and level of expectation for its individual tracks should be defined clearly and consistently for practioners. In the course of the above, the BMZ should promote systematic knowledge building on the HRBA and its tracks among decision-makers and the actors responsible for implementing the HRBA. These actors should be provided with tools and advisory support that will enable them to take sound decisions on implementing HRBA in specific contexts and situations. This might be accompanied by a prioritisation of individual human rights themes for progressive realisation. Furthermore, systematic training can help eliminate lack of conceptual clarity concerning the HRBA and its constitutive elements.

At the institutional level, too, the BMZ should create enabling frameworks to facilitate implementation of the HRBA. For example, the implementation of specific human rights projects should be enabled by assigning them to a core area and defining targets for the number of projects. Limited human resources in BMZ regional divisions and the human rights division should also be addressed in this context. To implement the HRBA in full and with expert support, pilot countries for human rights should be identified.

The current 'BMZ 2030' reform process offers opportunities to eliminate these constraining factors. Yet it also involves risks. Focusing on a small number of areas in the course of the reform can for instance reduce the diversity of (cross-cutting) themes and competition between them. Having said that, when human rights are integrated into a quality criterion it should be ensured that the HRBA is retained as a comprehensive and systematic approach. This includes the enabling of specific human rights projects.

The evaluation therefore makes the following recommendations:

Recommendation 1: The BMZ should mainstream the holistic HRBA with its four constitutive tracks as the core of the quality criterion 'Human rights, gender equality and disability inclusion' in the corresponding guideline. It should also elaborate the four tracks in full detail, and issue corresponding decision-making tools. These tools should support decision-makers in deciding how to implement the respective track in relation to the given context and portfolio, and how to prioritise human rights themes for progressive realisation.

Recommendation 2: The BMZ should produce internal process descriptions and specimen texts to close gaps in the procedures and processes with respect to mainstreaming human rights in the political dialogue with partner countries. This should aim to support country officers in systematically supporting the HRBA.

Recommendation 3: The BMZ should review the quality of the implementing organisations' existing grievance mechanisms, and integrate them into an independent grievance redressal system. This should prevent human rights risks arising as a result of development cooperation measures.

Recommendation 4: The BMZ should develop a monitoring system for the quality criterion 'Human rights, gender equality and disability inclusion' in the context of 'BMZ 2030', and use it for evidence-based strategic management and transparent communication on the HRBA. This monitoring system should cover at least the implementation of the four tracks of the HRBA (see Recommendation 1). It should also include civil society projects.

Recommendation 5: The BMZ should increase the number of specific human rights projects and, in the context of 'BMZ 2030', create enabling frameworks required for this. In particular it should mainstream them in core areas and formulate targets for the number of specific human rights projects. This should include mainstreaming specific human rights projects to strengthen duty bearers and human rights actors as an explicit element of 'good governance' in the corresponding thematic strategy for the core area. To guarantee the implementation of specific human rights projects, the BMZ human rights division should make use of its right of consultation when core area strategies are being drawn up. If the review of core area strategies should indicate that specific human rights projects have not been strategically mainstreamed, a dedicated area of intervention for specific human rights projects should be created. Furthermore, targets should be set for the number of specific human rights projects that official bilateral development cooperation implements. Initially these targets should provide for an annual increase in the number of projects.

Recommendation 6: The BMZ should define, in consultation with the respective partners, human rights pilot countries. In these countries – with support from the human rights division – the HRBA should be fully implemented, and innovative instruments for efficient and effective progressive realization should be piloted. To this end, human rights standards and principles should be mainstreamed in all country priority areas (core and initiative areas). This also includes an explicit orientation towards human rights results, such as economic, social and cultural rights (ESC rights) or rights of disadvantaged groups. Specific human rights projects should be implemented under the 'good governance' area of intervention. Human rights issues should occupy an explicit place in the political dialogue with partner countries. The pilot

countries should be selected on the basis of criteria, and used to systematically employ new instruments such as human rights portfolio assessments and human rights target groups analyses at country and project level. Participatory processes involving local civil society and human rights actors should also be improved. The mainstreaming of the HRBA in the pilot countries should be monitored with the participation of all relevant stakeholders, in order to transfer lessons learned to other countries and use the instruments there.

Recommendation 7: The BMZ should conduct a human resource needs assessment to review, and if appropriate adjust, its human resources for implementing the HRBA in the regional divisions and in the human rights division. The review in the course of 'BMZ 2030' implementation should also take into account possible additional resources needed in the regional divisions and the human rights division for implementing human rights in pilot countries. Prerequisite to this is the clear definition of the tasks of the human rights division, which should be aligned with the requirements for implementing quality criteria defined in the 'BMZ 2030' reform strategy and the specific requirements of the HRBA. If no human resource needs assessment takes place in the short term, human resources in the relevant regional divisions and the human rights division should be temporarily supplemented for additional human rights tasks such as the pilot countries, until a human resource needs analysis does take place.

Recommendation 8: The BMZ should commission the implementing organisations to (i) define joint quality standards for existing procedures and processes to mainstream the HRBA, and (ii) improve them with a view to generating positive human rights results. Under the aegis of the BMZ human rights division, the sector programme should coordinate this process and enable platforms for dialogue between the organisations. Furthermore, human rights principles and standards should be systematically incorporated into the implementation and evaluation phases of projects. The mainstreaming of human rights should be monitored in project reporting. Appropriate coordination bodies, such as the working group on evaluation, should promote a coherent approach of the implementing organisations to the mainstreaming of human rights principles and standards in the implementation and evaluation phases.

Recommendation 9: The BMZ should provide country and sector officers with structured and obligatory training on the quality criterion 'Human rights, gender equality and disability inclusion' and the HRBA formulated therein. This training should be initiated by the human rights division and enabled by the training division. It should be designed such that all decision-makers are familiarised with the constitutive core elements of the HRBA. Based on concrete examples, it should also include practical guidance for implementing the HRBA and applying the new instruments proven in the pilot countries.

Recommendation 10: In policy coordination bodies, the BMZ should intensify efforts to promote interministerial coherence of German policies with human rights, and do so consistently across all policy areas. This should aim for interministerial directives to guarantee human rights in partner countries of development cooperation, which encompass at least development cooperation and humanitarian assistance.

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