

Reducing Inequalities

A Human Rights-based Approach
in Finland's Development Cooperation
with Special Focus on Gender and Disability

A Case Study on Ethiopia and Kenya



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Executive Summary

The promotion of human rights has been part of the Finnish policy on development cooperation since the mid-1990s. The Finnish Development Policy Programme of 2012 explicitly articulates a human rights-based approach (HRBA) to development presupposing systematic efforts to screen all Finland's development policy and practice through human rights. The **objective** of this study, commissioned by the Ministry for Foreign Affairs of Finland (MFA), is to create evidence-based knowledge and to provide recommendations on the **operationalization** of human rights-based approaches in the Finnish development cooperation.

This study by a team of six independent researchers from Ethiopia, Kenya and Finland investigates how the HRBA to development is, and ought to be, applied in the Finnish development cooperation with a view to contributing to the reduction of inequality especially for women and persons with disabilities. The research on the Finnish development policy and its implementation in the cooperation with the two case study countries, Ethiopia and Kenya, was conducted with a view to finding responses to the following **key questions**:

- 1) How can the HRBA to development, especially concerning women's rights and the rights of persons with disabilities, be operationalized to reduce inequality?
- 2) Based on the analyses of practices from the critical perspectives of gender and disability, what should Finland do in its development policy and practice in order to further enhance the implementation of human rights-based approaches in its cooperation with partner countries, especially Ethiopia and Kenya?
- 3) What are the views and experiences of Ethiopian and Kenyan partners and of Finland on the HRBA to development in the context of development cooperation programmes and projects?

The **case studies** in the two countries review the policies and practices of multilateral, bilateral and civil society organizations' cooperation, and projects supported by the Local Cooperation Fund (LCF) that is administered by the Finnish Embassies from the perspective of a human rights-based approach with special focus on disability and gender equality.

The study found out that the **HRBA has *not* been largely operationalized** in the practice of the MFA, though pertinent efforts have been observed especially at the policy level. Even though gender equality and inequality reduction are two of the three cross-cutting objectives set by the MFA, many girls and women, children and persons with disabilities, and girls and women with disabilities are still disproportionately excluded from development cooperation activities that target them, let alone from other mainstreaming projects and programmes.

Lack of understanding of the HRBA was obvious among many duty-bearers and rights-holders in the case studies reviewed. The absence of binding and systematic mechanisms, the shortage of expertise and experts, and the emphasis on cost-effectiveness in measuring results of initiatives, are among the problems demonstrated in the present report. There are efforts at implementing the goals of gender equality and inequality reduction at the Ministry, but there is an observable gap in expertise on the

cross-cutting objectives among the Ministry staff. While the gender mainstreaming efforts have been a few steps ahead of disability mainstreaming, both gender and disability are yet to be properly mainstreamed. The MFA as well as other stakeholders in development cooperation may draw lessons from the **accumulated experience and expertise of NGOs on inequality reduction**, especially on gender and disability. There is an observable lack of such cooperation for inequality reduction among duty-bearers and rights-holders.

The following recommendations are made to the MFA based on the information and evidence gathered and analysed within the present study:

1. All MFA funded projects and programmes should include a human rights situational analysis, particularly **inequality analysis**, in which indicators are set, excluded populations are identified, remedies are investigated, and possible exclusions are justified. An inequality analysis is recommended to be obligatory for all reports, including proposals, baseline studies, mid-term reports, and monitoring and evaluation reports. Compulsory inequality analysis-related questions should, also, be included in the AHA system. In this connection, Finland should strongly promote the development of and reliance on disaggregated data on the target populations of the programmes/projects it supports.
2. The negotiation, implementation as well as monitoring and evaluation of Finnish development cooperation programmes/projects should ensure the **full and effective participation of rights-holders and their representative organizations**. Accountability mechanisms should go beyond upward reporting to include feedback and grievance mechanisms by which claims of rights-holders are heard and responded to. Finnish-supported programmes/projects that target disadvantaged groups should also include specific empowerment activities.
3. All MFA-funded activities, as well as new recruitment of staff, consultants and external experts for Finnish-funded activities, should follow terms of reference that explicitly require that such activities are carried out based on the HRBA.
4. Budget allocations should reflect the priority areas of the development policy programme. **A significant share of the available budget needs to be used for inequality reduction activities** in all Finnish-funded projects and programmes. Earmarking a certain percentage of the project/programme budget to inequality reduction, including inequality analysis, should be considered to ensure such allocation in practice.
5. **Priority** in both bilateral and multilateral cooperation should be given to specific activities targeting persons at the risk of inequality, such as women and persons with disabilities. The activities of NGOs representing such persons should be increasingly funded through existing channels such as the Local Cooperation Fund and CSO development cooperation funds.

6. **Human rights-based approach or cross-cutting issues expert(s)** of senior professional status should be part of any consultant team of any Ministry-funded projects, programmes and missions and this should be articulated clearly in the terms of reference. Such an expert could well be a local academic or an NGO staff member with accumulated context-specific experiential knowledge on what works and what does not. Representative NGOs need not only to be consulted but should become part of the implementation management team throughout the projects/programmes. When expertise is lacking within the Ministry, sufficient funds should be allocated for the engagement of external experts to strengthen the capacity of Finland as a duty-bearer.
7. **Training and capacity building on implementing human rights-based approaches with clear guidelines** should be provided to all relevant staff members of the MFA and Finnish Embassies as well as experts and consultants engaged by the Ministry. This training needs to be tailored to fit the special circumstances of the different partner countries and sectors of cooperation. Senior staff members should be trained as a matter of priority to enable them to spearhead necessary changes in their respective departments and units.
8. **Intra-sectorial and cross-sectorial collaboration should be increased and encouraged** in particular for the purposes of sharing experience and expertise on cross-cutting issues and of taking inequality reduction more seriously both individually and collectively. It should be acknowledged that expertise on cross-cutting issues, such as disability, is largely missing in activities funded by the Ministry. The Ministry should facilitate intra- and cross-sectorial collaboration by organizing meetings and seminars that aim at capacity development and experience sharing on inequality reduction.
9. Despite the freezing of budget allocation for new recruitments, it is suggested that more **focal persons** be assigned for different disadvantaged groups currently dealt with by one advisor, namely, children, persons with disabilities, persons with HIV/AIDS, sexual minorities, ethnic, linguistic and religious minorities, and indigenous peoples. The positions should be occupied by persons with experiential knowledge of the issues concerned, such as a person with a disability as the disability focal point.
10. **Accessibility** of Embassies and the Ministry buildings as well as all structures funded by the Finnish development cooperation has to be ensured. If accessibility is planned in advance, it entails little or no additional costs.
11. **Political dialogue** and negotiations for the promotion of a human rights-based approach to development need to be strengthened not only at the country negotiation level but also globally among influential decision-makers. This is especially important for addressing problems posed by legal, policy and institutional constraints in the implementation of development cooperation programmes. Collaborating with like-minded countries to strengthen Finland's voice is an important strategy for putting the HRBA to development high on the agenda of global processes.

12. **More research** should be undertaken particularly to monitor changes in institutional mechanisms of the MFA and to evaluate the impact of Finnish development cooperation on inequality reduction in collaboration with partner country research institutions. Inequality reduction could, for example, be included among the themes of the call for the development research funding by the MFA and Academy of Finland. The Ministry and the Finnish Embassies could also make use of existing external knowledge by academics and practitioners from the global South and North, whenever needed, in operationalizing the HRBA to development in practice.

List of Abbreviations

ABE	Alternative Basic Education
ACRWC	African Charter on the Rights and Welfare of the Child
AfDB	African Development Bank
AHA	Ulkoasiainhallinnon asiainhallinta
AHA-KYT	Ulkoasiainhallinnon asiainhallinta - kehitysyhteistyö
AusAID	Australian Agency for International Development
AWP	Annual Work Plan
CAJ	Commission on Administrative Justice
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CEO	Chief Executive Officer
CERD	Convention on the Elimination of Racial Discrimination
CESCR	Covenant on Economic, Social and Cultural Rights
COWASH	Community-Led Accelerated Water Supply, Sanitation and Hygiene Programme
CRA	Commission on Revenue Allocation
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil Society Organization
CTA	Chief Technical Advisor
DFID	Department for International Development (UK)
DMC	Disability Mainstreaming Committee
DPG	Development Partners Group
DPO	Organisation of Persons with Disabilities
DRPI	Disability Rights Promotion International
DTSC	District Technical Steering Committees
EDG	Election Donor Group
EGBV	Electoral Gender Based Violence
EMB	Electoral Management Body
EMIS	Education Management Information System
ERD	External Resources Department
ESAA	Education Statistics Annual Abstract
FAO	Food and Agriculture Organisation
FENAPD	The Ethiopian Federation of Persons with Disabilities
FIDIDA	Finnish Disabled People's International Development Association
GAD	Gender and Development
GDP	Gross Domestic Product
GEQIP	General Education Quality Improvement Programme
GER	Gross Enrolment Rate
GGP	Gender and Governance Programme
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
GNI	Gross National Income
GoE	Government of Ethiopia
GoK	Government of Kenya
GTP	Growth and Transformational Plan
HDI	Human Development Index
HIV/AIDS	Human Immunodeficiency Virus/ Acquired Immunodeficiency Syndrome

HLMDD	High-level Meeting on Disability and Development
HRBA	Human Rights-Based Approach
HRD	Human Rights Defender
HREA	Human Rights Education Associates
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICRC	International Committee of the Red Cross
IDA	International Development Association
IDDC	International Disability and Development Consortium
IDPs	Internationally Displaced Persons
IEBC	Independent Electoral and Boundaries Commission
ILO	International Labour Organisation
IMF	International Monetary Fund
IPCRM	Integrated Public Complaints Reporting Mechanism
IRI	International Republican Institution
JPO	Junior Professional Officer
KAVAKU	Kansainvälisten asioiden valmennuskurssi (foreign service)
KeRRA	Kenya Rural Roads Authority
KJAS	Kenya Joint Assistance Strategy
KNCHR	Kenya National Commission on Human Rights
KNHREC	Kenya National Human Rights and Equality Commission
KPT	Development Policy Committee of Finland (abbreviation in Finnish)
LCF	Local Cooperation Fund
LDC	Least Developed Country
LGBT	Lesbian, Gay, Bisexual, and Transgender
M&E	Monitoring and Evaluation
MCA	Member of the County Assembly
MDGs	Millennium Development Goals
MFA	Ministry for Foreign Affairs of Finland
MoE	Ministry of Education
MoFED	Ministry of Finance and Economic Development
MoLSA	Ministry of Labour and Social Affairs
MOPAN	Multilateral Organisation Performance Assessment Network
MSPNDV	Ministry of State for Planning, National Development and Vision 2030
MTP	Medium Term Plan
MWCYA	Ministry of Women, Children and Youth Affairs
NARC	National Rainbow Coalition
NCEP	National Civic Education Programme
NCPWDK	National Council for People with Disabilities in Kenya
NER	Net Enrolment Rate
NGEC	National Gender and Equality Commission
NGO	Non-governmental Organization
NIM	National Implementation Modality
NPGD	National Policy on Gender and Development
ODA	Official Development Aid
OECD/DAC	Organisation for Economic Cooperation and Development/Development Assistance Committee
OHCHR	Office of the High Commissioner for Human Rights
PALWECO	Programme for Agriculture and Livelihoods in Western Communities

PBO	Public Benefit Organization
PIC	Project Implementation Committee
PMT	Programme Management Team
PO	Partner Organization
PSC	Programme Steering Committee
PST	Project Support Team
PSU	Programme Support Unit
PTA	Parent Teacher Association
PYM	Local Cooperation Fund (abbreviation in Finnish)
RBM	Results-based Management
SCK	Supreme Court of Kenya
SERP	Strengthening Electoral Reforms and Processes
SIDA	Swedish International Development Cooperation Agency
SNE	Special Needs Education
STA	Senior Technical Advisor
SVB	Supervisory Board
TA	Technical Assistance
TASAKO	Tasa-arvoasioiden työryhmä
TDP	Teacher Development Programme
TI	Transparency International
TJRC	The Truth, Justice and Reconciliation Commission of Kenya
TOR	Terms of Reference
UN	United Nations
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
UNPRPD	United Nations Partnership to Promote the Rights of Persons with Disabilities
UPE	Universal Primary Education
US	United States
USAID	United States Agency for International Development
VAT	Value Added Tax
WHO	World Health Organization
WID	Women in Development

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1. INTRODUCTION: A HUMAN RIGHTS-BASED APPROACH TO DEVELOPMENT

The promotion of human rights has been part of the Finnish development policy since the mid-1990s. The Finnish Development Policy Programme of 2012 explicitly articulates a human rights-based approach (HRBA) to development presupposing systematic efforts to screen all Finland's development policy and practice through human rights. The **objective** of this study, which is commissioned by the Ministry for Foreign Affairs of Finland (MFA), is to create evidence-based knowledge and provide recommendations on the **operationalization** of a human rights-based approach in the Finnish development cooperation.

Although there is no single definition of the concept 'human rights-based approach to development' — and it may, therefore, be more apt to speak of human rights-based approaches to development — there seems to exist agreement on the core elements defining the human rights-anchored agenda to development cooperation. Typically, the HRBAs to development work to strengthen the **capacity of duty-bearers** to respect, protect, and fulfil their human rights obligations. Simultaneously, the **rights-holders' capacity** to realize their human rights, as well as to demand and claim that their human rights be respected, protected, and fulfilled, is strengthened. This is the foundation also for the HRBA to development adopted in the Finnish development policy (MFA, 2012-a:7). The aim of human rights-based development is human rights realization: all development cooperation should be conducive and contribute to the realization of human rights. This applies to the *aims* and the *processes* of development, which should both be informed by human rights norms and principles.

Human rights-based approaches often come along with an emphasis on **human rights principles**. These interlinked and interdependent elements are considered to have both instrumental and intrinsic value in development and reflect the centrality of the human person as an active subject of the development process (Frankovits, 2005:4). Inherent in its express linkage to human rights, the human rights-based agenda *vis-à-vis* development generally attaches particular emphasis to the notions of accountability, non-discrimination and active, free and meaningful participation (for an overview of the elements, see, e.g., Sarelin, 2012:105–134; and Twomey, 2007:50–55). While the HRBAs to development do not change, or add to, the existing normative human rights framework binding on states parties, these principles, seen as interlinked and interdependent elements of the HRBAs to development, are often considered the *operational* expression of the idea that human rights and development are integrated, and that human rights have implications for programming, legislation, policy, and implementation at all levels and between all actors (see, e.g., Ferguson, 2008:16).

Human rights are often primarily seen to add to the existing good development practice through policy coherence and accountability grounded in a voluntarily acceded universal, or quasi-universal, web of explicit and binding standards and obligations (see, e.g., McInerney-Lankford, 2009:52), against which state conduct is assessed and which may mitigate human rights harms by mandating non-discrimination and non-regression and by providing a legally binding ground for **the principle of 'do no harm'**. The open question is, however, whether human rights offer a platform on which different actors can work and formulate strategies to create relevant linkages and advocacy in relation

to local contexts — and whether this is an effective strategy to bring about positive change. It is, for example, being increasingly questioned how generalized directives of aid agencies relate to context-specific struggles for rights (Pettit & Wheeler, 2005:1). Unfortunately, examples of, for example, Finland's bilateral development cooperation projects indicate that such programmes have, at times, had the opposite effect of reinforcing societal asymmetries and marginalization through insufficient measures to ensure equal access to services (Tuure, 2013). A more context-specific case study analysis of operationalizing a human rights-based approach to development is, hence, of importance.

This study by a team of six independent academic researchers investigates how the HRBA is, and ought to be, applied in the Finnish development cooperation with a view to contributing to the reduction of inequality specifically concerning women and persons with disabilities who are largely disadvantaged in mainstream development discourses. Research on the normative, institutional and operational aspects of the Finnish development policy and its implementation in two case countries, Ethiopia and Kenya, sought to find responses to the following **key questions**:

- 1) How can the HRBA to development, especially concerning women's rights and the rights of persons with disabilities, be operationalized to reduce inequality?
- 2) Based on analyses of practices from the critical perspectives of gender and disability, what should Finland do in its development policy and practice to further enhance the implementation of human rights-based approaches in its cooperation with partner countries, especially Ethiopia and Kenya?
- 3) What are the views and experiences of Ethiopian and Kenyan partners and of Finland on the HRBA to development in the context of development cooperation programmes and projects?

2. METHODOLOGY

The project made use of **five** techniques of research to answer the above-mentioned key research questions: 1) desk study on the theory and practice of human rights-based approaches to development cooperation based on the review of Finnish development policy instruments, relevant legal and policy instruments of Ethiopia and Kenya, as well as other pertinent reports; 2) interviews with key informants both in Finland and in the case study countries; 3) focus group discussion in the form of a multi-stakeholder workshop in Ethiopia with relevant key stakeholders; 4) observation of relevant sites; and 5) participation in relevant meetings, seminars and trainings.

First, the **desk study** reviewed the main development policy instruments of Finland and other Nordic countries, with a view to developing a conceptual framework for the study on the HRBA to development. This phase of the study included an investigation from the critical perspectives of gender and disability into Finnish political decision-making processes at the different levels of the Ministry for Foreign Affairs; different forms of aid (multilateral, bilateral and aid channelled through civil society); human and financial resources; as well as technical expertise. It further involved the analyses of relevant legal and policy instruments of the case study countries and reports pertaining to the context of development cooperation.

Second, key informants both in Finland and in the case study countries were **interviewed**. The interviews were conducted with heads of departments and units, thematic advisors, public servants, gender and disability specialists, civil society (CSO) representatives, academics and other relevant individuals within the aforementioned sectors and beyond so as to identify promising practices, as well as challenges in the application of human rights-based approaches to development (for the list of interviewees, please see Appendix 1).

Third, a **focus group discussion** in the form of a multi-stakeholder workshop was organized in Ethiopia with the participation of government officials, technical experts, NGOs and Ethiopian CSOs of women and of persons with disabilities to clarify their experiences on the HRBA to development, its implementation, challenges, and prospects in development cooperation activities. Analytical views on the operationalization of the HRBA to development in Ethiopia were shared by representatives of the academia (please see Appendix 2 for a list of workshop participants). The aim of the workshop was to elicit answers to the key questions of the study through a constructive dialogue with the stakeholders.

Fourth, to study inequality in terms of accessibility, members of the research team made field **visits to and observations on projects and institutions** that are related to Finnish development cooperation in the case study countries, including schools with and without disability resource centers in Ethiopia, project sites, as well as rights-holders' homes and communities. Specific attention was paid to institutions and projects supported by Finnish development cooperation funds.

Fifth, researchers participated in, **observed or contributed to a series of relevant meetings, seminars and trainings** held on the HRBA to development and related issues in Finland and at the international level. Information gathered from these events has been made use of to consolidate some of the findings and recommendations in the report (for a list of events, please see Appendix 3).

The data collected through the five methods described above, including interview transcriptions and the minutes of the multi-stakeholder workshop organized in Ethiopia, were thematically analysed so that views and experiences of duty-bearers and rights-holders in the studied contexts and development cooperation activities could be identified, compared, and synthesized to develop evidence-based knowledge for a better operationalization of the HRBA to development. The rich and multidisciplinary expertise of the members of the research team was deployed in the analysis to draw findings and **recommendations** based on this data for an improved application of the HRBA to development with partner countries of Finland, especially Ethiopia and Kenya.

The **case studies** on the Finnish development cooperation with Ethiopia and Kenya reviewed policies and practices of multilateral, bilateral and civil society organizations' cooperation, and projects supported by the Local Cooperation Fund (LCF) in terms of the human rights-based approach with a special focus on disability and gender equality. The multilateral and bilateral projects and programmes that are reviewed in this study were planned and launched mostly during the period of the previous Development Cooperation Policy Programme of Finland that was adopted in 2007. Hisayo Katsui and

Sisay A. Yeshanew conducted the Ethiopian case study, while Eija M. Ranta and Godfrey M. Musila carried out the Kenyan case study.

In **Ethiopia**, the research focused on the education sector and NGO participation in complementing the primary duty-bearer, i.e., the government of Ethiopia (GoE). More precisely, the case study focuses on two government-run education sector programmes supported by Finland, namely, the General Education Quality Improvement Programme (GEQIP) and the Special Needs Education (SNE) programme. The case study also covers projects implemented by CSOs with the support of the LCF of the Finnish Embassy, the Abilis Foundation and Finnish CSOs, which receive funds from the development cooperation of Finland.

In **Kenya**, the main focus of the research was laid on the programmes under Objective A of the Finnish Country Strategy for Development Cooperation with Kenya, “a democratic and accountable society that promotes human rights”. In the absence of a major justice sector programme, Finland has been promoting three distinct, yet interconnected, programmes that focus on good governance, human rights, and gender equality. The three programmes are: 1) Support for National Human Rights Institutions (constitutional commissions); 2) Support for elections 2013 through the Independent Electoral and Boundaries Commission (IEBC) and the Uraia Trust; and 3) Support for strategic actors (UN Women) working on gender in Kenya. In addition to the examination of the above-mentioned programmes, the research team reviewed and made observations on the Local Cooperation Fund and the Finnish rural development programme known as the Programme for Agriculture and Livelihoods in Western Communities (PALWECO).

Ethical issues were carefully paid attention to throughout this study. During the empirical data collection process of the study, the research team secured the informed consent and voluntary participation of informants. Confidentiality was guaranteed and respected when the interviewees so wished. Where informants did not want to be identified by their names in the attached lists of workshop participants and interviewees (please see Appendix 2 and 3), they remained anonymous. The interviewees were informed that findings with practical and policy implications would be disseminated to relevant stakeholders. In addition, electronic copies of this report will be sent to the informants who have indicated a wish to be informed of the results of the research project. Where necessary, the report will be disseminated in a format accessible to informants with visual impairments. Due attention was paid to the privacy of the informants throughout the research to avoid any unintentional negative consequences on them.

3. HUMAN RIGHTS-BASED APPROACHES IN FINNISH DEVELOPMENT POLICY AND PRACTICE

This chapter will describe and analyse the successes and challenges of translating the human rights-based policy framework into practice within the context of the Finnish development cooperation policy. The findings and recommendations presented below derive mainly from a review of literature, policy instruments and interviews with heads of departments and units, thematic advisors, public servants, and staff of Embassies in

the two case study countries. The analysis is mainly focused on the following aspects of human rights-based approaches to development in general and the Finnish development policy in particular: 1) policy instruments; 2) the importance of power and human rights situation analysis in the HRBA to development; 3) the meaning of human rights principles; 4) the position of gender and disability; and 5) technical expertise, institutional structure and allocation of funds.

3.1. Policy Instruments

The development cooperation policy of Finland has recently gone through a **major discursive change** from sustainable development to the promotion of human rights. While the previous development policy programme of Finland focused on such sectors as agriculture, forestry, water, energy, and the enhancement of the private sector in a needs-based manner, the present policy programme emphasizes rights and obligations within the conceptual framework of the HRBA to development (MFA, 2012-a:7) in line with the common understanding among UN agencies on human rights-based approaches (Common Understanding, 2003; MFA, 2013-c:1–2).

Finland's Development Policy Programme (MFA, 2012-a:7) states that:

Finland pursues human rights-based approach to development. Its aim is that everyone, including the poorest people, know their rights and are able to act for them. It is equally important that the authorities know their human rights obligations and are capable of implementing them.

While the main focus previously was on beneficiaries of aid, the current Development Policy Programme puts the **emphasis on rights-holders and duty-bearers and their capacity building**. The programme, hence, acknowledges the redefinition of the relations between the state and the individual inherent in the HRBAs to development and articulates that governments are accountable for the realization of individuals' human rights (MFA, 2012-a:13).

This recognition is, however, yet to be fully mainstreamed in Finland's foreign policy at large. As was pointed out in the OECD/DAC Peer Review of Finland's Development Cooperation (2012), international donors, such as Finland, need to work for increased policy coherence in their actions on human rights not solely in the field of development cooperation but in all foreign policy, including in **trade and other economic interactions**. Partner governments should be supported not only to improve their tax systems, revenues, and the conditions of foreign direct investments but also to use their revenues, including those from donors, to fulfil their obligations in ways that pay attention to the rights of their people.

<p>Recommendation: A profound analysis of the diverse economic conditions and situations of states in the context of globalization is needed in order to identify capacity gaps in the operationalization of the HRBA to development particularly pertaining to the accountability of duty-bearers. Human rights have to be an integral part of Finland's foreign policy, including global economic interactions.</p>
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Recommendation: Finland's development policy is strongly influenced not only by national politics but also by global development discourses. Hence, an important way to promote the HRBA is to ensure that all post-2015 development goals and indicators are based on the HRBA. Finland should, therefore, continue to hold human rights and the reduction of inequalities high on the agenda in international policy dialogues.

There are promising efforts at mainstreaming the HRBA in the foreign policy of Finland, including the screening of the Country Strategies elaborated during the spring of 2013 through the lens of the HRBA. The HRBA emerges also both in the new Manual for Bilateral Programmes (2012) and the new Manual for NGOs. Likewise, the Guidelines for the Quality Control Group of the MFA that screens all programmes and projects before their approval by the Minister of Development or the Head of the Department have been rewritten to some extent to reflect the human rights-based approach. Within multilateral aid partnerships, human rights and the HRBA have been held high on the agenda in the political dialogue and financial negotiations.

The first **human rights strategy** of the MFA was published in June 2013 with the aim of integrating human rights considerations in all foreign policy areas in an effective and coherent manner (Development Policy Committee, 2013:11–12). The strategy states that “the elimination of discrimination and greater openness and inclusion are the two cross-cutting themes of the Finnish Foreign Service’s human rights policy” (MFA, 2013-a:7). The government of Finland aims to ensure that the rights guaranteed in international treaties are put into practice, including for the poorest and the most vulnerable groups (Development Policy Committee, 2013:13). In February 2013, the MFA adopted a **guideline “Implementing the Human Rights-Based Approach in Finland’s Development Policy”** with the aim of providing practical guidance on the implementation of the HRBA in bilateral and multilateral political dialogue and cooperation as well as cooperation with NGOs. While this initiative has been positively welcomed, more detailed **thematic guidelines for the specific sectors and country contexts** in Finland’s development cooperation are called for. Some thematic guidelines, such as the “Human-rights based approach in agriculture and food security-related development cooperation” (2013), have been drafted through a collaborative effort between thematic advisors at the MFA and Embassies.

Recommendation: Implementation guidelines could be strengthened and systematized by putting in place a mechanism to regularly monitor and evaluate their operationalization. A human rights-based stakeholder, capacity gap and inequality analysis could, alternatively, be included in the mid-term and final reports of each project/programme.

Recommendation: It would be desirable to develop technical guidelines for the implementation of the HRBA in different thematic areas. To increase context-sensitivity, it would be ideal if such guidelines could be created in, or adjusted to, different country contexts. Participation of local stakeholders, including rights-holders, would be essential in this regard.

3.2. Power and Human Rights Situation Analysis

Whereas the Development Policy Programme of 2012 has generally created high

expectations in terms of applying the human rights framework into development practices, among the MFA staff members the impression appears to be mixed. Some consider this a major change, while, for others, human rights have always been important and this particular policy programme does not bring about any major change in practice. This **difference of opinions** generally appears to exist between development professionals and those on general diplomatic careers. Development professionals, such as thematic advisors, tend to perceive the HRBA as a more systematic and integral tool through which such economic and social issues that have always been addressed in development can be profoundly restructured based on human rights. On the other hand, those in general diplomatic careers tend to think that discourses of political and civil rights have always been part of their vocabulary and, therefore, they have a hard time identifying what added value the HRBA brings.

Human rights have little value if they have no impact on the relationship between rights-holders and duty-bearers. Similarly, if structural reasons for poverty and human rights failure are not addressed, human rights-based approaches may end up maintaining the status quo rather than challenging it. As Hickey and Mitlin (2009:17) state, “rights-based approach will result in more effective development only if it is grounded within a careful analysis of power in all its forms, and if the resultant strategies incorporate a sufficiently complex understanding of how change happens and how it is sustained”. While some informants agree on the centrality of the power relations, the survey on Finland’s development policy indicates that there is surprisingly little discussion or systematic analysis of power both at the level of policy instruments and in concrete development actions, the latter of which will be elaborated further below. While, on the one hand, various actors in development and human rights discourse depoliticize the situation of human rights (Englund, 2006:31), often power relations at different levels, including local, national and global, are, on the other hand, considered to be too political and, therefore, too complex and sensitive to be addressed in the context of many countries.

Power and actor analysis should form a part of the **human rights-based situation analyses** carried out in drafting development cooperation instruments. There are many technicalities surrounding situation analyses, which the scope and the purpose of this study do not permit to fully convey. Suffice it to note here that the **questions asked** in a human rights-based situation analysis are different as compared to a more conventional situation analysis aiming at poverty reduction as they are, or should be, **expressly linked to human rights norms and standards**. The focus should be on the accountability aspect of human rights/development failures: Who has a duty? Who has a right? Why is this duty not executed? Why is the right not claimed/realized? What conditions need to be present in order for the duty-bearer to execute his/her obligations and responsibilities and the rights-holder to claim and enjoy his/her rights? When these questions are raised in a situation analysis they add a new perspective to ‘good development programming’.

The development cooperation policy of Sweden provides promising examples in this regard. Sweden requires undertaking power and actor analysis, preferably as a part of a context specific poverty analysis. Such analyses may be carried out at national, regional or local levels, or focus on a specific sector. The objective is to analyse the formal and informal relationships and power structures between the state and the individual, between different groups in society and between men and women. It is underlined that

the analyses do not necessarily have to be performed by Sweden (MFA Sweden, 2010:27).

A human rights-based situation analysis may reveal “capacity gaps in *legislation, institutions, policies and voice*” (OHCHR, 2006:27). ‘Voice’ equals the level of opportunity among actors to participate and articulate their opinions. To address the **capacity gaps**, national laws may need to be brought into compliance with treaty obligations. Institutions may need to be strengthened, *inter alia*, through improving governance and providing people with effective remedies when their rights are violated. In addition, discrimination may need to be combated through policy reforms (OHCHR, 2006:27). These are some of the substantive implications of a human rights-based approach for both the process and the outcome of development.

In setting out a human rights approach for the Millennium Development Goals (MDGs), the Office of the High Commissioner for Human Rights (OHCHR) suggests, in very concrete terms, that **human rights are prioritized by making policy choices and resource-allocation decisions within a human rights framework**, i.e., the human rights framework is used in situation analyses to assist in policy choices. This is based on the argument that international human rights law provides a framework for assessing the reasonableness of policy choices and also that international human rights law pre-dates the MDGs, which means recipient states as well as donor states have existing legal obligations under human rights treaties. The questions that need to be asked include: Is the policy (related to the realization of a MDG target, in this case) resulting in human rights violations or in perpetuating inequality? Is the policy adequately directed towards realizing human rights and **ensuring equality, including for women and persons with disabilities**? Are there adequate resources available for implementation? Is there a risk of decline in the realization of rights, contravening the principle of non-retrogression?¹ Policies and programmes intended to realize the MDGs have the potential to violate human rights, and therefore human rights impact assessment is important in order to respect the **‘do no harm’ principle** (OHCHR, 2008-a:12–13). **Role analysis** not only identifies duty-bearers in relation to the realization of a certain human right, but also their specific corresponding obligations and responsibilities. Where specific obligations and responsibilities are identified for different groups of duty-bearers, it is necessary to investigate whether or not the obligations are being met (FAO, 2008:40–41).

Recommendation: Finland’s Country Strategies for Development Cooperation with all major partner countries need to be based on detailed background analyses, such as situation analysis, pattern analysis and capacity gap analysis with specific focus on inequality reduction with particular attention to gender and groups or individuals at risk of inequality, including persons with disabilities.

3.3. Defining ‘Human Rights Principles’

Being aware that different people and actors working in ‘development’ may attach very different meanings to the **human rights concept** can be helpful when implementing a

¹ Norms already adopted should not be removed at a later date, i.e., states should not go backwards in the standards of protection of human rights ensured to individuals.

HRBA. Civil servants working in ministries in partner countries may be concerned with human rights as defined in the constitutions of their respective countries, while activists in social movements might view human rights as “shaped through actual struggles informed by people’s own understandings of to what they are justly entitled” (Nyamu-Musembi, 2005:41), i.e., an actor-oriented perspective of rights. In many countries, such as Kenya, there has been a long struggle for law reform and rights realization, rooted historically in specific experiences of exclusion and inequality, especially by women and persons with disabilities.

As a partner, Finland needs to be able to negotiate and navigate within these fields and the implementation of its development policies needs to be based on an understanding of how international human rights standards and principles are translated to the **local realities** in a way that is meaningful to individuals. Efforts by Finland to implement a HRBA in its development programmes must also strengthen the already existing efforts to realize rights and to ensure inclusion. This is expressly spelled out, for example, in the official development policy of Denmark, which calls for a “closer linkage between the normative work on human rights in international forums and development cooperation on the ground” through “an equal and mutually committing dialogue”, based on, *inter alia*, the local context (MFA Denmark, 2012:10).

Development agencies and organizations differ, also, in the definition and degree of emphasis on their HRBAs and use **different principles** as the basis for their work. Some agencies have opted for an approach known as PANEL, referring to participation, accountability, non-discrimination, empowerment and linkage to human rights as the underlying principles of their HRBA work (HREA, 2007:6). PANTHER, which stands for participation, accountability, non-discrimination, transparency, human dignity, empowerment and rule of law, is another acronym associated with principles that underpin HRBA work (see, e.g., FAO, 2013). The UN Common Understanding on the HRBA (2003) rests on the principles of universality and inalienability; indivisibility; interdependence and interrelatedness; non-discrimination and equality; participation and inclusion; accountability and the rule of law. Donor countries, too, differ in their understanding of the HRBAs. Among the Nordic countries Norway is yet to define the contours of its HRBA, whereas Sweden and Denmark identify non-discrimination, participation, transparency and accountability as the guiding principles of their human rights-based approaches to development (Standing Committee on Foreign Affairs, 2003; and MFA Denmark, 2013:iii). The Finnish development policy programme states that universality, self-determination, non-discrimination and equality are the core human rights principles through which Finland promotes the fulfilment of rights (MFA, 2012-a:11).

Recommendation: The foundations of the HRBA need to be negotiated and agreed upon with partner countries and partner organizations through a participatory process to ensure that the implementation of policies is based on a mutual understanding of how international human rights standards and principles are translated to the local realities in a way that is meaningful to the individuals. Participation of representative organizations of persons at risk of inequality becomes essential, which has to be ensured in any cooperation.

The Finnish development policy programme leaves considerable **room for interpretation** on how human rights principles guide the process of realizing rights for individuals in partner countries. Some key principles, such as accountability, participation and inclusion appear in a scattered manner throughout the policy document, but remain yet to be fully conceptualized and explained. There is also a certain lack of coherence between the main development policy instruments in this regard. While the Finnish development policy programme refers to universality, self-determination, non-discrimination and equality as the founding human rights principles of Finland's development work, the Guidelines for the Implementation of the HRBA (2013) define universality, non-discrimination and participation as Finland's core human rights principles. The shortcomings in systematic and coherent usage of the principles in the Finnish development policy are acknowledged in the Annual Review of the Development Policy Committee (2013).

It is important to be aware of the different forms and foundations that the HRBA principles can take in development cooperation and otherwise. Some of the principles inherent in the HRBAs, such as non-discrimination and equality, accountability, transparency and participation, are firmly established as cross-cutting human rights norms. Some others, such as empowerment, find a basis in the inherent ideology of human rights, but are not expressly recognized as human rights principles. Therefore, the principles underlying the HRBA ideology need to be anchored and understood in contexts that extend beyond the human rights framework. This is especially true concerning accountability and participation, which have strong foundations in other disciplines and discourses outside of the normative human rights tradition. It is not only that it is unclear how these principles are defined but it is also difficult to determine when they overlap with governance criteria and when they are distinct from such criteria. Therefore, it becomes unclear what accountability and participation deliver and how their impact can be measured (Sano, 2013:400). Moreover, depending on the context, participation and accountability may function as catalysts in giving people opportunities to challenge structures that are hindering their human rights realization, leading to personal and political transformation, but they may also be used as labels in a technocratic, 'from above' fashion that leaves little room for deeper structural change (Sarelin, 2012:146). Without an intention to be exhaustive, the principles of non-discrimination, participation, accountability and empowerment will be addressed more in detail below.

<p>Recommendation: A more refined and detailed definition and understanding of the HRBA principles is necessary to clarify the implications of the human rights-based approach to priority setting towards inequality reduction. The usage of the HRBA principles needs to be based on their coherent and systematic understanding and application throughout policies.</p>
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Non-discrimination

While the vulnerability assessment in the HRBAs does not differ much from that in other good programming practices when it comes to identifying needs and making sure there is **no discrimination in the targeting process**, a 'human rights lens' may in some cases add value through redirecting focus on non-discrimination as the basis on which to **demand equality and justice for specific groups as rights-holders**. The way in which the HRBAs address gender, for example, typically aims at challenging discrimination and

social, cultural and institutional norms related to exclusion. This can be compared to how 'needs-based development' typically addresses *symptoms* of discrimination (such as encouraging women to attend meetings but not supporting meaningful participation) (Sano, 2010:7).

The way non-discrimination is described by the MFA (2013-c:3) indicates that the focus in the Finnish development policies is on upholding non-discrimination in development cooperation activities. Focusing on groups at risk of inequality as rights-holders may, however, also require an **analysis of the lack of equality in society at large** because in many contexts such groups are still economically, politically, and socially in an unfavourable position in relation to the population in general. This aspect of the principle of non-discrimination lies right in the heart of the HRBAs, which underline the eradication of root-causes for non-realization of an individual's human rights. Adequate attention should, therefore, be attached to supporting struggles to combat discrimination, and to ensure equality, within society at large.

The **equality** principle implies a shift in development discourse from economic growth and poverty reduction to the reduction of inequalities. While the notion of poverty reduction, for example, measures changes in incomes at the level of individuals and nation-states, the notion of reduction of inequalities offers valuable analytical and practical tools to address wider disparities in social, political, and economic relations between and among individuals, communities, nation-states, and globally. Inequality reduction refers to deconstructing existing asymmetrical power relationships among people, which requires identification of population at risk of inequality as well as root causes of inequality and paying special attention to their human rights fulfilment as a priority. In addition to addressing groups at risk of inequality, another key analytical strength of perceiving the reduction of inequalities as main development goal within the HRBA is that it turns attention to the other side of power relations: to the economic and political elites and local, national and global decision-makers. While poverty reduction, for example, aims at equity, the reduction of inequalities entails both the full realization of human rights of rights-holders *and* the accountability of duty-bearers in fulfilling them. Without deliberate action aiming at inequality reduction, groups at risk of inequality tend not to enjoy existing opportunities on an equal basis with others. Consequently, interventions without inequality reduction objective or 'business as usual' too frequently increase or at the very least perpetuate inequality.

Ensuring equality in development processes may, therefore, require adopting the concept of **substantive equality**, which aims at equality of results and the eradication of practices and structures that maintain disadvantages or indirect discrimination (Arnadóttir, 2007:143–144; Byrnes, 2012:55–56; Kumpuvuori & Scheinin, 2009:56–58). The focus on the equality of results may, in the interest of facilitating inclusion and equality in fact, legitimate the need to adopt active measures, such as reasonable accommodation in the case of disability, and special measures of temporary or permanent nature in the case of women (see, generally, UN Committee on the Elimination of Discrimination against Women, 2004: para. 31; CRPD, Arts. 2 and 5). Following the model of substantive equality, care should be taken that measures countering discrimination based on more than one ground, i.e. multiple discrimination, are duly taken into account in the development policies (CRPD, Preamble and Art. 6). In this regard, the focus on gender *and* disability in this study is an important analytical

choice so as to investigate on operationalization of human rights-based approaches to development in terms of inequality reduction.

Recommendation: To fully reflect a human rights-based understanding of non-discrimination, equality policies of Finland are to incorporate the concept of substantive equality.

Participation

When it comes to participation, advancing participation as a **right to take part in decision-making** is an objective in itself. However, it is also about enabling people to actively draw on their civil and political rights in order to achieve something else, often their economic, social and cultural rights (Rowlands, 2009:1). In this way **participation strives for a broader change agenda**. This seems to be the aim of the Finnish HRBA policy as well. The way participation is described indicates that it concerns, in line with, e.g., the UN Common Understanding on a human rights-based approach to development, meaningful influence both on the *goals* and the *processes*, or the ‘modes of operation’ of development cooperation work carried out by Finland (MFA, 2013-c:3). Further guidance in terms of ensuring **transparency** and enabling popular participation on an equal basis in the planning, implementation and evaluation of development policies could be added to this general reference to participation. In doing so, account should be taken of the fact that, when the starting-point is that participation is a right, participation is *by* the people — not something done *for* them (Cornwall, 2000:22). This presupposes active measures to make information truly accessible to rights-holders.

Concrete guidelines for participatory programming are, as well, called for to cope with the dilemma that not all interest groups strive for human rights-conducive societal change. It is often assumed that participatory approaches are apolitical and non-confrontational since they build upon an idea of finding consensus, but development programmes can never function in a vacuum detached from local struggles for power and resources, i.e., from the political sphere. This is sometimes the assumption when participatory monitoring and evaluation exercises come from outside the community and the emphasis is on generation of information from the grassroots and less emphasis on direct confrontation between people’s knowledge and official accounts (Jenkins & Goetz, 1999:614). Another dilemma that should be addressed in guidelines to practitioners is the fact that, sometimes, **participation may clash with organizational interests** (Newman, 2011). If participants are asked, it might be that they do not prioritize working on, for example, the right to education, which may be the target of the aid agency. As aid agencies with funds often continue to be in a dominant position in negotiations with the beneficiaries there is a risk that the priorities and perspectives of the local groups become over-shadowed by an approach focusing on a specific human rights-based target. While participation implies collegial equality, predetermined and top-down development targets as well as hierarchy in organizations may hinder meaningful engagement, influence and ownership.

Recommendation: It would be important to be clear concerning the source of participation as a right in the Finnish HRBA and the operational implications participation entails in terms of equality, transparency and access to information (for a discussion, see Sano 2013).

Accountability

When human rights enter into development policies and practices, **new accountability relationships and frameworks** emerge. As the starting-point of the human rights-based agenda to development is in the rights seen as enforceable entitlements, one of its primary aims is set at identifying the actual claim-holders and the corresponding duty-bearers, under human rights treaties as well as national laws, striving to raise the levels of accountability of those responsible for realizing the rights of the individual. This is made clear also in the policy adopted by the Finnish government, according to which it is “important that the authorities know their human rights obligations and are capable of implementing them” (MFA, 2012-a:7). Through development cooperation, Finland aims, *inter alia*, at supporting the capacity of local authorities in the area of human rights implementation. This is a process of making rights real, and as such it entails confronting the structural inequalities that underlie the non-realization of rights (Pettit & Wheeler, 2005:1).

As compared to the good governance development agenda largely based on a donor-implementing agency accountability relationship, in the HRBAs an **accountability relationship** that exists between the *individual* and the state, and other duty-bearers, including the donor states, is at the heart of demanding accountability. Such accountability can take many forms, including political, social and legal. The Finnish HRBA policy underlines, in line, for example, with the development policies of the other Nordic countries, the legal dimensions, rather than the political and social forms of demanding accountability (MFA, 2013-c:4. See also, e.g., MFA Denmark, 2013:10). Notwithstanding this, donors, including Finland, typically recognize the integration of human rights and development in their development cooperation policies at the level of principles, but not in terms of obligations arising from human rights as a normative framework binding them to a certain standard of behavior in relation to rights-holders in their development cooperation relationships. Attention has, instead, largely focused on raising the level of accountability of partner countries, and duty-holders therein, to meet their obligations and empowering individuals to raise claims against them (see, e.g., MFA, 2012-a:13; SIDA, 2012:70). Finland’s development policy programme, for example, focuses on the mutual accountability relationship between the partner and the donor, highlighting the accountability of the partner governments to their own citizens (MFA, 2012-a:13).

As human rights enter into ‘programming’ through human rights-based approaches they become, however, increasingly relevant also in the relationship between the donors and the ‘beneficiaries’, not only at the policy level but equally at the project level, i.e., in the relationship between the ‘beneficiary’ and the ‘project management’. Such relationships should be participatory, accountable and based on equality. This is reflected in, for example, the development policy programme of Denmark, which explicitly recognizes that human rights accountability applies equally to Denmark as the donor in its relation to the individuals in partner countries, international human rights standards serving as the “compass that guides” the development efforts by Denmark, all the way from “political dialogue” to “concrete development interventions” (MFA Denmark, 2012:9 and 11).

Recommendation: Turning the lens in terms of human rights accountability from the partner countries also to Finland as a donor may contribute to an attitude shift conducive to a more structural integration of the HRBA within the MFA.

Empowerment

Empowerment can be said to underpin the basic idea behind the HRBAs, i.e., that people should know their human rights and be able to **claim and exercise** them effectively. This idea is at the heart of the Finnish HRBA, but it is not explicitly spelled out as 'empowerment' in the guidelines for implementation in the same way as, for example, in the Swedish and Danish development policies (MFA, 2013-c; Swedish Government Offices, 2010:11–13; MFA Denmark, 2013:10). However, in line with the development cooperation policies of, *inter alia*, Sweden, Norway and Denmark, Finnish development policy sets as its aim that "everyone, including the poorest people, know their rights and are able to act for them" (MFA, 2012-a:7; see also MFA Denmark, 2012:2; MFA Norway, 2013:4; and Swedish Government Offices, 2010:11–13). This is in line with the common understanding among UN agencies on human rights-based approaches: HRBAs should contribute to the capacities of 'rights-holders' to claim and realize their rights as well as to the development of the capacities of 'duty-bearers' to meet their obligations (Common Understanding, 2003).

Following this line of reasoning, human rights-based empowerment strategies should focus on eliminating the root-causes for non-realization of rights through, for example, education, increasing access to information, including the excluded to the sphere of decision-making, accountability of state-officials, and advocacy strategies that include campaigns and litigation. One example could be communicating the results of a context analysis to the people concerned, which may encourage the individuals to question **abuses of power** (SIDA, 2012:75). While vulnerability in needs-based approaches is seen as a symptom of poverty rather than as a structural issue and an underlying cause of poverty, in HRBAs a poor woman or man is not a passive receiver but one participating in decision-making and asserting rights. Whereas in needs-based approaches interventions rarely take account of power, when applying a HRBA, programme interventions acknowledge power and its unequal distribution (see Sano, 2010:7–8).

Specific attention ought to be paid to the rhetoric of development cooperation, avoiding language that can be seen as disempowering from the point of view of rights-holders, i.e., the individuals the development cooperation is meant to empower. Following from the human rights-based perspective to development based on the human rights obligations states have undertaken, it is suggested that using the traditional *donor state – beneficiary* terminology could be avoided. Such juxtaposition, while still commonly in use in the Finnish development policy documents (see, e.g., MFA, 2012-a; MFA, 2012-e), is deemed to reflect a conceptually **charity-based ideology of North-South relations**, which fits poorly into the idea of a cooperation- and obligations-based foundation of the HRBA. Reference to rights-holders, instead of beneficiaries, reflects more aptly the essence of the human rights-based ideology, shifting the focus from state-to-state relations to vertical obligations states owe to individuals by virtue of their legally binding undertakings under human rights treaties. In this report the term 'beneficiaries' is made use of in contexts where that is the terminology adopted in, or descriptive of, the context of the development policies or projects under review.

In a similar vein, it is suggested that the term ‘vulnerable groups’ or ‘marginalized groups’ may need to be rethought of to avoid an understanding that all individuals deemed to belong to such groups, i.e., ‘persons at the risk of inequality’, are, by default, vulnerable or marginalized. Taking into account the multifaceted capabilities individuals may possess, such language may not only be disempowering but also misleading in terms of priority and policy setting. Those who *appear* to have little power may still be able to resist, to subvert, and sometimes to transform the conditions of their lives (Kabeer, 1994:223). In this report the phrases ‘vulnerable persons/groups’ and ‘marginalized persons/groups’ are made use of in lieu of ‘persons at the risk of inequality’ where that is the terminology adopted in the literature, documents, projects or programmes reviewed or referred to.

Recommendation: Empowerment needs to be operationalized to fully reflect the aspects of elimination of uneven power structures and other root causes of vulnerability and marginalization. Attention is suggested to be paid to avoiding disempowering terminology when referring to rights-holders.

3.4. Gender and Disability

The enhancement of the status of women came to development discourses from feminist academic discourses as early as in the 1970s through the so-called Women in Development (WID) approach. It was realized that development projects affected women and men differently and/or had unintended negative consequences on women’s status (for the history of WID, see Kabeer, 1994). From the 1980s and especially from the 1990s onwards, the approach shifted from the focus on women to more profound analyses of gender relations and various forms of power between men and women within the so-called Gender and Development (GAD) approach (Momsen, 2004). This brought various analytical tools, most importantly **gender analysis**, to the practice of development projects with the aim of addressing inequalities.

In terms of international agreements concerning gender equality, the most important has been the adoption of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) by the UN General Assembly in 1979. Article 1 of the convention **defines discrimination of women** as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.” In order to decrease discrimination against women, states are expected to take measures for the incorporation of gender equality and the elimination of discrimination in national legislations, and for the enhancement of women’s equal access to, and equal opportunities in, political, economic and social spheres of life. It also touches upon sexual and reproductive rights and the eradication of gender-based violence. Together with the Plan of Action of the 1995 Beijing Fourth World Conference on Women, the CEDAW constitutes the main framework for enhancing gender equality among UN member states. Since the Beijing Conference, one of the key changes in the promotion of gender equality has been that the enhancement of the status of women is increasingly perceived as a question of human rights (Mattila et al., 2007:247).

Despite the adoption of various international human rights treaties that take equality as the starting-point, it has been argued that “the largest group of all routinely regarded as less human are women” (Drinkwater, 2009:145). Although major improvements have been achieved during the past few decades in women’s rights, education, health and labour force outcomes (The World Bank, 2012), gender inequalities are still persistent and vary considerably across countries, geographical regions, and different groups of people (see UNDP’s Gender Inequality Index). The World Development Report 2012 concluded that gender gaps tend to be widest among such groups of people that have lowest incomes (‘severely disadvantaged groups’) and among economically poorest countries. In terms of the Millennium Development Goals, the World Bank illustrates that only two countries out of 130 have achieved gender equality at all levels of education and only 16.2% of ministerial positions are held by women (for these and more examples, see <http://www.worldbank.org/mdgs/gender.html>). Although the promotion of gender equality has formed part of development discourses for decades, its implementation has proved challenging. Rhetoric and practice are often far apart; gender equality is still missing from a large number of development programmes and projects; gender equality is all too often identified solely as the concern of women, and political will for enhancing gender equality and the empowerment of women is still often lacking in both donor and recipient countries (Mattila et al., 2007:253).

When it comes to **disability**, inequality reduction is an extremely relevant objective. The realities for many persons with disabilities are devastating. For instance, globally only 5–15% of people who require assistive devices and technologies have access to them (WHO, 2012). The global literacy rate for persons with disabilities is as low as 3% and 1% for women with disabilities (UN, 2006). Persons with disabilities, particularly those in the global South, tend to be largely ignored both by their own governments and by international communities. Inequality reduction, therefore, is relevant both locally and globally for persons with disabilities, particularly for those in the global South.

The foregoing is acknowledged in the Preamble to the **United Nations Convention on the Rights of Persons with Disabilities** (CRPD), which sets forth “the fact that the majority of persons with disabilities live in conditions of poverty”, and recognizes the critical need to address the negative impact of poverty on persons with disabilities. While it has been hard to empirically establish in detail due to lack of large-scale and longitudinal data on persons with disabilities in the global South (Mitra et al., 2011), the vicious circle of **disabilities and poverty** is seen as “obvious” (Yeo, 2003; Benedict & Eide, 2011:5). Disability and poverty tend to have a mutual relationship of cause and effect (Yeo, 2003:572–573). The World Report on Disability states that 15% of the world population is persons with disabilities and that households with a member with a disability are more likely to experience material hardship (WHO and the World Bank, 2011:10). One in five of the world’s persons with disabilities are impaired through malnutrition (FENAPD, 2010). Existing quantitative studies show tendencies of persons with disabilities in the global South to become poorer than peers without a disability. For instance, 95% of Ethiopian persons with disabilities live in poverty (Ministry of Labour and Social Affairs in Ethiopia, 2010). As the definition of disabilities, as well as research methodologies, are not standardized, the results are, however, not comparable across countries (Mitra et al., 2011; WHO and the World Bank, 2011).

A **human rights-based approach to disabilities** incorporates the largely neglected part of the world population into the mainstream development and human rights discourse. Drafted in a participatory process, the CRPD was opened for signature on 30 March 2007 and entered into force on 3 May 2008. As a convention that finally paid attention to one of the most disadvantaged groups of people in the world, it “provides a comprehensive normative framework, as well as specific guidance, for mainstreaming disability” (UN Economic and Social Council, 2009:17). The CRPD has contributed to positive changes in many countries. It has accelerated the use of human rights-based approaches to disabilities and development both in policy and practice. From the global perspective, the convention differs from treaties on the rights of women and children in that it devotes a stand-alone provision on **International Cooperation** (Article 32). This article has various implications, particularly for the participation of persons with disabilities from the South, inclusiveness and accessibility. This could serve as a good basis for addressing the exclusion of children and persons with disabilities from global development initiatives. For instance, the Millennium Development Goals neither mention disability nor establish any indicator to reduce inequality for children and persons with disabilities. Consequently, the UN High-level Meeting on Disability and Development (HLMDD) and its outcome document (UN, 2013) called for urgent actions towards disability-inclusive development. Inequality reduction is, therefore, high on the post-2015 development agenda, and Finland supports its consideration as an important goal, among others for the post-2015 era.

Gender and disability in Finland's development cooperation

Finland has taken an important step in supporting equality by defining gender equality and inequality reduction, within which the inclusion of persons with disabilities is located, as **cross-cutting objectives** of Finland's development cooperation. Gender equality and inequality reduction are expected to be integrated into “all development policy and development cooperation through mainstreaming, targeted actions and policy dialogue as well as communication in bilateral, multilateral and EU cooperation” (MFA, 2012-a:23). Finland's Development Policy Programme of 2012 further states, “the integration of these cross-cutting objectives in all development cooperation activities is **a binding obligation, deviation from which must always be specifically justified**” (MFA, 2012-a:23).

Regarding **gender equality**, the policy programme provides:

The realisation of equality between women and men, as well as girls and boys effectively promotes the attainment of the other development goals. Gender equality is a human rights issue, but by strengthening the status of women, economic development and well-being are promoted as well. Finland advances and supports the participation of women in decision-making and rejects any form of discrimination that gives rise to gender inequality (sexual and domestic violence, as well as unequal rights of ownership and inheritance). Partner countries are encouraged to compile gender-disaggregated data so that the prevailing unequal gender system can be made visible. (MFA, 2012-a:24)

The mainstreaming of gender is a requisite in all development policy guidelines since the 1995 Beijing Fourth World Conference on Women. In 1999, the Development Assistance Committee (DAC) of the Organisation for Economic Cooperation and

Development (OECD) adopted a set of Guidelines for Gender Equality and Women's Empowerment in Development Cooperation to assist member states in fulfilling the commitments of the Beijing Declaration and Platform for Action. Currently, the EU is working with a Plan of Action on Gender Equality and Women's Empowerment in Development Cooperation (2010–2015) that aims at further soliciting gender mainstreaming practices. Changes in institutional working methods and shared responsibility for promoting gender equality are called for (European Commission, 2010-a:8).

The promotion of equality, democracy and human rights was one of the main goals of Finland's aid already in the 1996 Development Policy Guideline and in the 1998 Governmental Strategic Note. In the 2001 Governmental Strategic Note on Development Policy the visibility of gender equality was further strengthened. Through a participatory consultation process, the first gender strategy was launched in 2003, leading to gender mainstreaming becoming a part of the technical vocabulary of the MFA. Today, the significantly increased role of women as political leaders, heads of departments and units and within Foreign Service (KAVAKU) has made also the institutional setting more welcoming to questions of gender equality. Active lobbying by NGOs and other civil society actors has, additionally, contributed to keeping the issue of gender equality high on the agendas. To an extent, it can be said that gender equality and the advancement of the status of women is today at the core of discourses of many development actors in Finland. In comparison to the previous development policy period, many interviewees reported that the contemporary atmosphere and attitudes within the MFA towards gender equality and women's rights are increasingly positive.

Although gender equality and the advancement of the status of women form one of the most solid themes among the cross-cutting objectives of the Finnish development cooperation policy, various challenges remain. The recent Meta-Evaluation of Decentralised Evaluations in 2010 and 2011, for example, concluded that although gender equality is the most addressed cross-cutting objective in Finnish development cooperation, **the overall application of cross-cutting objectives has been unsystematic**. The problem with the technique of mainstreaming has been that when assumingly taken into account in all actions, it has often resulted, in the words of the former and the present gender advisors of the MFA, in "gender disappearing" or "gender invisibility". Currently, **a good range of technical guidelines for addressing gender equality is in place**. These include the guideline for cross-cutting objectives, the guidelines for targeted actions on gender equality and the checklist for programming on gender equality. However, their systematic use is impeded by difficult access and lack of information on their existence among the staff. Additionally, the use of these tools is not systematically monitored and no binding allocation of funds is required for their implementation. According to several informants interviewed for this study, the need for more systematic gender mainstreaming and targeted actions on women's empowerment resides in thematic areas such as forestry and energy.

<p>Recommendation: More systematic use of policy instruments and technical guidelines should be promoted across policy periods within Finnish foreign policy. To that end, existing policy instruments and guidelines need to be disseminated and made accessible to all relevant staff, and their use needs to be both encouraged and systematized.</p>

What comes to **inequality reduction** as an objective and as a cross-cutting theme of Finnish development cooperation, Finland's Development Policy Programme provides:

Economic and social inequality and exclusion prevent development worldwide. Development cooperation supports social policies that increase equal opportunities for social, economic, and political participation as well as access to basic services and a social protection floor. Good nutrition, health, education, decent work and basic social protection as well as the realisation of the basic labour rights have a key role. Particular attention will be paid to the rights and equal participation opportunities of people who are vulnerable, socially excluded and discriminated against. Efforts will be made to narrow the gaps between the formal and informal economies and between skilled and unskilled labour. (MFA, 2012-a:24)

This means, in practice, that individuals and groups at risk of inequality and discrimination are a priority target of Finnish development cooperation and that their rights are placed at the center of development efforts. However, as inequality reduction is not elaborated in more detail, the policy programme leaves broad discretion to defining the groups it refers to and may result in the exclusion of some groups at risk of inequality from the scope of inequality reduction measures. This has often been the case for persons with disabilities around the world, as indicated in the Outcome Document of the High-level Meeting on Disability and Development (UN, 2013).

The Finnish policy needs to be backed up by support documents to guide the implementation of the cross-cutting objectives, for example in the field of the rights of persons with disabilities, and also by concrete mechanisms to ensure the implementation of them. An example of such a document could be found in Australia. Australia's strategy Development for All: Towards a disability-inclusive Australian aid programme 2009–2014 (AusAID, 2008) was developed through a participatory process and is the most detailed of any donor (Lord et al., 2010). The strategy guides the effective integration of disability across the aid programme. It focuses on three outcomes: (1) improved quality of life for people with disability across all facets of social, economic, political participation; (2) fewer preventable impairments, initially focusing on avoidable blindness and road safety; and (3) effective leadership on disability and development (AusAID, 2008). In absence of sustainable and institutional mechanisms to ensure inequality reduction as a priority, the impact of this document, however, was watered down after the change of the government that dramatically cut down its budget on gender and disability in its development cooperation.

Recommendation: More systematic identification of the different groups at risk of inequality or exclusion in all policy instruments and their implementation guidelines is called for to ensure inclusiveness in operationalizing inequality reduction as a cross-cutting theme in the Finnish development cooperation. Specific disability guidelines could contribute to mainstreaming disability in projects and programmes that are non-disability-specific. To concretize the understanding of this important objective, a checklist on groups at risk of inequality or exclusion, including persons with disabilities, as well as on common attributes to inequality and exclusion, could be included under the general objective of 'inequality reduction'.

This will be of particular significance when Finland ratifies the CRPD, Article 32 of which requires development cooperation to be inclusive and accessible. It is noted that as a signatory to the said treaty, Finland is under an obligation, in the period between signature and ratification, to refrain from acts that would defeat the object and purpose of the treaty (see Article 18 of the Vienna Convention on the Law of Treaties 1969). Full account should, as well, be taken of the European Disability Strategy for the years 2010–2020 (European Commission, 2010-c) and of the recommendations of human rights treaty-monitoring bodies upon review of the periodical reports of Finland.

It is positive that inequality reduction, with particular attention to disability, is strongly promoted by Finland in collaboration with, for example, the OHCHR in the process of the post-2015 development agenda. Efforts have also been made to further analyse and understand the position of persons with disabilities in Finland's foreign policy and development cooperation. In August 2013, for example, a commissioned report on the rights of persons with disabilities in Finnish foreign policy was launched (Tuure, 2013).

a. Technical Expertise

The implementation of the HRBA in the Finnish development cooperation has been **seriously challenged by discontinuities both in policy discourses and in technical expertise**. It is noteworthy that during the past few policy periods, there has been a strong political guidance on the contents and practices of development policy. Most importantly, when Ministers change, some practices and policies change along with them. These major policy shifts in development priorities have resulted in serious discontinuities and are experienced as tiresome by public servants and advisors. This is well-known to the Ministry staff members. For instance, a change in sector priority under the Minister of the former government resulted in the termination of inclusive education projects in Zambia and Tanzania. This led to a cut-down in the number of education advisors placed currently only at the Embassies of Ethiopia, Nepal and Mozambique. The incorporation of the HRBA into some on-going long-term projects launched by the former Minister without proper HRBA perspectives has also proved challenging.

The challenges of changing practices due to influence of personalities and political agendas on development policies are signs of a weakness in terms of lack of continuity and coherence in the Finnish development cooperation.

Recommendation: Continuity in development policy discourses in terms of implementing the HRBA between different governing regimes needs to be ensured through the systematization and institutionalization of the approach.

In the same vein, **turn-over of** not only Ministers but also **staff members** affect the ways in which projects are implemented in practice. In the Ministry, many consider this lack of sustainability to be a major problem that weakens the sustainable impact of Finland's development cooperation work. In the Ministry's practice of staff rotation and extensive recruitment of short-term interns, knowledge and know-how on the HRBA is largely vested in short-term positions. The OECD peer review report on Finland identifies this as a problem within the Ministry: **knowledge is with individuals and is lost when they leave** (OECD/DAC, 2012:63). Moreover, it was observed that 'general

diplomats' who do not necessarily have relevant experience may take positions in the field of development cooperation.

In addition, **exclusively result-based approaches with particular focus on cost-effectiveness are rooted** in many staff members of the Ministry, as well as of many other donors, and there are still considerable gaps in the understanding of the practical implications of the HRBA within the Ministry staff. It is recommended that increased training be provided to the MFA staff on how results-based approaches and the HRBA can complement each other and on how the result-based approaches may be interpreted in light of the HRBA to achieve increased positive impacts in terms of, *inter alia*, reducing inequalities and of addressing the root causes of problems.

To alleviate the challenge of lack of capacity and to maintain institutional knowledge and memory at the Ministry, development guidelines and policy papers have been made available internally within the Ministry since January 2012, for example, through a management system known as AHAKYT or AHA. Reportedly, the system, however, is not utilized to put recent changes into practice. This applies also to the Development Policy Programme of 2012 and the guidelines on human rights-based approaches. Consequently, major inputs remain to be made by technical advisors and experts in an effort to fill the capacity and knowledge gaps, which, considering the limited resources they have at their disposal, is not likely to be conducive to the sustainability and institutionalization of the approach.

Recommendation: It is important to assure that staff working in development cooperation have solid knowledge not only of development policy and practice but also of the HRBA. The Heads of Units and Departments need to ensure that all officers dealing with development cooperation attend capacity building training on the HRBA.

Recommendation: New recruitment of staff needs to be based on knowledge and experiences in the operationalization of the HRBA. Finnish Junior Professional Officers (JPOs) and UN Volunteers who have gained experience in the HRBA within the UN system could be employed to strengthen the Ministry's staff capacity. All new Terms of Reference (TORs) should be screened through the HRBA lens and revised accordingly.

Recommendation: To avoid discontinuity, the HRBA needs to be institutionalized and systematized in policy planning and implementation. Clear mechanisms need to be put in place to ensure the application of the HRBA regardless of turnover of Ministers and staff members. More concretely, all project documents from project appraisal to final evaluation of projects should require analysis based on the HRBA so that capacity will be built through learning by doing.

Human resources are another factor that affects the operationalization of the HRBA. In the first place, the shift in policy discourse towards a HRBA has not been translated into the restructuring of technical expertise within the Ministry. The HRBA is included in the mandate of only three advisors at the MFA. The few advisors working on human rights issues have the capacity and resources to contribute only to proposals that are directly linked to their thematic areas of human rights or disadvantaged groups. This is not enough to mainstream the HRBA and inequality reduction as cross-cutting themes in Finland's development cooperation. In addition, externally recruited advisors posted at

the Embassies are not necessarily acquainted with cross-cutting issues and/or human rights.

The position of the gender advisor is challenging. In principle, the gender advisor should review all programming from the point of view of gender mainstreaming and according to the new cross-cutting priorities. Fulfilling this task meaningfully would, however, be very difficult, considering the volume and amount of programmes of Finnish aid.

Communication among advisors of different thematic areas is observed to be difficult and problems of capacity of advisors as well as other staff members contribute to perpetuating the status quo. In order to more systematically include inequality reduction as a cross-cutting issue in all Ministry-funded activities, **a group of cross-cutting themes** has been formed by a group of advisors related to cross-cutting issues, including gender and disability. The group has requested the quality control group to always have at least one member of the group of cross-cutting themes in their meetings. This promising initiative has not been approved yet.

On the positive side it is noted that Finland launched **the position of Gender and Equality Ambassador** in 2008. According to the former Ambassador, the idea was to increasingly brand Finland as a country that perceives gender equality as a top priority. Within the MFA, the Gender and Equality Ambassador leads an internal equality group (TASAKO). Mandated by the Finnish Act on Equality between Women and Men, the TASAKO has operated since 2000 launching internal equality plans. Similarly the MFA appointed a Human Rights Ambassador in 2013, who is expected to make changes by mainstreaming human rights within the MFA.

Inspiration for a corresponding structure in the field of disability could be looked for within UNICEF, which established in 2011 a Disability Unit as a disability focal point and appointed a Senior Disability Advisor at the headquarters with a task to mainstream disability across UNICEF programmes and policies. The Disability Unit is expected to have a role in including children with disabilities further into development practices within the organization. Another promising example could be the MFA of Norway, which has employed a person with disabilities to coordinate questions related to disability. The development cooperation agency of Germany (GIZ) also has eight employees specializing in mainstreaming disability.

<p>Recommendation: More time and resources are needed for building the capacity of the Ministry staff members to internalize the HRBA. It is recommended that human resources are strengthened and the capacity of the staff is built to implement human rights-based approaches throughout all activities in the Ministry and Embassies. Systematic consultation of the advisors on each disadvantaged group should be enhanced to support inequality reduction and to decrease the unintentional negative consequences of Finland's development cooperation in terms of perpetuating or sustaining inequalities. All advisors should be equipped with knowledge and skills on the HRBAD within their own thematic areas.</p>

Recommendation: Tailored trainings are recommended for consistent and comprehensive understanding and implementation of the HRBA in the Ministry and Embassies. Heads of Units and Departments have to ensure that their staff attend such trainings. Existing expertise among academics and NGOs both in Finland and in partner countries, particularly that of persons with disabilities, on inequality reduction and on the HRBA should be made use of by the Ministry, for example, in the context of the aforementioned trainings.

Recommendation: There is a clear need for either more recruitments of gender experts or systematic capacity building of other thematic experts and general diplomats in gender equality.

Intra- and cross-sectorial collaboration could be made considerably more use of to support inequality reduction within the MFA. In the Finnish Embassy in Ethiopia, for example, communication, and sharing of experiences and expertise, on the HRBA within a sector or between different sectors could be stronger. Informants, including former advisors, acknowledge this and call for increased intra- and cross-sectorial collaboration and sharing of information. For instance, expertise and experiences on disability in the education sector pertaining to physical accessibility could be shared with the water and sanitation sector as accessibility of water and sanitation could encourage children with disabilities to go to school. Similarly, the water and sanitation sector could benefit from the expertise of the education sector stakeholders, particularly those among NGOs with long experience in inclusion of groups at risk of inequality in terms of accessibility, adaptability and acceptability of the projects.

Recommendation: Intra-sectorial and cross-sectorial collaboration particularly between 'hard' and 'soft' sectors is needed for cross-cutting issues and inequality reduction to be institutionalized. Concrete cutting points will only be found through regular dialogue between and among different sectors. When expertise of cross-cutting objectives is not found in the Ministry, sufficient time and resources should be invested in consulting external experts such as NGOs.

b. Institutional Structure

The institutional structure of the MFA creates some challenges to the implementation of the HRBA. Thematic advisors, including those working with human rights, gender equality and disadvantaged groups, are institutionally located at the Department for Development Policy. However, the concrete execution of bilateral programmes and projects occurs through the so-called **Regional Departments**, namely the Department for Africa and the Middle East, and the Department for the Americas and Asia, which are in charge of a major part of development cooperation funding. Due to this institutional structure, the Heads of Regional Departments and regional advisors are left with the role of gatekeepers in mainstreaming the HRBA in their Departments and in keeping cross-cutting issues high on the agenda. Consequently, it is important that cross-cutting objectives and the HRBA are integrated into their work. A promising practice in this regard is found within the UK **Department for International Development (DFID)** that has integrated the enhancement of gender equality into the job objectives and yearly appraisals of its Senior Civil Service staff with corresponding salary incentives (OECD/DAC, 2010:32).

The HRBA remains yet to be mainstreamed in the work of Regional Departments, which lack a clear mandate to follow the development policy instructions and policy advice by the Department for Development Policy. Development policy instructions (for example, those concerning the HRBA) are often experienced as too theoretical at the Regional Departments. More concrete and practical guidelines concerning the HRBA are called for. Some informants within the MFA further consider that there is a lack of political will to implement development policy guidelines in terms of the HRBA and cross-cutting objectives.

Recommendation: Policy coherence in terms of the HRBA and cross-cutting issues within the Regional Departments needs to be increased. The HRBA needs to be taken seriously not only in development cooperation but in all foreign policies implemented by Finland. The HRBA criteria need to be taken into account in all phases of strategic decision-making.

Recommendation: The Heads of Departments and senior officials need to be motivated and trained in systematically operationalizing the HRBA. Targeted trainings on the HRBA need to be arranged for senior officials at the Regional Departments.

c. Funding Allocations

There has been a strategic political decision that the promotion of gender equality is one of Finland's priority areas. Since the last peer review of OECD/DAC, the **gender focus** of Finnish development programmes increased from 27% in 2007 to 54% in 2010 (OECD/DAC, 2012:52). In 2011, 55% of all Finnish bilateral programmes and projects had gender equality as their main (USD 23 million) or secondary development objective (USD 414 million) (OECD/DAC, 2013). In relation to our case study countries, 90% of programmes funded by Finnish official development aid (ODA) in Kenya and 85% in Ethiopia were reported to have gender equality as their main or secondary development objective (OECD/DAC, 2013). However, in 2012, the OECD/DAC gender equality policy marker percentage on the total Finnish ODA declined to 38% despite the fact that it was the exact year when gender equality became one of the three cross-cutting objectives (data provided by the Unit for General Development Policy and Planning KEO-10).² This shows that Finnish aid allocations to gender equality are sporadic and may vary considerably from one year to another. Additionally, it indicates **contradictions between increasing discursive emphasis on gender equality on the one hand and lack of concrete aid practices on the other**. The 2012 gender equality policy marker percentage indicates that **close to two-thirds of programmes and projects funded by Finland do not have gender equality as their main or secondary objective**. Additionally, although a considerable number of programmes and projects report to

² The DAC policy marker system has been set up to facilitate the monitoring and coordination of its member states activities in achieving DAC policy objectives. The gender equality policy marker has been set up to classify and monitor gender equality activities. The eligibility criteria for programmes or projects qualified within the gender marker include those that a) reduce social, economic and political power inequalities between women and men, girls and boys, ensure that women benefit equally with men from the activity, or compensate for past discrimination; and those that b) develop or strengthen gender equality or anti-discrimination policies, legislation or institutions (<http://www.oecd.org/investment/stats/37461060.pdf>).

have gender equality as their secondary objective and some as their main objective, it is not clear how well gender equality is addressed in concrete practices and how much budget is allocated in different phases of their project cycles.

In comparison, the percentage of the ODA that Finland allocates to gender equality is somewhat lower than that allocated by some other donor countries profiled as countries giving high priority to gender equality. Canada, for example, allocates 62%, Belgium 57%, and Denmark 56% of their ODA to gender equality. Measured absolutely, by the amount transferred, Germany is the biggest donor in gender equality. Measured both absolutely and relatively as the percentage of total ODA, Sweden is a major donor with 82% of its total ODA allocated to gender equality (OECD/DAC, 2013). To ensure sustainability and meaningful mainstreaming of gender equality policies Finland should consider raising its gender equality policy marker percentage.

In terms of multilateral aid and support to international organizations, Finland has supported such gender initiatives as the programme of the ICC Trust Fund entitled “Addressing Sexual and Other Forms of Gender-Based Violence — Rehabilitating and Supporting Victim Survivors”, the High Level Task Force to promote sexual and reproductive health and rights in the post-2015 development agenda, and the UN Women Arab States Division programme on women’s leadership and participation. In terms of funding for inequality reduction, it is significant that Finland has also increased its funding to UN Women. This is a strong sign of the importance that Finland attaches not only to gender issues but also to the role of the UN system. Aid allocations to UN Women have evolved in the following way: 2011 EUR 3 million; 2012 EUR 4 million; and 2013 EUR 12 million. Of the 2013 amount, EUR 5 million is specifically earmarked for achieving the Millennium Development Goal on gender equality. In 2014, Finland will become UN Women’s largest donor with the share of EUR 14 million (data provided by the Unit for General Development Policy and Planning KEO-10). Women’s participation in decision-making is promoted through the bilateral programmes in accordance with the Human Rights Strategy of the Ministry (MFA, 2013-a:14).

Recommendation: Efforts at mainstreaming gender equality should be exerted in all programmes and projects funded by Finland. Finland should strive for a steady rise of programmes and projects with gender equality as their main development objective.

Recommendation: Those programmes and projects that report to have gender equality as their main or secondary objective should further demonstrate concrete actions and budgetary allocations in different phases of the project cycle specifically directed at gender equality. Gender sensitive budgeting in all bilateral programmes is called for to ensure recruitment of gender advisors and/or the organization of trainings on gender equality.

In the current mechanisms of project and programme management at the Ministry, **budgeting for cross-cutting objectives** is quite limited. In the absence of **proper allocation of resources**, any meaningful mainstreaming of the crosscutting objectives is experienced as challenging by MFA staff members. It is also noted that, while the AHA system pays attention to gender relevance, cross-cutting objectives are not subject to compulsory analysis but are included as a voluntary tick-box that a civil servant may avoid if he or she so wishes.

As for **disability**, a number of initiatives have been financially (and also morally) supported by the Ministry, including the United Nations Special Rapporteur on Disability (as the single donor), the Secretariat of the Second African Decade of Persons with Disabilities, the Disability Diplomat, and a deaf rapper, Signmark, as a 'disability ambassador'. Finland is, moreover, starting a disability-focused multilateral programme with the African Union to mainstream disability in Africa. Finland also financially supports the Multi-Donor Trust Fund of the United Nations Partnership to Promote the Rights of Persons with Disabilities (UNPRPD) in the magnitude of EUR 2.5 million (Tuure, 2013). When it comes to NGOs, EUR 8 million go to disability-specific projects that include FIDIDA and Abilis Foundation. In total, about 1% of the Finnish development cooperation money is allocated to disability-specific projects and programmes. There is a similar trend in all the Nordic countries in terms of the overall ratio allocated to disability-specific activities. In a conference on Disability in Nordic Development Cooperation held in November 2000, Nordic countries proposed to increase their financial contribution by earmarking 1% of total development funds for disability specific projects and 1% of any project budget for inclusive measures (Nordic Conference on Disability and Development, 2001). This has not been realized as far as Finland is concerned. Finnish organizations of persons with disabilities (DPOs) argue that a considerably larger percentage of development cooperation funds should be used on disability-specific activities, considering that 15% of the global population are persons with disabilities. It is also noted that in a 2003 STAKES evaluation, efforts of mainstreaming disability in development cooperation were almost non-existent. To which extent disability is mainstreamed, is still not measurable as an indicator to that end is missing. In this regard, it is positive that a disability evaluation study is scheduled by the MFA next year.

Recommendation: The forthcoming evaluation on disability needs to focus not only on recording disability mainstreaming successes and failures but also on analysing the efforts taken over the last decade with respect to impact on inequality reduction from a human rights perspective.

Recommendation: Cross-cutting objectives should be mainstreamed more systematically. Inequality sensitive budgeting should be introduced and applied in all activities. More concretely, a minimum of 5% of all project budgets could be earmarked to inequality reduction. For on-going projects and programmes that cannot come up with additional budget any longer, change of budget line to include the target of inequality reduction is more realistic. Finland finds it wise to intervene in on-going projects and programmes as well as those which are still at the initial stage, to stop implementing activities that do harm to persons at risk of inequality.

Recommendation: The strategic allocation of the Local Cooperation Funds (LCF or PYM in Finnish) to organizations that work on human rights, gender equality and inequality reduction would be highly necessary in order to complement larger bilateral programmes on inequality reduction.

Recommendation: In granting Local Cooperation Funds, attention should be paid, in addition to the 'gender dimension', also to the 'inequality dimension' at large. LCF-related documents need to be reformulated to require analysis from a HRBA perspective, particularly in terms of inequality reduction. However, in reviewing the applications, due account needs to be paid to the fact that the HRBA literacy of the applicants may be limited.

Recommendation: Acknowledging the freezing of aid allocation used for new recruitments, it is still recommended that more resources be allocated to focal points on different groups at the risk of inequality, namely children, persons with disabilities, persons with HIV/AIDS, sexual minorities, ethnic, linguistic and religious minorities, and indigenous peoples, (currently under one advisor). Where possible, new focal points with sufficient resources are to be established with a view to ensuring that the rights of groups at the risk of inequality are mainstreamed in Finland's development cooperation. Those positions are to be occupied by the very people who have experiential knowledge of the issue concerned, such as a person with a disability as the disability focal point.

4. THE ETHIOPIAN CASE STUDY

The first case study is on the practice of development cooperation between Ethiopia and Finland in the education sector with a special focus on gender and disability. Ethiopia is a poor country located in the Horn of Africa region that has seen significant incidences of conflict, draught and other problems. Having emerged from a long period of strife, the country has made notable progress towards democratization and socio-economic development in the last two decades. The 1995 Constitution of the Federal Democratic Republic of Ethiopia established a relatively pluralistic political and administrative system and provides for a long list of human and democratic rights, including the rights of women and persons with disabilities. The practical implementation of the constitutional ideals is, however, wanting and critics observe that the political space for civil society has been increasingly narrowing down. The incumbent government has been widely criticized for its control of power since the advent of a comparatively democratic system. On the other hand, the government has been implementing phased development plans under which some achievements have been registered in the education, health, rural infrastructures and other sectors. The percentage of GDP the country invests in education and health has been on the rise and currently stood at about 5% for each. Despite some positive developments, especially with the economic growth in recent years, the demographic and socio-economic realities indicate that the country has a long way to go in terms of addressing its development challenges, which it recognizes as including wide-spread poverty, prevalence of deadly diseases, internal resource-driven ethnic conflicts (UN Human Rights Council, 2009-a:21).

Out of an estimated population of about 94 million, 64% are under the age of 25 years. While the urban population constitutes 17%, most people live in the rural areas with comparatively less access to services. Maternal mortality rate is about 350 deaths/100,000 live births, whereas infant mortality rate is about 58.28 deaths/1,000 live births. Only 39% of the population over the age of 15 can read and write. Out of the total population of the country, 44% have access to improved drinking water sources while

only 21% have access to improved sanitation facilities (see CIA, The World Fact Book: Ethiopia, 2014).

Women constitute half of the population of Ethiopia. Although the country has been exerting efforts to address the problem of gender disparity, especially at the legal and policy levels, there are enormous practical challenges to be overcome on the path towards gender equality (UN Human Rights Council, 2009-b:5). According to the World Report on Disability that was jointly issued by the World Bank and WHO, there are an estimated 15 million persons with disabilities in Ethiopia, which represent about 16% of the population as per the above statistical information (WHO and the World Bank, 2011). The key causes of disability in Ethiopia include: prenatal and postnatal care and treatment issues, communicable diseases and infections (e.g., HIV/AIDS, malaria and tuberculosis), harmful traditional practices (e.g., early marriage, marriage by abduction, female genital mutilation), accidents, and conflict (MoLSA, 2010). The magnitude of the problems faced by persons with disabilities dwarfs the actions that have been taken by the government as well as other actors in the country.

4.1. Inequality in the Education Sector

As indicated earlier, the Ethiopian case study focuses on the support of Finland to the education sector development. The choice of the critical perspectives of gender and disability is motivated by the fact that they relate to issues of fundamental importance in education especially in light of the incorporation of inequality reduction as a cross-cutting objective in the Development Policy Programme of Finland.

In the evaluation of education programmes from the perspective of a human rights-based approach that aims at reducing inequalities, the exclusion of children and adults should be a major focus area. The present study pays special attention to gender and disability because of the disparity in the extent to which both girls and children with disabilities benefit from international and national policies of universal primary education as compared to boys and children without a disability. This section provides a brief introduction to the challenges of the education sector in Ethiopia in terms of inequalities.

4.1.1. Inequality Behind the Statistics on School Enrolment

In Ethiopia, the system of education is divided into primary school, which is constituted of the two cycles of grades 1–4 and 5–8, secondary school that is composed of the cycles of grades 9–10 and grades 11–12 (preparatory), and the tertiary level university and college education. The rapid growth of population that the country has experienced in recent years has been accompanied by a significant increase in the enrolment of pupils — about 16 million in the primary level and about 1.7 million in secondary schools (Savolainen et al., 2006:53). Education is recognized as a strategic component of the country's development plan. Its importance to enable people make informed choices about their lives and to “**alleviate poverty**” has been underscored (Savolainen et al., 2006:53).

The government of Ethiopia (GoE) has been exerting efforts to meet the Millennium Development Goal of achieving universal primary education (UPE) for all by 2015. For

instance, Ethiopia's public spending on education is one of the highest among the countries in the global South. In 2010/11, Ethiopia spent 4.6% of GDP on education and in 2011/12 the allocation for education was 5.2% of GDP (World Bank, 2013:10). As a result, Net Enrolment Rate (NER) in primary education (grades 1–4) increased from 69.9% in 2004/05 to 98.2% in 2012/13 for boys and from 65.1% to 92.8% for girls (Education Statistics Annual Abstract, 2012/13). This achievement of increased enrolment has been overshadowed by issues with the quality of education and significant drop-out rates.

Firstly, drop-out rate for girls remains a serious concern even though the gap between the enrolment rates of boys and girls is narrowing. In 2004/05, the drop-out rate for girls was 13.6% while by 2008/09 the rate remained 13.2%, with little progress made towards the target of reducing the drop-out rate to 5.3% by 2008/09 (Education Statistics Annual Abstract, 2008/09, cited in Jennings, 2011:13). The drop-out rate increases among girls in higher grades.

Secondly, while gender parity is improving steadily in primary education, regional disparity remains wide, with the two most disadvantaged regions unlikely to achieve UPE by 2015. Trends to date suggest that net enrolment is behind in the Afar and Somali regions of Ethiopia (Ravishankar et al., 2010:11). Enrolment in Alternative Basic Education (ABE) increased to over 800,000 in less than three years (2003/04–2005/06) — contributing an additional 5–6% coverage to the Gross Enrolment Rate (GER) for primary education. However, this achievement is meagre considering that the number of pastoralist populations in seven regions of the country is 12–15 million and that most of them are not reached (Jennings, 2011:7–9).

Thirdly, the composition of public education spending is relatively top-heavy, with higher education absorbing 40% of the total during 2005/08. This share is estimated to have risen above 50% during 2008/10. In 2009, a school grants system, under which schools that enrol more number of pupils are rewarded, has been put in place. However, per-pupil spending in primary schools stood at only 271 Birr (USD 22) in 2008/09, of which around 85% was absorbed by teacher salaries (Ravishankar et al., 2010:1–2). As a result, for instance, many schools and ABEs still have only few or no latrines (Jennings, 2011:52) and this has a significant implication particularly for girls and children with disabilities. Moreover, many stakeholders claim that textbooks and teaching materials have been far from enough.

Fourthly, pupil-teacher ratio is 54 in primary schools (grades 1–8) and 41 in secondary schools (grades 9–12) (Ravishankar et al., 2010:4). This has an adverse effect on the teaching and learning process and hence on the quality of education. The situation is exacerbated by the fact that teachers have reportedly been required to pass almost all students to the next level with a view to increasing the enrolment rate of schools at all levels. The teaching profession is also said to have been attracting those with comparatively low qualification because of the poor incentives in employment (e.g., significantly low pay). This creates a vicious cycle whereby low-qualified teachers teach pupils under constraining environments and quality of education further deteriorates. The recent boom in tertiary education facilities that do not necessarily have the required human and material resources has further resulted in the increase in the number of graduates, which the job market could not accommodate. When educated people are unemployed, such “negative role models” (Jennings, 2011:34) demotivate parents from

sending children to school instead of putting them into other income generating activities. In many senses, all informants agree on the increasing importance of improving the quality of education.

Fifthly, and perhaps most importantly, education statistics concentrate only on those who are enrolled in schools and remain silent about those who are excluded from schools. However, when the number of pupils increases in a school, teachers could pay less attention to children with disabilities. This facilitates both drop-outs and exclusion. Even though there are affirmative action policies for female students and students with disabilities in both private and public universities, many cannot reach that level due also to the constraints of the learning environment.

4.1.2. Gender and Disability

Gender provides an indispensable perspective in understanding inequalities in Ethiopia. Ethiopia ranks 149th out of the 157 countries surveyed in the UN gender-related development index of 2008 (cited in MFA, 2013-b:7). Boys and men are more educated than girls and women at every level (Central Statistical Agency, 2006:34). Due to early marriages, marriage by abduction, and gendered roles in household chores, the drop-out rate for girls is much higher than that for boys. The distant location of preparatory (high) schools from many rural areas and the attendant long-distance walk means that many girls do not go to higher schools (Jennings, 2011:1). Moreover, an informant pointed out that the representation of many gendered traditional roles of men and women in textbooks reinforces the status quo in which women enjoy fewer opportunities outside of households.

Some of the effects of gender-based discrimination with severe consequences on women in Ethiopia are summarized as: less income, limited decision-making power in the household, serious health consequences of domestic violence, and prevalence of harmful traditional practices such as female genital mutilation, marriage by abduction and property dispossession (Wapling, 2010:237–250). For instance, one of the common reasons for not seeking health care for Ethiopian women was the concern that there may be no one to complete the household chores (Wapling, 2010:122). Gender discrimination is severer in rural areas because violence and other wrong-doings at the household level are not publicly observed and reported. Less than 30% of women in Ethiopia are literate and the literacy rate varies greatly by place of residence. Three-fourths of women residing in urban areas are literate compared to only a fifth of their rural counterparts (Wapling, 2010:35). Literacy rate for men is much higher — almost 60% (Wapling, 2010:36).

The needs of girls in the education sector are summarized as follows: on the demand side, they include scholarships and stipends, transport and boarding schools, advocacy and community engagement in girls' education, safety policies and training in codes of conduct; whereas on the supply side, they include non-formal education programmes, recruitment and training of female teachers/facilitators, gender training for teachers, mentoring, tutoring and peer support, life skills, literacy training, family planning for young mothers, and livelihoods and vocational training (Jennings, 2011:3).

In Ethiopia, **disability** is regarded as a “very sensitive” and “private issue” (Embassy of Finland in Ethiopia, 2013) and thus hidden at the household level. The erroneous understanding of disability and its association with moral wrongdoing forces parents to hide their children with disabilities at home, to be ashamed of them and to undermine the child’s potential to learn and lead an independent life (Teferra, 2006:58). No region systematically collects data on the number of children with disabilities who are out of school and those who are “hidden at home” (Wapling, 2010:15, 38). Disaggregated data on disabilities is largely missing. According to the 2009/10 annual abstract of the Ethiopian Ministry of Education (MoE), while the enrolment rate in primary education increased from 3.7 million in 1995/6 to over 15.5 million in 2008/9, one in five children are out of school. Only 2.8% of school-aged children with disabilities had access to primary education in 2008/9, while this increased to 3.2% in 2011/12. In 2006/7, the MoE started to collect data on children with disabilities in schools (MoE, 2012-a:8). In the MoE statistics, 55,492 children with disabilities (32,072 male and 23,420 female) were enrolled in primary schools in 2010/11 as compared to 33,300 (19,561 male and 13,739 female) in 2006/7. Similarly, those in the secondary schools were 5,297 (3,333 male and 1,964 female) in 2010/11 as compared to 3,482 (2,149 male and 1,333 female) in 2006/7 (MoE, 2012-a:8). However, informants from the MoE indicated that the NER of children with disabilities has slightly decreased in the latest statistics (from 47,000 to 43,000 in EMIS data).

Inclusive education is a relatively new development in Ethiopia (Wapling, 2010:13, 34). Many persons and children with disabilities have not been part of educational development programmes, and efforts at inclusion started only recently. The deep-rooted inequality of persons with disabilities cannot be swept away easily within a short period of time but the education sector development plan should exert a sustained effort at inclusion.

Available statistics on children with disabilities exhibit significant urban-rural gap. More children with disabilities are enrolled in urban primary schools (4.6%) than in rural ones (2.3%) (EMIS 2012 cited in MoE, 2013:17). On average, there are more boys than girls with disabilities in all grades reflecting the tendency for parents to keep more girls with disabilities at home (Jennings and Poppe, 2012 cited in MoE, 2013:17). Very few schools have tailored provision or classrooms for children with special needs and such regions as Afar, Dire Dawa, Gambella and Harari have none at all (Pfaffe et al., 2012 cited in MoE, 2013:17).

As indicated above, there is only patchy data on the number of students with disabilities and most of that data relates to attendance in special units or schools rather than in mainstream classes (Wapling, 2010:15). The existing statistical information is not only incomplete, it is also based on defective methods because it relies on the observation by teachers of objectively identifiable ‘traditional’ disabilities that are not supported by diagnosis, namely, physical, hearing and visual impairments. Most children with multiple, severe, psychosocial and mental disabilities are left out of both schools and statistics. In this connection, teachers themselves would want to see diagnostic centres attached to schools. The education of children with psychosocial and mental disabilities in Ethiopia started only in the late 1980s with the establishment of special classes in Kokebe Tsibeha Primary School in Addis Ababa (Teferra, 2006:59).

Today, the drawbacks of inclusive education in Ethiopia are identified in the latest Special Needs/Inclusive Education Strategy of the Government of Ethiopia as follows:

- *Lack of commitment on the part of implementers,*
- *Absence of screening and assessment tools,*
- *Limited capacity,*
- *Limited awareness,*
- *Limited budget and funding,*
- *Lack of data,*
- *Limited provision of educational services,*
- *Inaccessible facility and unsafe school environment,*
- *Insufficient teaching and learning materials, stationaries and assistive devices,*
- *Lack of interpreters for deaf learners, and*
- *Rigid curriculum (MoE, 2012-a:8–12).*

There are a few relevant implications for the present study that stem from the challenges of inclusive education in Ethiopia. Firstly, under the circumstance where most of children with disabilities are not in schools due to disabling environment both inside and outside schools, only CSOs and church groups provide services for and/or with persons and children with disabilities (Jennings, 2011:2; MoE, 2013:17) who are out of the mainstream education system. For instance, they run many of the special schools, while rehabilitation is also left mostly to CSOs. As many of them have longer experience in this sector than the governments of Ethiopia and Finland, they were included as important stakeholders for this particular case study. Secondly, the government of Ethiopia has reportedly been going in the direction of closing down special schools that had been run by CSOs. Simultaneously, an increasing number of children with disabilities are in schools without “reasonable accommodation” (see CRPD, Article 2). For instance, many blind teachers themselves do not have Braille literacy and cannot teach it, while students are not provided with Braille learning materials. This means that even those children with disabilities who are in schools are not receiving quality education. Informants claim that even with higher educational achievements on paper, the private sector would not employ persons with disabilities, whereas “the government employs them on a charity basis”. The education of children and adults with disabilities has, in short, been wanting in terms of empowerment.

According to some informants, the above-mentioned reality is due partly to the fact that there are only few disability leaders in the Ethiopian disability movement who could work towards making the education sector development disability-inclusive. Weak disability movement contributes to reinforcing the status quo in which children and persons with disabilities are discriminated and deprived of their human rights. The relevant policies of the government of Ethiopia strongly influence the role of both international and local CSOs in work on disabilities. These raise serious issues of participation of representative organizations.

When **gender and disability** are combined, Ethiopian girls and women with disabilities tend to experience multiple discrimination. The participation of girls/women with disabilities in education, employment and their community participation in general is lower than that of boys/men with disabilities. They also tend to be highly vulnerable to different kinds of abuse (Teferra, 2005:147–181 cited in Gebrehawariat, 2011).

The present case study attempted to understand the diverse realities of inequality, inclusion and exclusion in the education sector in Ethiopia from the perspectives of gender and disability as well as their intersections.

4.2. Finnish Development Cooperation in Ethiopia

Ethiopia is one of Finland's long-term development partner countries. **Development cooperation between Finland and Ethiopia** started in 1967. When it comes to cooperation in the education sector, the history goes back to 1989 (Collader, 2006:98) when support was given to a total of 19 Ethiopian teachers to receive their diploma in Special Needs Education (Venäläinen et al., 2010:8). Finnish support and technical assistance was given to the Addis Ababa University in the development of educational research. The Support to Special Education in Ethiopia Project contributed to the development of special needs education through the establishment of the Sebeta Special Education Teacher Training Centre, and capacity building and quality improvement at the federal MoE as well as in the Amhara and Benishangul Gumuz regions. One of the major Finnish inputs to the education sector development is the Teacher Development Programme (TDP), which started in 2003 and ran until mid-2009. While this was part of a sector programme that was financed together with a number of other donors, Finland has also provided bilateral support to a Special Needs Education (SNE) Programme since 2004 (Venäläinen et al., 2010:8). From mid-2009, the General Education Quality Improvement Programme (GEQIP), which is a multilateral programme to which Finland contributes, replaced TDP with the objective of improving the quality of general education through improving learning conditions in primary and secondary schools and strengthening of institutions at different levels of educational administration.

GEQIP I was comprised of the following five components: curriculum, textbooks and assessment; teacher development programme; school improvement programme (including school grants); management and administration programme; and programme coordination and monitoring and evaluation. It was funded by the World Bank, the Education for All Fast Track Initiative, Italy, Finland, Netherlands and the UK's Department for International Development (DFID). The total budget of the GEQIP I was USD 434.9 million and the Finnish contribution to this programme for the years 2009–2012 was EUR 19.9 million. The multilateral nature of GEQIP poses practical challenges in terms of negotiation and decision-making in favour of the priorities of Finland. For instance, SNE was not included in GEQIP I; thus the government of Finland continued its efforts at promoting inclusive education separately by implementing a bilateral project on special needs education (Venäläinen et al., 2010:8).

The government of Finland has strongly advocated for the inclusion of special needs education in the second phase of GEQIP, which was in the final phase of preparation at the time of writing of this report and is expected to be effective in 2014. The budget for GEQIP II is USD 550 million and the contributing donors include the World Bank, Global Partnership for Education, DFID, Finland, USAID and Italy. GEQIP II has the same objectives as its predecessor and has the same five components with the addition of information and communication technology as a new component. The design of this second phase of the programme included a social assessment that was carried out with a view to assessing the potential impact of the project on disadvantaged groups and on the emerging regions in Ethiopia, and to identify strategies for mitigating risk and

adverse impacts. GEQIP II includes gender and children with special educational needs as cross-cutting issues that should be considered throughout its implementation. A few specific measures have been included with respect to these groups, such as additional per capita school grants for disadvantaged students and children with special educational needs, printing of Braille textbooks and increasing female intake in teacher education institutions.

The present budget estimates for Finnish bilateral development cooperation with Ethiopia on education for the period between 2013 and 2016 in million euro are as follows (MFA, 2013-b:18):

	2013	2014	2015	2016
GEQIP II	4.3	4	5.5	6
SNE II	0.5	0.5	0.5	0.5
Total	15.7	13.8	13.8	13.8

On top of the aforementioned bilateral and multilateral programmes, the Finnish Embassy has also been directly funding civil society initiatives through the annual small grants programme of the Local Cooperation Fund (LCF) with an amount of EUR 350,000 in total in 2011 and EUR 500,000 in 2012. The funds are accessible to DPOs and NGOs. The Embassy regularly expects around 25% of its funding to go in support of disability focused activities (Wapling, 2010:44). Moreover, Finnish NGOs implement development cooperation projects and programmes mostly in collaboration with NGOs in Ethiopia. In 2012, the size of the Finnish NGO funding to Ethiopia was approximately EUR 2.9 million (MFA, 2013-b:9). There are also projects funded by the Abilis Foundation, which granted a total of EUR 68,212 to 14 new projects in 2012 alone (Abilis Foundation, 2012:12). Many interviewees claimed that Finland was the only donor in the field of inclusive education at the bilateral level as well as one of the few that support projects of disability NGOs (MFA, 2013-a:8–9). Finland is also internationally recognized as a pioneer in supporting persons with disabilities themselves to be agents of change in development cooperation activities (UN Human Rights Council, 2012), while other actors remain largely passive when it comes to promoting disability rights (Tuure, 2013).

4.3. Legal, Policy and Institutional Frameworks

Development cooperation with Ethiopia takes place within the legal, policy and institutional frameworks of the country. These factors may either facilitate or hamper the implementation of a HRBA that is enshrined in the Finnish development policy programme. This section reviews the legal, policy and institutional frameworks relating to gender and disability in the education sector in Ethiopia.

4.3.1. Legal Framework

The rights of women, more specifically gender equality in political, economic, social and cultural lives, are quite well protected in the Ethiopian constitution (Article 35) and in ordinary legislation of the country, including in the areas of land use and ownership, family law, criminal law and labour law.

The rights of persons with disabilities do not receive comparable protection as the constitution provides only for the obligation of the state to allocate resources for the rehabilitation of and assistance to persons with disabilities, and does not make it an explicit ground of prohibition of discrimination (Articles 25 and 41). There is specific legislation providing for equality of opportunities for persons with disabilities in employment and access to higher education institutions (Proclamation nos. 568/2008 and 836/2009).

In relation to education, the constitution entitles every Ethiopian to equal access to publicly funded social services and imposes an obligation to allocate ever-increasing resources to education (Article 41). In addition to providing for a self-standing right to development (Article 43), the constitution puts forth an obligation of the government to formulate development policies and programmes, including in health, education, clean water, housing, food and social security, in a way that ensures the equal participation and benefits of all Ethiopians (Articles 89 and 90). The Ethiopian constitution in short mandates a human rights-based approach to development.

Ethiopia has ratified the major international human rights treaties protecting the rights of women and persons with disabilities as well as the right to education and the right to development, including the International Covenant on Economic, Social and Cultural Right; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Rights of the Child; the Convention on the Rights of Persons with Disabilities; and the African Charter on Human and Peoples' Rights. The constitution makes these ratified treaties an integral part of the laws of the country and designates them as bases of interpretive guidance for the rights it enshrined (Articles 9 and 13).

4.3.2. Policy Framework

Ethiopia has a National Policy of Women (1993), which provides for specific objectives on gender equality and for the establishment of structures of gender affairs in all public institutions. Gender equality is further emphasized in a range of sector policies, including in the education and training policy of 1994 and the social welfare policy of 1997. It is also a cross-cutting issue in the country's current development plan, the Growth and Transformational Plan (GTP) (2010/11–2014/15), and women empowerment forms one of the seven pillars of the GTP.

While there is no one comprehensive national policy on disability, the Developmental Social Welfare Policy of 1997 and the National Plan of Action of Persons with Disabilities of 1999 (revised in 2012) serve as the main policy framework on disability in Ethiopia. Some of the sectorial policies and strategies, such as the one on education, recognize the special needs of persons with disabilities. A social protection strategy with persons with disabilities as one of its target groups was underway at the time of writing of the report.

The GTP makes the protection of the rights of persons with disabilities and facilitation of conditions that enable them to contribute to the political, economic and social activities of the country a main emphasis of social welfare.

Ethiopia is implementing a fourth phase of the Education Sector Development Program (2010/2011 – 2014/2015), which, among others, aims to address the problems relating to the educational opportunities of girl children as well as children with special needs by setting the expected outcomes in terms of enrolment, teacher training, school facilities etc. The policy environment for special needs education is defined in two documents: the education and training policy (1994) and the Special Needs Education Program Strategy “Emphasizing Inclusive Education to Meet the UPE and EFA Goals” (2006) (Venäläinen et al., 2010:5), which was revised in 2012. Incidentally, Finland has supported the development of the strategy of 2006 as well as the revised one of 2012. The revised Special Needs/Inclusive Education Strategy has the overall objective of building an inclusive education system which will provide quality, relevant and equitable education and training to all children, youth and adults with special education needs and ultimately enable them to fully participate in the socio-economic development of the country. It states education as a fundamental human right and an indispensable instrument for attaining sustainable socio-economic development.

4.3.3. Institutional Framework

While there were women’s affairs structures in public institutions earlier, in 2005, Ethiopia established a Ministry on Women’s Affairs, which became the Ministry of Women, Children and Youth Affairs (MWCYA) in 2010. There are now Women’s Affairs departments in line ministries and regional and sub-regional structures. The legislature also has a standing committee on women, children and youth affairs and a women parliamentarian caucus. The MWCYA has been developing strategies and tools for mainstreaming, mobilization and monitoring in relation to gender equality. A Government-NGO Forum on women and youth was established in 2012 and it reportedly plays an important role in information sharing between the government and NGOs on relevant issues.

In contrast, there is no independent institution that is fully dedicated to work on disability in Ethiopia. Disability forms part of the mandate and duties of the Ministry of Labour and Social Affairs (MoLSA), whose Social Welfare Development Promotion Directorate works on the creation of enabling conditions for persons with disabilities to benefit from equal opportunities and full participation. It is further included as one of the issues in the work of regional and sub-regional structures on labour and social affairs. The MoLSA runs ten or so rehabilitation centres in the country which mainly work on material provision with the support of the International Committee of the Red Cross (ICRC). The public institutional set up was observably weak in terms of rehabilitation services and social inclusion. Much of the latter types of work have been done by NGOs.

The law that defines the powers and duties of the executive organs of the federal government lays down a good ground for mainstreaming gender and disability issues in the work of each Ministry as it requires them to “address women and youth affairs in the preparation of policies, laws and development programs and projects” and to “create,

within its powers, conditions whereby persons with disabilities benefit from equal opportunities and full participation” (Proclamation no. 691/2010, Article 10). While the existence of directorates on women’s affairs in the sector ministries facilitates the possibilities of addressing gender issues in various sectors, disability does not stand a similar chance as such dedicated structures do not exist in the line ministries. In this regard, the argument of NGOs for the assignment of disability focal persons in such ministries as the ones on health and education sounds legitimate.

Furthermore, Ethiopia has other institutions that are important for the creation of an enabling environment for a HRBA through the promotion and protection of human rights and good governance. Such institutions include the Ethiopian Human Rights Commission, the Ethiopian Institute of the Ombudsman, the Federal Ethics and Anti-Corruption Commission, the National Electoral Board of Ethiopia and the federal and regional parliaments.

While NGOs have been playing important roles in advocacy, public education, victim support and monitoring in various issues of human rights in the country, a 2009 proclamation on charities and societies in Ethiopia (hereinafter referred to as CSO law) introduced restrictions on the relevant work of NGOs. It classifies CSOs based mainly on the law under which they are formed, the nationality of their members and the source of their funds and reserves work on human and democratic rights, gender equality, rights of children and persons with disabilities, conflict resolution, and support to the judiciary only to Ethiopian NGOs. The latter are those which are formed under Ethiopian law with full membership and control of Ethiopians and do not use more than 10% of funds received from foreign sources (Proclamation no. 621/2009, Articles 2 and 14). Other NGOs can only do development and service delivery work. The limitations of the law in relation to sources of funding and areas of operation and the difficulty of raising funds locally adversely affected the role of NGOs as implementers of a HRBA in the development cooperation with Ethiopia. The LCF of the Finnish Embassy, which used to allocate 65% of the funds to human rights, including women’s rights, disability rights and child rights projects, could not provide funding for such projects. The law adversely affected the work of NGOs that have earlier helped the government of Ethiopia to make significant strides in some areas, such as the protection of women’s rights. Those NGOs which use foreign funding for their activities relating to human rights have had to adopt ‘innovative’ methods that avoid human rights terminologies in their project documents. The illegality of ‘organizational advocacy’ by those NGOs receiving more than 10% of their budget from abroad also led to the emergence of ‘individual advocacy’ under which disability rights activists continue their awareness raising and advocacy works in a personal capacity rather than as representatives of an NGO.

4.3.4. The Legal, Policy and Institutional Frameworks and Development Cooperation

The legal, policy and institutional frameworks should be taken into account in considering the issues of gender and disability in the education sector development cooperation between Ethiopia and Finland. They serve as bases for the identification of the specific areas of intervention and the institutions with which programmes could be designed and implemented. The GoE wants donor support to be aligned with the priorities, goals and targets it has set in its general and sectorial development plans and prefers direct budget support over project-based support. Development cooperation

agreements are negotiated and signed with the Ministry of Finance and Economic Development (MoFED) with the involvement of an implementing sector ministry (e.g., the Ministry of Education).

Where there are gaps in the legal, policy and institutional frameworks, it is the primary responsibility of the government of Ethiopia to address them, but development partners may have supportive roles. For example, DPOs argue for the adoption of a comprehensive national policy on disability that covers all social, economic, political and cultural aspects of life; for the establishment of an independent institution dedicated to disability with more comprehensive duties and responsibilities (than the MoLSA has at present) and the required financial and human resources; and for the proper inclusion of strategies that empower persons with disabilities in sectorial policies. Some stakeholders further recommend that Finland pushes for the amendment of the CSO law and/or for trilateral arrangements or exemptions that allow NGOs to be involved in the implementation of a HRBA in development cooperation agreements. Negotiations on development cooperation in specific sectors (e.g., education) may provide opportunities to target some disadvantaged group of people and to make suggestions relating to policy (re)orientation, especially in terms of goals, approaches (e.g., more focus on empowerment), targets and indicators. They may not, however, serve as platforms of legal and institutional reform. Other diplomatic avenues created by 'political dialogue' may be used to urge the partner government to create favourable environment for the implementation of a HRBA in development cooperation, including through necessary legal and policy reforms and the establishment of institutions. Finnish Ambassadors, Ministers and other officials have brought up such issues as the need to reform the CSO law in their bilateral and multilateral dialogue with the representatives of the GoE.

Recommendation: Finland may continue to use available political dialogue options for the institutionalization of and policy support to all aspects of disability issues in Ethiopia, and for the participation of NGOs, particularly representative organisations of disadvantaged groups, as one of the implementers of a HRBA in its development cooperation with Ethiopia.

Promising practice: Finland has taken the legal, policy and institutional frameworks in Ethiopia into account in its development cooperation and has adjusted its support and activities accordingly. Finland has not used human rights conditionalities in its development cooperation with Ethiopia. It pursues an approach of supporting areas where it thinks its aid makes a difference within the existing frameworks while also taking available opportunities to make its position clear on issues that need to be addressed, e.g., in relation to the CSO law. Its engagement with the GoE exhibits an understanding of the context as well as a degree of flexibility for the sake of a bigger cause. Finland is regarded as a trusted and very important development partner regardless of the size of its aid to Ethiopia.

Despite the fact that the legal, policy and institutional frameworks relating to gender and disability in education in Ethiopia are more or less good, all stakeholders including the government itself agree on the existence of problems of implementation. This means that while **there are foundations for a HRBA, its operationalization is challenging.** For instance, many girl children and even more children with disabilities are out of schools, especially in remote and pastoralist areas, they experience relatively high rates

of repetition and drop out, and there is a low level of delivery of special needs and inclusive education. Among the reasons provided are: shortage of funding to enhance accessibility and inclusiveness of education, traditional practices and attitudes towards the education of girls and children with disabilities, the shortage of professionals/teachers trained in gender and disability sensitive pedagogy, the non-favourability of school environments for girl students and students with disabilities, and the paucity of appropriate structures and expertise, especially on disability in the regions and sub-regions (MoE, 2012-a). “More funding” and “continuation of support” have been standard recommendations from many stakeholders, but Finland alone as a development partner cannot obviously help address all these problems. However, its contributions through SNE (teachers training and establishing resource centres) and GEQIP (to the development and distribution of textbooks in context-sensitive manners and the creation of conducive school environments through material and educational support) are widely recognized. The programmes have contributed to institutional capacity building, especially at federal, regional and school levels, whereas relatively limited progress is observed at sub-regional levels (the *Woredas*) (MoE, 2013). Informants suggest that this could be strengthened even more with support to awareness raising and experience sharing interventions that the Ethiopian government has been asking for.

<p>Recommendation: Finland would find it wise to support identified needs of Ethiopian partners, such as awareness raising and sharing of experiences in special needs education.</p>
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Solving implementation gaps further requires intra-sectorial and cross-sectorial coherence and cooperation. Collaboration within a specific sector not only among the federal, regional and sub-regional levels, but also with school communities and the general public is important for the effective implementation of programmes. The execution of the component of communication among these different levels in the second phase of GEQIP can be used as a channel of creating and maintaining coherence and efficiency in implementation. As regards collaboration across sectors, although there is legal framework for mainstreaming gender and disability in all the executive organs, gender is far better integrated in the federal, regional and sub-regional structures of the various sectors, whereas disability is left to the labour and social affairs structures with much less number of dedicated staff. While the GoE needs to strengthen the institutional structures on disability, the relevant officials at the MoLSA plead for more donor support to the existing structures (including material support to their rehabilitation centres) and suggest the creation of donors’ forum on disability. In addition, development cooperation could ensure stronger cross-sectorial collaboration in the commitment to as well as implementation of programmes. For example, the cooperation of the MoLSA with the MoE in the SNE programme could have been institutionally strengthened if the former, as the public institution with the mandate on disability, was engaged from the beginning as a relevant stakeholder with clear commitments.

In summary, while implementation in relation to gender shows that institutions are not enough despite the success in the integration of gender affairs in the various sectorial institutions and the development of necessary tools for mainstreaming, mobilization and monitoring, that of disability programmes shows that a more dedicated and

specialized institution with the necessary human and financial resources is important to at least ensure representation in relevant processes and lay down the operational framework for practical actions. In addition to including capacity building components in the programmes it supports, Finland can help ensure the representation of relevant stakeholders (state institutions as well as affected people and their organizations) in the same or related sectors in all the stage from situation analysis to monitoring and evaluation.

Recommendation: In its development cooperation with Ethiopia, Finland should promote intra-sectorial and cross-sectorial coherence and cooperation within and among the institutions that work in the areas it supports. It may further push for the creation of a forum for relevant stakeholders in the sectors to exchange information, share lessons learned and strive for coordination among stakeholders on more formal, rather than *ad hoc*, basis particularly in relation to knowledge and skills on inequality reduction.

Recommendation: Finland may make use of the government-donors forum on education in Ethiopia, which it used to co-chair, to promote GO-NGO meetings for experience sharing.

Recommendation: The official report and shadow report, if any, to the Committee of the CRPD are useful in understanding the local context regarding disability rights. Finland could take advantage of the information compiled in the country report to the Committee.

Promising practice: In Finland, relevant MFA staff and Finnish DPO representatives meet regularly under the name of disability coordination group to share information and strategize their activities. In the Nordic countries, Nordic disability meetings regularly take place between Nordic government officials and umbrella DPOs. Similar meetings could be organized in the Finnish development partner countries.

4.4. Understanding of Human Rights-Based Approaches

As indicated earlier, there are differing views and levels of understanding about human rights-based approaches even among those who have been promoting the approach for long. In the context of Finnish development cooperation, the reality of understanding often remains at an abstract and superficial level considering the HRBA as something positive without concrete know-how on operationalizing the approach. In Ethiopia, the understanding of the HRBA is significantly affected by the CSO law that prohibits human rights activities for NGOs receiving more than 10% of their funding from foreign sources. NGOs in Ethiopia express their understanding of the HRBA in a more sophisticated manner with a view to keeping their related activities within the zone of legality. This section scrutinizes the extent to which Finnish and Ethiopian stakeholders understand the HRBA in its three dimensions of human rights as goals, the identification of duty-bearers and rights-holders, and human rights principles as guides of development processes.

4.4.1. Human Rights as Goals of Development

In Finland, many of the ‘general diplomats’ in the MFA understand human rights as the goals of development, but they tend to focus more on civil and political rights, even though present development cooperation covers economic, social and cultural rights. Similar views have been observed among some Ethiopian government officials. The denomination of human rights as goals is often cited as a human rights-based approach. If the understanding of a HRBA is based only on the designation of human rights as goals, that could justify diverse ways of achieving those goals. For instance, GEQIP I did not include a reasonable accommodation aspect and thus substantive equality of children with disabilities. Hence, adopting the right to education as an overarching goal is not by itself enough.

It may generally be said that there is appropriate legal basis for the GoE to consider human rights as development objectives. Not only does the Constitution of Ethiopia protect economic, social and cultural rights and require the government to adopt inclusive socio-economic development objectives, it also provides for a right to participatory sustainable development that aims to enhance the capacity of citizens and to meet their needs (Articles 41, 43, 89, 90). Participation, accountability and other principles of human rights and good governance have also been among the pillars of the national development plans of the country, including the present GTP. Such social development issues as education are considered to be fundamental rights in sectorial development plans and strategies. Institutions such as the Ethiopian Human Rights Commission consider themselves to be contributing to a HRBA to development by working on capacity building, accountability, human rights and good governance to ensure that constitutional guarantees are implemented. Interviewed government officials generally understand that human rights are part of the country’s development objectives.

However, the GoE has a different view when it comes to the work of CSOs in a HRBA to development. In assigning the work on human rights and governance issues only to Ethiopian NGOs that will have to raise 90% of their funding locally and in allowing other NGOs to engage only in poverty reduction and other development and relief interventions, the CSO law of the country in a way attempts to artificially divorce human rights and development insofar as the work of NGOs is concerned. It exhibits a strange belief that human rights cannot be articulated as clear goals of NGOs that do development work.

Recommendation: Finland should promote an understanding of a HRBA that articulates human rights as goals of development beginning from human rights situation analysis. For instance, LCF annual meetings organized by the Embassy of Finland in Ethiopia, which bring together grantees and other stakeholders including the government agency implementing the CSO law, could take up such issues.

4.4.2. Rights-holders and Duty-bearers

In addition to taking human rights as goals, stakeholder analysis is an indispensable part of a HRBA. Rights-holders and duty-bearers as well as their capacities and related gaps

need to be identified to plan for activities to reduce inequality or meet human rights goals.

Rights-holders include women, girl children, children with disabilities and other persons with disabilities. A HRBA should aim to develop their capacity so as to enable them to demand their rights from duty-bearers. Several Finnish and Ethiopian stakeholders expressed the view that their activities apply a HRBA because they target children with disabilities. However, including children with disabilities only as final beneficiaries is not equivalent to a HRBA although that would help them enjoy some aspects of their rights. Recognizing women and persons with disabilities as rights-holders requires that they be involved in decision-making from the planning to the evaluation of programmes and projects concerning them.

Recommendation: Finnish development cooperation should be based on an understanding that its target population are rights-holders with a right to self-determination in matters that affect their lives rather than mere final beneficiaries. Even the most disadvantaged groups of people including children with disabilities should be recognized as rights-holders and be treated accordingly.

When it comes to **duty-bearers**, the primary duty-bearers in a HRBA are governments. The GoE is the primary duty-bearer with respect to the right to education as well as the rights of women and persons with disabilities, but it is not the sole duty-bearer as other stakeholders also have roles and responsibilities. This is why a typical view of one Ethiopian government official, that “Education is a duty of the government. NGOs mix up and take the role of the government”, would be wrong. More so because the government faces multiple challenges in realizing the rights of girls and children with disabilities in education, for example, in identifying children with disabilities to be enrolled into schools considering families keep them at home due to stigma.

Finland may also be considered a duty-bearer for realizing the right to education of girls and children with disabilities in Ethiopia. Many Finnish interviewees consider Finland a duty-bearer with respect to the realization of the right to education of children with disabilities, for instance. Finland is one of the few countries that financially supports and maintains disability rights high on its agenda in international relations. As such, it carries out special responsibilities, which should not be considered its particular duties. It should not have unintended consequences, such as the tendency of some government officials of Ethiopia to think that inclusive education issues are taken care of by Finland, and that their resources could be used for other purposes. Profiled as a disability-sensitive country, Finland is expected to play a big part in mainstreaming disability rights both locally and globally.

Like-minded Nordic governmental as well as non-governmental stakeholders regularly hold Nordic disability meetings to share lessons learned and to coordinate efforts in collective strategy making, lobbying, development cooperation in partner countries in the global South etc. This can be used as a platform for donor coordination, around which little has been done in practice as yet. Finland may make use of such fora in creating and maintaining strategic coordination with donors that are involved in the areas and countries it supports.

When the capacity analysis of any duty-bearer shows gaps, such gaps have to be filled systematically. Collaboration among relevant duty-bearers and the ‘creation of critical mass’ are important strategies to close capacity gaps and maximize impact in terms of sustainable positive changes of inequality reduction. Many stakeholders agree on the importance of both bilateral and multilateral political dialogues in this regard. Many interviewees were of the opinion that persons with disabilities could make a big difference by becoming role models to challenge stigma both in schools and in development projects. Both in Finland and in Ethiopia, organizations of persons with disabilities have a long history and have made “significant impact on the lives of children with disabilities and their families” (Teferra, 2006:63). However, from interviews with NGO representatives, their coverage is limited mostly to the Addis Ababa areas and their scopes of activities are relatively narrow. The aforementioned collaborative engagement among various duty-bearers is an important way of maximizing geographical as well as operational coverage.

Recommendation: Collaboration among duty-bearers including both governmental and non-governmental actors is recommended for building the capacity of both rights-holders and duty-bearers. Stakeholder analysis and capacity gap analysis are important for this purpose. Programmes and projects funded by Finland should incorporate such analyses.

FIDIDA already incorporated capacity analyses-related questions in its project application form meant for its member DPOs, while the Ministry is hesitant and “might start with a pilot at some stage”. The feasibility and usability of the form of FIDIDA are not yet clear only with one round of application. However, learning through trial and error could be an important approach.

There is a further need for collaboration and coordination among Finnish actors and projects. In addition to its development cooperation in the education sector, Finland also supports a number of bilateral development cooperation **projects on water and sanitation**. Among these is a community-based project called COWASH which also has disaggregated data on its target population. The level of collaboration between the education sector support and the COWASH project was observed to be weak in terms of sharing relevant experience and expertise. The original document of COWASH did not provide for the inclusion of persons with disabilities. However, upon the recommendation of a short-term consultant in 2013, an agreement has been reached and financing agreement signed for the employment of a cross-cutting advisor. This is noted as a promising development that may facilitate fruitful collaboration.

The general trend is that disability rights are taken seriously only in disability-specific projects and not in other mainstream projects (STAKES, 2003). A number of the Ministry and NGO informants argue that this is true still today. The same people claim that expertise on cross-cutting objectives, especially on disability, are largely missing among the Ministry staff members and externally recruited advisors and consultants. The tendency to exclude persons with disabilities is observed also in the LCF projects that focus on other disadvantaged groups. According to the Finnish Embassy staff, their calls on LCF grantees to exchange information and experiences among themselves have contributed to mainstreaming disability into other projects.

Recommendation: Finland would find it wise to promote collaboration and synergy among the various sectors and projects it supports with a view to reducing inequality. More systematic emphasis should be placed on inequality reduction and expertise on disadvantaged groups of people and children in each context. All kinds of meetings which Finland participates in or organizes, including the annual LCF grantees meeting, disability coordination meeting, meetings with other donors and relevant internal meetings, could assess the extent to which development cooperation activities pay attention to more disadvantaged groups among rights-holders and promote the exchange of relevant knowledge and skills.

Some LCF-grantee NGOs see themselves as duty-bearers towards the rights-holders of their projects and state that they work to enable the latter claim their rights. A couple of them portrayed an interesting approach of leading the government by example by undertaking activities in neglected areas (e.g., autism and mental health) and convincing it to start or expand work on such issues. Finland's dialogue with the GoE could be used as an opportunity to highlight such contributions and encourage the latter to do more in carrying out its duties and to gradually take full responsibility.

Finally, the CSO law of Ethiopia has significantly restricted the role of NGOs as actors in a HRBA to development (Yeshanew, 2012). While human rights can be made part of the objectives of Finland's development cooperation with the GoE directly, there are serious limitations against engaging NGOs in the implementation of a HRBA in its development cooperation with Ethiopia. Some NGO projects that are financed by foreign funding work in prohibited but tolerated areas, such as disability and environmental rights, while others work with approaches akin to a HRBA, such as economic empowerment of women and establishing self-help groups to claim their rights, without couching their work in human rights language. There have been a few informal exceptions made. Some NGOs were given permission to work on human rights of certain groups even when receiving more than 10% of their budget from abroad. Similarly, an exemption was allowed with respect to the division of budget into 70% for activities and 30% for administrative cost for organizations of persons with HIV/AIDS and persons with disabilities so that salaries of persons with HIV/AIDS and disabilities count as activity cost instead of administrative cost after rigorous advocacy by these NGOs.

Recommendation: While using political dialogue avenues to advocate for a better regulatory framework for NGOs and pushing for tripartite arrangements for the implementation of a HRBA in development cooperation, Finland would find it wise to work with NGOs that implement human rights and governance-related principles in development work without necessarily using the human rights language.

Recommendation: Support to the projects of representative organizations of disadvantaged groups, such as DPOs, could be strategically increased, while mainstream NGOs should benefit from expertise of such organizations in their activities for reducing inequalities.

Promising practice: The MFA selected FCG consulting partnering with FIDIDA to provide technical support for the bilateral cooperation of the SNE II in Ethiopia. FIDIDA advised the project implementation team to include an Ethiopian DPO representative in the project management team. The DPO representation throughout the project is

expected to help in the proper articulation of priorities of children and persons with disabilities.

Promising practice: Finland has incorporated a component of Disability Diplomacy to its development cooperation. The Disability Diplomacy administrated by Abilis Foundation has been training Finnish persons with disabilities on development cooperation. The trained persons with disabilities are expected to contribute by sharing their expertise on disability, development and human rights with other NGOs and the Ministry.

4.4.3. Human Rights Principles as Guides of Development Processes

Under human rights-based programming, human rights standards determine the development *outcomes* while human rights principles define the conditions for an acceptable development *process* (Jonsson, 2005:52). This means that “the end does not justify the means”. The UN Common Understanding on HRBA makes clear that human rights-based programmes should **monitor and evaluate both outcomes and processes** guided by human rights standards and principles. It is also important that assessment and analysis is directed towards identifying a pattern of rights and obligations. These elements are said to be necessary, specific, and unique to a human rights-based approach (Common Understanding, 2003). Assessing development cooperation in terms of results only may lead to ignoring the process that has led to these results, which is as important as goals in the realization of human rights (Development Policy Committee, 2013:13). Undue emphasis on results or failing to pay attention to the process may, for example, lead to satisfaction with the inclusion of children with disabilities into mainstream schools. In Ethiopia, with some exceptions especially in the capital city, children with diverse needs are often placed in special classes or in ‘normal classes’ without any support (Venäläinen et al., 2010:14) and deaf pupils are often placed in mainstream schools without any interpreter of sign language. This is pursuing formal equality that treats everyone alike and ignoring substantive equality that takes comparative disadvantages into account (Katsui, 2012:5). Moreover, DPO representatives are against the alleged tendency among GoE officials to interpret the inclusive education strategy as leading to the closure of special schools considering that enough support is not provided in mainstream schools. The Ethiopian experience shows that while the right to education as a goal is agreed upon, there are differences on the means to achieve that goal.

Some of the principles of the HRBA, such as participation, non-discrimination and empowerment, are used in the development lexicon of the relevant Finnish officials as well as their Ethiopian counterparts. However, significant gaps have been observed in their capacity to integrate and operationalize the principles in practice.

While some NGOs display a good understanding of such HRBA principles as participation, non-discrimination and to some extent empowerment, their understanding of the principles of transparency and accountability is not as good because many of them appear to believe that the latter principles basically require reporting to the donor, to the government and sometimes to the community. It would therefore be a good idea to provide practice-oriented training to NGOs that get involved in the Finnish development cooperation on the operationalization of a HRBA in a project

cycle. Such training should also include components on what a HRBA entails in the work of NGOs, and the context in which the NGOs operate including the limitations of the CSO law and mechanisms of coping with it.

Recommendation: Finland will find it worthwhile to support the development of a practical toolkit/manual for development stakeholders on the implementation of a HRBA in the context of the various sectors of its cooperation.³

Recommendation: Finland should provide tailor-made and context-specific obligatory training on a HRBA to relevant staff of the MFA and Embassies as well as officials in the partner countries. Such training should also target top and senior officials to make the change effective by setting the tone at the managerial level.

4.5. Implementation of Human Rights-Based Approaches in the Development Cooperation between Ethiopia and Finland

This section analyses the operationalization of the HRBA principles of participation, non-discrimination, empowerment, transparency and accountability in the different stages of project and programme cycles, including appraisal, decision-making, implementation, and monitoring and evaluation, in the development cooperation between Ethiopia and Finland.

4.5.1. Participation

In the context of development cooperation, the principle of participation requires the involvement of people and/or their representative institutions on an equal basis with other stakeholders in the planning, implementation and monitoring and evaluation of projects and programmes.

The situation analyses for the two education sector development programmes supported by Finland, namely the SNE and GEQIP, followed differing tracks. In relation to the SNE, a project identification mission by consultants engaged by the MFA of Finland assessed the needs of the MoE, regional education sector structures and those of communities and submitted a proposal to the MoE, which then expressed its views that were discussed during the negotiations. GEQIP was initiated by the GoE which prepared a project document and approached donors that are active in the education sector for pooled funding. The World Bank and five countries, including Finland, expressed interest and a project appraisal document was prepared in a consultative process. The second phases of the programmes were designed based on evaluation and completion reports including social assessment of the programmes. Negotiations on both programmes were held with the MoFED and the main implementing sectorial ministry, the MoE. Negotiations on GEQIP were conducted mainly with the World Bank and other donors, including Finland, signed agreements with the former. While the overall responsibility of implementation of the programmes is that of the MoE, the Finnish Embassy in the country takes active part in important processes and decisions through

³ UNICEF Finland has been developing such a toolkit for civil society organizations, the European Union for development cooperation stakeholders.

its head of cooperation and education advisor. Various types of monitoring and evaluation are conducted jointly by the GoE, Finland and the other donors.

The various stages of the programmes of cooperation may generally be considered participatory for Finland as a donor and the Ethiopian ministries (MoFED and MoE) with the overall mandate of negotiating and implementing the programmes. However, the programme documents identify as their “beneficiaries” not only other line ministries (MoLSA and the Ministry of Health in the case of the SNE), the regional and sub-regional education bureaus, and schools and their staff, but also learners and their families and communities. While programme activities have involved broad collaboration with these duty-bearers as well as with NGOs particularly through consultations, the design, monitoring and general decision-making processes ensured quite questionable level of participation of the stakeholders (see SNE Final Completion Report 2012). The situation is worse with respect to parents and women, especially those from rural and poor communities. The implementation of some programmes and projects targeting disadvantaged groups also fails to involve members of such groups who could otherwise have additional roles as models. For instance, the one-year professional development training (of trainers) in the SNE that was provided in 2010 to a total of 37 regional officers (34 male, 3 female) and itinerant teachers from all regions did not include a single person with disability, while gender disparity was also obvious (Venäläinen et al., 2010:7).

The processes have lacked not only in terms of the participation of the target population and their communities and organizations, but also in the involvement of the relevant line ministries and some structures within them. The participation of such institutions and structures, e.g., the MoLSA in the SNE programme negotiations, could have ensured wider representation and better targeting and articulation of the objectives of the programme. This could probably have, for example, avoided the non-inclusion of disability issues in the first phase of GEQIP, which is later addressed in GEQIP II. There should also be more inclusive representation that includes relevant divisions from the selected line ministries. For example, the non-involvement of the gender focal point at the MoE throughout the negotiation on GEQIP is said to have created gaps in relation to gender responsive pedagogy in the textbooks and teachers development components, which needed to be addressed by a later agreement with the textbook writers engaged under GEQIP through a separate donor funding. The non-involvement of the gender focal point at the MoE in the SNE programme also meant a lost opportunity in terms of addressing some gender issues in the education of persons with disabilities.

Rounds of negotiation take place on the components, goals, approaches and targets of the programming of cooperation. While there is general satisfaction with the negotiation process, reservations have been expressed in connection with the exclusion of some components that the GoE wanted to have included — information and communication technology support in GEQIP, and the inclusion of awareness raising and experience sharing activities and increase in support to teacher training institutions under the SNE. Negotiations resulted in the inclusion of some identified and expressed needs of the GoE, such as information and communication technology in GEQIP II. The non-acceptance of the other components may have been based on their additional funding implications, but more attention could have been paid to the view of the SNE programme implementers that the additional activities could have been implemented with the amount committed. More so because traditional attitudes and lack of awareness from the decision-making

level to the wider communities and the affected groups themselves are among the main challenges in addressing gender and disability issues in education.

Recommendation: Finland should make sure that rights-holders or their representative structures are duly consulted and their views are taken into account not only in project activities but also in the planning and evaluation of the programmes it supports. It should also urge its counterparts to involve the relevant public structures including those in charge of gender and disability in the negotiations. Such mandated public official structures and representative organizations of disadvantaged groups should be among the implementation management groups throughout the project period rather than only resource persons who are consulted only now and then.

Recommendation: While recognizing the particular challenges of negotiation to influence outcome in the context of multilateral cooperation, the inclusion or exclusion of some specific objectives or activities in programmes supported by Finland should receive more attention at the negotiation stage.

The participation of CSOs, including DPOs, is believed to be good not only for their closeness to people but also because of their knowledge and representative role that results from this proximity. The law governing CSOs in Ethiopia makes it difficult to have NGOs as partners in the human rights aspects of the development cooperation with Ethiopia. The LCF cannot provide funding for meaningful NGO work on a HRBA, but the GoE may engage such NGOs in implementing its gender and disability-related programmes in the education or any other sector. It would, therefore, be wise for Finland to either advocate for a trilateral arrangement that includes NGOs as direct implementers of the human rights aspects of development cooperation programmes or to urge the GoE to involve human rights NGOs in implementing the programmes it supports. It may further use political dialogue opportunities to get the exemption of the LCF from the limitations against foreign funding in the meaning of the law, for example, by having it considered as local money given to Ethiopia. Such approaches have reportedly worked for the multilateral aid framework called Protection of Basic Services, under which CSOs working on accountability at the sub-national levels could be allowed to work with foreign funding, and with respect to the Civil Society Fund of the European Union Delegation, which the latter is considered as local money granted to the GoE (Yeshanew, 2012).

LCF funding is sometimes provided for solicited projects in some areas, such as rehabilitation of persons with disabilities. Grantees of the fund are quite satisfied with the process that the Embassy of Finland follows in relation to the design and funding of their projects as they generally consider it to be fast and flexible. LCF-grantee CSOs engage relevant public institutions, including local administrative structures, schools and sometimes communities, including parents of children with disabilities, especially in the implementation of their projects. Some of them do their project designs by conducting consultations with communities and even conducting assessment of the situation of children with disabilities in cooperation with teachers, health extension workers and traditional community based structures in the target areas. However, LCF partners generally ensure limited participation of their target populations in formulating the key aspects of their projects and in decision-making on critical issues. The challenges posed against participation by cultural attitudes (e.g., hiding children

with disabilities) and the reticence of some local partners require significant awareness raising activities.

Recommendation: As the participation of the most disadvantaged groups is still limited in the Finnish development cooperation particularly in strategic decision-making, more has to be done to secure their meaningful participation throughout project and programme cycles. One concrete way could be to employ either a local or Finnish advisor, to maintain the importance of inequality reduction high on the agenda throughout the development cooperation activities.

Recommendation: More advisors and staff in general in the Ministry should represent disadvantaged groups to ensure that the cross-cutting objective is taken seriously in each programme of development cooperation.

4.5.2. Empowerment

The principle of empowerment signifies that development cooperation should aim at enabling people, especially poor and disadvantaged groups of people, to exercise and claim their rights. A HRBA requires awareness about rights as well as duties. In Ethiopia, one of the crucial issues identified by stakeholders in the implementation of a HRBA is the problem of awareness, especially on the specific issues of disability and gender in education, from those in the position of decision-making to the level of persons with disabilities and women themselves as well as their parents and communities. This would adversely affect the ability of duty-bearers to carry out their obligations and that of rights-holders to participate in processes and decisions that affect their lives. In the programmes supported by Finland in Ethiopia, the components that relate to empowerment are more on institutional and professional capacity building. Finland would find it important to integrate broader awareness raising activities in the programmes it supports, and to include such activities in the SNE programme in ways that are beneficial to the target population and their communities.

The capacity building as well as material assistance components of the programmes supported by Finland could obviously have effects of empowerment. DPOs feel that more needs to be done to enable persons with disabilities to help themselves and actively take part in processes that affect them. This is important especially because the policies of the GoE relating to disability do not pay proper attention to the empowerment of persons with disabilities and because there is no dedicated public institution on disability with a mandate to work on the people's empowerment.

The LCF supports NGOs working on the empowerment of persons with disabilities as well as their parents and communities, especially through awareness creation, rehabilitation as well as inclusive education. It also supports the economic empowerment of women and disadvantaged communities. The objectives of the work of the LCF-grantee NGOs are not explicitly articulated in terms of enabling people to exercise and claim their rights, but NGO representatives and the relevant staff of the Finnish Embassy consider the activities as quite pertinent to empowerment as a principle of the HRBA. There indeed is a point in the argument that economically empowered people will be able to exercise and claim their rights.

Recommendation: Finland would find it important to ensure the incorporation in the programmes it supports of awareness raising and empowerment activities that aim not only to develop the capacity of institutions but also to enable women and persons with disabilities to exercise their rights and help themselves. More concretely, Finland could earmark part of its development cooperation funds for inequality reduction and empowerment of disadvantaged groups of people to enable them to participate in development cooperation activities.

4.5.3. Accountability

The principle of accountability in the HRBA goes further than the answerability of recipients to donors to include the responsibilities of all duty-bearers towards each other as well as rights-holders of a development programme. The programmes supported by Finland are good in providing for and implementing, monitoring and evaluation components, but they are weak in terms of downward accountability towards individuals and groups that benefit from or are affected by the programmes (e.g., through grievance mechanisms against exclusion and problems in implementation). Both the SNE and GEQIP provided for programme review and implementation supervision that are conducted in a participatory manner at least in as far as the representatives of the MoE, Finland and the other donors in GEQIP are concerned. These processes take the views of some rights-holders, such as teachers and students, and they have been used to introduce necessary changes. For example, a 2011 mid-term evaluation of GEQIP that included an assessment of implementation performance, resulted in the revision of the results framework with changes in the targets and indicators originally set. A SNE programme evaluation had also resulted in changes to the work plan and results framework, although the review and evaluation processes and the implementation of recommendations could have been done more timely and faster (SNE Final Completion Report 2012). That changes could be introduced to the programmes based on the realities of implementation is one way of ensuring accountability, but the process should be more inclusive by involving the lower levels of government and community structures as well as individual rights-holders and their parents. Making sure that affected people participate in monitoring and evaluation processes is a way of recognizing that they are stakeholders with rights. By this criterion, future reviews on the programmes supported by Finland should ensure broad participation of rights-holders and look into ways of introducing mechanisms of receiving feedback and complaints from them.

In connection with downward accountability, GEQIP I incorporated some relevant mechanisms through the involvement of the Parent Teacher Association (PTA) in the decision on the use of the school grants. However, participation of women in the PTA was particularly low in rural areas (MoE, 2013:7), while parents did not take part in decision-making at all in four regions (MoE, 2013:7). Based on this reality in GEQIP I, GEQIP II envisages social accountability mechanisms such as requirements for schools to publicly display the details of school grant funds they have received and used. This is commendable.

LCF grant receiving CSOs tend to be satisfied with reporting to the Finnish Embassy, to the public administrative structures with which they partner and to the state agency that is in charge of monitoring the implementation of the CSO law as ways of

implementing the principle of accountability. Of course, some of them establish *ad hoc* committees composed of relevant stakeholders with overall oversight responsibilities. The Embassy staff conducts on-site visits before and after funding and performance reports are made available. In addition to these more of upward accountability mechanisms, LCF grantees should be required to adopt downward accountability mechanisms under which those in their target populations present their views and grievances regarding problems in the implementation of projects and receive appropriate and timely feedback. It would also be wise for the LCF to require its grantees to undertake and report on a project baseline study as well as impact assessment to evaluate their inequality reduction impacts. Such assessments should go beyond process indicators, such as the number of persons trained, to show how the interventions affected people's lives. Abilis Foundation has been developing such indicators based on a HRBA to be used in measuring impacts on individuals with disabilities at the grassroots level as well as other levels. Although some LCF-funded and other Ministry-funded NGOs do listen to the experiences of their rights-holders, such activities are *ad hoc*.

Recommendation: Programmes supported by Finland should integrate downward accountability mechanisms through which the views and grievances of the target population are taken and appropriate and timely feedback is given.

Monitoring and evaluation requirements are not systematically applied to the activities of the GoE as well as NGOs. Assessments typically focus on measuring outputs of activities and often not their impact on the lives of rights-holders. Baseline study is neither required nor standardized, while indicators on quality of life of the rights-holders are not set. Hence, "there is significant uncertainty about the impact of GEQIP II's activities on learning" (World Bank, 2013:28) and the same goes for the SNE (Venäläinen et al., 2010:5). Asked about the impact of nine resource centers established under the SNE, for example, the MoE officials could not provide an answer to the question because they did not have any monitoring and evaluation of the centers. Similarly, when asked whether inequality was reduced by the SNE, an education advisor could only say, "We hope so," without relying on clear and disaggregated indicators.

Recommendation: Finland should pay more attention to monitoring and evaluation (M&E) of the activities it supports including through the allocation of enough budget for that purpose. M&E should go beyond those who are included in the project or programme and should measure outcome and impact rather than outputs only. Finland should make sure that M&E include not only analysis about those who are not yet reached from the viewpoint of inequality reduction but also analysis on impact beyond output. This is an important part of accountability for any duty-bearer.

Promising practice: With its partner organizations of persons with disabilities in the global South, Abilis Foundation has been developing indicators to measure the impact of its projects on the lives of persons with disabilities at the grassroots level in a participatory manner. Monitoring and evaluation is part and parcel of Abilis-funded projects in which persons with disabilities themselves actively participate. This can be a good source of lessons.

4.5.4. Transparency

Transparency is another important principle of the HRBA. It requires that the process of designing, implementing and evaluating development cooperation programmes be open for all relevant stakeholders to follow up and intervene with appropriate inputs. It is important for the implementation of the other principles of the HRBA, especially participation and accountability. There has generally been a questionable degree of transparency to all rights-holders and duty-bearers in the appraisal, decision-making, implementation and monitoring and evaluation of the SNE and GEQIP. Weaknesses have been observed in information exchange within the state's institutional structures down to the sub-regional levels and between schools and communities. The communication strategies of GEQIP are also found not likely to be very effective in pastoralist communities, with women and with disadvantaged groups (MoE, 2013). The implementation of the programmes should be based on both vertical and horizontal information exchange and communication among all relevant stakeholders, including the different rights-holders and CSOs working in related areas, to facilitate synergy among and effective application of the interrelated components of the programmes.

LCF grants follow transparent processes and the relevant Embassy staff are generally satisfied with the way the NGOs work. While the grantee NGOs work closely with the local executive state structure and communities and also publish their technical and financial reports, they should do more in terms of communicating their activities and procedure of work to their rights-holders in ways that the latter can understand.

Recommendation: Finnish-supported programmes should ensure more effective information exchange within and among implementing institutions and communication with the target population about programme components and activities.

Recommendation: Inequality analysis and its results have to be shared widely with relevant stakeholders to create a strategy for the reduction of existing inequalities both individually and collectively. For instance, an Embassy could hold an internal meeting with all staff members in charge of development cooperation to present inequalities identified in each activity firstly to understand the trends of inequalities in relation to specific groups of disadvantaged people and secondly to develop a strategy to mainstream the identified groups and/or to specifically target them through the LCF.

4.5.5. Non-discrimination

The HRBA principle of non-discrimination requires that targeting processes do not discriminate among individuals and groups and that they should promote inclusion and hence avoid exclusion, especially of the poor and disadvantaged sections of the population. Disaggregated data is of high importance in addressing the problems of discrimination and exclusion. The absence of or gaps in disaggregate data in some areas (e.g., various types of disabilities) in Ethiopia adversely affected processes ranging from targeting to monitoring and evaluation in development programmes. Disability statistics should be collected with the questions set by the Washington Group (see UN, 2012). The lack of official instruments for the identification of different types of disability, and detailed qualitative studies on established practices and power structures affecting such groups of people as women and persons with disabilities exacerbate the problem in

mapping of discrimination and targeting the most disadvantaged people. The component of strengthening the Education Management Information System (EMIS) in GEQIP can be used for the development of disaggregated data by expanding it to track the full range of equity and inclusion issues (including on various types of disability) that the MoE wishes to address during the programme and beyond. Finland may further support such existing systems as the Education Statistics Annual Abstract (ESAA) and the capacity development initiatives of the GoE, e.g., in relation to sex and age disaggregated data gathering in the various sectors which is pioneered by the MWCYA.

Recommendation: Finland could help in fighting exclusion by contributing to capacity building for the development of disaggregated data to identify discrimination and exclusion within the projects and programmes it supports and beyond.

The programmes supported by Finland have generally put focus on groups that are at the risk of discrimination, including women and persons with disabilities. The SNE focused on disability and progress has been registered especially in capacity building, including in the development of the SNE strategy, resource centres and teacher training. This is not to say that all is well. For example, one of the resource centres that was established during SNE I was physically inaccessible. Teacher trainings during SNE I are also criticized for their focus on traditional views on disability and for not equipping teachers with pedagogical capacity to include children with disabilities into their classes.

GEQIP has placed focus on gender in relation to both girl students and women teachers, and it contributed, among others, to the decrease in drop-out rates and increase in the proportion of female teachers. While GEQIP I did not include support to children with special needs as an explicit focus, GEQIP II responded to this lesson by emphasizing the needs of children with special needs, including through the provision of Braille materials and increase in per pupil school grants for children with disabilities (MoE, 2013). Although the special correlation of gender and disability is generally recognized, the programmes do not appear to have adequately articulated the interlocking aspects of the issues.

The social assessments that covered reasons for school exclusion issues and both demand and supply side limiting factors, which were conducted as part of the mid-term evaluation and at the end of GEQIP I, are quite important as ways of implementing the principle of non-discrimination.

Unintended but perpetuated exclusion may result from the limits in the substantive and geographical coverage of the activities of NGOs funded by grants from the LCF and other CSO sources. These funds put relatively more focus on NGOs operating in the capital on such issues as disability, although funding has also been provided for other activities of NGOs operating in other regions. Within the recognizable limits of funding and the strategic decision on areas where it can best intervene, Finland would want to diversify the substantive as well as geographical areas of its funding to NGOs with a focus on those who work on other disadvantaged groups at the lowest state structures. The suggestion that such a decision follows a consultative process that involves NGOs is worth considering. The annual meetings organized by the Embassy for CSOs and other stakeholders may be used as an opportunity to discuss such issues.

Recommendation: Finland should make it customary to include analysis on issues of discrimination, exclusion and their root causes in the process of appraising and evaluating the programmes and projects it supports. Exclusion analysis should be conducted throughout project and programme periods and beyond to check not only who are included but also who are yet excluded at any important stage so that excluded people could be included in the next stage.

Recommendations: Finland should set a clear guideline for its development cooperation activities in each project and programme to be non-discriminatory particularly in terms of securing participation of women and persons with disabilities. Either quota (e.g., one-half of the participants have to be women and 15% persons with disabilities) or further affirmative action (e.g., more than one-half of the participants have to be women and one-fifth persons with disabilities) could be set as a guideline to be followed for enhancing inequality reduction.

Recommendation: The Embassy of Finland in Ethiopia would find it worth diversifying the thematic and geographic coverage of the projects it funds under the LCF without affecting efficient targeting. The Ministry may also advise its CSO grantees to diversify their areas of funding.

4.6. Recommendations

This section summarizes the main recommendations to Finland based on the Ethiopian case study. Although the recommendations are based on primary and secondary data, the opinions they reflect remain to be those of the researchers.

When a human rights-based approach is taken seriously, the inclusion of disadvantaged groups does not depend only on individual interests but is ensured with clear mechanisms to be applied in all activities within an enabling environment. Despite the efforts that have been exerted within the Finnish MFA in this regard, especially at a policy level, there is much room for improvement. This part provides some concrete evidence-based recommendations, particularly those pertaining to mechanisms to institutionalize inequality reduction efforts based on a human rights-based approach.

1. All MFA funded projects and programmes should include a human rights situational analysis, particularly **inequality analysis** in which indicators are set, excluded populations are identified, remedies are investigated, and possible exclusions are justified. An inequality analysis is recommended to be obligatory for all reports, including proposals, baseline studies, mid-term reports, and monitoring and evaluation reports. Compulsory inequality analysis-related questions should, also, be included in the AHA system. In this connection, Finland should strongly promote the development of and reliance on disaggregated data on the target populations of the programmes/projects it supports.

Aim: The impact on inequality reduction of project and programme activities in all their stages is followed up. Changes may be introduced, if necessary.

2. The negotiation, implementation as well as monitoring and evaluation of Finnish development cooperation programmes/projects should ensure the **full and effective participation of rights-holders and their representative organizations**. Accountability mechanisms should go beyond upward reporting to include feedback and grievance mechanisms by which claims of rights-holders are heard and responded to. Finnish-supported programmes/projects that target disadvantaged groups should also include specific empowerment activities.

Aim: The efficiency and effectiveness of programmes/projects funded by Finland and the sustainability of their results is increased.

3. Budget allocations should reflect the priority areas of the development policy programme. **A significant share of the available budget needs to be used for inequality reduction activities** in all Finnish-funded projects and programmes. Earmarking a certain percentage of the project/programme budget to inequality reduction, including for inequality analysis, should be considered to ensure such allocation in practice.

Aim: Sufficient allocations enable inequality reduction to be properly mainstreamed as a cross-cutting objective.

4. **Human rights-based approach or cross-cutting issues expert(s)** of senior professional status should be part of any consultant team of any Ministry-funded projects, programmes and missions and this should be articulated clearly in the terms of reference. Such an expert could well be a local academic or an NGO staff member with accumulated context-specific experiential knowledge on what works and what does not. Representative non-governmental organizations need not only to be consulted but should become part of the implementation management team throughout the projects/programmes. When expertise is lacking within the Ministry, sufficient funds should be allocated for the engagement of external experts to strengthen the capacity of Finland as a duty-bearer.

Aim: Locally available knowledge is used to ensure context-sensitivity and cross-cutting objectives are properly integrated into each Finnish-funded project/programme.

5. **Training and capacity building** on implementing human rights-based approaches with clear guidelines should be provided to all relevant staff members of the MFA and Finnish Embassies as well as experts and consultants engaged by the Ministry. This training needs to be tailored to fit the special circumstances of the different partner countries and sectors of cooperation. Senior staff members should be trained as a matter of priority to enable them to spearhead necessary changes in their respective departments and units.

Aim: Relevant staff members, experts and consultants working within the Ministry, Embassies and Ministry-funded projects and programmes have the necessary knowledge and capacities to consistently implement a human rights-

based approach in their respective areas of work.

6. **Intra-sectorial and cross-sectorial collaboration** should be increased and encouraged in particular for the purposes of sharing experience and expertise on cross-cutting issues and of taking inequality reduction more seriously both individually and collectively. It should be acknowledged that expertise on cross-cutting issues, such as disability, is largely missing in activities funded by the Ministry. The Ministry should facilitate intra- and cross-sectorial collaboration by organizing meetings and seminars that aim at capacity development and experience sharing on inequality reduction.

Aim: Cross-cutting objectives are properly mainstreamed in all sectors through sharing lessons learned and promising practices.

7. Despite the freezing of budget allocation for new recruitments, it is suggested that more **focal persons** be assigned for different disadvantaged groups currently dealt with by one advisor, namely, children, persons with disabilities, persons with HIV/AIDS, sexual minorities, ethnic, linguistic and religious minorities, and indigenous peoples. The positions should be occupied by persons with experiential knowledge of the issues concerned, such as a person with a disability as the disability focal point.

Aim: The Ministry is a role model in employing disadvantaged persons in important positions and builds its capacity by practicing what it preaches.

8. **Political dialogue and negotiations** for the promotion of a human rights-based approach to development need to be strengthened not only at the country negotiation level but also globally among influential decision-makers. This is especially important for addressing problems posed by legal, policy and institutional constraints in the implementation of development cooperation programmes. Collaborating with like-minded countries to strengthen Finland's voice is an important strategy for putting the HRBA to development high on the agenda of global processes.

Aim: Finland projects its image as a human rights-sensitive country on its development partners and raises its profile in the global arena where human rights and inequality reduction are becoming central as exemplified by initiatives such as the post-2015 development agenda, European Union's new toolkit on its human rights-based approach, Europe-Africa Strategy, and OECD/DAC peer review.

9. **Accessibility** of Embassies and the Ministry buildings as well as all structures funded by the Finnish development cooperation has to be ensured. If accessibility is planned in advance, it entails little or no additional costs.

Aim: Unintended negative consequences in terms of physical inaccessibility are minimized. At the same time, accessibility to Embassies and the Ministry buildings facilitates further cooperation with persons with disabilities and their representative organizations.

10. **More research** should be undertaken particularly to monitor changes in institutional mechanisms of the MFA and to evaluate the impact of Finnish development cooperation on inequality reduction in collaboration with partner country research institutions. Inequality reduction could, for example, be included among the themes of the call for the development research funding by the MFA and Academy of Finland. The Ministry and the Finnish Embassies could also make use of existing external knowledge by academics and practitioners from the global South and North, whenever needed, in operationalizing the HRBA to development in practice.

Aim: Changes in institutional mechanisms of the MFA are followed up to ensure sustainable positive developments towards equality. Lessons learned and promising practices are documented.

5. THE KENYAN CASE STUDY

5.1. Introduction

As indicated in the methodology section, the main focus of the research as it relates to Kenya is on the programmes under Objective A (“democratic and accountable society that promotes human rights”) of the Finnish Country Strategy for Development Cooperation with Kenya. This case study focuses on the three distinct and yet interconnected programmes that focus on good governance, human rights, and gender equality supported by Finland. The three programmes are: 1) Support for National Human Rights Institutions, such as Kenya National Commission on Human Rights (KNCHR), National Gender and Equality Commission (NGEC) and the Commission on Administrative Justice (CAJ); 2) Support for the General Elections held in March 2013 through the Independent Electoral and Boundaries Commission (IEBC) and the Uraia Trust; and 3) Support to gender equality through UN Women. Additionally, the local cooperation fund (LCF) that has been increasingly directed at CSOs working on governance and human rights falls within the scope of Objective A of the Country Strategy. In addition to the examination of the above-mentioned programmes, the Kenyan case study also makes some observations on the Finnish rural development programme known as Programme for Agriculture and Livelihoods in Western Communities (PALWECO) in Busia County.

First, we provide a detailed description of the Kenyan country context and human rights situation including legal, policy, and institutional frameworks. Given that the Kenyan national context offers various major opportunities and challenges both for the donor implementation of the HRBA and for future aid relations, we perceive the analysis of the national context to be of crucial importance. Subsequently, we analyse the implementation of the HRBA in Finnish development cooperation within these frameworks.

5.2. Country Development Context and Human Rights Situation

While Kenya is the largest economy in the East African region, it is in essence a poor country and is ranked 143 out of 187 countries on the 2011 United Nations

Development Programme's Human Development Index (UNDP, 2011:126). Although economically vibrant and dynamic, the household survey for 2005–2006 indicates that the poverty headcount ratio at national poverty line is 45.9% of the population. The World Bank, however, has estimated that today, the poverty level is between 34% and 42%. For its part, the UNDP Human Development Report (2010) suggests that up to 60% of Kenyans live in poor conditions with no access to quality education and health services, while a further 23% are on the borderline of poverty. Persistent high poverty is most prevalent in arid and semi-arid rural areas, as well as in the Coastal region. In 2005, 74% of the rural population in North Eastern province were poor in comparison to 30.3% in the Central province (for statistics, see <http://data.worldbank.org/country/kenya>). Women are disproportionately represented among the chronically poor and households moving into poverty, because “women experience severe constraints, including limited access to the key factors of production, such as land, capital and microfinance facilities, as well as several legal and administrative obstacles” (UN Committee on the Elimination of Discrimination against Women, 2011:9).

Kenya is said to be one of the most unequal societies in the world (UNDP, 2010). According to the UNDP report, Kenya ranked 103 in the list of inequality out of the total 169 countries surveyed. According to a World Bank Report (2005), income and wealth distribution in Kenya is highly unequal, with 38% of income accruing to the top 10%, compared with just 2% accruing to the poorest 10%. More than half of the population does not have sufficient access to education, health, and decent income generation and employment opportunities (World Bank, 2005). **Addressing inequalities is the most urgent challenge to development.** However, the issue of redistribution of resources has been largely avoided by Kenyan political regimes throughout the country's postcolonial history. This has bypassed the fact that there has been an identifiable power elite, concentrated around specific persons and particular ethnic groups. They control a considerable amount of means of production especially in the form of lands and have dominated political and economic decision-making processes despite the ethnic diversity in the country (Branch, 2011).

It is often said that Kenya has 42 ethnic communities, but the Ethnologue lists 69 distinct languages that are spoken in Kenya (see www.ethnologue.com). The contradiction between ethnic diversity and unequal distribution of wealth has been a continuous source of power games and conflicts both at national and local levels, especially in terms of land rights (Matter, 2010; Straight, 2009). Together with other long-term violations of economic and social rights of the poorest, the latest escalation of this conflict was **the 2007 post-election violence** which led to more than 1,200 deaths and displacement of hundreds of thousands of people (OHCHR, 2008-b:5). Ethnicity, or what Lonsdale (1994) calls ‘political tribalism’, appears to be one of the main factors in political mobilization. Branch (2011:16–17) has suggested that in Kenya, elites have encouraged political identification and action first and foremost through ethnicity, “in order to crush demands for the redistribution of scarce resources”. In other words, ethnicity is used by elites and other groups in order to avoid addressing larger structural issues around poverty and inequality, namely those related to the redistribution of lands, means of production, jobs, and political power (on the history of unequal accumulation of lands, trade and business, see Kitching, 1980; for the historical analysis of capital accumulation among the Kikuyu and Asian elites, see Cowen & MacWilliam, 1996). Taking into account equality as a fundamental human rights

principle, the HRBA may provide important tools for addressing structural inequalities and unequal power relations in contexts such as Kenya.

With respect to the human rights situation, Kenya is a very contradictory country. On the one hand, it currently has a **very progressive constitution** which has a comprehensive Bill of Rights. The constitution has a strong focus on the realization of economic and social rights and includes the rights of women, youth, ethnic minorities, persons with disabilities, and so forth. The process of devolution inscribed in the new constitution shifts large parts of decision-making and service provision from national government to county levels, thus bringing the enactment of both political and economic and social rights, ideally, closer to the people. Furthermore, the constitution establishes autonomous government oversight commissions, whose core mandate is to protect and promote human rights and to hold the government accountable. Additionally, there is an active and relatively free civil society and media, as well as a large number of skilled professionals, keeping the HRBA high on the political agenda. There seems to be a **national ownership of the HRBA as it relates to national policies and democratic discourse**.

It has been argued that “human rights reform works best in states that have the capacity to be rule-based, where there is an active civil society and a sound judicial system” (Gledhill, 2009). Despite many positive developments since the turn of the millennium, this, however, is not exactly how the Kenyan context looks like. Since independence, Kenya had witnessed **gross violations of human rights** attributed to successive regimes (Truth, Justice and Reconciliation Commission, 2013). Crackdowns on political dissent often resulted in violations of human rights including assassinations, torture and arbitrary detentions. While the situation improved with the opening up of democratic space in the early 1990s following the return of multiparty democracy (having been banned since 1969, *de facto* and *de jure* in 1982), the security forces, especially the police, have continued to be criticized for gross human rights violations (Truth, Justice and Reconciliation Commission, 2013; OHCHR, 2009). Various sectors of society have also suffered human rights violations attributable to a variety of factors including lack of adequate legal and policy framework, inadequate capacity and funding to relevant institutions such as the judiciary and prison services, customary attitudes and practices, and corruption among others. Because the state was structurally exclusionary with a centralized state in which most powers were concentrated in the President (Sundet & Moen, 2009), many sectors of society including certain regions, women, ethnic minorities, persons with disabilities, and indigenous people suffered from economic, political, social, and cultural exclusion during successive postcolonial regimes (Truth, Justice and Reconciliation Commission, 2013; US Department of State, 2011).

Additionally, there is a historically **constructed culture of impunity** for the highest political leaders for human rights violations (Branch, 2011). While Kenya has ratified most international human rights conventions, at the same time its top leaders are on trial at the International Criminal Court (ICC) for alleged crimes against humanity committed during the 2007 post-electoral violence. This is the main political issue in contemporary Kenya affecting arguably everything from donor-government relations to the freedom of the media, and from the functioning of civil society to the status of Human Rights Defenders (HRDs). In early November 2013, the Kenya Information and Communications Act, which is seen by many civil society actors as contrary to freedom

of expression and of the media, was passed by the National Assembly, and later came into force with changes proposed by the President. Overall, the new law strengthens government control over the media and introduces measures likely to impact free practice of journalism. These measures have elicited much criticism from the media and beyond. At the same time, discussions over increasing control of civil society organizations through amendments to the Public Benefit Organizations Act, 2013 (PBO Act) started to circulate. Section 27 A (2) of the Miscellaneous Amendments Bill, 2013 states that “[a] public benefit organisation shall not receive more than 15 per cent of its total funding from external donors”. While proposed amendments to the PBO Act were withdrawn following public uproar, the future of the freedom of expression still remains uncertain (Lefkow, 2013). Both the media law and the civil society law were interpreted by many interviewees, especially those working in CSOs, as **attempts to silence criticism broadly, but particularly in relation to the ICC process**. The main issue here is that the question of human rights always touches upon power relations and is extremely political.

Situation Relating to the Rights of Women

Political participation

While the repealed constitution (of 1969, as amended) did not bar women from running for public office, not many women vied for top posts and even fewer got elected. This situation has not changed much over the years. After the 2002 general elections that, in general, were perceived as “a triumph for civil society democratization efforts” (Lind & Howell, 2010:338), only 8% of Members of Parliament were women (Banerjee et al., 2010:167). Although the number of female parliamentarians rose modestly to 9.45% in the 2007 elections, they still remained largely underrepresented in Parliament and the political parties (Banerjee et al., 2010: 167–8). Currently, out of the 290 members of the National Assembly, only 16, that is 5.5%, are women (European Union Election Observation Mission to Kenya, 2013:64). Through affirmative action, 47 women deputies were elected in women-only elections from 47 counties to the National Assembly. An additional 12 members of the National Assembly were nominated by parliamentary political parties from other special groups, such as youth and persons with disabilities (Article 97 Constitution of Kenya, 2010). No single woman was elected as Senator (out of 47 electoral areas). However, political parties nominated 16 women, two youth and two persons with disabilities to the Senate as mandated by the constitution (Article 98 Constitution of Kenya, 2010).

According to the European Union Election Observation report (2013:65), two concrete factors impeded women’s political participation: an incomplete legal framework and inadequate candidate nomination processes among political parties. There are also a number of other reasons that explain this situation: discrimination against women accounts for absence of women in managerial and other leadership positions; structurally, the electoral system has been exclusionary, and political parties have generally operated practices that exclude women; societal prejudices prevail; weak economic situation of women deprives women of the financial power to marshal campaigns; corruption and ethnicity, among others (for an overview, see Musila & Oxfam GB, 2012). Women’s limited political participation can also be perceived as a symptom of larger structural factors related to the status of women. Indeed, it has been argued that “minimal presence of women in key decision-making organs and offices of

the state is an expected outcome of the legal and social status as well as the economic ability of women in Kenya” (Banerjee et al., 2010:169).

Women in the economic realm

Women in Kenya have been disproportionately represented in informal economy. Over the decade 1995–2005, for example, women’s participation in the formal economy was constantly less than 30% (Banerjee et al., 2010:170). Kenya is primarily an agrarian society and thus economic resources are tied to rights of property ownership and to access to land for subsistence and trade farming (Kitching, 1980). The role of family and culture is a powerful influence on the public recognition of Kenyan women’s economic rights. While availability of data is a problem, it is reported that women constitute a major proportion (more than 50% and as much as 75%) of Kenya’s agricultural work force, farming mostly for subsistence (Oduol, 2002). However, only a small proportion of them own land (Oduol, 2002). Kenya’s employment laws and anti-discrimination measures have been based on common law. As such, they provide for equal pay and equal access. However, women lack the much needed greater agricultural autonomy or protection for those self-employed in trade or craft industries. In addition, women bear disproportionately the heavier burden of unemployment for a variety of reasons including: lack of equal education and skills training with men, cultural attitudes, or family obligations. It has been argued that “the continued economic dependence on men of the majority of Kenyan women will continue to limit the choices they can make in their lives” (Banerjee et al., 2010:169).

Women in the social-cultural arena

While the provisions of relevant land laws are gender-neutral, their application is gendered. Land in Kenya is vested in individuals, the government and groups or communities. Each has implications for women’s rights to own, access and use land. Previously, most private land was registered in the name of the eldest male head of the household. Once land was registered, all other interests not shown on the register were excluded. This excluded most women from property ownership, who often only had rights of use (Benschop, 2002). The situation was compounded, especially for the majority rural women, by customary laws and practices. Gender inequality hinders development: women’s insecure property rights contribute to low economic and social development, food shortages, underemployment, and poverty.

Customary practices sometimes dictate what crops may be grown, and upon divorce or separation from their husbands, or upon the death of their husbands, women could be denied property rights in their land and homes (Fida-Kenya, 2013; Oduol, 2002). With respect to matrimonial property, Kenya’s legal system had since 1971 established the principle that spouses have equal rights in ownership of property (Kameri-Mbote, 1995). However, the courts did not appear to be in agreement on this issue as some decisions took the view that a married woman had to prove contribution to matrimonial property with the result that many were left destitute on divorce. While the principle is reproduced in the constitution, the proposed marriage law appears to reverse this, and is thus potentially unconstitutional. Women and girl children have also suffered under a variety of harmful cultural practices such as female genital mutilation (UNFPA-Unicef, 2013), wife inheritance (Moogi Gwako, 1998) and early marriages (Archambault, 2011). The system of payment of dowry in some communities has further complicated the status of women within families and communities (Andersson, 2007; Håkansson, 1988).

Among urban, middle class Kenyans (that most interviewees of this study were), it is common to perceive ‘tradition’ or ‘culture’ as a hindrance to gender equality. While such notions can be used by elders or community leaders as an excuse to undermine human rights, the outright condemnation of cultural traditions as unequal can also be used in order to avoid a more structural understanding of the complex nature of inequalities. Gender inequality is always a complex phenomenon with local, national and global dimensions.

It is worth noting that the new constitution has established a more equal society, in law at least, and most of the offending laws and positions will have to be revised to align with the constitution. The challenge remains, however, as one of implementation as well as education, given that societal attitudes are difficult to change and more needs to be done beyond adopting favourable laws.

Recommendation: Outreach and advocacy for the practical implementation of new laws touching on the rights of women, youth and persons with disabilities is necessary with an emphasis on rural communities and devolved county levels.

Situation Relating to the Rights of Persons with Disabilities

Persons with disabilities constitute one of the most disadvantaged groups in Kenya. This applies in all spheres of life such as economic, political, social and cultural life. Depending on one’s gender or some other identity that aligns with patterns of disadvantage in Kenya’s history, one is likely to face double or multiple discrimination. The economic, political and social disadvantage and exclusion of persons with disabilities can be attributed to absence of protective legal and policy regimes, and cultural attitudes among other structural factors. Persons with disabilities have been almost absent in Kenyan political and economic life and continue to exist on the fringes of social life, although the situation has begun to change. In the 2013 General Elections, three persons with disabilities won seats in the National Assembly and one in the Senate. Together with the four nominated seats, persons with disabilities have eight representatives in Parliament (European Union Election Observation Mission, 2013:27). To give an example, Mwaura Maigua Isaac, the founder of the Albinism Society of Kenya, was nominated as Member of Parliament in the March 2013 elections (Wairimu, 2013).

The community of persons with disability in Kenya is significant. According to the Kenya National Disability Survey of 2008, it is reported that there are 1.7 million persons with disabilities in Kenya (out of a population of 40 million), that is, 4.6% of the population. The SIDA-funded “State of Disabled Peoples Rights in Kenya” (African Union of the Blind, 2007) DRPI report, however, estimated that approximately 10% of the population are living with disability. This corresponds closer to the WHO and the World Bank (2011) estimates of 15%. Persons with disabilities are disproportionately represented among the poor and tend to be poorer than those without a disability. A vast majority (approximately 80%) of persons with disabilities live in urban slum areas, informal settlements at the outskirts of urban areas, or in poor rural environments. The DRPI report (African Union of the Blind, 2007:46) described some of the challenges that persons with disabilities face in the following way:

About 36% of the people with disabilities interviewed reported having experienced abuse and violence at the hands of their family members. Quite a large percentage of this group were oppressed, denied food and education and beaten by their mothers, stepmothers, husbands and siblings because they are considered different and not able to efficiently perform activities they are expected to carry out. Others were victims of sexual harassment. In many cases their share of inheritance was taken away by their able bodied relatives leaving them in poverty.

This state of affairs prompted legal reforms beginning in 2003 when the Persons with Disability Act was adopted. As seen below in the discussion relating to the legal, policy and institutional frameworks, the new constitution has concretized and entrenched these reforms as they relate to persons with disabilities.

5.3. Legal, Policy and Institutional Frameworks for the HRBA

This part outlines the legal, policy and institutional frameworks in which Kenya's relationship with development donors unfolds. With the adoption of the Constitution of Kenya (2010) the environment in which Finland's development cooperation is to operate has changed drastically. These changes, which are highlighted below, have the potential to reorient development cooperation in various ways.

The projects reviewed in the Kenyan case study cut across multiple sectors including agriculture; security; education; justice and good governance. This part does not outline the legal, policy and institutional framework across all affected sectors. It outlines only the frameworks as they relate to the HRBA, gender and disability.

5.3.1. Legal Framework

Kenya has ratified all the major international and regional human rights treaties that have relevance for gender and disability. These include: ICCPR, CESC, African Charter on Human and Peoples' Rights together with its protocol on Women's Rights in Africa; CEDAW, CERD etc. As for persons with disabilities, Kenya was the 27th country to ratify the Convention on the Rights of Persons with Disabilities (CRPD) on 17 May 2008.

In Kenya, the human rights-based approach is decreed by the constitution. As noted already, the constitution also contains progressive provisions relating to the rights of women and persons with disabilities.

A rights-based constitution that mandates the HRBA

The Constitution of Kenya, 2010, can be described as a rights-based constitution. Unlike the repealed constitution, it contains a comprehensive Bill of Rights. The constitution essentially constitutionalizes the HRBA. Article 19(1) states that the Bill of Rights is "an integral part of Kenya's democratic state and is the **mandatory framework for all governmental policies** including social, economic and cultural policies" (emphasis added). As of necessity therefore, all governmental policies, including those that relate to gender and disability, must be human rights compliant. Other than Article 19(1), Article 1 affirms the sovereignty of the people, and it is clear that all power exercised by functionaries — including executive, legislative and judicial power at both national and county units — is delegated power. In part because of this, under the new constitutional

dispensation, **public participation is an important national value and principle**. It permeates the entire constitutional structure, and is mandatory in certain instances in the sense that lack of public input constitutionally invalidates decisions taken.

Partly because of the clear constitutional prescription of a HRBA, it is expected that this approach should frame the government of Kenya's (GoK) engagement with its development partners including Finland. It is instructive, therefore, that development partners should reorient their approach(es) as appropriate. The shift in Finnish development cooperation towards a HRBA is thus timely, as it finds a partner that is constitutionally bound to adopt a similar approach.

Recommendation: It is critical that development partners (Finland) and the GoK adopt a common understanding of the HRBA and evaluate how this new approach changes evolution of their engagement. The Development Partners Group, as well as bilateral negotiation processes between Finland and the GoK and sectorial cooperation with line ministries could offer forums for the continuation of dialogue on mutual interests.

Recommendation: It is imperative to build the HRBA capacity of those involved in the implementation of development cooperation projects.

National values and principles

Another innovation of the new constitution is that the entire constitutional framework is underpinned by certain fundamental values and principles. Article 10(1) provides that the values bind all state organs, state officers, public officers and any person who applies or interprets the constitution as well as any of these actors when they enact, apply or interpret any law. Legislation, policy, regulations, administrative directions or other measures that do not accord with these values and principles are on their face, unconstitutional, thus null and void. Thus, Articles 10 and 19 of the constitution, supported by other provisions that entail specific principles provide a constitutional basis for a HRBA.

Duty-bearers

In terms of duties, the Bill of Rights applies both vertically and horizontally. In terms of Article 20(1) as read together with Article 21 of the constitution, the **primary duty-bearer is the state**. Article 21(1) provides that "the Bill of Rights applies to all law and binds all State organs and all persons". For its part, Article 21 details the duties, providing that "it is a fundamental duty of the State and every State organ to observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights".

It is important to note that while the Bill of Rights applies horizontally (between private citizens, companies or other institutions), the scope is limited but is governed by certain criteria, particularly the nature of the right. For example, non-discrimination will apply to state organs and officials but also between non-state actors (e.g., persons or between persons and companies). There are cases where the constitution expressly applies obligations horizontally. For instance, the constitution in Article 53(1)(e), following the formula in the United Nations Convention on the Rights of the Child (CRC), places an obligation on parents to provide and care for their children (including girls and children with disabilities).

Protection of socio-economic rights

It was noted above that Kenya's new constitution comes fitted with a comprehensive and robust Bill of Rights, which includes a justifiable catalogue of **socio-economic rights**. This genre of rights have particular **relevance for advancing substantive equality in favour of disadvantaged sectors of society, including women, persons with disabilities, ethnic minorities and indigenous peoples**. By providing for these rights, it is revolutionary in the Kenyan context for at least one reason: like the South African Constitution from which it draws inspiration, it differs from the traditional liberal model constitution — with its minimalist state focusing largely on assigning and checking powers — to a transformative model, which requires active state intervention to advance equality, human dignity and social justice (see Musila, 2012). To be specific, Article 43 of the constitution provides in part as follows:

Every person has the right — (a) to the highest attainable standard of health, which includes the right to health care services, including reproductive health care; (b) to accessible and adequate housing, and to reasonable standards of sanitation; (c) to be free from hunger, and to have adequate food of acceptable quality; (d) to clean and safe water in adequate quantities; (e) to social security; and (f) to education.

The constitution also recognizes that socio-economic rights impose heavy burdens — especially budgetary — on the state and that realization of this category of rights should be progressive. In terms of Article 21(2) of the constitution, the state is required, as a start, to take legislative, policy and other measures, including the setting of standards, to achieve the progressive realization of these rights. The state must demonstrate that the stated goals can be achieved (Musila, 2012). The test of compliance will include criteria relating to whether the state has taken any measures and whether the measures taken can reasonably be considered to advance the realization of the right in question (Musila, 2012).

Because the disadvantage of groups often has the result of depriving them of social goods, vast opportunities are presented by social and economic rights in the constitution for previously disadvantaged groups, including possibilities for women and persons with disabilities. **In the context of development cooperation, socio-economic rights are particularly relevant.** In Finland's development cooperation, they provide an excellent basis for the current and future projects on livelihoods (see discussion on PALWECO), water and forestry through rights-discourse. Most of the goods accessed by beneficiaries (or rights-holders) can be bundled as socio-economic rights now included in Article 43. The process of restructuring Finnish-funded needs-based projects towards a HRBA has already been started. The mid-term reviews conducted in forestry and water programmes have paved the way for this process, giving guidelines for concrete operationalization of the HRBA. Similar mid-term evaluation is programmed for the PALWECO rural development programme.

<p>Recommendation: It is recommended that Finland plans its future projects on livelihoods, water and forestry through a rights-based approach and when appropriate, and taking into account the recommendations of mid-term reviews of current projects, continues to restructure its needs-based programmes through rights discourse both in terms of ensuring the realization of rights of rights-holders and enabling the state to meet its human rights obligations.</p>
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Substantive equality and reduction of inequalities for women and persons with disabilities

In view of the focus of this report on reduction of inequalities in respect of gender and disability, the constitution's **conception of equality** is important. The constitution's vision of equality goes beyond formal equality, which is about sameness of treatment of all individuals irrespective of gender, disability status or other grounds. The constitution decrees **substantive equality**. Substantive equality recognizes that equal treatment does not guarantee equality in all cases and that differentiated treatment in favour of groups such as women and persons with disabilities that have faced inequality and exclusion in the past is necessary to enhancing equality.

The constitution has reserved elective seats for women at both national and county level and additionally requires that measures should be taken to ensure that not more than two thirds of all elective and appointive positions are occupied by one gender. This continues with the 2006 Presidential Decree according to which at least 30% of those recruited to public offices have to be women. In practice, however, the Supreme Court of Kenya decided that the two-thirds principle, so-called 'gender rule', would be implemented progressively by 2015 (SCK Advisory Opinion on Gender Rule). As a result, the modifications on women's representation at the national level have not been effectively implemented yet. The situation is different at county level, where the constitution provides for topping up after an election (by the relevant number of women determined by how many women were elected) the list of elected members of the County Assembly to achieve the two-thirds gender rule (Article 177 Constitution of Kenya, 2010). Other previous legislative measures relevant in regard to women's rights include the Sexual Offences Act (2006), the Employment Act (2007), the Prohibition of Female Genital Mutilation Bill (2010) and the Children's Act (2001). However, the CEDAW 2011 report on Kenya notes that some of the legislation, such as the Family Protection Bill (2007), the unified Marriage Bill (2007), the Matrimonial Property Bill (2007), and the Equal Opportunity Bill, include contradictory issues in relation to property rights and inheritance.

Concern for previously disadvantaged groups and the requirement that relevant state actors should **prioritize the rights of persons at the risk of inequality** in society permeates the entire constitutional framework. Key among these provisions is Article 21(3), which falls under the rubric 'implementation of rights and duties'. It states that:

All State organs and all public officers have the duty to address the needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth, members of minority or marginalised communities, and members of particular ethnic, religious or cultural communities.

For persons with disabilities, the state shall ensure the progressive implementation of the principle that at least 5% of the members of the public in elective and appointive bodies are persons with disabilities (Article 54(2) of the constitution). In fact, Article 54 is dedicated to the rights of persons with disabilities. It provides in detail that:

A person with any disability is entitled — (a) to be treated with dignity and respect and to be addressed and referred to in a manner that is not demeaning; (b) to access educational institutions and facilities for persons with disabilities that are integrated

into society to the extent compatible with the interests of the person; (c) to reasonable access to all places, public transport and information; (d) to use Sign language, Braille or other appropriate means of communication; and (e) to access materials and devices to overcome constraints arising from the person's disability.

For its part, Article 56 relating to minorities and marginalized groups mandates the state to put in place **affirmative action programmes** designed to ensure that these groups (a) participate and are represented in governance and other spheres of life; (b) are provided special opportunities in educational and economic fields; (c) are provided special opportunities for access to employment; (d) develop their cultural values, languages and practices; and (e) have reasonable access to water, health services and infrastructure.

The Persons with Disabilities Act of 2003 deserves special mention. It covers rights, rehabilitation and equal opportunities for persons with disabilities. It establishes the National Council for Persons with Disabilities which is a public body corporate responsible for disability issues. The Act similarly establishes the National Development Fund for Persons with Disabilities which was operationalized in November 2009. The government appoints its Board of Trustees and funds it to channel out financial support to individuals and institutions for their economic empowerment in accordance to the Act. The Act has extensive provisions related to accessibility. It has, however, been noted that the Act has been only partially implemented (SIDA, 2011). Some slow progress has been made, for example, in terms of accessibility to public buildings and transport and income tax deductions and exemptions for persons with disabilities (SIDA, 2011). A number of other laws are relevant for disability issues. The Children's Act no. 8 of 2001, which domesticates Kenya's obligations under relevant international and regional treaties (CRC and ACRWC), and the Employment Act of 2007 outlaw discrimination against persons with disabilities. The Sexual Offences Act of 2006 extends special protection to persons with disabilities.

Devolved system of government as an avenue for inclusion

Kenya's new constitution reforms the state by **establishing a devolved system of government**, consisting of a national government and 47 county governments. The two levels of government are interdependent but distinct (Article 6). The system of devolution divides state powers between national government and 47 county governments. It combines 'shared rule' at the national level and 'self-rule' at the devolved level.

In terms of Article 174 of the constitution, among the key objectives of devolution are: to **give powers of self-governance to the people and to enhance participation of the people** in the exercise of the powers of the state and in making decisions affecting them; to recognize the right of communities to manage their own affairs and to further their development; to protect and promote the interests and rights of minorities and marginalized communities; to promote social and economic development and the provision of proximate, easily accessible services throughout Kenya; to ensure equitable sharing of national and local resources throughout Kenya; to facilitate the decentralization of state organs, their functions and services; and to enhance checks and balances and the separation of powers.

It can be argued that the devolved system of government embodies the HRBA, and can be an important measure in reducing inequalities. It takes decision-making power — in clearly demarcated areas — to the counties. In principle, devolution politically and economically empowers the periphery. In terms of the constitution, each of the 47 counties has a government consisting of a County Assembly and a County Executive headed by an elected governor with competence in areas listed and demarcated by the Fourth Schedule of the constitution. These include agriculture, health, transport and planning, trade and regulation and water and sanitation.

Devolution of power therefore is designed to create a political environment in which power **to access political, economic and social resources is distributed between the central government and county governments**. Revenue raised nationally is to be shared equitably among the national and county governments. County governments may be given additional allocations from the national government's share of the revenue, either conditionally or unconditionally. Criteria for equitable sharing are set out in Article 203 but the amount allocated to county governments must not be less than 15% of the national revenue of the preceding year. The amounts of revenue allocated to counties in the 2013/14 fiscal year are reported to be as high as 32%.

Disadvantaged counties receive an additional 0.5% of all the revenue collected by the national government. This is an affirmative action measure aimed at bringing the quality of basic services including water, roads, health facilities and electricity in those areas to the same, or comparable level as that generally enjoyed by the other relatively well-off counties. This is important in terms of enhancing local level citizen participation. Further attention should be drawn to experimenting with participatory policy planning and participatory budgeting at municipal levels. Experiences from these exist from such countries as South Africa, Uganda, Brazil, and Bolivia.

Article 204 provides for an Equalisation Fund into which is paid 0.5 % of all revenue collected by the national government each year. The Equalisation Fund is to be used by the national government solely for the purpose of providing basic services such as health, water, roads and electricity to disadvantaged areas. Parliament may only pass Bills that appropriate funds from the Equalisation Fund on the recommendation of the Commission on Revenue Allocation (CRA), a constitutional commission established to make recommendations for equitable sharing of national government revenue between the national and county governments, and among the county governments. In the 2012/13 fiscal year, the CRA identified and designated 14 counties as disadvantaged, and thus eligible to receive a share of the additional KES 3 billion set aside for the Equalisation Fund over the next three years. According to the CRA, the criteria used to designate **the most impoverished** counties are: widespread poverty, food insecurity, water scarcity for human and livestock use, inadequate educational facilities, impassable roads and hostile terrain, makeshift medical facilities and lack of access to electricity. Some have argued that many deserving, even poorer or equally poor counties have been left out for political reasons (Truth, Justice and Reconciliation Commission, 2013, Chapter on Economic Marginalisation).

Some of Finland's programmes align well with county competencies in terms of the constitution. With outflows of finances to the regions, devolution can lead to more rapid and more balanced economic and social development, which serves the objectives of

Finland's development cooperation of reducing inequalities. Some recent mid-term reviews of Finnish-funded projects (such as forestry) have included elements of devolution. As a result, the programme document of the forestry programme has been modified to include aspects of devolution. Devolution's goal of decentralizing decision-making processes aligns with principles of the HRBA, especially with the principles of participation and empowerment that are important for Finland.

Recommendation: It is of crucial importance to enhance the capacities of county governments, for instance, through training, and raise the awareness of rights-holders about their rights and duty-bearers of their obligations.

The evidence from other countries on **the linkages between decentralization and democratization** is mixed. In the long run, it is clear that increased awareness and political participation at local levels can lead to major changes in national politics. Ever since the decolonization process in Africa and elsewhere, **the dual tendencies of centralization of the state and ideals of devolution of the state** have remained major issues within political debates (Branch, 2011). The aim of devolution, the decentralization of political power to counties, is therefore a culmination of a long historical process. Due to this reason, it is also very likely that devolution will become — as it has already become — **politically contested, especially by those whose political and economic interests are at stake**. Within the Kenyan government, there are both centralizing and decentralizing forces in action.

Only time will tell which tendencies will get the upper hand in the end. Meanwhile, both donor agencies and civil society should keep the agenda of devolution high. Given historical stratification of power structures and the relatively short history of democracy in Kenya, it is of major importance for donor agencies to find **a balancing act between working with both the national government and devolved county governments and local level CSOs**.

Recommendation: Development cooperation has to be reoriented appropriately in view of the devolution. As already done with certain programmes, Finland should — together with other multilateral and bilateral donors — continue to find appropriate ways to support it. Experiences with PALWECO give Finland a solid basis for that.

Recommendation: It has to be recognized that devolved system of government, though beginning to take off, is riddled with controversy. It is critical for Finland to keep the issue of devolution high in political dialogue with Kenyan state authorities through the Development Partners Group (DPG), bilateral political dialogue and sectorial policy work with line ministries.

5.3.2. Policy Framework

At policy level, Kenya's broad development objectives are outlaid in **the Vision 2030 development strategy** that was launched in 2007 through a participatory consultation process. Vision 2030 identifies gender as a priority. It also addresses persons with disabilities. The second Medium Term Plan (MTP II) was launched in October 2013 with the title "Transforming Kenya: Pathway to Devolution, Socio-Economic Development, Equity and National Unity". Rather than the HRBA, it has a very **strong focus on**

economic growth through better infrastructure, macroeconomic stability, and diversification and commercialization of agriculture. Another key theme is the process of devolution.

Recommendation: Because the HRBA and cross-cutting issues are not well represented in MTP II, it is necessary to analyse the GoK's capacities to operationalize a HRBA in programmes funded by Finland.

There is **government attempt to mainstream issues of disability** in national development. The National Council for People with Disabilities leads the implementation of the National Action Plan of the African Decade of Persons with Disabilities 1999–2009, extended until 2019 (SIDA, 2011). In 2008, the government introduced a disability mainstreaming indicator for the public sector performance contracting guidelines. The 2009/2010 Performance Contract guidelines required that all public institutions implement the Government Policy on Affirmative Action for People with Disabilities. There are also regulations that provide for persons with disabilities “access compliance” for all buildings in the next five years and for all public vehicles with effect from January 2010.

The National Policy on Gender and Development (NPGD) was launched in 2000. It focused on nine themes: the economy and agriculture, poverty and sustainable livelihoods, law and justice, political participation, education and training, health and population, environmental sustainability, peace, security and conflict resolution, and media and information technology. It also sets indicators for monitoring and evaluation of gender equality. In the same year, the Head of Public Service asked all ministries and state corporations to appoint gender officers and establish gender units. In 2007, the Women Enterprise Fund was initiated to promote women's economic empowerment. Additionally, there is the National Plan of Action for the Elimination of Female Genital Mutilation (1999–2019) implemented by the Ministry of Health, as well as Gender and Education Policy (2007) implemented by the Ministry of Education. In 2008, the Ministry of Gender, Children and Social Development launched **the Plan of Action (2008–2012) to implement the national policy on gender and development**. Its overall objective was to “ensure women's empowerment and mainstreaming needs of women, men, girls and boys in all sectors of development in Kenya so that they can participate and benefit equally from development initiatives” (Ministry of Gender, Sports, Culture and Social Services, 2008:9). Later in July 2009, gender mainstreaming became a requirement in the performance contract of all Permanent Secretaries and Chief Executive Officers (CEOs) of all state corporations. From July 2009, guidelines exist that require all ministries to formulate sector specific gender policies to guide programmes and gender responsive activities. Since then, guidelines for mainstreaming gender have existed and some sectorial gender mainstreaming policies are in place, for example, in agriculture and energy. However, **there is no overall governmental gender policy**.

In 2013, the government launched the so-called *Uwezo* Fund (literally translates as empowerment fund) to complement the Women Enterprise Fund. Its aim is to “provide youth and women access to grants and interest-free loans, as well as mentorship opportunities to enable them to take advantage of the 30% government procurement

preference for youth, women and persons with disabilities through its Capacity Building Programme” (<http://www.uwezo.go.ke/en/index.php>).

Some interviewees felt that the 2007 electoral events and the 2013 elections had put a halt on making of policies. However, some of those who work with gender perceived that the GoK was opting for developing a gender policy in 2014. If this is the case, its drafting should be as participatory as possible and donors could support this process through such agencies as UN Women or through direct involvement. Ensuring the participation of a variety of feminist movements and grassroots women’s organizations would be of major importance.

Recommendation: Through its institutional support to UN Women, Finland should continue to support the GoK’s gender policy initiatives; most specifically the elaboration of the new overall governmental gender policy with the full participation of feminist movements, women’s organizations, etc.

5.3.3. Institutional Framework

There have been recent institutional changes in terms of gender equality. **The Ministry of Gender, Children and Social Development has been co-opted by the ‘super ministry’, Ministry of Devolution and Planning.** Despite this, many gender experts seemed to think that this move may affect issues of gender equality positively due to the importance and value of the Ministry of Devolution and Planning itself. Within the ministry, **the Gender Directorate** offers the new institutional arrangement for mainstreaming of gender. Some informants perceived the Gender Directorate as “very strong” and one that “can really influence”. However, others raised a concern whether gender equality is a priority issue for the current government. Some felt that there was an increasing tendency in the Kenyan society of “patriarchy fighting back feminism”. This idea was being linked to both political nominations of women (“submissive and docile women are put into positions, while strong ones are kicked out”) and political attempts to halt the progressive nature of the constitution.

Issues of disability have been institutionally located within the Ministry of Labour, Social Security and Services. The ministry has run 12 rural and one Nairobi-based rehabilitation centres for the training of persons with disabilities into labour markets. There is the National Rehabilitation Committee under the Department of Social Services which also provides vocational rehabilitation through 49 district centres (ILO and Irish Aid, 2009). The previous government also established a Disability Mainstreaming Committee (DMC) within the Ministry of Planning whose aim was to create awareness on disability issues for ministry staff both at headquarters and districts; and to make quarterly reports on progress made in mainstreaming disability issues and concerns to the National Council for People with Disabilities in Kenya (NCPWDK). Currently, disability is institutionally located within the Ministry of Labour.

Article 59 commissions

Article 59 of the Constitution of Kenya 2010 establishes the Kenya National Human Rights and Equality Commission (KNHREC), which was split to create three commissions: KNCHR, NGEC and CAJ. The mandate of the Kenya National Human Rights and Equality Commission is a broad human rights mandate, which also includes aspects

of maladministration. Article 59 of the constitution provides that the KNHREC has a mandate:

- to promote respect for human rights and develop a culture of human rights in the Republic;
- to promote gender equality and equity generally and to coordinate and facilitate gender mainstreaming in national development;
- to monitor, investigate and report on the observance of human rights in all spheres of life in the Republic;
- to receive and investigate complaints about alleged abuses of human rights and take steps to secure appropriate redress;
- on its own initiative or on the basis of complaints, to investigate or research a matter in respect of human rights, and make recommendations to improve the functioning of state organs; and
- to act as the principal organ of the state in ensuring compliance with obligations under treaties and conventions relating to human rights.

Specific laws were passed under Article 59 to govern each commission. The Kenya National Commission on Human Rights Act, 2011, establishes the Kenya National Commission on Human Rights. It is a successor to the body of the same name established by the act of Parliament in 2002 (National Council for Law Reporting with the Authority of the Attorney General, 2010). Currently, its core mandate is to act as a watchdog over the government in order to further the protection and promotion of human rights in Kenya.

While the KNCHR has a broad or full human rights mandate to receive complaints on any human rights issue, the human rights mandate of the other commissions is limited by either the issues it addresses or the agency against which the complaints are made. Accordingly, the mandate of the NGEC is limited to gender discrimination and discrimination relating to disabilities while the mandate of CAJ is maladministration, which includes certain human rights violations in the public service. The mandate of the NGEC relates to gender, equality and discrimination. The NGEC has also taken on board, and is the focal point on issues relating to persons with disabilities.

The CAJ is established by the Commission on Administrative Justice Act (CAJ Act) enacted pursuant to Article 59 of the Constitution of Kenya. The jurisdiction of the commission extends to any state organ, state or public officers in National and County Governments and investigating the conduct of state officers in both spheres of government [Sec. 8 (a) & A. 59 (2) (h)]. Some of the functions of the CAJ are listed under section 8 of the Act as follows:

- to investigate any conduct in state affairs, or any act or omission in public administration by any state organ, state or public officer at both levels of government that is alleged or suspected to be prejudicial or improper or is likely to result in any impropriety or prejudice;
- to investigate complaints relating to maladministration within the public sector; and
- to inquire into allegations of maladministration, delay, administrative injustice, discourtesy, incompetence, misbehaviour, inefficiency or ineptitude within the public service.

5.4. Development Cooperation and the HRBA in Kenya

Human rights are extremely complex, political issues in postcolonial African contexts. Englund (2006:31) has argued that “the situation of human rights (...) is invariably political”. Consequently, the promotion of a HRBA by international development agencies is likely to be enmeshed into a complex web of varying interests, motives and points of views among a diversity of local, national and transnational actors. Human rights as a development discourse are also beset by paradoxes. Hintjes (2008:1181) has noted that “as more states are increasingly held accountable for fulfilling legal obligations towards citizens, the same states are also obliged to collude in economic and financial deregulation processes that undermine and challenge both state sovereignty and the state’s ability to protect disadvantaged persons among their own populations”. In addition to national governments, the role of transnational financial institutions and development agencies is paramount in effecting legal, political and economic governance in postcolonial Africa.

According to the OECD/DAC aid statistics, Kenya received USD 2,474 million of official development aid (ODA) in 2011. This corresponds to 7.3% of Gross National Income (GNI). Consequently, according to some views, **Kenya is not an aid-dependant country**. A study on aid effectiveness in Kenya, for example, stated that “at its peak in 1989–90, net ODA inflows averaged 14.6 percent of the gross domestic income, declining to 2.52 percent in 1999 and were 2.94 percent in 2002, before increasing to 4 percent in 2006” (Mwega, 2009:5). In comparison to such neighbouring countries as Tanzania and Uganda where a large share of public expenditures are financed by foreign donors (41% and 45% respectively), approximately 15% of Kenya’s public expenditures derive from donor funds (Fengler, 2011). In addition to revenues and taxes, the decreasing importance of ODA to the Kenyan economy derives from China’s aid and direct investments.

However, there is **a large foreign donor community** in the country. In OECD/DAC categories, Kenya falls among the category “Other Low Income Country” which corresponds to per capita GNI less than USD 1,005. Despite the fact that Kenya does not belong to the Least Developed Country (LDC) category, there are persistent interests among foreign donors to continue working there. The economic motives are related to Kenya’s vibrant economy. Political motives include Kenya’s strategic geographic location in the fight against terrorism and its relatively peaceful history vis-à-vis its neighbouring countries such as Rwanda, Somalia, Sudan, and South-Sudan (Lind & Howell, 2010). In 2010–2011, Kenya’s largest donors were the United States (U.S.), International Development Association (IDA), International Monetary Fund (IMF), Japan, African Development Bank (AfDB), United Kingdom, Germany, France, EU institutions and Denmark. According to the OECD/DAC statistics, the bilateral share of gross ODA was 62%. The role of the United States is paramount. Kenya is among the largest recipients of U.S. development, humanitarian and security assistance (Ploch, 2013). A loyal companion since the Cold War struggles against communism, Kenya has become one of U.S. strategic partners in the fight against terrorism in the East African region (Ploch, 2013). Some have argued that U.S. development policy is increasingly used to enhance domestic security concerns with USAID becoming a “quasi-security agency” (Hills, 2006:629).

Since 2007, development cooperation was guided by **the Kenya Joint Assistance Strategy (KJAS)**. Its aim was to increase aid effectiveness and to harmonize development efforts. Nearly 20 multilateral and bilateral aid agencies were committed to the KJAS principles. The KJAS does not exist anymore. Currently, the GoK has asked development donors to become aligned to the goals and objectives of the second Medium Term Plan (MTP II). Donor cooperation is coordinated by the External Resources Department (ERD) of the Ministry of Finance. Development donors cooperate with each other and have dialogue with the GoK through the Development Partners Group (DPG) and its several working groups.

However, **donor coordination has been described** by many as challenging. There is a very strong concentration of aid actions in the Mombasa-Nairobi-Lake Victoria corridor evidenced by the examples from the World Bank and AfDB programmes (AidData, 2010). The concentration of donor efforts at these relatively rich geographic locations leaves the country's poorest regions devoid of aid (AidData, 2010). The same research concludes that "in Kenya, uncoordinated donor specialization may neglect particular sectors and geographic regions" (AidData, 2010).

Since the 2007 post-electoral violence, **donor-government relations have experienced some tensions**. In the aftermath of the crisis, donors increasingly supported processes of political reform and national reconciliation with good governance and human rights high on development agendas (Lind & Howell, 2010:336). However, this focus was put to test in 2012 and 2013 when the Kenyatta/Ruto electoral campaign was built upon increasing claims for national sovereignty. Their supporters perceived the ICC trial as an international conspiracy against Kenya and African leaders more in general (Ploch, 2013). Bilateral donors have addressed these politically sensitive issues in different ways. The DFID, for example, states in its 2011–2015 Operational Plan that "Kenya's potentially rapid development is constrained by high levels of corruption and impunity by political, government, and business leaders" and that the case of the ICC is "domestically controversial" (DFID Kenya, 2012:2). Finland's Country Strategy with Kenya puts it firmly that "there are serious problems with regard to human rights violations and impunity despite the indictments by the International Criminal Court (ICC) against four Kenyans suspected of involvement in organising the 2007–2008 post-election violence" (Embassy of Finland in Kenya, 2013:10). It further predicts that "the ICC process is a critical message against impunity and also a deterrent in the future" (Embassy of Finland in Kenya, 2013:10). In the case of international financial institutions and such development actors as USAID, the media has questioned whether they would be ready to abandon their strategic military and economic interests for the sake of human rights (East African, 2013).

China's silence on post-electoral violence and its general policy of non-interference seem to have increased its appeal among the highest political decision-makers. Its aid has no human rights conditionality. China has invested in concrete and visible development results especially in infrastructure (roads, harbours, etc.) and natural resources (exploration concessions on oil and gas). Due to increasing discourses of national sovereignty and the role of China, the role of bilateral donor agencies, including Finland, may turn out to be increasingly challenging. However, their role has been — and continues to be — paramount in supporting government oversight agencies and civil society that hold the government accountable for its actions.

The HRBA and Finland's country strategy

Kenya is one of Finland's long-term partner countries. Finland has been collaborating with Kenya for more than 30 years. In 2013, Finland has budgeted EUR 15.9 million in the support of Kenya's development priorities. As was noted in an earlier chapter, Finland drafted comprehensive country strategies for its cooperation with all its partner countries in early 2013. This was a major positive change in relation to agreements during the previous policy period because **the drafting of country strategies allowed substantive discussions on the incorporation of new HRBA policy principles** into country level actions. With country objectives in mind, the exercise was done predominantly as an internal collaborative process within the MFA and Embassies. In Kenya, the process of participation was limited due to time constraints and the fact that the country programme mainly consisted of projects that had started during Finland's previous development policy period. However, the existence of country strategies opens up various new opportunities for the inclusion of HRBA principles and techniques in the everyday practices of the Embassy. It appears that there is **a systematic lack of detailed background analysis and baseline studies in Finnish-funded programmes**. Given that a set of detailed analysis, such as **causality analysis, pattern analysis and capacity gap analysis**, formulate such an important part of the HRBA to development programming, one possibility for future strengthening of HRBA programming and implementation could be to conduct them **at the level of the country programme or by each sector**.

Recommendation: If not systematically conducted at the level of each project, it is recommended that Finland conducts HRBA to development programming analyses either at the level of the country programme or by each sector. This could be done together with other like-minded donors working in the HRBA to development.

The Country Strategy for Development Cooperation with Kenya (2013–2016) establishes **three objectives for Finland's development cooperation with Kenya**:

- 1) A democratic and accountable society that promotes human rights;
- 2) Poverty reduction through inclusive green growth in the agricultural sector; and
- 3) To improve the management and use of forest and water resources with increased participation of communities, civil society and private sector.

As seen above, human rights principles, such as **accountability, inclusion and participation**, have been used in the determination of Finland's development objectives. The first objective, and the one on which our Kenyan case study first and foremost focuses, is specifically designed to address human rights. In terms of human rights, Finland has, in fact, increased its role in the field. The Embassy of Finland in Nairobi has a technical advisor, whose ToR is specifically focused on tasks related to human rights and gender equality. In general, many of the Finnish advisors welcomed Finland's overall shift in policy discourses positively, because they considered that it eases Finland's donor cooperation and places Finland among other multi- and bilateral donors, such as Sweden, Norway, the Netherlands, and the UN agencies that have for years been implementing a HRBA to development. Ideally, they hoped that the HRBA to development would help the donor community to understand each other better and have a common message towards the GoK.

It can be said that Finland's cooperation in Kenya in the justice sector provides **various encouraging examples of how to put a HRBA into practice** (see later). Despite the existence of strong political will and HRBA expertise among advisors at the Finnish Embassy, this is not entirely the result of Finnish aid but rather relates to **the happy coincidence of relatively widespread ownership of the HRBA in Kenya and respective shift in Finland's development policy discourses**. Although some of the programmes can, without doubt, be labelled as promising practices in terms of enhancing the implementation of the HRBA to development, there are also various challenges still on the way. In the following sections of the Kenyan case study, we describe and analyse both what we consider as promising practices and what we perceive as challenges in the implementation of the HRBA to development in Finland's cooperation with Kenya.

Although the other two sectors were not under detailed scrutiny in this study, it was, however, expressed by many that the incorporation of the HRBA policy approach has been more challenging in them. Both Objective B that focuses on agriculture and rural development and Objective C that focuses on forestry and water were key priority sectors during the previous policy period. As a result, there is a slight sense that **new terminologies have been glued on top of old ones**. During the previous policy period, such political decisions were made that tied financial resources for various years to come. **To change programme objectives and the allocation of funds according to new HRBA principles has proved difficult**. Both consultancy companies that implement Finnish bilateral programmes and the GoK should give up on already agreed financial agreements and project designs. This is challenging. However, the Kenyan constitution requires the implementation of a HRBA. Consequently, there should be **a mutual interest between Finland and the GoK to rethink their cooperation in terms of a HRBA**. At the level of the Embassy, advisors seem to have a strong will to shift from merely technical exercise of agricultural or forestry programmes into looking at them more from the perspective of rights, participation and redistribution of resources. Indeed, mid-term reviews that have been conducted on water and forestry projects, and will be conducted on PALWECO, have been used as tools to identify ways in which to incorporate the HRBA into project designs and activities, when appropriate. However, **more capacity building and clearer guidelines** on how to concretely incorporate the HRBA in specific sectors is needed. The most capacity building needs to be done at the level of practical implementation of bilateral programmes, including the higher and lower level technical staff.

Gender equality and the enhancement of the status of women are prominent throughout the Kenyan country strategy. Most specifically it is visible within Objective A under which gender has been both mainstreamed and targeted through specific actions. However, gender also seems to appear within other objectives but without further examination it is difficult to assess its implementation. Persons with disabilities are most specifically addressed within the programmes of Objective A but there is the mentioning of disadvantaged groups within other sectors as well.

In the following sections, we focus more in detail on the HRBA to development within the programmes under Objective A of the country programme.

5.5. The HRBA in Practice in Finnish Development Cooperation

5.5.1. Support to Government Oversight Agencies

This part focuses on Finnish support for the three constitutional oversight commissions, whose main aim is to hold the GoK accountable for human rights, gender equality and good governance. Finland is the largest contributor to the UNDP administered basket fund, contributing a reported 70% or more into the fund. The other donor is Sweden. The agreed commitments for 2014 are as follows: KES 128 million (KNCHR), KES 132 million (NGEC) and KES 185 million (CAJ). Finnish support for the commissions is essentially a capacity building project on the HRBA. According to the Project Document, as well as what was gleaned from discussions with relevant commission staff, it is established that some of the key priority areas were:

- Support to National Human Rights Institutions as a key counterpart in promotion and protection of human rights for all at the national level, under which a HRBA project falls.
- To enhance the capacity of national counterparts and UNDP staff to apply a HRBA to development programming. Capacity building and collection of lessons learnt.
- To improve the access to justice in the country with a special emphasis on vulnerable groups such as women and people with disabilities.
- Support to transitional justice processes during the life of the Truth, Justice and Reconciliation Commission of Kenya (TJRC) and thereafter.

The other two components are: outcome monitoring and training of prison officers and police and law reform (influencing policy). The objective of the capacity building project is to build the capacity of key government ministries, agencies and entities in the implementation of government policies. The initial trainings, which were implemented in four phases of one week each, targeted officials of the then Ministry of Planning, National Development and Vision 2030. Focus was on the staff of the M&E Directorate in that ministry. The Ministry of Planning, in particular the M&E Directorate was targeted in initial trainings because of its central role in planning but also because it is responsible for monitoring the implementation of policy by other ministries and departments. Content of the training was on the HRBA, with a narrower focus on the indicator framework. The objective was to ensure that the HRBA informs the planning process.

Subsequent to the training, the then Minister Wyclef Oparanya committed that the Ministry of Planning was to incorporate the HRBA in the planning component. He also committed to incorporate the HRBA in the sector working groups convened as part of the second Medium Term Plan (MTP) process. Both the KNCHR as well as NGEC sent staff to participate in some of the sector working groups to ensure that the HRBA was indeed incorporated. The idea was to ensure that the MTP II concretely engaged with relevant HRBA principles rather than passing references. The final product is awaited.

In May 2013, a second batch of 60 government officials, drawn from implementing agencies as well as the Ministry of Planning, was trained. Those targeted were: officers from the Ministry of Finance (now National Treasury); District Development Officers who engaging directly at the grassroots obtain views from the public on how they want

to engage with development agenda (retained as National Government employees in the devolved structure); County Transitional Coordinators (part of the Transitional Authority, a state institution established to lead the transition to devolved government); and staff from the Ministry of Planning (now Devolution and Planning, under which the Gender Directorate falls in the new structure).

It is notable that the trainings adopt a practical approach, and engage with the application of specific HRBA principles in specific projects implemented by various ministries, in this case, the District Development Officers on the ground around the country. The KNCHR plans to scale up the training in the next quarter, particularly responding to the new devolved system of government by targeting County Executive Committees (essentially the county cabinet appointed by the governor); the County Public Service Boards and later, Ward Managers. The ward is the lowest constituency represented in the County Legislature by a Member of the County Assembly (MCA).

The other outcome of this project was the development of a Manual on the HRBA, in collaboration with MS Training Centre for Development Cooperation in Eastern and Southern Africa (supported by Denmark and located in Arusha, Tanzania), which is currently reviewing the draft of the manual. The manual will provide a training framework on the HRBA for public officers. Because of the huge number of government officials to be trained, and given that so far only a few officials from two ministries — National Treasury and Planning — have been trained, the plan is to use the manual as a training tool by the Kenya School of Government, which participated in its development.

Within the recent elaboration of the Mid-Term Plan II of Vision 2030, the KNHRC has been invited to review and elaborate HRBA indicators for the plan. This is an important on-going issue because it will ideally strengthen the measuring of results and impacts of the governmental development plan and the drafting of lessons learnt through the HRBA.

Gender and disability issues

While the KNCHR focuses on the general promotion of human rights, the NGECE has a special mandate to enhance gender equality and the status of women in Kenya. Until the establishment of the NGECE, the issues of disability fell under the mandate of the KNCHR. At the moment, however, disability issues are dealt by the NGECE. Some of the main functions of the NGECE include the monitoring and integration of the principles of equality and freedom from discrimination in all national and county policies and laws; the coordination of the mainstreaming of gender and persons with disabilities and other disadvantaged groups in national development and to advise the government on it; the development of affirmative action implementation policies; and, the investigation of any violations of principles of equality and freedom from discrimination (NGECE, 2013-a:8–9).

Some actions that the NGECE has undertaken in terms of enhancing gender equality include awareness raising and electoral monitoring during the 2013 elections. Together with the Ministry of Gender, Children and Social Development, it “deployed over 180 monitors in the field before and on Election Day was active in monitoring the candidate nomination process” (European Union Election Observation Mission, 2013:27). In order to enhance women’s political participation, the NGECE also took a petition to the High

Court against the IEBC on unequal party lists nominations. In terms of women with disabilities, it was informed that the NGEC is supporting such initiatives as special groups sensitive budgeting at county levels and the elaboration of indicators measuring the recruitment of persons with disabilities for public office. A minor, yet encouraging example of concrete steps in addressing disability issues within the NGEC was the launching of the NGEC Strategic Plan 2013–2015 in Braille. However, a quick revision of such documents as the NGEC 2011–2012 Annual Report shows that the question of disability is not well addressed.

Such sensitive, yet important themes from rights perspective as abortion and LGBT rights are also part of the work of the NGEC. Given that homosexuality is criminalized in Kenya and the rights of LGBT persons are non-existent, the promotion of non-discrimination and equality of LGBT persons is paramount for the fulfilment of their rights.

In addition to challenges related to inadequate financial resources and regional visibility (discussed more in detail later), the NGEC has identified two major challenges in its work: the limited clarity of its purpose and the complexity of its mandate. In terms of the first one, the roles and functions of the NGEC are yet to be clearly defined and institutionalized in relation to other commissions and such entities as the Ministry of Gender, Children and Social Development, the National Council of Persons with Disabilities, etc. In terms of the second, the NGEC (2013-a:20) admits that “principles of equity, freedom from discrimination and definitions of the special interests groups (...) [are] complex, multi-dimensional and abstract”. They are still in need of technical guidelines on how to operationalize their daily work.

Challenges

All in all, it can be said that Finland’s support to Kenyan oversight agencies offers an example of a programme in which human rights are the main focus of the programme. Finland has been and is supporting human rights commissions also in some of its other partner countries namely Afghanistan and Nepal. This strategic decision responds clearly to Finland’s policy priorities. Ideally, they have the potential of holding governments accountable for the realization of rights (see the section on accountability below).

Promising practice: Finland supports Kenyan oversight agencies that hold the GoK accountable. It is a human rights project *per se*.

However, in contemporary Kenyan context, oversight agencies face many challenges. The most crucial issue relates to the relations between the GoK and oversight agencies. Many interviewed commission staff reported that there is **a lack of financial commitment from the part of the GoK**. While it was stated that the agreed funding arrangement between the government and donors was supposed to be 50% and 50%, in practice all of the commissions depend mainly on foreign donor funding that, for example, in the case of the KNCHR makes up to 70% of its funding. While the GoK has refused or is reluctant to finance operational costs of the commissions, they do provide for rents and the salaries of commissioners. At the moment, however, one of the most pressing issues is **the lack of elected commissioners**. Especially in the case of the KNCHR, the government has halted their recruitment and this impedes the capacity of

oversight agencies to operate. There is no clear evidence to demonstrate the case but in general, it seemed that the active involvement of oversight commissions earlier on in investigations that may have benefitted the ICC process have increased tensions between the GoK and these commissions. The lack of funding and the lack of commissioners can be interpreted as signs of **attempts by the government to weaken the role of commissions**, and to silence them.

Given the process of devolution, another challenge for these commissions is to establish or strengthen their presence in the counties. There is **a country-wide need for building the capacities of county elected governors and assemblies in the HRBA** and to raise the awareness of these future service-providers. Some argued that the government does not want people at local levels to be aware of their rights. This, however, is crucial for the future democratization through devolution. It was reported that in general there is still little public awareness of the existence and role of commissions, and especially those that are new such as the NGEC and the CAJ. At the KNCHR, there had emerged an initiative to develop **curricula of civic education for CSOs, women's groups, etc. on devolution so that people at local levels know their rights better**, and are thus empowered with information. Additionally, it was argued that as public awareness about the commissions' work increases, public expectations are raised and often commissions do not have the capacity to respond to them due to lack of funding, technical staff, regional presence, etc. A related problem, which has limited the impact of the commissions, is that each, in wanting to establish its *raison d'être*, would like to individually establish in the regions. This has negatively impacted their work in terms of efficiency due to what can be seen as unproductive competition among them.

The third serious challenge that was mentioned had to do with **increasing security threats of human rights defenders**, and others who work with the issue of human rights. People have been disappearing and killed.

The role of donors has been crucial in supporting oversight commissions. However, commissions seemed to suffer from sporadic funding allocations of donors. It was noted, as a criticism, that donor interests seemed to change every year or two. This makes long-term operational planning difficult. Although donor dependency is a problem, it, however, seems that in contemporary Kenyan political context, it is unlikely that the government would increase its support to the commissions any time soon. For this reason, both staff from commissions and members of CSOs perceived that it is important that Finland among other donors continues to fund them. Considering that there are credible reasons to believe that there might be attempts to weaken their role, there is a need to consider innovative ways to strengthen the institutional status of oversight commissions.

The KNCHR has vast knowledge and technical expertise to provide training on the HRBA. In this respect, it has an important national mandate. However, it has also provided capacity building to the staff at the Finnish Embassy. This has been an inspiring example of turning the donor-recipient relationships upside down. Rather than dictating their own policy priorities, Finnish actors have been able to learn from the HRBA experiences of the partner country.

Recommendation: Given that there is a progressive constitution and national ownership of the HRBA in Kenya, other Finnish partner countries in Africa could also benefit from shared experiences. Some innovative experiments with South-South cooperation could be initiated in terms of sharing information and, conditions allowing, capacity building.

5.5.2. Support to the Organization of Kenya's Elections (IEBC) and Civic Education through Uraia Trust

According to the final evaluation report (UNDP, 2013), as confirmed by information gleaned from staff and individuals who provided information to the research team, the Strengthening Electoral Reforms and Processes (SERP) Project was designed to build the institutional capacity of the Independent Electoral and Boundaries Commission (IEBC) to manage a peaceful, credible and inclusive electoral process in the lead up to and during the March 2013 General Elections. The project worth USD 41,389,740 was multilaterally funded and administered as a basket by the UNDP. It pooled the funds of 12 donors, the UNDP and the IEBC. Informed by **the tragic events surrounding the 2007 elections**, much of the focus in the lead up to the 2013 elections was on **the need for a peaceful, credible process and acceptance of the electoral results**. These were the most complex elections in Kenya's history as the categories of electoral positions contested were expanded from three to six (Presidency, County Governor, Senator, Woman Representative, Member of National Assembly and Member of County Assembly).

SERP had four main components: institutional strengthening; support to electoral operations; strengthening civic engagement and participation; and, support for project management. This was to be achieved through ten outputs as follows: strengthened institutional capacity; legal framework; boundary delimitation; credible voter register; financial support towards operational plan for elections; elections dispute resolution and conflict prevention; civic and voter education; enhanced political participation for women, youth, minorities and persons with disabilities in the electoral process; monitoring and evaluation mechanism; and leadership and evaluation. The report notes that civic education, conducted directly by the IEBC with SERP funding, or indirectly through a number of different mechanisms that included Trust Fund for Civic Education (Uraia), Amkeni Wakenya, UN Women Gender and Governance Programme III (GGP III) that focused on increasing women's participation, the International Republican Institution (IRI) that encouraged the participation of disadvantaged constituencies, and a Ministry of Justice civic education programme (Kenya National Integrated Civic Education Programme), took more than a quarter of the budget.

Although contributing to the overall basket fund, Finland was most specifically concerned at enhancing the political participation of women and disadvantaged groups, including youth, ethnic minorities (most specifically pastoralists) and persons with disabilities. Finland also supported civic education through the Uraia Trust, a CSO coalition.

Project organization and management

As in the case of Finnish support for the oversight agencies, SERP used a national implementation modality (NIM) with the IEBC as implementing agency supported by a

Project Support Team (PST) and Senior Technical Advisor (STA). The Project Support Team was, in terms of the Project Document, to be comprised of the STA, Project Manager, Programme Officer, Conflict Specialist, Monitoring and Evaluation Officer, Finance Officer, Procurement Officer, and Project Assistant with most of the PST based at the IEBC. The UNDP administered the basket fund. There was the Election Donor Group (EDG) that coordinated the technical assistance level of support.

While the use of the basket fund modality “facilitated coordination of donor contributions and eased IEBC management burden”, the IEBC’s limited request for enhanced technical assistance, coupled with UNDP reluctance to intervene proactively, occasioned **a lack of adequate institutional capacity** and thus the IEBC suffered administrative burdens that impacted implementation. On these points, the UNDP report concludes that “the NIM modality was not appropriate in the context and more thought needs to be given to future implementation mechanisms” (UNDP, 2013:4). Part of the problem, it appears, was that effort was not made to build NIM capacity to efficiently administer the project.

Gender and disability issues

Of interest to this research, SERP sought to address the challenges facing women, youth, persons with disabilities, and ethnic minorities in the electoral process. This was through supporting the IEBC with technical assistance, facilitating stakeholder consultations on how best the IEBC could ensure compliance with electoral quotas and mainstreaming gender in elections management (UNDP, 2013:41). Part of this was creation of awareness of the opportunities through developing civic education strategies and improving access for persons with disabilities. Training of journalists was conducted to promote gender-sensitive reporting. UN Women participated in the project and took the lead on gender issues. In particular, it implemented the component of the project on preventing **Electoral Gender Based Violence (EGBV)** which **has characterized Kenyan elections** since the 1992 transition to electoral democracy (Truth, Justice and Reconciliation Commission, 2013; Government of Kenya, 2009-a; Government of Kenya, 2009-b). This had the objective, in part, to enhance the participation of female candidates in the elections. UN Women also trained women with disabilities. Some of the media campaigns were designed to address persons with disabilities, for example, through sign language.

In terms of enhancing peaceful elections, the programme achieved its goals. Whether it was a successful development programme with long-lasting institutional results and impacts can be disputed. The support of Kenya’s elections was an example of a ‘fashionable’ programme which all donor agencies wanted to contribute to with large amounts of funds. This shifted attention away from the support of other important commissions and other development programmes. Large sums were used for purchasing advanced technological electoral equipment. During the late 2013, various leaders of the IEBC were accused of corruption in relation to procurement. In terms of gender and disability, the IEBC lacked policy and officials on these issues, and its internal recruitment policies have not been following the constitutional requirements concerning gender and disability. One informant commented that “gender was only an afterthought within a set of competing priorities”.

The **technologies and terminologies that the IEBC used were not appropriate in addressing people from rural areas, pastoralist communities, and of various ethnic backgrounds**. It has been argued that the use of local people's own languages and terminologies has been improved to be a key for the use — and misuse if bypassed — of the rights-based discourses (Englund, 2006). Voter education and electoral materials were provided solely in English and Swahili, leading into political marginalization of indigenous communities (European Union Election Observation Mission, 2013:28). Additionally, the registration of distant rural community residents and members of pastoralist communities as voters was not a priority. It has been estimated that as low as 10% of members of some pastoralist communities were registered (UNDP, 2013). According to the European Union Election Observation report (2013:28), “seven million pastoralists (18 per cent of society) remain disenfranchised due to remote distances to polling stations and difficulties in obtaining ID cards”. Given the ethnic diversity of the country, this leads into discrimination of some ethnic groups over others. A more theoretical and challenging question in terms of enhancing political participation in such an ethnically diverse country as Kenya and elsewhere in Africa is whether and to what extent Kenya's various ethnic groups and local communities, especially pastoralist communities and indigenous peoples, entail the sense of national belonging in the first place (Ceuppens & Geschiere, 2005; Ndegwa, 1997). It has been argued that “post-independence regimes did not invest in building cohesion across different communities; nearly fifty years after independence, different ethnic groups continue to view themselves territorially” (Uraia Trust, 2012:4). Enhancing local level political participation, local level mass education with local languages, and local level income generation is important in increasing the sense of belonging to the national framework and further democratization agenda. In regard to the future, the process of devolution, if appropriately managed, might provide forums for this.

Civic education through Uraia Trust

The civic education provided by the IEBC was perceived as inadequate by Finnish actors which is why they redirected funding to Uraia Trust, a civil society coalition. The Uraia Trust works on citizenship from a rights perspective. The National Civic Education Programme (NCEP I) was established in 2000 as a cooperative effort between 70 local CSOs and development donors. Its main aim was to respond to the challenge of increasing democratic space and political pluralism in the context of a long-term history of one-party state and centralized presidential power (Uraia Trust, 2011-a). The NCEP II, which was re-branded as *Uraia* (citizenship in Kiswahili), and launched in 2005, focused on nation-building, good governance and democratization in view of the 2007 elections. Gender was one of its cross-cutting issues. After the 2007 electoral violence, while the focus was first shifted to reconciliation efforts, peace initiatives and internally displaced persons (IDPs), it soon also concentrated on campaigning for the new constitution. Since 2010, Uraia was transformed into the Uraia Trust with the aim of lessening its dependency on development donors. The Uraia Trust gives grants to CSOs that implement civic education projects at local, national and regional levels.

Finland's support to Uraia Trust was directed at Uchaguzi Bora Initiative that focused on achieving participatory, free, fair and credible elections in 2012/2013. With this support, the Uraia Trust built capacities of 57 CSOs throughout the country, gave them grants and trained approximately 400 civic educators. The programme aimed at assisting citizens to elect credible leaders and at enhancing constitutionalism. The CSOs

included gender, youth and disability organizations. After having realized that the number of persons with disabilities among the participants were few, a special attention was given to training persons with disabilities as civic educators. The interviewees informed that the number of persons with disabilities among civic educators rose from 20 to 53. These civic educators trained more than 600 persons with disabilities on elections and democracy promotion. The Uraia Trust has internal gender policy and it supports CSOs to draft their own gender policies.

In terms of how the elections were organized and what the results were, the interviewees at the Uraia Trust criticized both the level of participation of women and persons with disabilities, noting that it was limited. In terms of women's political participation, the main challenges were identified to be linked to the lack of funding in running effective electoral campaigns, political violence and intimidation against women candidates, and generally low levels of literacy which impacted women both as voters and candidates. It was argued that political parties are strongly centred on specific personalities, ethnic loyalties and male figures with economic wealth. As a result, political newcomers, women and most specifically persons with disabilities are not given fair platform before, at, and/or after the nominations. It was expressed that in terms of enhancing the political participation of women and persons with disabilities, the main attention should be directed at the level of devolved governments.

Some views of female politicians

Among the women deputies and senators that were interviewed, there was a variety of views concerning the challenges that women's political participation had faced in recent Kenyan elections. While most of them considered that **affirmative action** was valid and needed, concern was raised that women who came into public office through the quota system were not taken seriously and that elected and nominated women deputies were in unequal positions. They observed further that political parties have stopped enhancing women's campaigns and political participation outside the quota system, with the consequence that, as the results of the last elections show, the reservation of seats and nomination of women could be said to have a negative impact on the place of women in competitive electoral politics. The thinking could be that representation of women is to some degree already achieved and perhaps no more effort is required to increase their numbers. This issue has been confirmed by the European Union Election Observation report (2013:25) which states that "Women's Representative seats were used as an argument to push women out of the regular race to the parliament". It continues that "[m]ale politicians perceived female contestants as having their seats 'guaranteed' (...) Therefore their participation in the regular contest for legislative positions was regarded as not necessary and unwelcome" (European Union Election Observation Mission, 2013:25).

According to the women interviewed, **one of the biggest challenges in terms of women's political participation relates to the lack of funding** to run effective campaigns. The Kenyan **political system is still strongly permeated by clientelistic and ethnic relationships** in which money and favours are circulated between elected candidates and voters (Hulterström, 2007; Wrong, 2010). The logic behind this system is that "the distribution of material resources and the manipulation of state actions in favour of clients are important ways that patrons can increase their power and entrench their positions of influence" (Matter, 2010:69). Affluent men within the highly stratified

political elite have controlled and manipulated these relationships and patterns for decades (Branch, 2011). One of the interviewees called this phenomenon “a networking of old boys clubs”. Additionally, there is a deeply rooted pattern of electoral intimidation and violence against opposing candidates and voters through ethnic mobilizations or youth groups, such as Mungiki, that are, to an extent at least, governed and controlled by politically and economically affluent male figures (Frederiksen, 2010). It is precisely for this reason that part of the support to the IEBC that was spearheaded by UN Women involved adoption of measures with various partners to reduce electoral gender-based violence and enhance preparedness of public agencies and female candidates to prevent and respond to it.

Recommendation: In the absence of formal activity, it is recommended that Finland considers supporting the implementation of the Supreme Court of Kenya (SCK) decision on gender representation, including supporting CSO actors involved in working out options for the 1/3 gender rule. Finland’s support to the Uraia Trust civil society coalition could be used as a forum for this.

Recommendation: It is recommended that civic education, for example, through the Uraia Trust, should be directed at addressing the import of the quota system, the 1/3 gender rule, with emphasis being placed on the need for the public to elect more women leaders.

5.5.3. Support to Gender Equality

After the end of the large Gender and Governance Programme (GGP), Finland has provided general institutional support for the country programme of the UN Women. The project has four major objectives: to support constitutional, legal, policy and institutional reforms for gender equality, non-discrimination and the equal participation of women in all governance structures in Kenya; to increase options, choices and capacities for Kenyan women in order to enhance women’s organizing, leadership, influencing and participation for gender equality, human rights and democratic governance; to strengthen positive images of women in leadership within communities; and to strengthen the knowledge and capacities of women’s CSOs on gender and governance and position them to spearhead and transform policies, programmes and resource allocation as well as provide empowerment support actions to women in Kenya. Finland has also continued to support the implementation of Kenya’s 1325 National Action Plan through its support to the UN Women country programme (for a thorough assessment of the implementation of 1325 Action Plan, see Banerjee et al., 2010).

In terms of the HRBA, Finland’s efforts to support gender equality and the enhancement of the status of women in Kenya through institutional **support to the UN Women Kenya country programme** is, to an extent, a controversial issue. On the one hand, it is an example of Finland’s increasing commitment to enhancing gender equality and the enhancement of women’s status. It falls easily within the HRBA principle of empowerment, i.e., that people should know their human rights and be able to claim and exercise them effectively (see the theoretical chapter in this report). Finland’s support to UN Women also demonstrates Finland’s appreciation towards the work of UN agencies. In terms of the HRBA, this is important given that the UN system has long-term

experience in working with and through a HRBA. Given that UN Women is a relatively recent institutional arrangement that gathered together various dispersed UN agencies working on gender equality and the enhancement of the status of women, it needs support to make the new institutional arrangement work in practice. **Finland's support to UN Women country offices is important as it is directed to strengthening institutional capacities of duty-bearers at a national level.** As such, it also corresponds to **Finland's increased multilateral aid allocations to UN Women general support** that are to be further increased in 2014. The decision to support UN Women through general support to its overall budgets (both at national and global levels) is a positive step because there is no aid conditionality.

Promising practice: Finland supports the strengthening of programming and institutional capacity of the UN Women country offices and the UN Women headquarters through general budget support without earmarking.

Recommendation: It is recommended that Finland gathers experiences of promising practices of the implementation of the HRBA within the UN system and learns from them. The Multilateral Organisation Performance Assessment Network (MOPAN) evaluation that will be conducted in 2014 on various UN agencies in Kenya could be used for this purpose.

Concerns have been raised on the question as to how UN Women should direct its aid actions. Contradictory views emerged among a variety of Finnish actors and those working at UN Women Kenya. Many at the side of Finland tended to opine that UN Women Kenya focuses too strongly on concrete implementation of its own small-scale projects and on collaborating with CSOs at grassroots level. This contradicts with the UN mandate of enhancing national policy frameworks and supporting governmental accountability. Many felt that UN Women Kenya does **too little overall policy work on gender.**

The representatives of the government's Gender Directorate and the NGEC also raised similar concerns. **The government's concern towards UN Women** was mostly directed at the lack, or inconsistency, of its support to governmental gender initiatives. It was felt that UN Women was not supporting enough the creation and implementation of the government's overall gender frameworks and rather focuses on its own initiatives with CSOs. However, the UN Women support to the elaboration of the NGEC Strategic Plan 2013–2015 was perceived as an example of the kind of support that was needed. The representative of the Gender Directorate expressed that their main interests were to receive support for the training of gender officers within ministries about gender mainstreaming and the training of planning and finance officers within 18 ministries in gender responsive planning and budgeting. To some extent, disputes between institutions enhancing gender equality are likely to occur due to struggles over scarce resources.

The UN Women representatives demonstrated that **they are aware of the criticism** both from the part of donors and the government. It was stated that from 2014 onwards, UN Women will emphasize its support to policy level work and in enhancing the capacities of the state in terms of enhancing gender equality and the status of women in Kenya. The future areas of work that were mentioned to be in the pipeline included the

training of the above-mentioned gender focal points, continuing support to the strategic planning of the NGECC, and various kinds of gender activities related to county governments. As UN Women reorients its programmes, one area that could need greater emphasis relates to disability. It was noted that UN Women appears to take a 'neutral approach' and does not place emphasis on disability issues in its work. The members of the NGECC, for example, noted that UN Women could further enhance its approach in addressing concerns of different kinds of women, such as women with disabilities or women originating from different ethnic groups. It is in fact important to make sure that heterogeneity of women, including disability, ethnicity, age, sexuality, etc. are taken into account.

Finland's decision to work through UN Women is understandable when multilateral agencies are considered more neutral by the government. Even if Finland likes to work directly with government bodies that work on gender, the government's stance in relation to bilateral funding is uncertain.

Recommendation: Finland should continue to stress the importance of UN Women to focus on policy work and on strengthening the capacities of the state to realize women's rights.

Recommendation: It is recommended that in its engagement with UN Women, Finland should ensure that UN Women pays special attention to issues of disability as they relate to women in Kenya.

5.5.4. Local Cooperation Fund

Linkages between civil society organizations and foreign development donors have been instrumental in various phases of Kenyan state formation processes, such as the 1990s democratization struggles and the electoral win of the National Rainbow Coalition (NARC) through which various human rights activists and civil society leaders rose to political power (Lind & Howell, 2010:338). After the 2007 electoral violence, bilateral donor support to the GoK was temporarily withdrawn and increasingly channelled to NGOs and CSOs. In recent years, donor support to civil society has again decreased as governmental development priorities and programmes have gained prominence (Lind and Howell, 2010:338). However, the ICC trials and the March 2013 electoral results appear to have caused some tensions between the GoK and the (bilateral) donor community.

Since 2011, although diminished in volume, Finland's support to NGOs and CSOs through the Local Cooperation Fund (LCF) has been strategically focused on human rights, governance and anti-corruption. The main overarching theme is human rights. Approximately one-fifth of the overall funding is directed at NGOs working with the ICC process. The situation and status of Human Rights Defenders (HRD) is also well addressed. According to Frederiksen (2010:1067), Kenyan non-governmental organizations can be divided into three broad categories: "those inspired and sometimes funded by international institutions/NGOs that pursue universalist, Western-inspired goals like democracy and human rights; those that are community based (...); and, probably the most numerous, those that are based on cultural identification — religious, and more controversially, ethnic". The Finnish LCF-funded NGOs that this study

examined appeared to belong to the first category. They were well institutionalized, professional expert organizations. Transparency International (TI), whose work in enhancing accountability and transparency in Kenya has been well-established (Wrong, 2010), has received Finland's support for the longest time. With Finnish funding, TI-Kenya has established a regional office in Kisumu, Western Kenya. In addition to providing staff and basic equipment, the aim of the support has been to raise awareness of corruption in Western Kenya through the set-up of good governance coalitions and anti-corruption watch-dog groups among local CSOs as well as a legal advice center on corruption where citizens can register their complaints.

Promising practice: Finland's support to NGOs and CSOs through the Local Cooperation Fund (LCF) has been strategically focused on human rights. The situation and status of Human Rights Defenders (HRD) is also well addressed.

Another interesting example of NGO work is Finland's support to the Tax Justice Network, established in the aftermath of the 2007 World Social Forum held in Nairobi. In addition to domestic and regional tax systems, it addresses such issues as foreign direct investments, transnational corporations, revenues, resource curse, tax havens, and illicit capital flight from the point of view of economic rights and justice. These are essential issues if African governments are to sustain themselves economically. They also touch very closely the issues of accountability and transparency.

Most of the interviewed NGO and CSO representatives expressed that the Kenyan civil society responded very well to the change in Finland's development policy priorities. Many perceived that the HRBA responded well to Kenya's new constitution and legislative advances as well as to the contemporary human rights challenges, most specifically the ICC process. Through the KNHRC, NGOs and CSOs funded by Finland through the LCF or otherwise have received training twice a year on themes that they have requested. The aim of the HRBA trainings has been to strengthen the capacity of NGOs, and most specifically community based organizations, and to empower them. This is a promising example of synergies among Finnish-funded programmes.

In terms of gender equality, the LCF officer at the Finnish Embassy informed that gender is included in all LCF projects. As an example, the Tax Justice Network has examined how differently taxing and legislation related to it affects men and women, families and single mothers, etc. Some, however, were critical of human rights NGOs, activists and commissions on grounds that sometimes they tend to be too professional and focus on intellectual circles without the ability to include enough women, youth, and other groups especially from grassroots levels.

The issue of disability has been less addressed among the LCF projects. No funding is directed at disability organizations. However, some organizations have addressed these issues in their work. The Tax Justice Network, for example, has addressed the issue of tax exemption of persons with disabilities on the Value Added Tax (VAT), which was successfully incorporated in the 2011 VAT Act.

5.5.5. The HRBA Principles in Practice

Human rights principles are dealt with in many of the above-described programmes in a variety of ways. Given that the HRBA is a relatively new approach for Finland, advisors and technical staff do not necessarily yet conceptualize their work through these terminologies.

Human dignity

Human dignity underpins the entire Kenyan Bill of Rights (and constitution) and must be regarded as the most foundational value or principle in the context of the HRBA. In this regard, Article 19(2) on the objects and purport of the Bill of Rights provides as follows:

*The **purpose of recognising and protecting human rights and fundamental freedoms is to preserve the dignity of individuals and communities and to promote social justice and the realisation of the potential of all human beings.***

Equally, Article 20(4)(a) provides that “in interpreting the Bill of Rights, a court, tribunal or other authority shall promote the values that underlie an open and democratic society based on **human dignity**, equality, equity and freedom.”

While there is no universally agreed definition of human dignity, the idea of having human dignity essentially means that an individual or groups are worthy of concern, care, respect and deserving of protection (Currie & de Waal, 2005; *S v Makwanyane*, para. 44). The importance of human dignity has been asserted on various occasions. It is accurate to state that most, if not all rights, including political rights, flow from one’s inherent human dignity. The support provided by Finland and other donors to the IEBC, in particular the component on enhancing political participation of women, persons with disabilities and other disadvantaged groups, must be regarded as being anchored on the notion of human dignity. This is because the voices of these groups are regarded worthy of being heard, thus the need to provide opportunities for them to be heard and to present themselves in electoral contests.

The obligations are imposed on the government, both negative and positive, to preserve the dignity of individuals. In particular, positive obligations are imposed on the state in a variety of areas (for instance, in relation to affirmative action and social rights in favour of the most disadvantaged groups in society) because these are essential for upholding human dignity. For this reason, it can be concluded that **any of the three projects that operates to enhance enjoyment of rights, and access to justice, is underpinned by human dignity**. With respect to a particular aspect of the project that supports the human rights commissions, focus on prisons, with the aim of improving conditions for women and persons with disabilities in these facilities, is also about preserving and enhancing the human dignity of the detained.

Participation

The LCF support notwithstanding, all the other projects within Objective A of Finland’s Country Programme in Kenya consist of basket funds or institutional support to major UN agencies. Therefore, the link to the participation of rights-holders is not straightforward. In the case of oversight commissions and the IEBC, rights-holders

basically involve the whole Kenyan population. Oversight agencies have an important role in enhancing people's awareness of their rights and in making information accessible to them. Through increased awareness and information, people can, ideally, participate more fully in decision-making concerning themselves and their surroundings. The ultimate aim of the IEBC project was to support the fulfilment of political rights. Its starting-point is that people have a right to participate politically both as a candidate and as a voter. The starting-point for the work of UN Women is that women have a right to participate and to make decisions concerning their own lives, minds and bodies. Consequently, **all three projects recognized the importance of participation as a principle of the HRBA to development**, and the involvement of the UNDP in at least two of the projects as well as UN Women — two UN agencies that have deployed the HRBA in their programming for years — could be said to have been key in promoting not only the principle of participation, but also the HRBA to development in general. More concrete forms of participation have occurred within CSOs supported by the Uraia Trust and UN Women. As was indicated earlier, the Uraia Trust took concrete steps to increase the participation of persons with disabilities as civic educators at grassroots levels. This further increased the number of persons with disabilities trained in electoral issues and democracy.

However, there are also challenges in popular participation. The presence of oversight commissions in other than the largest urban areas is still very limited, thus delimiting the participation of rural citizens in both obtaining information and filing complaints. As was discussed earlier, political rights of a vast number of people residing in pastoralist and indigenous communities were not fulfilled during the 2013 elections. Additionally, an equal participation of men and women was impeded by a variety of factors that were not properly addressed in the IEBC project.

<p>Recommendation: Aside from other benefits that could be derived from the basket modality, consideration should be given to invite, in appropriate cases, the participation of actors and entities such as the UNDP that have an entrenched HRBA.</p>
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If we look at the internal organization of the projects mentioned earlier, the Project Document with respect to support for the oversight agencies specifically stipulated on participation, noting that the beneficiaries are the commissions and that rights-holders and civil society organizations are indirect beneficiaries. The Project Document equally noted that adequate needs assessments and consultations would be done to ensure relevance and proper targeting of activities under the project, and help assess results and impact with the participation of beneficiaries and stakeholders. Wider public participation in individual activities would be ensured as appropriate.

It is important to note that by the time Finland started its support for the KNCHR, it found a partner that was already engaging with and had internal expertise in the HRBA even before the new constitution that decrees this approach was adopted in 2010. The HRBA is one of the strategies that the commission (and later the NGEK and the CAJ) had always pursued in terms of its work in the last ten years of its existence. Particularly, the last strategic plan which ended in June 2012 reflects that during the negotiation of the project, the HRBA was already one of the key components in terms of delivering the commission's mandate especially through public education and training. It had been a

key result area for the commission and it is quite broad so it fitted very well into the new Finnish approach.

The negotiations and discussions in terms of developing the concept and agreeing on focus areas for the project were facilitated by this convergence of views and approaches. Negotiations and project design involved Finland, the GoK (National Treasury), the UNDP, and the KNCHR, and later, the NGEC and the CAJ were brought on board. In view of the novelty of the HRBA, it was mutually agreed that it was critical to build the capacity of government officials but also educate the general public that constitute end beneficiaries of the work that the commissions do. It was mutually agreed that capacity building would be a major undertaking; hence the size of the capacity building project eventually agreed.

The study found that there was, as in the case of the KNCHR, the NGEC and the CAJ in the ways described, participation of all stakeholders in the origination and design of the projects. This promotes ownership of the project, and enhances chances of successful implementation. The case of the IEBC, as per the review report (IEBC staff missing meetings etc.), shows that participation has to be sustained, especially at the implementation stage where national implementation modality is chosen. Where the implementing partner lacks (technical) capacity to participate in key activities especially meetings where key decisions are made, this creates problems at multiple levels.

Recommendation: There is need to create conditions, and to choose approaches that enhance meaningful and sustained participation by rights-holders over the entire period of implementation beyond the design of projects. This promotes ownership thus enhancing chances of success in implementation, while at the same time enhancing accountability because there is sustained engagement between donors and rights-holders.

Accountability

In its cooperation with Kenya, Finland has pretended both to raise the accountability of the Kenyan state to meet its human rights obligations and to empower individuals to raise legal claims against it. **The support to oversight commissions** and especially the **KNCHR is an example of a project in which the main aim is to increase the accountability of the GoK towards its citizens.** People can register their complaints of alleged violations of their rights to the KNCHR who investigates them. The programme has been addressing two intertwined problems: 1) the limited capacity of Kenyan government counterparts on international human rights standards and consequently government obligations; and 2) the limited public awareness about human rights and government obligations, combined with a limited possibility to seek redress in cases of violations. Many informants of this study expressed that this is necessary due to the **almost “complete lack of accountability” and culture of impunity among the governmental elite.**

However, the capacity of postcolonial African states to, for example, provide social services has been historically hampered by economic and financial deregulation of public spending conditioned by international financial institutions and development agencies (Hintjens, 2008:1181). Although the accountability relationship between individuals and the state is at the heart of the HRBA to development, the withering away

of the state by economic globalization in many parts of the global South demands a closer look at accountability mechanisms. Englund (2006:27–28), for example, has argued that institutional arrangements for individuals to claim entitlements “have conventionally been the responsibilities of the state, but the predicament of many African postcolonies (...) demands analysis of the transnational conditions of state formation”.

Other than its inclusion in the HRBA training, the accountability principle was factored in the oversight commissions’ project in at least two ways. First, the partners provided, as described immediately below, for mechanisms to ensure that there was accountability in relation to financial management as well as implementation of the project itself. The holder of the fund, the UNDP, would disburse funds for carrying out the programme activities to the KNCHR based on approved expenditure of the Annual Work Plan (AWP) and as further specified in the Quarterly Work Plan. The KNCHR, the NGEC and the CAJ as the implementing partners were responsible for ensuring that the allocated resources for the AWP are utilised effectively in funding the envisaged activities. The Project Document stipulated that the fairly rigorous, but sometimes constraining and burdensome GoK financial rules and regulations, and monitoring, evaluation and reporting procedures were to apply in the execution of the project. Accordingly, the implementing partners are obliged to maintain records and controls for the purpose of ensuring the accuracy and reliability of financial information and to ensure that disbursements are within the approved budget.

Equally, in managing resources, it was stipulated that the implementing partners have fiduciary and compliance responsibilities to the UNDP. They also have compliance responsibility for UNDP reporting procedures. A Memorandum of Understanding signed between the KNCHR and each respective executive partner specified the financial procedures between the implementing partner and the executive partners.

In terms of implementing the project activities, a Project Implementation Committee (PIC) was established to support the Project Manager designated within the KNCHR, the NGEC and the CAJ by respective commission CEOs. The membership of the PIC comprise of at least one representative of each executive partner. The PIC, chaired by the Project Manager, holds meetings on a quarterly basis. As per the Project Document, the role of the PIC includes planning of the programme activities and developing annual work plans, preparing financial reports as per UNDP requirements, preparing regular progress reports on implementation of the quarterly and annual work plans and coordination of implementation of the work plans by the executive partners.

All the three commissions have a constitutional and statutory mandate to hold the government to account, and this was done in at least two ways. First, the agencies would comment on key government policies, programmes and legislation of import for human rights. As discussed, they also sent staff to participate in some of the various technical working groups to ensure that the HRBA was incorporated in the mid-term report of the government’s economic planning process. Second, the human rights oversight agencies are empowered to receive and consider public complaints pertaining to human rights violations. The types of complaints handled by each relate to the material mandate: while the mandate of the KNCHR is broad, and covers all human rights, that of the NGEC is limited to discrimination based on gender and disability. The CAJ investigates and

resolves complaints of maladministration from private persons/citizens against the government and government institutions. Maladministration covers multiple aspects including abuse of office, corruption and unethical conduct, breach of integrity, delay, injustice, discourtesy, inattention, incompetence, misbehaviour, inefficiency or ineptitude. The convergence in mandates in some areas has in the past led to inefficiencies in the system, caused in part by cross-reporting (where complainants send petitions to several commissions at once or to the wrong commission). To address this, as well as build public confidence in the system, a joint initiative, the Integrated Public Complaints Reporting Mechanism (IPCRM) that establishes joint receiving, classification and forwarding centers is currently being piloted with the participation of other oversight commissions (Ethics and Anti-Corruption Commission). The IPCRM includes a feedback mechanism in terms of which the commissions are accountable to individual complainants.

Beyond their engagement in the context of public complaints, oversight commissions are in part accountable to the public through annual reporting. However, the number of people with interest in these types of reports or with the responsibility to access them is quite limited. An additional problem is the limited penetration of these commissions beyond Nairobi and other major towns, which, coupled with limited awareness among the general public about the work of these commissions, undermines accountability as it relates to rights-holders and the broader public.

Most NGO representatives addressed the question of accountability of the KNCHR. In practice, it is supposed to be independent and to hold the government accountable. However, many perceived that there is a systematic, concerted effort by the GoK to weaken the institution because of its role in addressing the 2007 post-electoral violence and the ICC trials. The cutting down of funding and the unwillingness of the GoK to elect commissioners were seen as attempts to delimit the commission's work. Many perceived that this seriously limits citizens' possibility to demand accountability through oversight commissions. Some even suggested that because of their inability to function effectively, donor funding should be withdrawn from commissions and rather redirected at grassroots human rights awareness raising at county levels.

An interesting issue in relation to accountability is that within Objective A of the country programme related to human rights, good governance and gender equality, Finland supports such actors as oversight commissions and CSOs whose main role is to hold the government accountable. In fact, the government ministries are absent from Finland's aid allocations. While the support to oversight commissions and CSOs is valid and important, the question emerges: how does Finland support the building of the government's capacities to fulfil its human rights obligations?

Non-discrimination

Non-discrimination, as a key principle, has underpinned the implementation of the projects. However, it is arguable that since the direct beneficiaries have largely been constitutional commissions for the first project (the NGEC, the KNCHR and the CAJ), non-discrimination has limited application, although the KNCHR's interventions in prisons (capacity building, improving conditions) were aimed at ensuring that all prisoners enjoy rights in parity, with special focus on those with special needs such as persons with disabilities. It was found that penitentiary facilities in which women are held enjoy

better facilities than those in which male prisoners are held, but problems were detected with respect to persons with disabilities, where facilities do not necessarily respond to their needs. The project also sought, having found skewed numbers that do not favour women at managerial level, to increase the participation of women at that level in the prison establishment. The KNCHR is institutionally in charge of fighting against discrimination of persons with disabilities.

With respect to the IEBC, it was established that while measures were taken as part of support to the electoral management body (EMB) to enhance participation of women and persons with disabilities in the electoral process both as voters and candidates, the IEBC's internal structures and staffing complement shows a skewed picture, in the sense that the majority of its staff especially in the field (beyond the level of commissioners) are men. **The lack of policies on gender and disability within the IEBC** was said to be a key factor in the imbalance witnessed at staffing level. The Uraia Trust, on its part, has gender policy and took measures to overcome the weak participation of persons with disabilities among the civic educators. More persons with disabilities were reached both as civic educators as well as trainees.

For the first time, issues of persons with disabilities were thrust into public debate in, during and after the March 4 2013 elections, particularly following the nominations of some persons with disabilities to Parliament, and the appointment of at least one person with disability into the Cabinet. However, issues of disability seem to have been relegated to secondary position in comparison to gender representation, which generated heated debate, and one court case in the Supreme Court of Kenya. Disability issues have received limited focus (in comparison to gender issues) despite the fact that the constitutional rule on representation of persons with disabilities (see Article 54) is fairly straightforward in comparison to the gender rule, which has been very controversial (leading to a decision of the Supreme Court requested by the Attorney general before the March 4 elections), and could require a constitutional amendment to be fully implemented in line with the Supreme Court decision stating that the rule is to be implemented progressively. Article 54 sets the target of representation of persons with disabilities at 5%, to be implemented progressively. While this could be problematic, perhaps unfounded legally, one view of a leading member of the organization of persons with disabilities (DPO) leadership interprets the rule to mean that the starting-point, rather than the target, should be 5% representation of persons with disabilities. Currently, Kenya is far of the mark in implementing the rule as only three (out of 290) elected members of the National Assembly and one in the Senate are persons with disabilities. For the Senate, the constitution (Article 98) mandates that two Senators (a man and a woman) out of 68 shall be persons with disabilities. These two were nominated by political parties.

Recommendation: It is necessary, as already identified, to support the development of a gender policy and a policy on persons with disabilities for the IEBC. While the constitution already establishes that not more than 2/3 of all appointive positions shall be of one gender, an institutional level policy is critical to structurally entrench this threshold as a minimum but also to treat other key gender and disability concerns throughout the electoral cycle, including staffing at all levels of the IEBC.

Recommendation: It is recommended that Finland considers supporting legislative, policy and advocacy activity towards the implementation of the rule on representation for persons with disabilities in electoral office (National Assembly). Given that 5% of 250 is 12–13, there is a need to put in place legislation setting out how this target will be reached progressively. The same applies to appointive positions.

Transparency

Transparency, as it relates to access to information by rights-holders to enable them make appropriate interventions at all stages of the project, appears to have been well factored into the design and implementation of the projects with the exception of the IEBC. As per the final review, some information (in particular about capacity needs) appears not to have been shared, thereby undermining aspects of implementation. Structures and channels for sharing information freely among the executive members, implementing partners and the fund-managers were functional and appropriate. In the case of the support to the human rights commissions, it was recorded that action was taken to install staff when efficiency problems were detected in the processing of funds.

Corruption, misuse of power, the use of public office for personal gain and the culture of impunity are major challenges that affect all development efforts in Kenya. There seems to be a lack of trust among foreign donor agencies in the GoK's transparency towards both citizens and development donors. Partly for these reasons, a major part of Finland's funding is directed at oversight agencies and CSOs instead of governmental institutions. Finland is supporting such NGOs as Transparency International and the Tax Justice Network whose main focus is on enhancing transparency.

Empowerment

At its core, training aims to empower government officials, and in general, duty-bearers to better meet their human rights obligations under the constitution. The HRBA capacity building project also clearly sets out to empower the oversight agencies to hold the government to account in relation to its human rights obligations, with overall benefit to rights-holders. Strengthening the capacity of the commissions to receive, consider and act on complaints of violations empowers indirect beneficiaries, the rights-holders, to access and protect their rights. The need to scale up rights education beyond governmental actors, as well as a small cluster of beneficiaries in the prison settings, was clearly identified, and this is an area that needs more concerted effort on the part of the oversight agencies.

Beyond legal reforms and establishing an enabling legal and policy environment which appears to have largely been achieved with the adoption of the new constitution, the programme run by UN Women to enhance political participation of women in the political arena raises interesting questions about empowerment. If one of the greatest impediments to participation by women, in particular offering themselves for public office, is lack of financial resources due to lack of economic power, what should be done to fully empower women? This applies equally to persons with disabilities. It is suggested that this is an area where there is **a clear linkage between exercise of political rights, and economic wellbeing**. It is perhaps **not accurate to suggest that women and persons with disabilities are empowered merely by opening channels for them to know their rights**, and to access relevant information. More, especially **economic empowerment needs to be done**. This is perhaps one area where there is a

linkage between the types of support provided by Finland to various state-level entities as well as civil society organizations and programmes aimed at economic empowerment such as PALWECO.

Recommendation: There is need to explore modalities of expanding support that economically empowers disadvantaged groups to enhance meaningful enjoyment of political rights.

5.5.6. The HRBA in Other Programmes: Focus on Rural Development (PALWECO)

Overview of the project

In this section, we review, for comparative purposes, one of the bilateral projects on rural development supported by Finland. This project, known as PALWECO, is currently the largest in terms of financial input, which stands at EUR 27 million with a contribution of KES 346,500,000 from the GoK. According to the Project Document, the overall objective of the project is to decrease poverty, improve livelihoods and living standards of the population of Busia County. The purpose of the programme is stated to increase the capacity to influence structures and processes affecting the people and their increased wealth.

The project covers all the sub-counties of Busia County, namely Teso North, Teso South, Busia, Butula, Nambale, Samia and Bunyala. According to the Project Document, the total population of Busia County was estimated in 2009 to be 736,300, with 84% (618,500) living in rural areas. The proportion of the population living in poverty is 65% (480,000 individuals). Special emphasis is given to disadvantaged groups, such as female-headed households, orphans, unemployed youths, people living with HIV/AIDS and persons with disabilities. Among the secondary beneficiaries are public, civil society and private sector organizations and networks in the programme that provide services to primary beneficiaries. These are referred to as partner organizations (POs). Capacity building targets, among others, these POs in order to improve the quality of the services they provide.

Project components

The project has three components: household economy, agricultural value chains, and enabling environment and capacity building. The household economy component focuses on food security. Operating in one of the poorest counties in Kenya which is largely food insecure, this component aims at increasing food production at household level as well as improving the household environment. With respect to the last issue, activities implemented include: waste management, and assisting households in obtaining and using energy saving cooking stoves in a region where the main source of energy is wood, which harms the environment through depletion of trees. Household economy you can say is primarily about better production around the house, vegetables, small livestock and things, etc.

The second component is based on agricultural value chains. The value chains approach is a holistic approach to improving incomes for the people of Busia County. With respect to this component, a comprehensive approach is adopted, with activities geared towards increasing productivity of farmers, creating markets, putting in value chains and

linkages with the markets, and building access roads so that farmers can get to the market to sell their products.

The third component focuses on the enabling environment and capacity building. On enabling environment, focus is on establishing a transparent government at the local level. Now that the devolved system of government is taking shape under the Constitution of Kenya, 2010, efforts will be directed towards the devolved government in Busia County. It is notable that PALWECO was initiated before the new system of government but it was envisaged as a flagship project on how devolved units should evolve in the context of development cooperation. Capacity building is a cross-cutting theme and underpins all the activities undertaken under the project.

Overall, component three is county-wide, and there is a sense in which, if well implemented, this aspect of PALWECO's work could inform the evolution of devolution in the other 46 counties, especially as it relates to how these types of development cooperation projects should be implemented. Below, the discussion demonstrates that there are already challenges facing the project owing to the contestation witnessed between national government and county governments nationally in the early months of rolling out of devolution. Component three also includes elements not included in component two, which focuses on agriculture. These elements include focus on the staggering youth unemployment in Busia County as well as facilitating access to information more generally. To facilitate access to funding for small enterprises, this element includes promoting investment in the county.

Land rights project and empowerment of women and persons with disabilities

One of the programmes supported by PALWECO with the potential to contribute to the reduction of inequalities from a gender perspective is the land rights project. In this project, it was sought to enhance the rights of women, who are the backbone of the agricultural sector in Busia, but who have traditionally faced serious challenges in terms of property rights because of local customs. In this respect, PALWECO has conducted activities relating to recognition of land rights for women and youth. In a region and country where agriculture is the mainstay of the economy, and where women form a significant part of the rural economy, recognition of women's rights is critical. This programme was informed by the reality that women have historically been excluded from land ownership. The operation of custom in terms of which women and girls could traditionally not inherit land and where the family land was often registered in the husband's name, contributed to inequalities. Legally, the adoption of the Constitution of Kenya 2010 has enhanced land rights for women.

Right to food

PALWECO has done important work in supporting programmes aimed at ensuring food security in Busia County. This has been done through various ways and activities that cut across components one and two of its work: household economy and agricultural value chains. These activities include:

- Supporting the growing of kitchen gardens or backyard gardens to improve nutrition;
- Provision of livestock (heifers) to a select number of families (1,400 identified) and support for agricultural associations;

- Support for improved food storage facilities through construction of small-scale silo, training of artisans, public awareness and user training (Ministry for Devolution and Planning, 2012-b:9). The AWP for July 2012-June 2013 commits to identification of a service provider from the private sector (metal works enterprise) in metal works to engage with partners in each of the seven districts to provide these with metal silos (Ministry for Devolution and Planning, 2012-a:11);
- Support rights-holders in Busia through training to institute or enhance water harvesting and storage projects, with more than 3,500 households having received training by July 2013 (Ministry for Devolution and Planning, 2012-a:14; Ministry for Devolution and Planning, 2012-b);
- Mobilization of technical experts and government institutions to provide assistance to farmers to deal with maize lethal necrosis disease (MLND) that has afflicted Busia and neighbouring counties in 2012 (Ministry for Devolution and Planning, 2012-b:1);
- Development of markets and facilitation of access.

Persons with disabilities

The mutually reinforcing household economy programme and the land rights projects have benefited persons with disabilities. There have been deliberate steps taken to identify and target persons with disabilities in PALWECO projects. In particular, the District Technical Steering Committees now make deliberate efforts to seek out organizations of persons with disabilities to hand in project proposals for consideration. Awareness and training drives have also targeted this group. More could be achieved in concretely assisting once the social assistance programme is rolled out.

Incorporating the human rights-based approach within PALWECO

At inception, the project adopted a needs-based approach (Ministry for Devolution and Planning, 2012-c). In this regard, the Project Document states, with respect to strategy and approach, that “PALWECO is designed as response to needs and priorities of the beneficiary *population* in Busia County”. Although the needs-based approach was adopted at inception, the framework document was later revised to take into consideration Kenya’s new constitution, which provides for a rights approach. PALWECO’s Annual Work Plan for July 2012 – June 2013 asserts (Ministry of Devolution and Planning, 2012-a:9) that “PALWECO is based on the human rights approach as stipulated in Finland’s development policy and the Kenyan Constitution”. Because of the difficulties entailed in making the switch from needs-based to a fully-fledged HRBA, it was decided that PALWECO would focus on a number of important issues based on the constitution: devolution and women’s and youth’s right to land.

Although the Embassy of Finland has provided trainings for its bilateral and NGO partners in such issues as the HRBA and results-based management (RBM), at the time of the interviews some members of the project staff felt that they lacked capacity relating to the HRBA. The new members of the technical staff that commenced work in 2012 called for training. The Chief Technical Advisor had received HRBA training from the KNCHR. This was one important linkage with the capacity building project funded by Finland that this research revealed. Subsequently, it has been informed that PALWECO has commenced broader HRBA training in Busia.

Recommendation: There is a need to further explore linkages between various projects supported by Finland and build on mutually supporting elements, especially capacity building to cover rights-holders and duty-bearers including service providers (mostly NGOs).

One of the challenges to make PALWECO more rights-based is related to the long-term financial commitments made between Finland and the GoK during Finland's previous development policy period.

Recommendation: To introduce and to put to use more flexible funding modalities that enable the making of changes and incorporating new elements into programme design and implementation.

Despite the fact that a needs-based approach was adopted in PALWECO, actual implementation reveals inclusion of elements of the HRBA. From exchanges with PALWECO staff, **there is a need to entrench the HRBA in the implementation of the project**, or at least for the HRBA to inspire their work as they conduct the Mid-Term Review planned for March – April 2014. It is indeed possible to include a stronger focus on the HRBA at a practical level without disturbing the implementation of this ongoing project.

Participation

In relation to participation, the study shows that the process of designing the project was fully participatory at the executive level, although **there was limited participation by the rights-holder communities in Busia County**. It is to be noted, however, that there were baseline studies on various themes (initially studies on 11 themes were planned) during the inception period 2010-early 2012. One of these baselines was on the views of beneficiaries in all seven districts (Ministry for Devolution and Planning, 2012-d:2). Meetings were arranged during the inception period both at district and at county level. It is demonstrated that participation in this period was hampered by various challenges including time-consuming procurement process of baseline studies, and withdrawal of consultants among others (Ministry for Devolution and Planning, 2012-d:2). This led to cancellation of some studies (including the one on disadvantaged groups, gender issues and HIV/AIDS) and to changes in the methodology of some studies (Ministry for Devolution and Planning, 2012-d:2-4). It was informed that the scope and reach of consultations with future rights-holders, potential service providers and stakeholders (NGOs, Community-based Organizations, District Officers, private sector etc.) was perhaps not adequate and was undermined by the format of holding meetings in hotels with a select number of participants. Given that this was the design and planning stage, the limited role of rights-holders and the broader public occasioned limited awareness that affected the programme in its later period. This has, however, improved with the constitution of District (Sub-county) Technical Committees that sit closer to the rights-holders in each of the seven districts/sub-counties of Busia County.

The approach adopted in the initial period in selecting projects was also top-down, with no participation from communities. An example that was given was the project relating to **land rights**. This project ran into problems, partly because **the local administration (chiefs) as well as elders had neither been informed nor involved in the decision to implement the project**. From this example, it is fair to conclude that participation

has a role greater than ensuring that beneficiaries have a say in development projects. It helps build legitimacy for the project, which is critical for successful implementation. Together with county (previously district) officials, local communities, including chiefs, elders, women, youth, and persons with disabilities, have to participate in deciding what kinds of programmes are needed in the first place. Larger amount of time and resources have to be directed at enhancing the participation of local communities in programme designs and setting development priorities. However, local people, including women and persons with disabilities, have been incorporated into yearly planning processes. Given the ethnic diversity of the region, it is also extremely important that all ethnic groups are equally included and participate in programme design and activities.

It was established that currently, the process of obtaining project proposals for support by PALWECO is coordinated by District Development Officers, now Sub-County Development Officers, who were employees of the Ministry for Devolution and Planning until the second half of 2013 but have since been co-opted by the county as devolution structures are put in place. There are Sub-county Steering Technical Committees that call for and evaluate proposals at the sub-county level with the support of a Programme Officer and a Technical Advisor from PALWECO who attends steering committee meetings. When evaluating proposals, it was stated that the committee prioritizes disadvantaged groups; women, persons with disability and youth. The technical advisor guides the committee to ensure that these issues are prioritized. The proposals are discussed at that level and subsequently passed. The role of PALWECO's Busia town office is to allocate resources to finance approved activities.

Recommendation: It is recommended that Finland uses a larger amount of time and resources to conducting HRBA programming analyses prior to the initiation of bilateral programmes.

Recommendation: It is recommended that Finland ensures geographic and ethnic equality in terms of decision-making and allocating resources.

Accountability

Initially, this aspect appears to have been one of the more problematic aspects of the programme in various ways but appropriate systems are now in place. The initial teething problems relating to commitment by the GoK are being addressed through continuous political dialogue with the GoK in addressing the issue of funding. As is routine, Finland used the consultancy firm Niras for the administration of PALWECO, mainly as a conduit for funds. It has been suggested that consideration will be given to channelling funding through GoK National Treasury. Until now, the GoK financial systems have not been considered adequate. Although it was foreseen in the project document, it emerged that there was a delay in creating a Monitoring and Evaluation (M&E) system partly because of the change of the Chief Technical Advisor. In 2012, an international short-term expert was recruited in 2012/13 financial year to help the programme to create M&E system. There is a junior expert charged with improving the system. A local M&E officer was recruited in latter part of 2013 and focuses on the communication issues of the programme. In the early 2014, it is informed that the process of developing indicators has been finalized.

Recommendation: It is recommended that Finland continues to keep devolution agenda high in political dialogue with the GoK through the Development Partners Group and the Devolution Working Group.

Recommendation: It is recommended Finland continues with shifting decision-making over PALWECO to county officials when county structures are operational and adequate capacity exists. The future Mid-Term Review of the programme should give guidelines for this.

Non-discrimination

The approach adopted by PALWECO departs from the position that because of high poverty levels, most people in Busia (estimated at 65%) are at the risk of inequality and that it was not thought that one group should be preferred at the expense of another. The approach adopted was described as ‘inclusive’, informed by realities on the ground. While some could find this a valid approach, it is possible to identify, based on criteria that can be easily established, the most disadvantaged people to be targeted for prioritization. This approach would align itself with the GoK’s constitutional duties in relation to socio-economic rights, which entail in part, prioritization of the most disadvantaged groups in policies and programmes chosen to meet the government’s obligations in relation to these rights. It is worth noting that at the time of this study, a study had been concluded in relation to social assistance in Busia County. The idea was to review existing social assistance programmes and recommend what PALWECO could do in this regard, taking into consideration the most disadvantaged (Palweco, 2013). A decision is yet to be taken on the way forward.

Recommendation: It is recommended that project implementers in projects funded by Finland should develop criteria for prioritization of the most disadvantaged groups for access to assistance. This could include geographical spread of projects within the programme area but should primarily be based on needs taking into consideration the overarching objective of reducing inequalities.

Transparency

Lack of transparency was identified as a concern in the implementation of PALWECO. It was admitted there was a sense of insularity in the manner in which the programme has been run in the past, but this has since changed. It appears that in the past, challenges relating to disbursement of funds have been a recurring theme with some delays or liquidity problems on the GoK end (Ministry for Devolution and Planning, 2012-a:8; Ministry for Devolution and Planning, 2012-b:8). As noted, constant contact between the executive partners has continued with a view to resolving funding issues.

Recommendation: The planned comprehensive review of this programme, which has potential for the stated objective of reducing inequalities for women and persons with disabilities, and which has informative value for similar projects in the devolved system of government, will be invaluable in considering some of the issues in greater detail.

Recommendation: Programmes supported by Finland should establish appropriate mechanisms for effective sharing of information at all levels, including with local people. Consideration should be given to the fact that the new constitution now includes a right of access to information, which could be activated by any beneficiary (rights-holder).

Human dignity

Although the language of human dignity does not appear to be used, PALWECO — a project that is largely about improving livelihoods and enhancing food security in a programme area where it is estimated that a huge part of the population has difficulty accessing a single meal a day — is clearly about enhancing human dignity of rights-holders.

Empowerment

While the clearly articulated objectives of the project are to empower beneficiaries economically, various factors militate against this goal. First, lack of information about the programme has meant that deserving cases remain unknown and thus unassisted. Many residents of Busia were reportedly unaware of the existence of this programme that could benefit them immensely, largely because of lack of access to information. It was as late as in 2013 that relevant materials were being prepared. Now the reach of the project is being extended through increasing outreach. Equally, the slow pace of implementation was also cited as a problem. It was suggested that a significant percentage of the money from Finland goes to infrastructure (30%) and capacity building, leaving social projects that could actually assist the poor largely unfunded. A decision is yet to be made in relation to the social assistance programme described above. Plans to give dairy cows (one heifer per identified family of the 1,400 initially identified), with an obligation to pass on to another has been pending for more than a year now (see Ministry for Devolution and Planning, 2012-a). The project is to be implemented through collaboration between Heifer International and the Ministry of Agriculture, Livestock and Fisheries. It was informed that this could be one of PALWECO's main contributions to reducing inequalities if well implemented.

5.6. Findings and Recommendations

Findings

The study has established that in Kenya, there is a clear constitutional prescription of a HRBA in terms of which the Bill of Rights is envisioned as “an integral part of Kenya’s democratic state and is the mandatory framework for all governmental policies including social, economic and cultural policies”. Accordingly, it is expected that this approach should frame the Kenyan government’s engagement with its partners, including development partners like Finland. The study concludes that the shift in Finnish development cooperation towards a HRBA finds a partner that is constitutionally bound to adopt a similar approach. Apart from the constitutionally-mandated HRBA, the study has established that important Kenyan actors, in particular the Kenya National Commission on Human Rights as well as civil society, have applied HRBA principles in their work long before the adoption of the new constitution on 27 August 2010 and that there appears to be a national ownership of the HRBA.

Other than the constitutional provisions on a HRBA, the study highlighted two other key aspects in the Constitution of Kenya, 2010 that are crucial in the framing of the HRBA

and therefore have relevance for Finland's future development and application of the HRBA, given the stated objective of reducing inequalities based on gender and disability: socio-economic rights and devolution.

When reviewing specific projects supported by Finland, the study also highlighted some of the challenges that the implementation of the HRBA is facing or is likely to face in the evolving political environment in Kenya, suggesting that Finland needs to be alive to these realities as they also have the potential to impact development cooperation broadly.

Recommendations

This section restructures, rearranges and develops some of the recommendations included in different parts of this case study that have broader relevance for a HRBA and Finnish development cooperation.

General and cross-cutting

1. It is recommended that development partners (Finland and the GoK) adopt a common understanding of a HRBA and evaluate how this new approach changes the evolution of their engagement. The Development Partners Group (DPG) is a suitable forum for discussions over a HRBA and the reduction of inequalities with the GoK. Given that Finland is currently co-chairing the DPG, Finland has a real opportunity to make a difference. Additionally, Finland's elaborated Country Strategy for Development Cooperation with Kenya 2013–2016 may offer a forum for a more profound dialogue on mutual interests.
2. It is recommended that Finland considers developing human rights indicators at the level of its country programme in Kenya.
3. If not systematically conducted at the level of each project, it is recommended that Finland conducts HRBA programming analyses at the level of the country programme or by each sector. This could be done together with other like-minded donors working with a HRBA to development.
4. It is recommended that an analysis of the GoK's capacities to operationalize a HRBA to development in programmes funded by Finland be conducted. The future evaluation of Finland's Country Strategy could be considered a suitable forum for doing this.
5. To entrench a HRBA to development in projects supported by Finland, especially where the rights-holders or implementers lack requisite knowledge, capacity building should be an essential component, a *sine qua non* for the implementation of all projects supported by Finland.
6. There is a need to further explore linkages between various projects supported by Finland and build on mutually supporting elements, especially capacity building. A HRBA to development provides a basis for a coherent approach and to create linkages between various programmes which appear to have operated separately until now.

7. Finland should continue to use the Local Cooperation Fund to support human rights organizations and activists, and especially human rights defenders. However, a larger proportion of local cooperation funds could go directly into supporting disability organizations.

On the impact of socio-economic rights on Finland's current programmes

8. Noting that socio-economic rights now protected in Kenya's constitution have particular relevance for advancing substantive equality in favour of disadvantaged sectors of society including women, persons with disabilities, ethnic minorities and indigenous peoples, it is recommended that these rights should receive greater attention and focus in Finland's development cooperation with Kenya if the objective of reducing inequalities is to be achieved.
9. In Finland's development cooperation, socio-economic rights provide an excellent basis for current and future projects on livelihoods, water and forestry. Most of the goods accessed by beneficiaries (or rights-holders) can be bundled as socio-economic rights now included in Article 43 of the Kenyan constitution.
10. It is recommended that Finland plans its future projects on livelihoods, water and forestry through a rights-based approach and, in the view of suggestions of mid-term reviews of current projects, continues to restructure its needs-based programmes through rights discourse, when appropriate, both in terms of ensuring the realization of rights of rights-holders and enabling the state to meet its human rights obligations.

On devolution and future development cooperation

11. It is recommended that the Finnish development cooperation has to be reoriented appropriately in view of the devolvement system of government created by the constitution. As already done with certain programmes, Finland should — together with other multilateral and bilateral donors — find appropriate ways to support it.
12. Recognizing that the devolved system of government in its decentralization of political power (decision-making) and economic power (resources) embodies a HRBA and has potential for reduction of inequalities for the groups studied; and noting further that though beginning to take off, devolution is riddled with controversy, it is recommended that Finland works through its co-chairmanship of the Development Partners Group (DPG) for 2014 and participation in the Devolution Working Group to keep the issue of devolution high in the political dialogue with Kenyan state authorities.
13. It is recommended that, when appropriate, Finland supports the enhancement of the capacities of county governments and raising the awareness of rights-holders about their rights and duty-bearers of their obligations.

On rootedness of the HRBA in Kenya and the relevance of Kenyan actors for Finland

14. It is recommended that the modality in terms of which the KNCHR provided training for Finnish Embassy staff could be developed even further by exploring local ownership of the HRBA in Kenya. The knowledge and expertise of the

KNCHR staff could be used to train county governments, rights-holders and the technical staff relevant for sectors in which Finland works.

15. Given that there is a progressive constitution and national ownership of the HRBA in Kenya, it is recommended that other Finnish African partner countries could also benefit from shared experiences.
16. It is recommended that Finland gathers experiences of promising practices of the implementation of the HRBA to development within the UN system and learns from them. The Multilateral Organisation Performance Assessment Network (MOPAN) evaluation that will be conducted in 2014 on various UN agencies in Kenya could be used for this purpose.

On gender and disability issues in existing projects

17. There is need to create conditions, and to choose approaches that enhance meaningful and sustained participation by rights-holders — including through effective exchanges of information, soliciting local input and empowering rights-holders materially and otherwise to participate — over the entire period of implementation beyond the design of projects. This promotes ownership and thereby enhances chances of successful and sustainable implementation from the perspective of reducing inequality. It also enhances accountability because there is sustained engagement between donors and rights-holders, in particular, those directly involved in implementation themselves.
18. The Constitution of Kenya 2010 provides a firm foundation for the rights of women and persons with disabilities in accordance with the universal standards for the promotion and protection of fundamental human rights and freedoms for women and persons with disabilities.
19. It is recommended that Finland considers further support for outreach and advocacy on the practical implementation of new laws touching on the rights of women, youth and persons with disabilities with an emphasis on rural communities and devolved county levels.
20. It is recommended that Finland continues to support the GoK's gender initiatives through its institutional support to UN Women. This should include support for the elaboration of the new governmental gender policy in a participatory manner.
21. In the absence of formal activity, it is recommended that Finland considers supporting the implementation of the Supreme Court of Kenya decision on gender representation, including supporting CSO actors involved in working out options for the 1/3 gender rule. Finland's support to the Uraia Trust civil society coalition may provide forums for this.
22. In view of the apparently negative impact that the reservation of seats for women in elective politics has had on the competitiveness of women candidates for open contests, it is recommended that civic education, for example, through Finland's support to the Uraia Trust, should be directed at addressing the impact of the

quota system, the 1/3 gender rule, with emphasis being placed on the need for the public to elect more women leaders.

23. It is necessary, to support the development of a gender policy by the IEBC. While the constitution already establishes that not more than 2/3 of all appointive positions shall be of one gender, an institutional level policy is critical to structurally entrench this threshold as a minimum but also to treat other key gender and persons with disabilities concerns throughout the electoral cycle.
24. It is recommended that Finland considers supporting legislative, policy and advocacy activity towards the implementation of the 5% constitutional rule on representation for persons with disabilities in electoral office as well as for appointive positions. Part of this should include supporting development of a policy on persons with disabilities by the IEBC.
25. There is need to explore modalities of expanding support that economically empowers disadvantaged groups to enhance meaningful enjoyment of their rights.

On support for UN Women

26. It is recommended that Finland continues to stress the importance that UN Women focuses its actions on policy work and in strengthening the capacities of the state at both national and county levels to realize women's rights.
27. It is recommended that in its engagement with UN Women, Finland should ensure that UN Women pays special attention to issues of disability as they relate to women in Kenya.

On PALWECO, the HRBA and its potential application to expanded funding of devolution

28. It is recommended that the Mid-Term Review planned for early 2014 comprehensively reviews PALWECO, taking into consideration the programme's potential for the stated objective of reducing inequalities for women and persons with disabilities and its informative value for similar projects in the devolved system of government.
29. It is recommended that Finland continues with shifting decision-making over PALWECO to county officials when county structures are operational and adequate capacity exists. The future Mid-Term Review of the programme should give guidance for this.
30. It is recommended that project implementers in projects funded by Finland should develop criteria for prioritization of the most disadvantaged groups for access to assistance.
31. It is recommended that programmes supported by Finland should establish appropriate mechanisms for effective sharing of information at all levels. Consideration should be given to the fact that the new constitution now includes a right of access to information, which could be activated by any beneficiary

(rights-holder).

32. To entrench a HRBA in projects supported by Finland, especially where the beneficiaries or implementers lack requisite knowledge, capacity building should be an essential component, a *sine qua non* for the implementation of the project. For PALWECO and similar projects, it is necessary to provide systematic capacity building in the HRBA to all levels of actors of devolution in Busia County ranging from rights-holders to duty-bearers.
33. It is recommended that in the future more time and resources should be invested in conducting HRBA programming analyses prior to the initiation of bilateral programmes.
34. Based on the experience of PALWECO, it is recommended to introduce and to put to use more flexible funding modalities/agreements that enable the making of changes and incorporating new elements into programme design and implementation.

6. CONCLUDING REMARKS AND RECOMMENDATIONS

Based on research conducted on the Finnish development policy and its implementation especially in the cooperation with Ethiopia and Kenya, this study investigated how the HRBA to development is, and ought to be, applied with a view to contributing to the reduction of inequality. The case study on Ethiopia focused on the education sector while the Kenyan case study dealt with the justice and governance sectors as well as rural development. Both studies paid particular attention to the cross-cutting themes of gender and disability as important, but not competing, perspectives for reducing inequalities through the Finnish development cooperation.

As the case studies in this report indicate, development cooperation activities are often implemented in contexts marked by inequality. This has a number of implications for the operationalization of the HRBA to development. Lack of sensitivity or due attention to such contexts may lead to unintentionally sustaining or perpetuating the inequality of particularly disadvantaged persons. An example in this regard is the dramatic increase in school enrolment rate in Ethiopia that has been accompanied by the marginalization of the limited number of integrated children with disabilities as a result of increasingly disabling school settings, while leaving up to 97% of children with disabilities excluded from schooling. In Kenya, efforts to increase gender equality through affirmative action policies for women's political participation resulted in unintentionally reinforcing unequal power relations in the society as they failed to pay sufficient attention to the overall nature of the political system as well as to the empowerment of women themselves, particularly in terms of economic empowerment. To avoid such negative effects sustaining or perpetuating inequality, any development effort based on the HRBA should place a special focus on inequality analysis in the context.

The present report demonstrates that inequality reduction in general as well as in the context of Ethiopia and Kenya is a multifaceted issue that is affected by economic, political, social and cultural factors. It further underscores that the HRBA is not a

technical solution to inequality reduction, but rather an approach that challenges development actors to rethink the goals, processes and results of development in terms of human rights and equality.

For the Finnish development cooperation to have the effect of inequality reduction, systematic changes in institutional mechanisms and approaches need to be introduced. Based on the detailed findings and recommendations of this study and without any intent to be exhaustive, four issues are highlighted as general policy recommendations in relation to the operationalization of human rights-based approaches in the development cooperation between Finland and its partner countries, especially Ethiopia and Kenya. These important thematic issues are: 1) practicing what is preached, 2) resource constraints, 3) development of the twin-track approach, and 4) political dialogue.

Practice What You Preach

Increased attention should be paid to the structures and policies of the MFA from the point of view of inequality reduction in order to ensure that the Finnish development cooperation practices are in line with its own policy programme. The Ministry could, for example, look into its own accountability structure, and should commit to change its practices that have the tendency, or unintentional but high risk, of increasing rather than reducing inequalities. There is a clear need for increased coherence throughout the various policies and practices of the MFA. From the HRBA perspective, the questions that need to be asked include: does the Ministry lead by example by employing staff from disadvantaged groups, for instance persons with disabilities, in its various departments? Is the MFA making choices, for instance in terms of terminologies, targets and processes that are empowering and non-discriminatory for the rights-holders in the global South? Are the rights-holders fully involved in the implementation, as well as in the monitoring and evaluation of development cooperation programmes/projects, to benefit from and to gain the necessary knowledge to take ownership of the programmes/projects? Senior staff members both at the MFA and Embassies, in particular, need to commit themselves to facilitating the necessary institutional changes for the effective implementation of the HRBA.

Human Rights-Based Approaches vs. Resource Constraints

The HRBA and its principles are yet to be fully implemented in the practice of the Finnish development cooperation with Ethiopia and Kenya. **Resource constraints** are often cited as the reason for problem with the operationalization of the approach. While many MFA staff members believe in the importance of the HRBA to development, they feel that its full implementation would require more resources and would thus not be compatible with the recent budget cuts and the need to make the best out of the existing resources. Calls for special measures or reasonable accommodation in the interest of facilitating inclusion and equality tend, therefore, to be overruled by the general poverty reduction justification. It is true that such measures may imply extra costs. For example, costs associated with medical care or assistive devices, or the need for personal support and assistance, for persons with disabilities often require more resources to achieve the same outcomes as for non-disabled people (UNPRPD, 2013:11). This is particularly true when the social and physical environment is constructed without taking into account the

special needs of persons with disabilities. However, studies indicate that the cost of accessibility, in the physical as well as in other senses, could be as low as 0.01% of the Gross Domestic Product (GDP) of a country or only between 0.5% and 1% of any project budget if accessibility is planned for in advance (AusAID, 2013:16). Other studies indicate that the exclusion of persons with disabilities results in a loss of 3 to 7% of GDP in low- and middle-income countries (United Nations, 2013 cited in Mengjie, 2013). Various studies have shown that women's increased education, better health and increased employment have a major impact on the GDP (Chaaban & Cunningham, 2011; Dollar & Gatti, 1999; Hanushek & Woessmann, 2007).

The HRBA to development is often questioned based on, and is not seen as compatible with, the dominant **result-oriented approaches and cost-effectiveness thinking**. These approaches should, however, not be seen as excluding one another. Measuring and assessing results and cost-effectiveness may, in fact, be an important element of holding a development actor accountable for the use of development funds. It is, however, essential to acknowledge that inequality reduction is not only about "aid effectiveness", but also more generally about "development effectiveness" (Jonsson, 2013). Such effectiveness should be measured not only through cost-effectiveness, but also from a human rights point of view with principles, such as non-discrimination and equality, participation, empowerment and accountability, as benchmarks. This understanding is embraced by the Finnish Development Policy Programme, but revisions in the institutional mechanisms remain yet to be made to fully operationalize the HRBA to development, so that the process and goals of the Finnish development cooperation policy are planned, budgeted for, and measured accordingly.

For instance, **impact assessment** should be based on indicators that are relevant to the most disadvantaged rights-holders. It is often a fact that positive effects reported to have accrued for the most disadvantaged rights-holders are smaller than for those for the average rights-holders. Even when such rights-holders are included in development cooperation activities, positive impact is, due to the disabling contexts, frequently smaller than it is in activities targeted at more empowered groups of people (Katsui, 2012). This should, however, not be seen as a disincentive for the enhanced inclusion of rights-holders at risk of inequality and exclusion within the sphere of development cooperation activities. Rather, increased efforts should be exerted to define indicators to address inequality as a multi-layered phenomenon stemming from a number of root causes. Measuring Net Enrolment Rate at primary school may, for example, not be a relevant indicator for a rights-holder with a disability hidden at his or her home due to societal prejudices. Impact, in such a situation, may rather be observed in psychological change and self-esteem when one is empowered to get out of one's home. Following a human rights-based approach to development and inequality reduction, the structures of the Finnish development cooperation should be reformulated to be able to take into account objectives and results in development that are relevant to those who are yet excluded from the scope of development cooperation activities.

When resources are limited, difficult choices may have to be made. This may, for instance, be between, on the one hand, enrolling a certain number of school children without a disability in an urban area, and, on the other, enrolling fewer children with and without special educational needs with reasonable accommodation in a rural area. Where such prioritization is necessary, **decisions need to be guided by an analysis**

based on a human rights-based approach to reducing inequality of the most disadvantaged persons and groups of people. The engagement of Finland in any programme/project should be guided by the aim of inequality reduction, which is one of the cross-cutting objectives of the Finnish development cooperation. The integration of this objective in all development cooperation activities is “**a binding obligation, deviation from which must always be specifically justified**” (MFA, 2012-a:23). Finnish development cooperation activities that have the effect of sustaining or perpetuating inequality cannot be justified. Where such effect is observed or reported, the issue needs to be addressed as a matter of priority.

Development of the Twin-Track Approach

The so-called **twin-track approach** which combines mainstreaming and specific interventions for inequality reduction has become an approach of central importance in gender equality policies. The approach is widely accepted also in the disability rights discourse (IDDC, 2004; DFID, 2004; Naughton, 2011; European Commission, 2010-b; Bergwall, 2010). Among the programmes and projects that were reviewed in this study, the GEQIP and the SNE of Ethiopia are understood as following the twin-track approach. Informants with experience in the two programmes observed that the link between mainstreaming and specific interventions is often too limited. This means that lessons-learned in specific projects are often not utilised to the benefit of mainstream activities, and *vice versa*. Moreover, many non-disability-specific projects that are supported by the Local Cooperation Fund or by Finnish CSOs and also the GEQIP fail to recognize children and persons with disabilities as rights-holders. Even where gender and disability are integrated as essential parts of policies, disability-specific projects often fail to take gender equality into account and *vice versa*. Consequently, girls and women with disabilities are disproportionally excluded from most development cooperation activities in terms of both mainstreaming and targeting. Giving effect to the principles of non-discrimination and equality was observed to be extremely challenging when it comes to the inclusion of children with disabilities, particularly girls with disabilities, as a result of the capacity gaps among both duty-bearers and rights-holders. Based on the interviews for the case studies, it appears to be widely acknowledged that both efforts of mainstreaming and disability- and gender-specific empowerment activities are important to ensure non-discrimination and equality.

Finland should exert more **efforts with proper resources and coordination** to ensure the implementation of its commitment to pay particular attention “to the rights and equal participation opportunities of people who are vulnerable, socially excluded and discriminated against” (MFA, 2012-a:24). Despite the fact that Finland profiles as one of the countries that take disability rights and gender equality very seriously, the current level of budget allocations for inequality reduction falls short of what is required for the serious implementation of the HRBA to development and the cross-cutting objectives. For example, democracy activities, including human rights, good governance, rule of law and anti-corruption measures, occupied only 5% of the Finnish ODA in 2010. Moreover, as disability-specific activities account for not more than 1% of the ODA, and other development cooperation activities pay little attention to disability, the measures for inequality reduction in terms of disability are largely left to be carried out by NGOs. When it comes to gender equality, the gender marker percentage has undergone a significant decrease from 55% in 2011 to only 38% in 2012. Gender and disability as

cross-cutting objectives of the Finnish development cooperation should be mainstreamed in all Finnish-funded activities with sufficient budget allocation and adequate human resources throughout the project and programme period. As voluntary initiatives, as well as the twin-track approach, have, in practice, proven insufficient, systematic and institutionalized mechanisms need to be established to that end.

One such mechanism could be an obligatory **inequality analysis** that systematically identifies excluded rights-holders, integrates them into development cooperation activities, and strives to secure their meaningful participation throughout the project and the programme management period. Clear indicators and targets need to be identified to assess the impact of development cooperation activities on inequality reduction both in terms of the means and the objectives of such activities. Inequality analyses should form an obligatory part of all phases of development cooperation activities to enable timely revisions in upcoming, on-going and future activities, where necessary.

Political Dialogue

Another important way of integrating human rights and development cooperation, and of operationalizing the HRBA to development, is through **political dialogue and negotiation** at the project level, in the context of overarching country strategies or in diplomatic negotiations (OECD/World Bank, 2013:44). Dialogue and negotiation among duty-bearers, which may begin with the creation of a critical mass of “**like-minded stakeholders**”, are important ways of making an impact and in minimising “collective failure” especially at the international level. Collective commitment is necessary for re-envisioning the development paradigm so that the HRBA to development can be meaningfully operationalized.

The discussions with the **post-2015 development agenda** have created momentum for the human rights-based approach to be taken seriously in development. Three priority agendas have been set by the UN agencies for “realizing the future we want for all”, namely, human rights, inequality reduction and sustainability (UN System Task Team, 2013). The inequality reduction agenda has been further highlighted, *inter alia*, at the **UN High-Level Meeting on Disability and Development (HLMDD)** in September 2013. Finland could use this momentum to keep the issue of inequality reduction high on the political agendas and to promote a human rights-based approach to development both globally (within the EU, UN and the OECD) and locally. Where the HRBA to development, or the human rights discourse more generally, is a politically sensitive issue, innovative terminology should be used and coined, if needed, to avoid unnecessary terminological tensions for upholding the essence of the HRBA to development and the principles inherent in it.

Political dialogue and negotiation, however, has to be accompanied by an actual operationalization of a HRBA to development so as to show examples of principles, for instance. The core message of this part is *not* to demand human rights conditionality on aid but to highlight the importance of dialogue and negotiation, not only among development cooperation stakeholders but also with decision-makers of the country concerned, so that changes are meaningful for individuals, including those at the risk of inequality.

Recommendations

The following recommendations are made to the MFA based on the information and evidence gathered and analysed within the present study:

Institutional mechanisms:

1. All MFA funded projects and programmes should include a human rights situational analysis, particularly **inequality analysis** in which indicators are set, excluded populations are identified, remedies are investigated, and possible exclusions are justified. An inequality analysis is recommended to be obligatory for all reports, including proposals, baseline studies, mid-term reports, and monitoring and evaluation reports. Compulsory inequality analysis-related questions should, also, be included in the AHA system. In this connection, Finland should strongly promote the development of and reliance on disaggregated data on the target populations of the programmes/projects it supports.

Aim: The impact on inequality reduction of project and programme activities in all their stages is monitored. Changes may be introduced, when necessary.

2. The negotiation, implementation as well as monitoring and evaluation of Finnish development cooperation programmes/projects should ensure the **full and effective participation of rights-holders and their representative organizations**. Accountability mechanisms should go beyond upward reporting to include feedback and grievance mechanisms by which claims of rights-holders are heard and responded to. Finnish-supported programmes/projects that target disadvantaged groups should also include specific empowerment activities.

Aim: The efficiency and effectiveness of the programmes/projects funded by Finland is increased through improved sustainability.

3. All MFA-funded activities, as well as new recruitment of staff, consultants and external experts for Finnish-funded activities, should follow terms of reference that explicitly require that such activities are carried out based on the HRBA to development.

Aim: The operationalization of the HRBA to development is ensured in all phases of activities and at all levels of the staff hierarchy.

Financial Resources:

4. Mainstreaming activities: Budget allocations should reflect the priority areas of the development policy programme. A **significant share of the available budget needs to be used for inequality reduction activities** in all Finnish-funded projects and programmes. Earmarking a certain percentage of the project/programme budget to inequality reduction, including for inequality analysis, should be considered to ensure such allocation in practice.

Aim: Sufficient allocations enable inequality reduction to be properly and meaningfully mainstreamed as a cross-cutting objective.

5. **Priority** in both bilateral and multilateral cooperation should be given to specific activities targeting persons at the risk of inequality, such as women and persons with disabilities, in both bilateral and multilateral cooperation. The activities of NGOs representing such persons should be increasingly funded through existing channels such as the Local Cooperation Fund and CSO development cooperation funds.

Aim: Specific activities on inequality reduction become a priority in the practice of the Finnish development cooperation.

Human Resources:

6. **Human rights-based approach or cross-cutting issues expert(s)** of senior professional status should be part of any consultant team of any Ministry-funded projects, programmes and missions and this should be articulated clearly in the terms of reference. Such an expert could well be a local academic or an NGO staff member with accumulated context-specific experiential knowledge on what works and what does not. Representative non-governmental organizations need not only to be consulted but should become part of the implementation management team throughout the projects/programmes. When expertise is lacking within the Ministry, sufficient funds should be allocated for the engagement of external experts to strengthen the capacity of Finland as a duty-bearer.

Aim: Locally available knowledge is used to ensure context-sensitivity and cross-cutting objectives are properly integrated into each Finnish-funded project/programme.

7. **Training and capacity building on implementing human rights-based approaches with clear guidelines** should be provided to all relevant staff members of the MFA and Finnish Embassies as well as experts and consultants engaged by the Ministry. This training needs to be tailored to fit the special circumstances of the different partner countries and sectors of cooperation. Senior staff members should be trained as a matter of priority to enable them to spearhead necessary changes in their respective departments and units.

Aim: Relevant staff members, experts and consultants working within the Ministry, Embassies and Ministry-funded projects and programmes have the necessary knowledge and capacities to consistently implement a human rights-based approach in their respective areas of work.

8. **Intra-sectorial and cross-sectorial collaboration should be increased and encouraged** in particular for the purposes of sharing experience and expertise on cross-cutting issues and of taking inequality reduction more seriously both individually and collectively. It should be acknowledged that expertise on cross-

cutting issues, such as disability, is largely missing in activities funded by the Ministry. The Ministry should facilitate intra- and cross-sectorial collaboration by organizing meetings and seminars that aim at capacity development and experience sharing on inequality reduction.

Aim: Cross-cutting objectives are increasingly mainstreamed in all sectors through sharing expertise, lessons learned and promising practices.

9. Despite the freezing of budget allocation for new recruitments, it is suggested that more **focal persons** be assigned for different disadvantaged groups currently dealt with by one advisor, namely, children, persons with disabilities, persons with HIV/AIDS, sexual minorities, ethnic, linguistic and religious minorities, and indigenous peoples. The positions should be occupied by persons with experiential knowledge of the issues concerned, such as a person with a disability as the disability focal point.

Aim: The Ministry is a role model in employing persons belonging to disadvantaged groups in important positions and builds its capacity in cross-cutting issues.

Physical Resources:

10. **Accessibility** of Embassies and the Ministry buildings as well as all structures funded by the Finnish development cooperation has to be ensured. If accessibility is planned in advance, it entails little or no additional costs.

Aim: Unintended negative consequences in terms of physical inaccessibility are minimized. At the same time, accessibility to Embassies and the Ministry buildings facilitates further cooperation with persons with disabilities and their representative organizations. As the population is aging both in Finland and some partner countries, this aspect becomes increasingly important.

International Role:

11. **Political dialogue and negotiations** for the promotion of a human rights-based approach to development need to be strengthened not only at the country negotiation level but also globally among influential decision-makers. This is especially important for addressing problems posed by legal, policy and institutional constraints in the implementation of development cooperation programmes. Collaborating with like-minded countries to strengthen Finland's voice is an important strategy for putting the HRBA to development high on the agenda of global processes.

Aim: Finland projects its image as a human rights-sensitive country on its development partners and raises its profile in the global arena where human rights and inequality reduction are becoming central as exemplified by initiatives such as the post-2015 development agenda, European Union's new toolkit on its human rights-based approach, Europe-Africa Strategy, and OECD/DAC peer review.

Future Research Areas:

12. **More research** should be undertaken particularly to monitor changes in institutional mechanisms of the MFA and to evaluate the impact of Finnish development cooperation on inequality reduction in collaboration with partner country research institutions. Inequality reduction could, for example, be included among the themes of the call for the development research funding by the MFA and Academy of Finland. The Ministry and the Finnish Embassies could also make use of existing external knowledge by academics and practitioners from the global South and North, whenever needed, in operationalizing the HRBA to development in practice.

Aim: Changes in institutional mechanisms of the MFA are monitored to ensure sustainable positive developments towards equality. Promising practices and lessons-learned are documented.

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International Law

United Nations Convention on the Elimination of All Forms of Discrimination against Women.

United Nations Convention of the Rights of Persons with Disabilities.

Appendix 1: List of Interviewees

Ethiopia

Government Officials:

Name	Title	Affiliation	Interview Date
Mohammed Abubeker	Head of the Special Support and Inclusive Education	Ministry of Education	13.9.2013
Abrham Ayalew	Advisor to the Chief Commissioner	Human Rights Commission of Ethiopia	17.9.2013
Mekdes Eyoel	Head of the Gender Department	Ministry of Education	20.9.2013
Letekirstos Gebre	Director	Kokebe Tsibah Primary School	18.9.2013
Feleke Jember	Director, Social Welfare Development Promotion Directorate	Ministry of Labour and Social Affairs	20.9.2013
Tesfavenesh Lemma	Director of the Women and Youth Mainstreaming Directorate	Ministry of Women, Children and Youth Affairs	18.9.2013
Kokeb Misrak	Director of Bilateral Cooperation Directorate	Ministry of Finance and Economic Development	18.9.2013
Solomon Shiferaw	Director of Planning and Resource Mobilization Directorate	Ministry of Education	19.9.2013
Kassa Shurke	Registration and Licensing Directorate Director	The Charities and Societies Agency	18.9.2013
Alemayehu Woldekirkos	Special Needs Education expert	Ministry of Education	13.9.2013

Civil Society Organizations:

Name	Title	Affiliation	Interview Date
Atsebayoush Abebe	Programme manager	Addis Hiwot Center for the Blind	30.8.2013
Kiros Arefaine	Education project manager	Ethiopian National Association for the Blind	12.9.2013
Tatek Asmar	Director	Women with Disabilities for Change	17.9.2013

Fasil Ayele	Project Coordinator	Cheshire Services Ethiopia	3.10.2013
Eshetu Bekele	Executive Director	Poverty Action Network in Ethiopia	25.9.2013
Matewous Bogale	Project coordinator	Addis Development Vision	17.9.2013
Tibebu Bogale	Senior education advisor	Save the Children (Finland)	25.9.2013
Valeri Browning	Programme Coordinator	Afar Pastoralists Development Association	30.8.2031
Berhane Daba	President	Ethiopian Women with Disabilities National Association	17.9.2013
Desalegn Dingeta	Project Coordinator	Movement for Empowerment and change of Attitude in Life	14.9.2013
Tesfaye Geremew	Abilis Facilitator	Ethiopian Center for Disability and Development	15.9.2013
Mekeds G/Tensaye	Executive Director	Women with Disabilities for Change	17.9.2013
Sultan Ismu	General Director	Ethiopian National Association for the Blind	12.9.2013
Habtamu Kebebe	Director	Ethiopian National Association for the Deaf	7.9.2013
Alehegn Ketema	Project Coordinator	Mental Health Society	9.9.2013
Workaferahu Kidane	Programme Officer	Ethiopian Women Exporters Association	1.10.2013
Solome Kumsa	CBR Project Coordinator	Addis Development Vision	17.9.2013
Abebe Marra	Programme Coordinator	Kembatti Mentti Gezzimma Ethiopia	6.8.2013
Atre Mozhigo	Executive Director	Charity and Development Association of Teachers with Visual Impairment	14.9.2013
Mekonnen Mulat	Project Coordinator	Finnish Evangelical Lutheran Mission	7.6.2013
Solomon Nebiyu	Executive Director	Movement for Empowerment and Change of Attitude in Life	14.9.2013

Yetnebersh Negussie	Executive Director	Ethiopian Center for Disability and Development	9.9.2013
Teshome Nigussie	Project Coordinator	Addis Development Vision	28.9.2013
Wengelawit Tadesse	Program Officer	Organization for Social Development	24.9.2013
Zenaye Tadesse	Executive Director	Ethiopian Women Lawyers Association	10.9.2013
Alemayehu Teferi	Chairperson	Federation of Ethiopian National Association of Persons with Disabilities	7.9.2013
Elias Tesfaye	Inclusive Education Project Manager	Help for Persons with Disability Organizations	1.10.2013
Etenesh Wondimagenyehu	Executive Director	Handicap National	10.9.2013
Zemi Yenus	Founder and Director	Nia Foundation (Joy Center for children with Autism)	23.9.2013
'Representative' Anonymous		Action Professionals Association for the People	20.9.2013

Academics:

Name	Title	Affiliation	Interview Date
Eyasu Hailu	Lecturer in Ethiopian Sign Language and Deaf Culture Program Unit	Addis Ababa University	13.9.2013
Tamiru Jote	Lecturer in the Department of Education Planning and Management	Addis Ababa University	14.9.2013
Tirussew Kidanemariam	Dean of College of Education	Addis Ababa University	13.9.2013
Elias Nour	Dean of Faculty of Law	St. Mary's University College	13.9.2013

Rights-holders:

Name	Title	Affiliation	Interview Date
Dejeu Abrhan	Student	Addis Ababa University	12.9.2013
Muwembet Elshaday	Former student	Sebeta School for the Blind	14.9.2013
Tsega Gezhagn	Former student	Hosaina School for the Deaf	13.9.2013

Melishw Lewtie	Student	Addis Ababa University	12.9.2013
Berhanu Mekoya	SNE teacher	Kokebe Tsibah Primary School	18.9.2013
Zewudnesh Seifu	Former student	Sebeta School for the Blind	14.9.2013

Kenya

Embassy of Finland			
Eeva Alarcón	Counsellor, Deputy Head of Mission	Finnish Embassy	28.10.2013
Riikka Raatikainen	Good Governance Advisor	Finnish Embassy	25.10.2013
Emma Andersson	Programme Officer	Finnish Embassy	8.5.2013, 11.9.2013 and 25.10.2013
Tiia Haapaniemi	Programme Officer	Finnish Embassy	25.10.2013
Marjaana Pekkola	Rural Development Advisor	Finnish Embassy	11.9.2013 and 4.11.2013
Georginah Gichoni	Local Cooperation Fund	Finnish Embassy	28.10.2013
Esa Rantanen	Head of Trade Center, East Africa	Finnpro	28.10.2013
Support to the Organization of Kenya's Elections			
Nancy W. Kanyago	Project Manager at Support to Electoral Reforms and Processes in Kenya (SERP)	UNDP	25.10.2013
Grace Maingi	Executive Director	URAIA	31.10.2013
Nancy Wamwea	Head of Programmes	URAIA	31.10.2013
Mary Emaase Otuch	Member of Parliament, Teso South Constituency (Busia)	Kenya National Assembly	7.11.2013
Florence Mwikali Mutua	County Women Representative, Busia and Member of KEWOPA (Kenyan Women Parliamentary Association)	Kenya National Assembly	7.11.2013
Agnes P. Zani	Nominated Senator	Senate	7.11.2013
Support to Government Oversight Agencies			
Sandra Diesel	Senior Partnership, M&E Advisor	UNDP	29.10.2013

Hanna Ferguson-Santala	Programme Analyst	UNDP	29.10.2013
Bernard Mogesa	Principal Human Rights Officer, Public Education and Training Department	Kenya National Commission on Human Rights (KNCHR)	8.7.2013 and 6.11.2013
Paul Kuria	Deputy Commission Secretary: Programs and Research	National Gender and Equality Commission (NGEC)	31.10.2013
Winfred Osimbo Lichuma	Chairperson	National Gender and Equality Commission (NGEC)	30.10.2013
Regina Mwatha	Vice Chairperson	The Commission of Administrative Justice (CAJ)	8.11.2013
Ismail Maaruf	Director, Compliance & Risk	The Commission of Administrative Justice (CAJ)	8.11.2013
Joseph Njenga	Programme Officer - Governance	United Disabled Peoples of Kenya	31.10.2013
Support to Gender Equality			
Stella Kerubo Maranga	Gender and Governance Advisor	UN Women Kenya	29.10.2013
Pamela Tuiyott-Kamau	Programme Officer (EIBC & elections)	UN Women Kenya	29.10.2013
Lucy Kihia-Mathenge	Programme Officer (Gender and Governance Programme)	UN Women Kenya	29.10.2013
Protus Makaba Onyango	Deputy Director	Gender Directorate, Ministry of Planning and Devolution	8.11.2013
PALWECO			
Sakwa Mwangala	Programme Director	PALWECO Ministry of Planning and Devolution, Secretary, Committee of Permanent Secretaries	17.06.2013
Geoffrey Griffiths	Chief Technical Advisor (CTA)	PALWECO	17.06.2013
Simon Ochieng	Capacity Building Advisor	PALWECO	17.06.2013
Juliet Tunje	Gender Advisor	PALWECO	17.06.2013
Local Cooperation NGOs			
Dalmas Okendo	Head of Programmes	Transparency International	6.11.2013

Sandra Kidwingira	Programme Manager	Tax Justice Network	6.11.2013
Luckystar Miyandazi	EATGN-Coordinator	The East African Tax and Governance Network	6.11.2013
Ignatius Yambasa	Director	Shield for Justice Foundation	6.11.2013
Steve Mosau	Chairperson	Rights Promotion and Protection (RPP) Centre	6.11.2013

Finland

Name	Title	Affiliation	Interview Date
Kirsti Aarnio	Former Ethiopian Ambassador	MFA	19.8.2013
Sara Alanen	Project Coordinator	Interpedia	18.6.2013
Kari Alanko	Deputy Director General, Department for Africa and the Middle East	MFA	20.11.2013
Linda Ekholm	Advisor	MFA	18.6.2013
Minna Hares	Desk Officer, Ethiopia	MFA	4.9.2013
Sirkku Hellsten	Former Justice Sector Advisor at Kenya Embassy	MFA	E-mail communication and questionnaire
Mirja Himanen	Project Coordinator	Finnish Evangelical Lutheran Mission	7.6.2013
Jussi Karakoski	Advisor	MFA	27.8.2013
Päivi Kannisto	Advisor	MFA	10.10.2013
Anu Karvinen	Programme Coordinator	FIDIDA	7.10.2013
Jussi Koskela	Kenya Team Leader	MFA	20.8.2013
Maria Kurikkala	Diplomatic Adviser to the Minister for International Development	MFA	19.11.2013
Kalle Könkkölä	Executive Director	Threshold Association	19.6.2013
Riikka Laatu	Deputy Director General at the Department for Development Policy	MFA	15.10.2013
Merja Lahtinen	Advisor	MFA	19.6.2013
Piia Lavila	Former Project Coordinator/Gender	MFA	3.10.2013
Marko Lehto	Former Justice Sector Advisor	Finnish Embassy	8.5.2013 and 30.8.2013

Elina Lehtomäki	Former SNE Advisor	Finnish Embassy	4.9.2013
Paula Malan	Counselor, Education Advisor	Finnish Embassy	4.9.2013
Anja Malm	Executive Director	FIDIDA	18.6.2013
Päivi Mattila	Former Advisor	MFA	9.10.2013
Riikka Miettinen	Former Gender Assistant	MFA	9.10.2013
Elina Multanen	Executive Director	UN Women in Finland	2.10.2013
Lydia Nyambura	Program Officer	World Vision Kenya	27.8.2013
Leo Olasvirta	Former Ambassador	Finnish Embassy	2.10.2013
Jorma Paukku	Former Gender Ambassador	MFA	22.10.2013
Aino Pennanen	Human Rights and Democracy Specialist	KEPA	5.9.2013
Kari Ruoho	Former SNE advisor	Finnish Embassy	19.8.2013
Marko Saarinen	Counselor, COWASH Advisor	Finnish Embassy	12.9.2013
Timo Voipio	Advisor	MFA	23.8.2013
Jatta Väisänen	Desk Officer, Kenya	MFA	4.9.2013
Anonymous	'Education Advisor'	Finnish Embassy	7.6.2013

Appendix 2: List of One-Day-Workshop Participants in Ethiopia

Group category	Name	Affiliation
Government Officials of Ethiopia	Mohammed Abubeker	Head of the Special Support and Inclusive Education
	Alene Ashine	Addis Ababa Bureau of Children, Women and Youth Affairs Office
	Zenebech Banjaw	Mekdela Primary School
	Seyoum Hailesenbet	Ministry of Education
	Tamirat Woldegebriel	Ministry of Education
	Alemayehu Woldekirkos	Ministry of Education
Finnish Embassy	Workaferahu Eshetu	Programme officer, LCF
	Paula Malan	Counselor, Education Advisor
	Meseret Mengistu	Programme officer, LCF
	Janne Oksanen	Head of Cooperation
NGOs	Atsebayush Abebe	Addis Hiwot Center of the Blind
	Degefa Abdi	Ethiopian National Association for the Blind
	Abera Adeba	Agar Ethiopia
	Adane Alemu	Addis Development Vision
	Teferi Alemayehu	Federation of Ethiopian National Association of Persons with Disabilities and National Association of the Deaf
	Fasil Ayele	Cheshire Services Ethiopia
	Woldesenbet Berhanemeskel	Help for Persons with Disability Organizations
	Tibebu Bogale	Save the Children Finland
	Berhane Daba	Ethiopian Women with Disabilities National Association
	Rebecca Demissie	Agar Ethiopia
	Daniel Dessie	Organization for Development in Action
	Desalegn Dingeta	Movement for Empowerment and Change of Attitude in Life
	Frezer Gebrekistos	Handicap National
	Woinshet Girma	Ethiopian National Association of the Deaf
	Mirja Himanen	Finnish Evangelical Lutheran Mission
	Tariku Kassa	Poverty Action Network in Ethiopia
	Aleghn Ketema	Mental Health Society
	Workaferahu Kidane	Ethiopian Women Exporters Association
	Abebe Molla	Ethiopian National Association for the Blind
	Atre Mozhigo	Charity and Development Association of Teachers with Visual Impairment
	Mekonnen Mulat	Finnish Evangelical Lutheran Mission
	Solomon Nebiyu	Movement for Empowerment and Change of Attitude in Life

	Yezabnesh Tadesse Zafu	Mental Health Society - Ethiopia
	Musie Tilahun	Ethiopian Center for Disability and Development
	Etenesh Wondimagegn	Handicap National
	Anonymous	Anonymous
Academics	Eyasu Hailu	SNE at Addis Ababa University
	Emezat Mengesha	Gender studies at Addis Ababa University
	Elias Nour	St. Mary's University College
	Kari Ruoho	SNE at Addis Ababa University
	Alemayehu Teklemariam	SNE at Addis Ababa University
	Dagnachew Wakene	Independent consultant/researcher
Beneficiaries	Kidane Admasu	Student at Addis Ababa University
	Paulos Kassu	Student at Addis Ababa University
Sign Language interpreters	Amare Ayalew	
	Meaza Melaku	
Personal assistants	Mekoya Mohammed	
	Fikirte Shuwef	
Organisers	Sisay Alemahu	
	Miriam Gebrehiwot	
	Tamiru Jote	
	Hisayo Katsui	
	Moges Solomon	

Appendix 3: List of Participated Events

1. Post-2015 seminar by Kehys on 9 April 2013
2. NGO Hearing on Human Rights-Based Approach held by the Ministry for Foreign Affairs (MFA) of Finland on 23 May 2013
3. State of the World's Children Report launch of UNICEF at the Ministry for Foreign Affairs on 30 May 2013
4. Nordic Network on Disability Research Conference between 30 and 31 May 2013
5. Human rights-based approach in Finnish Development Policy and Cooperation held by the MFA of Finland on 4 June 2013
6. HRBA training by UNICEF between 10 and 11 June 2013
7. NGO Hearing on High-level Meetings held by the MFA on 10 September 2013
8. United Nations High-level Meeting on Disability and Development (HLMDD) by UN on 23 September 2013
9. A Nordic disability meeting by Nordic DPOs on 24 October 2013
10. UNICEF Consultative meeting on disability and inclusive development by UNICEF headquarter disability focal point on 25 October 2013
11. Nordic Development Conference between 14 and 15 November 2013
12. Challenges in Integrating Human Rights and Development seminar between 25 and 26 November 2013,
13. Peace, Stability and post-2015 seminar held by the MFA of Finland on 20 January 2014
14. Human Rights-Based Approach training held by KEPA between 21 and 22 January 2014
15. Seminar on Disability Inclusive Development held by the MFA of Finland and FIDIDA on 29 January 2014, among others.



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