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AD-HOC BRIEFING

DISCRIMINATION AND DEVELOPMENT ASSISTANCE

Abstract

The present study aims to assess the anti-discrimination policy of EC development cooperation. The key questions are whether development aid is delivered fairly to all without discrimination and to what extent EC development policies contribute to combating discrimination of marginalised groups. Analysis was confined mainly to the conceptual level, examining country strategy papers, thematic strategy papers, communications and guidelines. Findings were cross-checked through the conduction of interviews with EU officials and civil society representatives. Generally, at policy level, concern for different socially disadvantaged groups and respective anti-discrimination policies have received attention, with the exception of lesbian, gay, trans- and bisexual (LGBT) issues. However, an implementation gap remains between the policy level and execution in practice. This is mainly due to a frequent lack of capacities within the EC delegations in partner countries especially concerning more recent topics, such as disabilities and LGBT. Moreover, participation and empowerment of marginalised groups themselves is not sufficiently being enhanced.

This study was requested by the European Parliament's Committee on Development.

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LIST OF ABBREVIATIONS

AAA	Accra Agenda for Action
ACP	Africa, Caribbean, Pacific
AIDESEP	Asociación Interétnica de Desarrollo de la Selva Peruana – Peruvian Interethnic Association of Development of the Peruvian Forest
CBM	Christoffel Blindenmission – Christoffel Blind Mission
CSO	Civil Society Organisation
CSP	Country Strategy Paper
DCI	Development Co-operation Instrument
DG	Directorate General
EC	European Commission
EIDHR	European Instrument for Democracy and Human Rights
EU	European Union
FLEGT	Forest Law Enforcement, Governance and Trade
HIVOS	Humanistisch Instituut voor Ontwikkelingssamenwerking - Humanist Institute for Development Cooperation
IDDC	Integral Disability and Development Consortium
IIP	Investing in People
ILGA	International Lesbian, Gay, Bisexual, Trans and Intersex Association
ILO	International Labour Organization
Int.	Interview (Information obtained from the Interviews)
LGBT(I)	Lesbian, Gay, Bisexual, Transsexual (Intersex)
MDG	Millennium Development Goals
MSM	Men who have sex with men
NGO	Non-governmental Organisation
PADOR	Potential Applicant Dated Online Registration
SIDA	Swedish International Development Cooperation Agency
VPA	Voluntary Partnership Agreements
WHO	World Health Organisation

EXECUTIVE SUMMARY

The present study aims to assess EC development practices in order to find out whether development aid is delivered fairly to all regardless of ethnicity, health status, sexual orientation, etc. It also evaluates to what extent EC development policies contribute to combating the discrimination of marginalised groups, including in particular HIV-positive persons, disabled persons, and homosexual, bisexual and transgender (LGBT) persons.

Analysis was confined mainly to the conceptual level, where a selection of ten country strategy papers (CSP), thematic strategy papers, communications and guidelines was analysed. For two relevant thematic instruments, the European Instrument for Democracy and Human Rights (EIDHR) and Investing in People (IIP), the analysis included the examination of the project data base.

Generally, at the policy level, the issues and anti-discrimination policies have received attention, and the EU has undertaken efforts to reinforce its obligations to promote and defend human rights as an essential element of its partnerships with third countries. However, its concrete anti-discrimination policies are mostly confined to combating ethnic, racial, religious or gender discrimination. The concerns for disabled persons have only emerged recently, and with regard to LGBT rights, awareness is limited to a few human rights experts and interested individuals.

The analysis of the CSPs also suggests that in the regional programmes, more consideration should be given to disabled and LGBT programming to assure equal distribution of EC development assistance. While some progress has been made to include the more recent issues of disabilities and LGBT, funding within the thematic programmes is still underexposed.

With the exception of LGBT rights, at the policy level good progress has been made to head for inclusive development cooperation and active combating of discrimination. However, an implementation gap between policies and their practical implementation has been identified. It has frequently been stated that guidelines were not always sufficiently executed or even well known. The level of implementation varies among the EC delegations in practice, and they are not always proactively committed to pushing for the rights of disadvantaged groups. Capacity and knowledge are sometimes missing, due to a lack of comprehensive staff training, especially concerning – but not limited to – more recent topics, such as disabilities and LGBT.

Proactive involvement of disadvantaged groups is particularly important, as the current approach of increased ownership and budget support assigns responsibility to the partner governments especially to those sectors (health and education) that are particularly sensitive to discrimination and that are central to any affirmative action taken to tackle inequality. There was a concern among some interview partners that with these – generally positive – changes in development cooperation, attention to marginalised groups could be lost.

Another concern – of course with different nuances for all analysed grounds of discrimination – was that participation and empowerment were not sufficiently fostered. The participation of civil society organisations and disadvantaged groups in the formulation and implementation of the CSPs and indicative programmes, policy dialogues, monitoring and midterm reviews could still be fostered substantially. Very little organisations have access to direct EC funding. If affected groups themselves and their organisations participate more in programme implementation and monitoring, this could enhance leadership capacity and empowerment. They should therefore also be enabled to directly manage EC funding.

Overall, the preoccupation with different social and disadvantaged groups, the mainstreaming of their issues and rights and anti-discrimination policies vary substantially according to the different grounds

of discrimination. While the mainstreaming of gender, indigenous people and ethnic minorities and HIV/AIDS has made good progress in the past, topics that have come on the international agenda only recently such as disabilities and, even more so, LGBT still lack comprehensive inclusion in development cooperation.

Recommendations have been made for:

– Action on the policy level, especially to improve the inclusion of disability and LGBT in political dialogue and policy documents, partnership agreements and EC programming documents. There is also need for improvement concerning a human rights based approach for HIV/AIDS.

– Increased resource mobilisation , especially for those sectors (e.g. health, education) and subsectors (e.g. primary health care, primary education) that have particular relevance to the situation of socially excluded individuals and groups;

– Providing EC delegations with staff training for non-discrimination, using operational guidance for programming and improved impact assessment, as well as improved inclusion of anti-discrimination within political dialogue and increased participation of marginalised groups;

– Empowering civil society organisations and marginalised groups and their leadership capacity to enable them to participate in strategy design, implementation and monitoring and to lobby for their inclusion and own monitoring of the performance in the health and education sector.

– The collection of disaggregated data and key performance indicators for better monitoring and measuring progress in combating discrimination;

– Further in-depth country analysis to sustain preliminary findings and examine more closely the different grounds of discrimination to which positive actions could best be applied, including the compilation of good practice examples especially for positive action;

1 INTRODUCTION

Discrimination against any individual, be it on the grounds of religion or belief, ethnic origin, disability, age or sexual orientation constitutes a threat to the implementation of human rights. In the legal framework of the EU, anti-discrimination legislation has become an important objective. In addition to laws promoting the equal treatment of men and women, since 2000 an anti-discrimination legislation has been in place to ensure minimum levels of equal treatment for people of racial or ethnic origin, religion and belief, disability, sexual orientation and age. Moreover, with the renewed social agenda (July 2008), a range of measures to actively combat discrimination, such as raising awareness and information campaigns has been supported.

These same principles should be applied to EC development aid programmes, and each programme must reach out to all social groups without discrimination. The present study aims to assess EC development practices to find out whether development aid is delivered fairly to all, regardless of ethnicity, health status, sexual orientation, etc. It also evaluates to what extent EC development policies contribute to combating the discrimination of marginalised groups, including in particular HIV-positive persons, disabled persons, and LGBT persons.

Chapter 2 outlines briefly the methodology used. For a sustained assessment of the anti-discriminatory nature of EC development aid programmes, a more in-depth and country based analysis would be necessary. The main focus therefore was the question to what extent development policies contribute to combating discrimination. To answer this question, a wider human rights based approach has been adopted for the evaluation. Chapter 3 sheds light on international commitments within this approach and outlines the key aspects for the design and implementation of anti-discriminatory policies and development aid. These aspects guide the subsequent assessment of EC-development assistance which is analysed in Chapter 4. As progress varies considerably according to the different grounds of discrimination, various aspects are treated separately in subchapters. Finally, chapter 5 summarizes the conclusions and gives recommendations for the best way to proceed.

2 METHODOLOGY

The research adopted a mixed methodological approach consisting of literature research, the review of EU legal frameworks and policy documents, guidelines and CSPs as well as semi-structured interviews with EU officials and civil society representatives. Further research would be needed to evaluate more precisely the actual implementation of anti-discrimination policies in practice, as only in-depth country research on implementation will shed light on the question of whether EC development assistance is distributed fairly to all, free of discrimination.

However, the study aims to give an overview of how EC development assistance is dealing with disadvantaged groups in developing countries. This is done first on a conceptual level, analyzing a cross-section of policy documents (guidelines and communications) on thematic issues (e.g. Human Rights defenders, governance, HIV/AIDS) or concerning sample groups in the development context that are particularly at risk for facing discrimination (ethnic minorities, persons with disability), as well as strategy and policy documents concerning geographical specifications (Partnership Agreements, CSPs). Secondly, in order to evaluate the implementation of these documents and guidelines as thoroughly as possible, a cross-section of strategy papers and indicative programmes was analysed. The strategy papers of the thematic instruments EIDHR and IIP (including their current project funding) served as the basis for the analysis of the inclusion of disadvantaged groups in specific EC funds. Moreover, to get an overview of the implementation in country programmes, ten CSPs (and indicative programmes) were selected for further examination.

The ten countries were selected to represent all world regions (but with a focus on African countries) and a given relevance of all examined grounds of discrimination (ethnic and other minorities, HIV/Aids, disabilities, LGBT), which for different reasons can vary considerably from country to country. The selected countries are: Kenya, Mozambique, Nigeria, Rwanda, South Africa, Ecuador, Guatemala, Bangladesh, India and Vietnam. As for specific thematic instruments, the EIDHR, which is the specific funding instrument of the EC to address discrimination and the protection of human rights, and the programme IIP were found to be the most appropriate, due to their direct reference to Human Rights and their relevance for specific pre-occupation with the most disadvantaged in social services, respectively. For the two thematic instruments, a project database was analysed to shed more light on the actual distribution of development assistance on the ground. It should be stated, however, that the budget of these instruments is relatively low compared to the regional programmes. Further research should therefore analyze specifically regional programmes with regard to the implementation of anti-discrimination policies.

For the analysis of these documents, the requirements at three intervention levels (conceptual, implementation and result level) were compiled which are outlined in section three. To cross-check results, interviews were conducted with EU officials and NGO representatives.

In order to concentrate on more recent and less examined grounds for discrimination, gender issues have widely been left out of the study. This does not mean that gender mainstreaming has resulted in a well-performed anti-discriminatory policy. However, in comparison to other grounds for discrimination like HIV/AIDS, disability or LGBT, gender mainstreaming has made much progress in the past decades, and comprehensive research has been conducted on this particular issue[1]. However, it must be stated that women are often not only discriminated against on the basis of their sex, but often face double discrimination as indigenous women or women with HIV/AIDS etc.

3 INTERNATIONAL COMMITMENTS AND POLICIES ON HUMAN RIGHTS

3.1 Human Rights and Development cooperation

The EU has already gone a long way to introduce anti-discrimination policies in its own territory[2]. However, as the world's largest donor of development assistance, the responsibility goes beyond national and EU-law. The EU and its member countries, as well as most of its partner countries have signed the UN-Charta, which binds them to the protection and enhancement of human rights (see Art. 1, 55, and 56). 160 countries have additionally signed the International Covenant on Economic, Social and Cultural Rights, which states in Article 2 that steps to achieving the full realisation of these rights should be taken both individually and through international assistance and co-operation. Development Assistance can be seen as a tool to mobilise available resources.

More recent UN-conventions, as well as comments on existing conventions, not only specify a wider range of prohibited grounds for discrimination, increasingly including, for example, disability and sexual orientation[3]; they also take international responsibilities more explicitly into account. The UN Convention on the Rights of Persons with Disabilities, which was launched on May 3, 2008, for example,

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[1] See Debuscher, P. (2010), EC (2003), Lister, M. (2004), Lister, M. & Carbone, M. (2006), WIDE (2008).
2 See esp. European Union institutions and bodies (2007/C 303/01): Charter of fundamental rights of the European Union.
3 See especially ECOSOC (2009) General Comment No. 20 on the Covenant on Economic, Social and Cultural Rights: Non-Discrimination in Economic, Social and Cultural Rights.

highlights the importance of international cooperation for promoting and ensuring equal enjoyment of all human rights by all persons with disabilities[4].

The EU has responded to these obligations with a number of explicit documents to promote Human Rights in development cooperation[5] and has included Human Right's issues successively in relevant strategic papers in the field of development cooperation[6]. Chapter 4.1 will evaluate more closely the inclusion of a human rights based approach and anti discrimination policies in selected documents.

Moreover, with regard to development cooperation, the framework of reference is strongly defined by the standards set in the Paris Declaration and the Accra Agenda for Action (AAA), as well as in the Declaration on the Millennium Development Goals (MDG). In September 2008, both developing countries and donors have committed in the AAA "that their respective development policies and programmes are designed and implemented in ways consistent with their agreed international commitments on gender equality, human rights, disability and environmental sustainability."

3.2   Anti-discrimination policies within a Human Rights based Approach

The poor and other vulnerable groups are more likely to be left out of development processes and experience social exclusion, alienation, discrimination and inequality. They are also particularly susceptible to the causes of poverty, such as lack of assets, restricted access to social services, markets and public institutions, a restricted participation in the public sphere and not being heard. Therefore, one of the underlying principles of a human rights based approach is the concept of non-discrimination and particular pre-occupation with vulnerable and socially excluded groups. Anti discrimination policies should be explicitly included in the development agenda and implicitly embedded in a human rights based approach. For the latter, the following aspects are important in the design and implementation of development aid and will be influential in the analysis of EU-development assistance in the present briefing:

1.   Conceptual Level: Anti discriminatory policies must be included in all stages of the development cycle:

This starts with the analysis of the poverty situation in each country and regional setting: Vulnerable groups, defined as vulnerable to human rights violations, as well as the causes of their vulnerability and social exclusion need to be identified. The formulation of strategies and objectives should take these analyses into account, and marginalised groups must be specially targeted in the design of these programmes, in order to enable them to overcome these barriers and gain equal opportunities. This must in turn be reflected in the data collected (e.g. for poverty analysis or the baseline) and in the set of indicators, which should be disaggregated according to the underlying grounds for discrimination wherever possible and relevant.

2.   Implementation Level: Positive action within a multi-level approach:

Since discrimination will not disappear on its own, positive action measures are vital in order to prevent and tackle it. A human rights based approach therefore has a particular pre-occupation with individuals and groups who are disadvantaged due to discrimination. In poverty reduction strategies, relevant measures should target specially those sectors (e.g. health, education) that target the particular situation of disadvantaged and socially excluded individuals and groups and measure progress along disaggregated indicators[7]. As discrimination and inequality can take many forms, including national

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4 See also the UN "Convention on the Right of the Child" (1990)

5 See e.g. European Commission COM 252 final (2001) and European Commission COM 421 final (2006) or the different strategic partnership agreements.

6 See e.g. European Parliament, Council, Commission (2006): The European Consensus on Development.

[7] See United Nations OHCHR (2004): 17.

law, social institutions and values that determine life and relations within households and society, to be effective changes need to be initiated at all levels: the Macro (national), Meso (regional and institutional) and Micro (local and individual) level. This includes general or sector based political dialogue at the macro level as much as increased participation and empowerment at the micro level. Institutions play an important role, both in transmitting and implementing anti-discriminatory policies from the top down as well as enhancing the human rights of marginalised groups from the bottom up. Awareness building is decisive at all levels.

3.   Result level: The main objective is empowerment:

In dealing with the target group, the human rights based approach influences the perspectives of development cooperation: while classical development cooperation focuses – among others – on target groups in a way that makes them beneficiaries of development measures, a human rights based approach perceives the individual as a subject with rights that needs to be enhanced to be in a better position to fight for his or her rights. Marginalised groups have to be involved right from the beginning in the planning of development measures as well as in the monitoring and evaluation. Not only rights holders but also the duty bearers as well as other stakeholders have to be targeted through awareness building on their rights and, respectively, the duty to respect, protect and fulfil them.

These aspects will guide the following assessment of the EU development practices with regard to non-discrimination.

4   ANALYSIS OF EU-DEVELOPMENT POLICIES

4.1   Steering mechanisms: Treaties and Strategy papers

The cooperation of the European Union with its partner countries is defined by the Treaty on the Functioning of the European Union (Art. 208), which sets poverty reduction and, in the longer term, poverty eradication as the primary objective of development cooperation. Moreover, the Treaty accounts for more coherence towards this objective when implementing policies that are likely to affect developing countries.

This translates into regional partnership agreements e.g. for the ACP Countries and strategies for EC partnerships in the world. The overarching objective of the ACP-EU Partnership Agreement (revised Cotonou Agreement, 2005) is to promote the development of a common strategic approach to poverty reduction. The Agreement systematically considers issues of human rights and democracy within the political dimension of relations between the ACP States and the EU political dialogue pursuant to Article 8 and 9[8]. The Agreement also refers to their international obligations and commitments concerning the respect for human rights (Art. 9.2) and provides for the risk of non-fulfilment from either part (Art. 96 and 97). Nevertheless, wherever the overall perspective on human rights is broken down to tackle discrimination (e.g. Art. 13, 72), reference is usually only made to ethnicity/religion, gender, language and age. Moreover, the first action plan (2008-2010) for the implementation of the EU-Africa partnership – though identifying the field of democratic governance and human rights as one of eight strategic priorities – does not take any specific anti-discriminatory action.

Equally, in the other regions the EU incorporates dialogue on human rights into all its relations with third countries, establishing "essential element" clauses on the respect for fundamental human rights

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[8] Article 8 (Political Dialogue) and 9 (Essential Elements and Fundamental Elements) stress the respect for all Human Rights. See Art. 9.1: "Cooperation shall be directed towards sustainable development centered on the human person, who is the main protagonist and beneficiary of development; this entails respect for and promotion of all human rights. Respect for all human rights and fundamental freedoms, including respect for fundamental social rights, democracy based on the rule of law and transparent and accountable governance are an integral part of sustainable development."

and democratic principles in bilateral agreements[9]. Overall, it can be stated that within the partnership agreements and strategic partnerships, the EU has undertaken substantial efforts to reinforce its obligation to promote and defend human rights as an essential element of its partnerships with third countries, though this is most explicit within the partnership with ACP countries. However, concrete anti-discrimination policies are generally confined to combating ethnic, racial, religious or gender discrimination. Moreover, while, poverty reduction is a central objective, the multidimensional concept of poverty as a lack of capabilities in different economic and social contexts, as defined by Armatya Sen, is rarely addressed. This conception of poverty would be a stronger foundation for anti-discriminatory policies under a rights based approach.

With regard to the practical implementation of the key principles laid down in these agreements and communications, the European Consensus on Development sets the general policy framework. Here again, "[t]he primary and overarching objective of EU development cooperation is the eradication of poverty in the context of sustainable development, including pursuit of the Millennium Development Goals" (Part I.1). In its Consensus on Development, the EC places emphasis on dialogue-based partnership and ownership. While gender equality, women empowerment and the combat against HIV/Aids are specific objectives within the MDG, the promotion of human rights is seen as a cross-cutting issue.

The Consensus on Development also stresses the multi-dimensional aspects of poverty following the approach of Amartya Sen (Part I.2). This is a good foundation for effective anti-discrimination policies, which find their equivalent in Part II (Development Policy) only in the employment sector referring to the Decent Work Agenda of the ILO[10]. Although the promotion of human rights, gender equality, the rights of indigenous peoples and combating HIV/Aids are stated as cross-cutting issues, the statement often fails to stress a pre-occupation with marginalised groups and positive actions to overcome their barriers. HIV/Aids issues, for example, are generally addressed as part of a health strategy, which supports reproductive and sexual health within a needs-based strategy. Moreover, with the exception of women, the statement does not explicitly promote empowerment as part of a human rights based approach.

For the geographic programmes with countries in Latin America, Asia (including Central Asia) and the Republic of South Africa, the Development Co-operation Instrument (DCI) has been established. The main objectives and general principles set out in the regulations for this instrument (Art. 2 and 3) put a clear focus equally on poverty eradication in the context of sustainable development and the respect for human rights. They also make reference to the commitments the Community has approved in the context of the United Nations[11]. Although a particular emphasis on lower income populations and marginalised groups is made in, for example, the health and employment sector (Art. 5), the focus here remains mostly needs based.

The common framework for CSPs asks for a detailed analysis of the political, economic and social situation, allowing for differentiation and disaggregation according to various factors. However, they are confined to sex, age, ethnicity and geographic area. HIV/AIDS issues are to be mainstreamed. This is reflected perfectly in the analysed CSPs: while gender and ethnicity issues, as well as HIV/AIDS

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[9] See European Commission COM (2001) 252 final, COM (2001) 469 final, COM (2003) 399 final, COM (2005) 636 final, COM (2009) 495/3.

[10] „In the context of poverty eradication, the Community aims to prevent social exclusion and to combat discrimination against all groups" (p. 28), addressing in particular gender inequality, the rights of indigenous peoples and children and the condition of disabled people.

[11] See European Union (2006) PE-CONS 3663/06.

(however, mostly with a needs-based approach) frequently find their way into CSPs, references to disability and LGBT are hardly ever found[12].

One main criticism from Civil Society Organisations is that poverty is generally not defined as a denial of human rights, the revision of which would pave the way for more explicit concern for a human rights based approach and equality. It has been criticised that the focus on the MDG to combat poverty misrepresents the hierarchical relationship between these goals and human rights law. Rather than regarding human rights as the goal and means of development and the basis for the achievement of the MDG, they are usually dealt with as a cross-cutting issue within the overarching objective of reaching the quantitative targets of the MDG[13].

Some strategy papers or papers on specific topics of social exclusion – especially the more recent ones – do follow the logic of a human rights based approach, using explicit human rights language. The Strategy Paper of the EIDHR 2007-2010, the EU Guidelines for the Promotion and Protection of the Rights of the Child (2007) and the EU guidance Note on Disability and Development (2004) are such examples.

4.2   Ethnic and other minorities

Mainstreaming of issues that affect indigenous peoples has come a long way in the European Union. Both the focus on poverty reduction and environmentally sustainable development and biodiversity in development strategies of the EC are strongly connected to this issue, as indigenous peoples are not only among the poorest in the world, but very often also live in and off the forests and areas that are crucial for the conservation of biodiversity and are a profound source of traditional knowledge. According to the international framework that has increasingly recognised indigenous peoples' issues also in the human rights context, the EC started to develop its policies on indigenous peoples in the late 1990s[14]. This was followed by the Council conclusions in 2002, which all together provide guidelines for priority support areas and concrete actions and form a promising basis for the mainstreaming of the issues of indigenous peoples and particular targeting to tackle discrimination. The need to ensure effective participation at all stages of the project cycle, the enhancement of their right and capacity to achieve self-development as well as the principle of free prior and informed consent are all specifically referenced.

These policies are also reflected in other, more recent and overarching policy frameworks such as the European Consensus on Development or regional treaties such as the Cotonou Agreement, which explicitly or implicitly address the rights of indigenous peoples[15]. Moreover, the principles of participation, free, prior and informed consent are an integral part of the European Consensus on Development, as they are of the EC Council Resolution on indigenous peoples. Equally the common framework for CSPs makes specific reference to including indigenous peoples as cross-cutting issues. Not surprisingly, the analysed CSPs reflect widely the efforts of the EC to specifically address the rights and needs of ethnic and religious minorities and/or indigenous peoples. In countries like Guatemala, Ecuador, Vietnam, Bangladesh and Nigeria, where ethnic and other minorities face discrimination, the

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[12] The following chapters give a more detailed overview of how the different topics are reflected in the analysed CSPs. Annex 3 summarises the results of all analysed CSPs.

[13] See International Human Rights Network (2008); the survey explicitly names the EU Strategy for Africa, where human rights are seen "as a sub-element of one of the nine primary activity areas. In failing to identify human rights as the over-arching means and goal of development, this approach also implies that human rights somehow are not at the heart of the other listed development areas" (p.53f.).

[14] See European Commission (1998) SEC 773 final; European Council (1998).

[15] It has been recommended, though, that Indigenous peoples' issues and rights should be included more explicitly when it comes to the revision of the Cotonou agreement in 2010 (EruopeAid, 2008).

CSPs reflected these issues both in the country analysis and the response strategy. Whenever indicators or performance assessment frameworks were included in the indicative programme, anti-discrimination of ethnic or other minorities is only outlined occasionally.

In the case of Guatemala, the EC will continue to be the largest donor targeting indigenous peoples. In other cases however, deficiencies remain, e.g. Kenya, where the situation of ethnic and other minorities does not seem to find sufficient recognition, as minorities are not particularly targeted and only appear as a cross-cutting issue under other thematic focuses. In Rwanda, the rights of ethnic and other minorities are not even treated as a cross-cutting issue. The Rwandan government has prohibited identification along ethnic lines. In the CSP it is stated that human rights must be viewed in the context of the genocide in Rwanda and that political dialogue with the government in this context is not straightforward. These cases lead to the assumption that in politically sensitive countries, the anti-discrimination policy of the EC is not as outspoken as in politically less difficult settings.

Overall, on a conceptual level, the inclusion of indigenous peoples has been fairly good, which constitutes a good basis for special targeting of indigenous peoples and anti-discrimination policies. Nevertheless, the mainstreaming of indigenous rights in development planning, implementation and evaluation as well as in economic and social empowerment is still a major challenge. There is a strong need to include indigenous peoples as equal partners in development efforts and to link their issues more closely with mainstream society, where discriminatory practices often remain. From evaluating the CSPs, it seems that ethnic and other minorities are seen as beneficiaries rather than as subjects with rights that need to be empowered in order to be in a better position to fight for their rights[16]. Further in-depth country analysis would be needed to draw clear conclusions in this respect.

However, it has been stated that in consultation processes leading to CSPs, indigenous peoples are still often left out (Int.). Also in concrete funding, the barriers of participation seem to be too high, as complex EC procedures and structures are very difficult to understand. In fact, an in-depth country analysis in Suriname and Kenya, commissioned by EuropeAid, even stated that "complex EC procedures and terminology further Indigenous peoples' sense of marginalisation and detachment" (EuropeAid, 2008: 5). Thus, changes in policies from targeting to mainstreaming and their possible implications, i.e. within country calls run the risk of having no real impact.

This results in an implementation gap, which has also been perceived by consulted NGO representatives. Organisations of indigenous peoples still have problems obtaining EC funding, local communities often lack capacities and there are concrete barriers, such as the necessity to register at the online database (PADOR), which for many Organisations with no or only limited access to the internet becomes an insurmountable barrier. According to the information obtained, only few delegations facilitate funding without PADOR. Usually, minority organisations do not access these calls for proposal directly. On the other hand, the above mentioned study has also found encouraging examples in Kenya, where simplifications of procedures as well as a system to support communities with weak capacities have encouraged local groups. The same study stated that indigenous organisations in Kenya have learned from previous EU projects and will be better equipped for further EC calls for proposal.

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[16] The lack of ownership of programmes and the need to treat Indigenous peoples not just as "beneficiaries" but to let them design and manage projects and programmes is also stressed EuropeAid (2008).

Also under the EIDHR, specific funding for indigenous peoples remains rather limited, receiving only 1.1% of overall funding between 2007 and April 2009[17]. The same can be said for the rights of persons belonging to minorities and ethnic groups, funding for which remains at 1.6 % of total funding.

To overcome the implementation gap, the EC has developed a very useful toolkit for the promotion of the rights and issues of indigenous peoples[18]. With the transfer of management responsibility to the local level, EC Delegation offices in partner countries will need more information and practical guidelines to improve the implementation of EC commitments. The toolkit is meant to provide this practical information, tagging key questions to address and key issues for understanding the implementation of existing policies in EC Cooperation.

Also political implications have been seen that hinder the accessibility of indigenous groups to EU funding. The Peruvian Interethnic Association of Development of the Peruvian Forest (AIDESEP) for example, an association of 57 regional und local organisations in the Amazon area in Peru, was recently accepted for an EC development grant. The strategically important project to secure land rights through economically sustainable measures was put on hold after the Peruvian government had taken action against the organization due to political disputes. This has implications for other funding from EU Member States, which had already been secured (Int.). The fear to stress intergovernmental relations between the EU and Peru seems to have impaired the concrete project funding to the indigenous organization.

It has been frequently stated in interviews, that the dimension of the implementation gap depends very much on the EC delegation. The case of Peru indicates that there are also strong linkages with the partner government positions, which in many cases remains limited. While international recognition of the rights of indigenous peoples has risen substantially, most ACP States are lagging behind in their development and have not yet established consultation procedures with indigenous peoples. Therefore, interventions at the macro level and the inclusion of priorities of indigenous peoples, especially those that tackle the ground issues of discrimination, such as land tenure or cultural rights, during bilateral and multilateral negotiations are just as important as direct measures at the meso and micro level.

The Forest Law Enforcement, Governance and Trade (FLEGT[19]) action plan was mentioned as a good example of a multilevel intervention. To respond to illegal logging, which frequently affects indigenous peoples, the EU adopted the FLEGT action plan in 2003. It combines measures in producer and consumer countries to facilitate trade in legal timber and eliminate illegal-timber trading with the EU. On the producer side, this is supported by a combination of law enforcement (both existing laws and adoption of new laws) and governance objectives through financial and technical support and advice. An important part of the action plan consists in policy reforms through which all stakeholders can engage in policy dialogue. This is accompanied by capacity building and training both for governance institutions and community-based forest management and for the empowerment of local and forest people.

Voluntary Partnership Agreements (VPA) with partner countries form the basis for achieving these objectives and aim to improve access to markets within the EU for timber from the partner countries. Civil Society Organisations (CSO) and local stakeholders play a key role in the consultation and negotiation process. Thus, one of the main objectives from the EU's part is the improvement of

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[17] The European Commission (2009c): The European Instrument for Democracy and Human Rights (EIDHR): COMPENDIUM JANUARY 2007 - APRIL 2009.
[18] European Commission (2008): EC Draft Tool – Promoting the rights and issues of indigenous peoples in EC cooperation with ACP countries.

governance and the inclusion of local people and indigenous minorities. One of the main drivers of the plan is trade, as improved access to the EU market makes the Agreement attractive to producing countries, as well as increased earnings through improved revenues capture.

For the countries that have signed a VPA, there have been positive developments for the situation of indigenous peoples. In Ghana, for example, the principle of free, prior and informed consent of local stakeholders is part of the agreement. In the Republic of Congo, a law for the promotion and protection of indigenous peoples was passed as a pre-condition for the signing of the VPA. The implementation in the countries that have signed the VPA is under way; however, it will take another two to three years to see concrete results, which should be monitored closely. Nevertheless, in the respective countries, this will also have an impact on the delegations, as priority is given to EU development assistance for FLEGT-related measures.

4.3 People with disabilities

Depending on the context, living conditions and the definition of a disability that is used, 10 to 20% of the world's population have a disability, and 80% reside in developing countries. This year, the World Health Organisation (WHO) and World bank are about to publish a report on the issue, which underscores that disabilities are connected to other aspects of discrimination such as gender, HIV/AIDS and ethnic minorities.

The cross-cutting issue of disability and the task of addressing it adequately in development cooperation are highly complex. This is due to the fact that disabilities are manifold, e.g. ranging from obvious and so called visible disabilities[20], such as physical impairment, visual impairment to the mentally challenged. Naturally, each form of disability has different needs and corresponding solutions, such as brail instructions for medical treatments, special education material or psychological treatment for traumatized persons. Another dimension is age differences among people with the same type of disability. Age groups are thus a cross function of the aforementioned forms of disability.

As is the case with indigenous peoples, progress has been made on the policy level. In 2007 the European Community signed the UN Convention on the Rights of Persons with Disabilities (UNCRPD), which so far is the only convention that has been signed by the EC as an institution. In November 2009 the Council paved the way for the European Community to conclude the Convention[21]. The convention includes a clause on development cooperation and thereby sets the binding framework for mainstreaming disabilities into operations through the policy and programming level. Thus, the convention is the anchor for anti-discriminatory aid delivery. Currently at the EC, the unit in charge of disability issues is part of DG Employment and social affairs. However, this unit will now move to DG Human Rights, and this has been seen by NGO representatives and EU officials alike as a positive sign of enhanced mainstreaming efforts.

In 2003, the EC issued the guidance note on mainstreaming disabilities as a cross cutting issue[22]. However, it was stated in the conducted interviews that according to a recent questionnaire of the Integral Disability and Development Consortium[23] (IDDC), many delegations have not received the note or are not aware of it, nor did a staff training session accompany the guidance note. The note is going to

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[19] http://ec.europa.eu/development/policies/9interventionareas/environment/forest/forestry_intro_en.cfm
[20] The distinction of non-visible disabilities and diseases is a fine line, e.g. generally diabetes is referred to as an illness, whereas heart weakness is considered a disability. Guidelines or clear definitions do not yet exist.
[21] http://www.europa-eu-un.org/articles/en/article_9275_en.htm.
[22] European Commission (2004): Guidance note on Disability and Development for European Union Delegates and Services.
[23] For further information, see: http://www.iddcconsortium.net/joomla/

be revised under a disability study project[24]. This study will incorporate lessons learned from experience so far and back-feed into future EC development cooperation and project design. As a follow up to this study, the updated guidance note should be accompanied by adequate staff training and information sessions. In particular, the good practice cases could be compiled to illustrate inclusive development assistance. For instance, the Christoffel Blind Mission (CBM) has already developed a set of mainstreaming tools for task managers as part of the project "Disability Mainstreaming in Development Cooperation", supported by DG Employment and Social Affairs of the European Commission[25]. This manual should be made much more widely known among EC delegations.

Interviewees reiterated that programming of CSPs with a participatory approach is vital for cross cutting issues to trickle down into real program actions. The lack of additional staff training or even the lack of awareness of the guidance note is reflected in the formulation of CSPs, where inclusion of disability is still dismal. Moreover, lack of physical access for persons with disabilities of EC delegations or in social services has been seen not only as a main barrier for increased participation but also as a double standard: while EU requirements within member countries include barrier free access, accessibility for the persons with disabilities is not a requirement for EC buildings or social services infrastructure built with EU money in partner countries. Buildings and financed infrastructure are therefore often not accessible in development projects. Moreover, this has left many organisations out of the consultation processes because many delegations are only aware of the organisations addressing them, rather than proactively promoting inclusiveness.

Not surprisingly, the analysis of the CSPs reflects the assumption that discrimination on the ground of disability is neither adequately mainstreamed nor implemented in programmes. Half of the analysed CSPs do not mention disability. When disability is included, it is mostly considered in the country analysis and to a lesser and insufficient extent in the response strategy or indicative programme. The CSP of Rwanda, for instance, mentions that mental disabilities are affecting the population significantly due to the genocide. Nevertheless, specific program engagement with this vulnerable group has not been identified.

Interviewees stated that positive indications for mainstreaming disabilities are seen in the thematic program IIP 2007-2010. The program indicates that particular attention will be paid to the integration of topics dealing with disability. Overall, it has been stated that the first point of entry for disability mainstreaming will most likely be in the health and education sector[26] and physical accessibility of facilities (barrier free). Consequently, in terms of funding, reviewed documents attested to the need to step up the EC's thematic action on human and social development, which has been confirmed in the interviews. The budget ceiling always constitutes a limit, especially if new groups are to be targeted.

As for the EIDHR, both in the previous funding period (2000 - 2006) and in the implementation of the current one so far (January 2007 - April 2009), funding targeted at persons with disabilities comprised only 0.6% of the total funding. Some projects in the implementation of the current funding period include disability as a cross-cutting issue or special focal point under other themes like women, children, strengthening civil society and the rights of persons belonging to minorities and ethnic groups.

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[24] The objective of the TOR is to develop a study on EC Development cooperation and disability, which will include: (1) Information on the situation of persons with disabilities in developing countries, including links to poverty; (2) Information on the main political and legal framework for EC cooperation regarding disability; (3) An analysis of how the concerns of people with disabilities have been taken into account in EC Cooperation, based on the data from projects funded since 2000. The study will also highlight successful practices and practices that should be avoided in the future. (4) Finally, recommendations and an update of the EC guidance note.

[25] See further: http://www.make-development-inclusive.org/toolsdetail.php?spk=en&nb=8

[26] This by no means excludes other sectors such as governance, agriculture urban planning, etc. Simply the high relevance and close correlation to impacts is emphasized.

However, even when including these projects, the percentage of total funding still remains remarkably low at only 0.9%.

Local groups still seem to have problems accessing these funds. No partner organisations of consulted CSO in Brussels got a grant from EIDHR. However, some delegations have been successfully lobbied by national organisations and have included disability projects in their envelope on Non-state-actors instruments. This is only possible where strong movements exist or where the delegations themselves have an interest in the topic (Int.).

Thematic instruments are not the only way of financing disability projects or programmes. According to EuropeAid's latest inventory of funding from 2000 to 2009, the EC has funded some 280 projects (corresponding to over € 145 million) specifically targeting people with disabilities in 69 partner countries[27]. This results in an average annual amount of € 14.5 Million. The main activities supported include: capacity building, policy development, community based rehabilitation, promotion of human rights, deinstitutionalisation, social inclusion and improving the data collection.

In essence, the aforementioned examples of EC development instruments and programmatic approaches demonstrate that, on the one hand, initial steps are being taken to mainstream disabilities into projects. On the other hand, the relatively low total volume of funded projects reflects further need for action to make development projects fully inclusive and concur with a human rights based approach. There should also be more small scale schemes which are easily accessible, in order to ensure better participation from organisations in practice.

Moreover, it was stated in the interviews that the health sector, in particular, should be aided in preventing the occurrence of disabilities in the first place. This applies to nutrition, medical treatment during pregnancy and capacity building of (in particular) rural health centre staff. In post conflict countries prevention of e.g. landmine accidents must be a priority area on the highest level, as people will suffer from physical injuries and disabilities or even death. Moreover, land and infrastructure that is unproductive due to mines hampers economic growth and poverty alleviation.

Furthermore, besides a generally higher resource allocation to health, education and social development programs, as well as an internal project budget shift in favour of disability related issues, the development and implementation of specific key performance indicators for inclusiveness of disabilities would reflect a serious political commitment towards holistic development assistance. They would result in more consideration of disability needs in education, health and facility accessibility in infrastructure projects. They serve as success indicators, since results can closely be monitored. Hence, for the effective mainstreaming of disabilities, a comprehensive catalogue of guidance notes, best practice cases and staff trainings, including the development of a Key Performance Indicator need to be established[28].

Finally, no one better than persons with disabilities themselves can advocate for their own rights and needs. It is strongly recommended to increase the low amount of persons with disabilities working in EC development assistance. The latter point was stressed by several interviewees of NGO's and practitioners. The inclusion of people with disabilities in strategic and programme design underscores a political commitment to anti discrimination and a human rights based approach in development cooperation.

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[27] This figure was mentioned in the interviews and is cited from the TOR outlining the study on disability inclusiveness in EC development cooperation mentioned above.

[28] Guidelines should be prioritised and sector specific, e.g. given the high relevance to education and health, those sectors should be targeted first. Governance as well as other social dimensions need to be addressed. Infrastructure projects are relevant in terms of accessibility, e.g. urban planning for walkability and wheelchair accessibility, etc.

4.4 People living with HIV/Aids

The impact of HIV/AIDS in Africa, especially Southern Africa, is still very strong. Two thirds of all people living with HIV/AIDS live in Sub-Saharan Africa, although the region is only home to ten per cent of the world's population. The issue is also strongly related to the pre-occupation of other groups that face discrimination, i.e. women (as they are more likely to become infected and tend to be more adversely affected than men) or homosexuals (and particularly Men who have Sex with Men, MSM), or particular vulnerable groups, such as children (orphans, child heads-of-household and children living with HIV/AIDS or living with chronically ill or disabled adults etc.). Generally, HIV/AIDS is very much associated with stigmatized groups, especially injecting drug users, MSM or sex workers. Because sex is the main channel of transmission and discussions of HIV/AIDS are generally linked to notions of morality, the discrimination of people living with HIV/AIDS is severe and tackling the causes of HIV/AIDS stigma is highly sensitive.

The EC has responded to the pandemic with several communications and programmes. In 2004, a communication for a coherent policy framework was adopted, followed by a Programme for Action (2007-2011)[29]. The Programme for Action also makes reference to the role of policy dialogue not only to support improved access to prevention measures, treatment, care and support for HIV/AIDS, but also to the rights of children and women and the needs of other vulnerable groups, such as orphans and vulnerable children, injecting drug users, elderly people or people with disabilities. The political dialogue shall also include issues of stigma and discrimination, as well as greater involvement of people living with HIV/AIDS. Moreover, the European Consensus on Development provides a strong platform for a particular focus on the subject, as there is not only a strong reference to the commitment to reach the MDG[30], which among others includes the fight against HIV/AIDS and other diseases. There is also specific reference made to the mainstreaming of the subject across sectors and institutions.

Accordingly, in countries like South Africa and Mozambique, where HIV/AIDS prevalence is high or, in the case of Mozambique, even on the rise, the CSPs of the EC comprehensively cover the issue of HIV/AIDS in the country analysis as well as in the response strategy and indicative programmes. The progress report on the implementation of the European Programme for Action comes to the same conclusion, especially for the medium and high prevalence countries, where 60 of 64 approved CSPs refer to the situation and response to HIV/AIDS. However, the report also states that although EC delegations have engaged actively in policy dialogue on country responses to HIV/AIDS, there are concerns about the quality and depth of the health policy dialogue, which is partly due to a lack of technical capacity on health within delegations[31].

It has also been stated by NGO representatives that health is not generally a priority area, not even in Africa, and that EC delegations need more expertise on the issue or need to accept more on-site expertise (Int.). Especially, the integration of marginalised and affected groups in the design and implementation of programmes needs to be improved. This must go along with capacity building, as the capacity of many organisations to influence the design of CSP and participate in the implementation is still very low (Int.).

As for the thematic programmes, the biggest share of the annual budget of the IIP (more than 40%) is dedicated to projects that combat HIV/Aids and other diseases (39% alone are managed through the

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[29] i.e. European Commission COM (2004) 726 final, COM (2005) 179 final.
[30] Further reinforced by the European Council: "The EU as a global partner for pro-poor and pro-growth development: EU Agenda for Action on MDGs", 18 June 2008
[31] SEC(2009) 748 final: Progress report on the implementation of the European Programme for Action to Confront HIV/AIDS, Malaria and Tuberculosis through External Action (2007-2011).

Global Fund to Fight AIDS, Tuberculosis and Malaria[32]). The Global Fund identifies strategies especially for the inclusion of women and sexual minorities in their programmes, with the specific aim of eliminating stigmatisation of and discrimination against those infected by HIV/AIDS[33]. However, the EC should not only rely on the anti-discrimination policy of the Global Fund, but rather proactively address the discrimination against people living with HIV/AIDS in their relevant programmes and especially in those sectors where discrimination is prevalent. In the IIP, the thematic area of social cohesion, employment and decent work, for example, where discrimination of people living with HIV/AIDS plays a decisive role, does not mention HIV/AIDS. Under EIDHR, the rights of people with HIV/AIDS are not specifically addressed either. The issue has been mentioned as cross-cutting in some projects concerning peaceful conciliation, the fight against racism, xenophobia and discrimination, and gender. This funding, however, is very low, amounting to only 0.15% of the total budget of the EIDHR.

Although there definitely is still a tremendous financing gap in the field of prevention, care and treatment of HIV/AIDS to reach MDG 6, the highly important subject of stigma and discrimination is still too underexposed in EC interventions. This is also reflected in the analysed CSPs. In the country analysis of South Africa and Mozambique, for instance, the high economic and social costs of HIV/AIDS are sufficiently covered, but the discrimination and stigmatisation that people living with HIV/AIDS face is not adequately considered. The same can be said for the response strategies where the main focus is on treatment, prevention, diagnosis, and mitigation of the impact. Some programmes specifically aim to assist vulnerable groups, mostly women, young women and orphans, again with a clear focus on access to services, prevention and impact mitigation. Only the CSP of Nigeria mentions homosexuality and MSM with regard to HIV/AIDS in its country analysis, there is, however, no further mentioning in the response strategy.

This was also confirmed in the interviews: EC development assistance is still very much concerned with fighting the epidemic as such, while in many countries work needs to be done on the legal framework to fight the causes of the pandemic (i.e. the criminalisation of homosexuality). Moreover, discrimination in the employment sector has not been sufficiently tackled, although in countries with high prevalence, assuring a productive work force is especially essential for economic development. In South Africa, for example, one focal area of the indicative programme is the creation of formal employment. HIV/AIDS appears as a cross-cutting issue, and it is stated that the disease requires innovative thinking and actions to develop flexible workplace practices and policies. The activities and expected results, however, include neither the special needs of people living with HIV/AIDS nor the need to specifically address the discrimination and stigmatisation they face in the workplace.

The International Labour Organization (ILO) has developed a Behaviour Change Communication Toolkit to operationalise key aspects of the ILO Code of Practice on HIV/AIDS and the world of work[34]. They are guidelines for the development of comprehensive HIV/AIDS workplace policies that have also been adopted by NGOs to help their partner organisations manage HIV/AIDS in the workplace[35]. Next to issues of prevention, care and a healthy work environment, non-discrimination against workers on the basis of their health status, as well as gender equality, due to women's particular exposure to infection and discrimination, are key principles of these guidelines. They constitute a good entry point for further

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[32] All together, the EC has pledged a little more than one billion Euros to the Global Fund to fight Aids, Tuberculosis and other diseases for the period 2001 to 2013, with the highest annual amounts in the past. From 2011 onwards the annual amount will only be below 70 Million Euros. Coming from being the second largest donor in the years 2001-2005, the EC now only ranks 8th (2010) and will fall even further behind in the years to come. (See www.theglobalfund.org)

[33] See the Global Fund (2009): the Global Fund Strategy in Relation to Sexual Orientation and Gender Identities (SOGI).

[34] http://www.ilo.org/public/english/protection/trav/aids/publ/bcctoolkit.htm

[35] STOP AIDS NOW! (2006); Good Donorship in a time of AIDS; Amsterdam.

work on anti-discrimination of persons living with HIV/AIDS. Similar guidelines would be necessary in other sectors, such as housing or education.

As a result of the above mentioned progress report on the implementation of the European Programme for Action on HIV/AIDS, the formation of action teams led by member states, concerning different issues related to HIV/AIDS, has also been proposed. One of them will be concerned with HIV and human rights. Although, this group has not yet materialised, it is expected that it will have impact on the ground, as it proactively targets EC delegations (Int.).

The delegations play a decisive role in tackling discrimination, as policy dialogue and performance assessment frameworks are becoming more and more important with the move towards ownership and budget support. Within this framework, a comprehensive and holistic approach to HIV/AIDS does not only focus on social security provisions but must also pay special attention to sensitive priority areas such as sexual minorities and other vulnerable groups, awareness raising both for the causes and prevention of the disease and destigmatising affected persons, as well as greater involvement from persons living with HIV/AIDS, civil society and the care networks in designing, implementing and monitoring country strategies to confront HIV/AIDS. This also includes the adequate and specially targeted financing of programmes for the most vulnerable and discriminated groups.

4.5   Sexual Orientation, LGBT

While anti-discrimination policies within the European Union have gradually come to also include LGBT rights, this debate is fairly new or even unknown within development cooperation. In general, the funding for LGBT organisations or human rights organisations that want to address LGBT rights is rising. However, much of it is private funding, and it is still far too low, considering the stigmatisation and discrimination that LGBT groups are still facing in many countries[36].

Fundamental civil and human rights are often denied to LGBT people, and their mode of life is criminalised in many countries, especially in Africa, the Arab world and South Asia, where a punishment of 10 or more years of imprisonment are no rarity. In 7 countries, homosexual acts are punishable by death (Mauritania, Saudi Arabia, Iran, Sudan, Yemen, and parts of Nigeria and Somalia), and only three countries have recognised marriage (South Africa with the most far reaching legal acceptance of LGBT) or same-sex unions (Colombia, Uruguay)[37]. Some advances have been made in Latin America, where LGBT groups have managed to overcome their isolation in many areas and integrate better into the human rights struggle. It is mainly there that some countries have introduced anti-discrimination laws in the employment sector (Bolivia, Brazil, Colombia, Ecuador, Mexico, Nicaragua, Uruguay and Venezuela).

Legal protection is not synonymous with social acceptance. Even in countries with a more liberal legal standing, homophobia against LGBT due to social or religious codes and norms are still prevalent within society, and LGBT people are frequently victims of violence, abuse or verbal attacks. This is particularly true for defenders of LGBT rights. It has also been stated that support for activists might even inadvertently increase the atmosphere of danger and animosity.

The topic of LGBT rights is highly contested within society, and acceptance might be easier to obtain for an aggravation of penal law than for more LGBT rights. This has been seen recently in Uganda, where a

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[36] A study on LGBTI grants in the global South and East found that total funding for LGBTI organizations and projects more than doubled between 2005 and 2007, from US $10.5 million in 2005 to US $26.2 million in 2007, of which around 50% was given by private funders. However, two EU member states, the Netherlands and Sweden are the two top funders for LGBTI issues in the global south and east through their development agencies HIVOS and SIDA. See Funders for Lesbian and Gays Issues (2008).

bill has been tabled, which would toughen penalties for gays and also punish anyone who "promotes" homosexuality[38]. In Nigeria also, the government and legislative powers have tried to tighten penal laws which would include punishment for the promotion of LGBT rights and claims for the decriminalisation of homosexual acts. Another example is Burundi, where the parliament passed legislation criminalizing homosexual acts which were previously legal. But there are also developments in the other direction, such as in India, where an old colonial law was overruled by the High Court in July 2009. Ruanda discussed legislation that would criminalize homosexuality (proposing up to 10 years imprisonment). However, in the end it was concluded that an aggravation of penal law was not wanted.

These developments show that there are changes going on in both directions, while internationally people with same-sex preferences are gaining more rights. Some governments, especially in Africa, want to prevent this from happening in their own countries. On the other hand, subsequent raising of the topic, for instance in the joint ACP-EU parliamentary assembly, has yielded gentle changes in the positive direction among some ACP parliamentarians, although fear of upsetting organized religion is still prevalent (int.). These beginning changes, however, could constitute an entry point for the EU to foster LGBT rights.

However, this would require a more coherent application of EU non-discrimination standards in its external relations. Within development cooperation in general, the subject has hardly been raised so far. No guideline exists that is especially concerned with LGBT rights. However, an increase in awareness can be noted, as more recent communications include sexual orientation or LGBT as one form of discrimination to be combated[39]. Moreover, reference is made to Article 13 of the EC Treaty, which provides protection against discrimination in employment and other areas on the grounds of racial and ethnic origin, religion and belief, disability, age and sexual orientation[40]. Finally, the second revision of the Cotonou Agreement, currently under way and to be signed on March 19th, is to include an accompanying declaration which provides for a non-discrimination clause also with regard to sexual orientation (int.).

Moreover, all 27 EU member states signed the joint statement that was read at the United Nations General Assembly in New York in December 2008, which reiterated the universal human rights of LGBT people. Although the statement is not legally binding and most partner countries in development cooperation have not signed it, it does show some momentum for LGBT rights on the policy level.

Nonetheless, it is not surprising that all analysed CSPs fall short of including LGBT in their country analysis, response strategy and indicative programme. The situation and legal status of homosexuals is only mentioned in the case of Nigeria, and then only to cite the illegal status of same-sex relationships. Regarding HIV/AIDS, the stigmatisation of high risk groups (sex workers and MSM) is briefly outlined when describing the social situation. There is, however, no further action taken or anti-discrimination aspects included based on this analysis.

As for the EIDHR, funding targeted at LGBT was extremely low in the period 2000-2006 with only 0.015% of total funding. This funding has increased dramatically in the current funding period (to approximately 3 million Euros or 1.5% of total spending). These projects, though targeting the rights of

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[37] See ILGA International: http://ilga.org/Statehomophobia/ILGA_map_2009_A4.pdf
[38] Next to the European Parliament (resolution passed on 16 December 2009) leaders and governments from the biggest EU Member States have expressed concerns about the bill, among them UK, France, Germany and Sweden, which even wants to revoke 50 Million US$ of development aid if the bill is passed. (Int.)
[39] See EC, 2008b: EU guidelines on violence against women and girls and combating all forms of discrimination against them); COM (2005) 179 final: European Programme for Action to Confront HIV/AIDS, Malaria and Tuberculosis through External Action (2007-2011); EC, 2008c: EU Guidelines on the Death Penalty: revised and updated version.
[40] I.e. in COM (2001) 252 final.

LGBT groups and issues, are subsumed under related themes, such as rights of persons belonging to minorities, human rights defenders or the fight against racism, xenophobia and discrimination. The increase is mainly due to two major projects, one in Russia specifically targeting discrimination against LGBT people (€ 0.8 Million) and another project supporting human rights defenders worldwide, among them LGBT (€ 1.8 Mio.). Nevertheless, it indicates a rising of awareness on the subject within the EIDHR.

According to information obtained in the interviews, the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) together with the Dutch Humanist Institute for Development Cooperation (HIVOS) started an initiative to integrate LGBT issues further in the EIDHR. Representatives of the EIDHR stated that the coming strategy paper (2011 – 2013), which is currently being developed, will include more LGBT issues as well as disability issues. However, whether respective projects will be realised depends on both the EC delegations in the countries choosing the topics for EIDHR funding and on the organisations applying for it. As with other issues that have been taken up within the conceptual framework of EC development assistance, there is the danger of an implementation gap, which can only be overcome by targeting the EC delegations directly and providing clear guidelines and capacity building.

A good part of intervention on behalf of LGBT people is done within projects dealing with HIV/AIDS among LGBT. In these projects, the prevention of HIV/AIDS is the main objective, but structural prevention also includes education and raising awareness, often focused on LGBT persons[41]. It is widely recognised that the criminalisation of homosexual acts can foster the spread of HIV/AIDS; however, to tackle the roots of the combined problem of LGBT and HIV/AIDS, it is essential to predominantly address stigmatisation and discrimination of LGBT, which is still too underexposed.

The low level of inclusion of LGBT issues also reflects the high sensitivity still associated with the subject, given that homophobia is deeply rooted within society. This also has implications for the relations between human rights organisations and LGBT groups. It has been stated in the interviews that even open groups of society, such as, for example, human right defenders, are often reluctant to take on LGBT rights. This might be due to both fear of committing illegal actions by promoting LGBT rights and deeply rooted prejudice within the organization itself. On the other hand, especially in countries with strong penal law against LGBT, these organisations would be the best entry point for further action. Therefore, overcoming the isolation of LGBT rights from especially the more progressive human rights organisations was seen as one of the first steps that should be taken in order to tackle discrimination of LGBT people (Int.).

A German NGO had a good experience in cooperating with women's organisations : since they have experienced – or still are experiencing – many types of discrimination, they are often more sensitive to new topics of discrimination. In general, lessons learnt from gender mainstreaming can help to include LGBT issues in development assistance (Int.). Anti-violence NGOs and programmes dealing with masculinity could also be a good entry point.

The legal situation of LGBT in many partner countries also indicates the due importance of actions on the macro level, especially within political dialogue. This concerns most of all reactions on specific incidents or developments, such as the recent bill in Uganda or the developments in Burundi and Nigeria. Resolutions or diplomatic interference as part of disciplinary measures in these concrete cases are seen as essential. But even in a wider field of renewed partnership agreements and political dialogue it will be necessary to raise the issue of LGBT rights more proactively from the part of the EU

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[41] In the analysis on LGBTI grants in the global South and East it was found that almost a quarter (23%) of total funding was for organizations and projects dealing with HIV/AIDS among LGBTI (and the general) populations. Funders for Lesbian and Gays Issues (2008).

(int.). Sanctions, on the other hand, especially when applied broadly as reaction on penal law, were seen as giving little help, if any at all, and then only in democratic states. Rather, it was stated that any intervention must not be perceived as indoctrination from western societies (Int.).

The Yogyakarta principles[42] – though very extensive in general – could serve as an entry point at the political level. They show the whole range of possible discrimination and threat that LGBT people face, and not only comprise the decriminalisation of LGBT acts but also that of fundamental human rights such as the right of expression or participation. The EU and member countries should advocate for these principles to be recognised not only in their own countries (and EC), but also at the UN. This could help mitigate the perception of indoctrination. However, in order to fully integrate LGBT rights into EU external relations references to the universality of UN human rights as well as Article 19 of the Lisbon Treaty (formerly Art. 13) should become common place in negotiation processes (int.).

As prejudice and homophobia are rooted deep in many societies, change will take a long time. A multi-level approach is essential. Political dialogue must include the subject, and human rights organisations need to be sensitised to promote LGBT rights. However, for reasons of credibility, this also requires a clear positioning of the EC itself, not only within their own borders, but also with regard to their external relations. Any update of communications or guidelines must take the subject into account.

This must then be reflected in EC programming. However, experience with other discriminated groups shows that including the subject in the overall policies and strategy papers, such as in the EIDHR, is not enough. They need to be taken up by the EC delegations in the respective country. Therefore, raising awareness and capacity building also need to happen within EC structures. Both guidance notes and good practice examples are needed.

5   CONCLUSIONS AND RECOMMENDATIONS

Vulnerable groups are more likely to be left out of development processes and experience social exclusion, discrimination and inequality. Therefore, anti-discrimination policies should be explicitly included in the development agenda and implicitly embedded in a human rights based approach. This needs to be visible on the conceptual level, including the policy level, legal framework and individual country strategies. Concepts must then find their way into the implementation process, where special targeting of marginalised groups and their situations is essential at all levels (from national to local and individual). Finally, participation and empowerment of marginalised groups should be the main objectives on the result level.

The concern for different socially disadvantaged groups, mainstreaming of their issues and rights and anti-discrimination policies have a very distinctive history in EU development policies. While the mainstreaming of gender, indigenous people and ethnic minorities and HIV/AIDS has made good progress in the past, topics that have only recently come on the international agenda such as disability and, even more so, LGBT still lack comprehensive inclusion in development cooperation.

This is notable on the <u>conceptual level</u>: generally, at policy level, issues and anti-discrimination policies for marginalised groups have received attention, with the exception of LGBT issues, where awareness is limited to a few human rights experts and interested individuals. While the EU has undertaken considerable efforts to reinforce its obligations to promote and defend human rights within its policy framework as well as in its partnership agreements and strategic partnerships, its anti-discrimination

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[42] The Yogyakarta principles were developed in 2006 by a distinguished group of international human rights experts to outline a set of international principles relating to sexual orientation and gender identity. They address a broad range of international human rights standards, with which all States are asked to comply, and their application to issues of sexual orientation and gender identity. See: http://www.yogyakartaprinciples.org

policies are generally confined to combating ethnic, racial, religious or gender discrimination. Combating HIV/AIDS is usually seen as a cross-cutting issue; however, the emphasis is still centred too much on care, whereas human rights issues, especially in connection with disabilities and LGBT, are underexposed.

This is also strongly reflected in the analysed CSPs. While relatively frequent reference is made to the situation of women and ethnic or other minorities, as well as HIV/AIDS, especially in countries with high prevalence, there is only little reference to disabilities and hardly any to LGBT issues. The response strategies reflect this even more: even if mentioned in the country situation analysis, disability or LGBT issues do not find their way into response strategies. This suggests that more consideration should be given to disabled and LGBT programming in the regional programmes in order to assure equal distribution of EC development assistance. However, deeper insights into regional programmes, especially with regard to addressing the causes of social exclusion and the development and implementation of specific key performance indicators for inclusiveness, are necessary.

However, special targeting of marginalised groups, not equal distribution, should be the directive if discrimination is to be successfully combated. Poverty reduction and achieving the MDG, which are the overarching objectives in virtually all frameworks on development cooperation, will only be possible if marginalised groups are especially addressed. To assure that attention is given to vulnerable groups, a number of guidelines have been developed, which show both the considerable progress in anti-discrimination policies on the policy level and the lack of awareness of more recent and more sensitive topics. In the case of persons with disabilities, there exists a progressive guideline, but the rights of LGBT people are, at best, mentioned randomly.

Other important instruments for special targeting of discriminated groups are the thematic programmes EIDHR and IIP. The Strategy Paper of the EIDHR 2007-2010 was seen as quite a successful example of how the logic of a human rights based approach can be followed at the conceptual level. However, here again issues of disabilities and LGBT are still underexposed, which needs to be improved for the second term starting in 2011. Equally, the strategy paper and the concrete strategic priorities of the IIP programme focus on key areas of discrimination, especially concerning the access to social services, the employment sector and promoting gender equality.

However, an <u>implementation gap</u> remains between the policy level and execution in practice. While those two instruments constitute a good basis for concrete anti-discriminatory action, the analysis indicates that the funding set aside for anti-discrimination projects leaves room for improvement. While the EIDHR covers direct funding for anti-discrimination projects targeted at indigenous peoples, ethnic and other minorities, persons with disabilities, persons living with HIV/AIDS and LGBT, this funding only totals to around 5% of all EIDHR spending. Obviously, other disadvantaged groups, such as women or children, also benefit from funding, and persons living with HIV/AIDS or LGBT people might benefit from projects that do not target them specifically (anti-violence programmes or abolition of the death penalty). Nevertheless, the targeting of specific marginalised groups could be improved within the EIDHR.

Within the IIP programme there has been some positive development in including further groups at risk of discrimination, such as persons with disabilities. However, especially concerning the theme of social cohesion and employment, the focus was very much on improving labour market information systems and regional migration. However, the new call (out in February) is to focus more on social protection for vulnerable groups in formal economy. In the field of education, a specific objective is increasing the enrolment of children from hard-to-reach groups in basic education, which in the first call has not been adequately addressed. Thus, to assure that development assistance is distributed fairly to all, the EC's thematic action on human and social development under IIP should be improved.

A similar gap can be identified for the guidelines: While they are a good basis for inclusive development cooperation, at the implementation level, they are not always sufficiently executed and sometimes – like in the case of the guidelines on people with disabilities – not even well known. The degree of implementation appears to vary very much among the EC delegations in practice. Capacity and knowledge are sometimes missing, due to a lack of comprehensive staff training and resources, especially concerning – but not limited to – more recent topics, such as disabilities and LGBT.

The implementation of the guidelines obviously depends on the openness of the respective partner government and on the degree to which EC delegations are proactively committed to pushing for the rights of disadvantaged groups. This certainly reflects the present thrust of the international donor community for dialogue-based partnership and increased ownership. Moreover, budget support is becoming more and more important, assigning responsibility to the partner governments especially in those sectors (health and education) that are particularly sensitive to discrimination and central to any affirmative action taken in order to tackle inequality.

Concern remains that with these – generally positive – changes in development cooperation, attention to disadvantaged groups could be lost. Therefore, it is important that EC delegations are more proactive in fostering anti-discrimination on the macro level, both within political dialogue and the performance assessment frameworks. The Human Rights dialogues, which have been established with more than 40 countries, are a good entry point and should especially include disability and LGBT rights.

Concerning <u>results</u>, participation and empowerment are not sufficiently fostered. Programming of CSPs with a participatory approach is vital if cross cutting issues are to trickle down into real programme actions. Ownership should not only include the governments but also the people. Therefore, civil society organisations should take part in policy dialogues, participating in the formulation and implementation of the CSPs and indicative programme as well as in monitoring and midterm reviews. In most countries, civil society organisations and disadvantaged groups themselves have insufficient access to policy and planning processes. Their participation, as well as a deep understanding and recognition of their situation, the root causes of their discrimination and their perception in mainstream society are essential for designing strategies that specifically target disadvantaged groups.

If affected groups themselves and their organisations participate more in programme implementation and monitoring, this could enhance leadership capacity and empowerment. They should therefore also be enabled to directly manage EC funding. However, so far very few organisations have access to direct funding.

The mainstreaming of the concerns and rights of the different disadvantaged groups analysed in this study varies considerably. As for <u>ethnic and other minorities</u>, on a conceptual level, their inclusion has been quite good. Nevertheless, mainstreaming indigenous rights into development planning, implementation and evaluation as well as into economic and social empowerment is still a major challenge. An implementation gap has been identified, as in consultation processes leading to CSPs, indigenous people are still often left out. As far as results are concerned, there is a strong need to include indigenous peoples as equal partners in development efforts, that is, as subjects with rights that need to be empowered rather than mere beneficiaries. This is also important since their issues need to be linked more closely with mainstream society, where discriminatory practices often remain. In concrete funding as well, the barriers of participation seem to be too high, as complex EC procedures and structures are very difficult to understand. Evidence shows that the simplifications of procedures as well as a system supporting communities with weak capacities have encouraged local groups to access EC funding.

The biggest implementation gap has been identified in the inclusion of <u>disability</u>. On the one hand, with the signing of the convention on the rights of people with disabilities, which even includes a clause on development cooperation, and the elaboration of a guidance note, considerable progress has been made on the policy level. However, this has been insufficiently translated into effective development cooperation. The lack of additional staff training or even the lack of awareness of the guidance note is reflected in the formulation of CSPs, where inclusion of disability is still dismal. An important first point of entry for disability mainstreaming is the health sector, education sector and physical accessibility to facilities (barrier free). In terms of funding, this points to the need for a generally higher resource allocation to health, education and social development programs, as well as an internal project budget shift toward disability related issues. The lack of physical access to EC delegation as well as social infrastructure was seen as a major barrier to increased participation and inclusion. This also constitutes a double standard: while EU requirements within member countries include barrier free access, accessibility is not a requirement for EC buildings or social services infrastructure built with EU money in partner countries.

With regard to <u>HIV/AIDS</u>, deficiencies are already apparent at the conceptual level: in general, EC developing assistance is still very much concerned with fighting the epidemic as such, while the highly important subject of stigma and discrimination is still too much underexposed in EC interventions. In both the IIP programme, especially in the thematic area of social cohesion, employment and decent work, and in the EIDHR strategy paper, the rights of people living with HIV/AIDS are not sufficiently taken up. EC delegations need more expertise on the issue or accept more expertise from the ground. In particular, the integration of marginalised and affected groups in the design and implementation of programmes needs to be improved. In many countries work needs to be done on the legal framework to fight the causes of the pandemic (i.e. the criminalisation of homosexuality), and discrimination in the employment sector has also not been sufficiently tackled. Here again, political sensitivity seems to hinder more proactive involvement of EC delegations on the policy level.

Within development cooperation in general, <u>LGBT</u> rights have hardly been raised at all so far. No guideline exists that especially addresses LGBT rights. This is particularly severe from a human rights perspective, since LGBT people experience frequent and very harsh human rights violations as well as violence and abuse. However, a rising of awareness has been noted, as more recent communications include sexual orientation or LGBT as one form of discrimination to be combated. The coming strategy paper for the EIDHR (2011 – 2013) will also include more LGBT issues. Not very much has trickled down to the implementation in the field, though. All analysed CSPs fall short of including LGBT rights in their country analysis, response strategy and indicative programme, not even in combination with combating HIV/AIDS. While there is a considerable increase of funding in the EIDHR, overall funding remains low. This is, however, an important step forward, as LGBT issues would best be transported for the time being within the EIDHR. The high sensitivity of the subject also affects political dialogue, where LGBT rights are hardly included, although the legal situation of LGBT people in many countries is still dramatic. Many efforts remain to be undertaken on the conceptual level, policy level and the implementation level. On the political level, advocating for the Yogyakarta principles to be recognised in the EU and Member States, at the UN and in more progressive partner countries could serve as a starting point.

Recommendations:

1.   Action on the political level

–   The Council's decision to give the green light for the European Community to conclude the UN Convention on the rights of persons with disabilities is much welcome. European Member States

that have not yet ratified the UN Convention, should speed up the process of ratification in their countries. Likewise, partner countries should be encouraged to do the same.

− Policy dialogue in developing cooperation with respective partner countries should take up the issue of disability and LGBT on the basis of the universality of Human Rights, and the UN convention on the rights of persons with disabilities.

− Efforts should be undertaken to include other grounds of discrimination (esp. disability and LGBT) in joint partnership agreements and strategic partnerships (Cotonou etc.). Mere reference to the field of democratic governance and human rights as strategic priorities is not enough; references should be more precise (indigenous rights more explicit in the Cotonou revision) and widened to include specific anti-discriminatory action (disability, LGBT, stigmatisation of people living with HIV/AIDS). A clear reference to the multi-dimensional aspects of poverty and precise human rights language, a definition of poverty as the lack of capabilities and the denial of human rights should be included in all policy documents.

− This is even more important for documents and instruments that are designed solely by the EU and its bodies. Revision of the DCI, IIP and EIDHR should make sure to improve special targeting of marginalised groups and use specific human rights language. Moreover, the scope of grounds of discrimination should be widened and adopted to more recent developments (esp. concerning disability and LGBT, as well as a more rights-based approach towards HIV/AIDS).

− This also concerns the common frameworks for strategy papers and thematic programmes, as a proper analysis of the situation of marginalised people is still missing in most contexts. Marginalised groups must be specially targeted in the design of these programmes, in order to enable them to overcome these barriers and gain equal opportunities. Serious political commitment towards holistic development assistance should be enforced by the establishment of specific key performance indicators.

2. Increased resource mobilisation for strategic sectors

− In order to tackle discrimination, strategies should target especially those sectors (e.g. health, education) and subsectors (e.g. primary health care, primary education) that are particularly relevant to the situation of vulnerable, marginal, disadvantaged and socially excluded individuals and groups. In regional programmes a generally higher resource allocation to health, education and social development programs as well as an internal project budget shift towards issues related to the most vulnerable groups would be necessary.

− Within the thematic instruments, specific targeting of vulnerable groups is still needed. However, the shift should not be to the detriment of other human rights aspects currently funded under the programmes. Therefore, within the debates of budget allocations, the parliament should push for an increase in the next envelopes (2013 onwards) given to relevant instruments such as EIDHR, IIP and Non-state actors. If a wider range of marginalised groups is to be targeted specially (disabled, LGBT), a meaningful implementation of these objectives would require more resources.

3. Targeting EC delegations

− As legislative action is crucial for extending the capabilities of marginalised groups, especially with regard to resources and services, EC delegations need to be fostered in order to enhance anti-discrimination within political dialogue. They should become more proactive in fostering anti-discrimination on the macro level, especially because of the move towards ownership and budget support. The Human Rights dialogues, which have been established with more than 40 countries, are a good entry point and should specifically include disability and LGBT rights. Staff

training for non-discrimination, the development of operational guidance for programming and methodological tools for improved impact assessment need to be developed in order to improve the implementation of guidelines. All methodological tools should be developed in close cooperation with the EC delegations themselves to make sure that they meet their demands rather than piling up requirements that are not followed up.

– Staff training should include the use of disaggregated data collecting systems and specific key performance indicators for inclusiveness.

– Good practice studies add value to enhancing delegations and task manager capabilities.

– The participation and integration of marginalised groups and civil society organisations in defending their rights need to be enhanced in strategy design, implementation and monitoring. EC delegations should act proactively to assure participation.

4. Empower existing national initiatives

– Simultaneously, civil society organisations and marginalised groups and their leadership capacity must be strengthened to enable them to participate in strategy design, implementation and monitoring. This is particularly important in countries that receive budget support. Civil society organisations and marginalised groups need to be strengthened so that they can lobby for their own inclusion and monitoring of the performance in the health and education sector.

– In order to enhance leadership capacity and empowerment, marginalised groups and their organisations should also be enabled to directly manage EC funding. External technical support and capacity building to enhance proposal writing, programme management and implementation of projects will be necessary in order to enable them to access calls for proposals directly.

– On the other hand, there should be more small scale schemes which are easily accessible for these organisations.

5. Collection of disaggregated data and key performance indicators

– Monitoring and measuring progress are essential in combating discrimination. Therefore, data collection systems that focus on disaggregated data to identify socially excluded groups must be made an integral part of country strategies and taken as the baseline for indicative programmes to measure progress towards equality-based targets.

– Furthermore, the development and implementation of specific key performance indicators for inclusiveness must equally become an integral part of programme design, as they reflect a serious political commitment towards holistic development assistance. They serve as success indicators, since results can closely be monitored.

6. Further research

– Further in-depth country analysis would be needed to sustain the preliminary findings of this research, especially with regard to the regional programmes.

– Within this country specific research, the CSP and midterm review consultation process on the ground should be examined more closely for inclusiveness and participation of marginalised groups.

– It should also be more closely examined specifically for the different grounds of discrimination to which positive action could best be applied (e.g. employment, social services, housing, infrastructure etc.).

–   As the situation varies according to country and grounds of discrimination, tools for national mapping as well as models for measuring success should be developed.

–   Good practice examples, especially for positive action, should be compiled and disseminated.

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ANNEXES

Annex 1: Analysed Documents

EVALUATIONS AND REPORTS

- Assessment of the EC Development Policy – DPS Study Report.
  http://ec.europa.eu/development/body/tmp_docs/ecdpm_report.pdf
- EU Annual Report on Human Rights 2008.
  http://ec.europa.eu/external_relations/human_rights/docs/report08_en.pdf
- Beyond Activism. The impact of the resolutions and other activities of the European Parliament in the field of human rights outside the European Union- European Inter-University Centre for Human Rights and Democratisation.
  http://www.europarl.europa.eu/comparl/afet/droi/beyondactivism.pdf
- Commission Staff working document: Progress report on the implementation of the European Programme for Action to Confront HIV/AIDS, Malaria and Tuberculosis through External Action (2007-2011). http://ec.europa.eu/development/icenter/repository/
  COMM_PDF_SEC_2009_0748_F_EN_AUTRE_DOCUMENT_TRAVAIL_SERVICE.pdf

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- EU guidance Note on Disability and Development, 2004.
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- EU Guidelines for the Promotion and Protection of the Rights of the Child, 2007.
  http://www.consilium.europa.eu/uedocs/cmsUpload/16031.07.pdf
- EU guidelines on violence against women and girls and combating all forms of discrimination against them, 2008. http://www.consilium.europa.eu/uedocs/cmsUpload/16173cor.en08.pdf
- Ensuring protection – EU Guidelines on Human Rights Defenders, 2008.
  http://www.consilium.europa.eu/uedocs/cmsUpload/GuidelinesDefenders.pdf
- EU Guidelines on the Death Penalty: revised and updated version, 2008.
  http://www.consilium.europa.eu/uedocs/cmsUpload/10015.en08.pdf
- EU Guideline on human rights dialogues with third countries, 2009.
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- A stronger partnership between the European Union and Latin America. COM (2005) 636 final.
  http://ec.europa.eu/external_relations/la/docs/com05_636_en.pdf

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  http://ec.europa.eu/development/icenter/repository/COM_2006_421_EN.pdf

- The European Union and Latin America: Global Players in Partnership. COM (2009) 495/3.
  http://ec.europa.eu/external_relations/la/docs/com09_495_en.pdf

COUNTRY STRATEGY PAPERS

Country Strategy Papers for ACP to be found at:

http://ec.europa.eu/development/geographical/methodologies/strategypapers10_en.cfm (for ACP countries) and http://ec.europa.eu/external_relations/sp/index_en.htm (all other countries)

- Kenya: Country Strategy Paper and Indicative Programme for the period 2008-2013.

- Mozambique: Country Strategy Paper and National Indicative Programme for the period 2008-2013.

- Nigeria: Country Strategy Paper and National Indicative Programme for the period 2008-2013.

- Rwanda: Country Strategy Paper and Indicative Programme for the period 2008-2013.

- South Africa: Cooperation between the European Union and South Africa. Joint Country Strategy Paper 2007 — 2013, and Multiannual Indicative Programme 2007-2013.

- Ecuador: Country Strategy Paper 2007-2013.

- Guatemala: Country Strategy Paper 2007-2013.

- Bangladesh: Country Strategy Paper for the period 2007-2013.

- India: Country Strategy Paper 2007-2013.

- Vietnam: Country Strategy Paper for the period 2007-2013.

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– Investing in People. Strategy Paper for the Thematic Programme 2007–2013.
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Annex 2: List of interviewed persons

INTERVIEWS WITH EUROPEAN COMMISSION STAFF

Dr. Christian Behrmann, Directorate-General for External Relations, Policy Officer, Human Rights.

Emma Achilli; Directorate-General for External Relations, Policy Officer, Human Rights.

Anton Jensen, Directorate-General for Development, Policy Officer, Human Rights.

INTERVIEWS WITH EUROPEAID STAFF (AIDCO)

Alicia Martin Diaz, Direction E3: Employment, protection and social inclusion (telephone)

Aurelia Willie, Direction E4: Governance, security, human rights and gender.

Elena Volpi, Direction E4: Governance, security, human rights and gender.

Päivi Antilla, Direction F3: Central Management of thematic budget lines under DCI and Facility for rapid response to soaring food prices in developing countries.

Josick van Dromme, Direction F3: Central Management of thematic budget lines under DCI and Facility for rapid response to soaring food prices in developing countries.

Helena Lagerlof, Direction F2: Central Management of thematic budget lines under EIDHR and Ifs.

Martha Mendez, Direction F2: Central Management of thematic budget lines under EIDHR and Ifs.

INTERVIEWS WITH MEMBERS OF EUROPEAN PARLIAMENT

Michael Cashman, co-president of the Intergroup on Gay and Lesbian Rights. (telephone)

INTERVIEWS WITH CIVIL SOCIETY REPRESENTATIVES

Anna Würth, German Institute for Human Rights, head of department.

Celia Cranfeld, Light for the World/Christoffel Development Cooperation, Adcocacy/Liaison Officer.

Rikka Esser, German Technical Cooperation GTZ, Disability Officer.

Lars Bosselmann, Christoffel Development Cooperation CBM, Disability Officer for the EU office.

Catherine Naughton, Christoffel Development Cooperation CBM, Secretary General for the EU office.

Fiona Koefoed-Jespersen, Integral Disability and Development Consortium.

Karin Bröske, International Institute for Social Entrepreneurs (IISE), Kerala India.

Renato Sabbadini, the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), Secretary General.

Klaus Jetz, Lesbian and Gay Association in Germany, Secretary General.

Martijn Pakker, Stop Aids Alliance, Policy officer.

Thomas Brose, Climate Alliance of European Cities with the Indigenous Rainforest Peoples, Policy officer.

Iola Leal Riesco, Forest and the European Union Resource Network, Policy officer.

Annex 3: Main results of the analysis of CSPs

	Ethnic and other minorities	HIV/AIDS	Disabilities	LGBT
Bangladesh	*Relevance:* **high** **Clear reference** is made to the situation of ethnic minorities in the country diagnosis and response strategy (mainly health sector and human rights/justice)	*Relevance:* **low** Only **little reference is** made to morbidity of and mortality from HIV/ AIDS (to be kept under a minimum unavoidable level).	*Relevance:* **medium** Disability Welfare Act acknowledges the concerns of people with disabilities. However, **little reference** is made in the country diagnosis and no mention at all in the response strategy.	*Relevance:* **high** Although the legal consequences are drastic (10 years imprisonment), **no reference is made** to the situation of LGBT people.
Ecuador	*Relevance:* **high** **Clear reference** made to the situation of indigenous people in the country analysis (special chapter on the rights of indigenous peoples) and response strategy, also to Afro-Ecuadorean population.	*Relevance:* **low** **No priority**. appropriate attention is not paid to combating HIV/AIDS in the design and implementation of EC-funded cooperation.	*Relevance:* **medium** **No reference** made to persons with disabilities.	*Relevance:* **low** Although there is legal protection of LGBT people, homosexuality continues to be viewed negatively. **No reference** is made to LGBT people, homosexuality or sexual orientation
Guatemala	*Relevance:* **high** **Clear reference** is made to the situation of ethnic minorities in the country diagnosis and response strategy in special targeting as well as a cross cutting issue. EC is the largest donor for indigenous peoples' rights.	*Relevance:* **medium** HIV/AIDS as cross-cutting issue, **reference** made to the need to combat HIV/AIDS, no mentioning of rights-based approach.	*Relevance:* **high**, *around 12% with an increase due to high levels of violence.* **No reference** is made in the country analysis or response strategy.	*Relevance:* **medium**. No legal punishment but extreme incidents of discrimination. **No reference** made to the situation of LGBT people
India	*Relevance:* **high** **Little reference** made. Caste and gender disparities	*Relevance:* **medium** *with prevalence on the rise* Reference made to	*Relevance:* **medium** Although persons with disabilities are among the most	*Relevance:* **medium** Although the legal situation is improving,

	with respect to equitable access to social services, including public health and education. Programmes for Dalit women.	HIV/AIDS on the rise, to insufficient awareness, and widespread stigmatisation and discrimination. Response strategy mainstreams HIV/AIDS in the programming, but focuses on improving service delivery in the health sector.	excluded in India, **no reference** is made to disability.	stigmatisation and discrimination is still high. **No reference** is made to LGBT, homosexuality or sexual orientation
Kenya	*Relevance:* **high** Rights of indigenous peoples as cross-cutting issue, with **little reference** made in the country diagnosis and response strategy	*Relevance:* **high** HIV/AIDS as cross-cutting issue with **clear references** made in the country diagnosis and mainstreaming in the response strategy (including some indicators). The national strategy to combat HIV/AIDS includes the protection of rights of infected people.	*Relevance:* **medium** **Reference** is made as target group of national programmes (decent work and employment), not specially targeted within EC programming.	*Relevance:* **high** Although legal consequences are drastic (10 years imprisonment), **no reference** is made to the situation of LGBT people. New HIV/AIDS infections are to be prevented among vulnerable groups.
Mozambique	*Relevance:* **low**. Little reference is made to indigenous issues, but mentioned as cross-cutting issue.	*Relevance:* **high** *with prevalence on the rise.* **Clear reference** made to HIV/AIDS in the country analysis and response strategy, with a focus on social and economic costs. Frequent mentioning of HIV/AIDS as cross-cutting issue.	*Relevance:* **medium** **No reference** made in CSP of persons with disabilities.	*Relevance:* **high** **No reference** is made to the situation of LGBT people.
Nigeria	*Relevance:* **high** **Reference** is made to ethno-religious and communal violence in the country analysis and the response strategy. The guidelines for an	*Relevance:* **medium** **Little reference** is made in the country analysis, especially to the stigmatisation of high-risk groups, no action or programming is taken, to address this	*Relevance:* **medium**. **No reference** made to persons with disabilities	*Relevance:* **high** Legal consequences are drastic (in the North even death penalty according to sharia law). **Little reference** is made to this and the stigmatisation of

	intensified political dialogue state that the parties will work together to address some vital areas of governance and human rights, including (...) ethnic, religious and civil discrimination.	issue.		HIV/AIDS high-risk groups (sex workers, MSM). Response strategy does not include any action or programming in this regard.
Rwanda	*Relevance:* **high** Country analysis states that any political analysis, dialogue or issues of human rights must be placed in its unique historical context. Political dialogue with the Government in this context is **not straightforward**. Response strategy focuses on poverty alleviation and rural development as a matter to foster reconciliation.	*Relevance:* **medium** HIV/AIDS as cross-cutting issue with adequate **references** made in country analysis and mentioning of vulnerable groups e.g. orphans. Reference is also made to the country's national strategy.	*Relevance:* **high** *due to violence* **Strong reference** made in country analysis regarding the prevalence and marginalization of persons with disabilities. But response strategy **very limited**, mainly focusing on non-state actors.	*Relevance:* **medium** No legal punishment but extreme incidents of discrimination. **No reference** made to sexual orientation or LGBT
South Africa	*Relevance:* **high** **Clear reference** made to the special post-apartheid situation in the country analysis, but response strategy **falls short** of specifically targeting minorities.	*Relevance:* **high** **Clear reference** in country analysis and response strategy but with a clear focus on high economic and social costs, discrimination and stigmatisation are not adequately considered.	*Relevance:* **medium** **Reference** is made to a Disability Grant being managed and administered largely by a newly created Social Security Agency. But **no reference** is made in the response strategy.	*Relevance:* **low** Legal situation is good, same sex marriage accepted. However, violence against LGBT people still exists. **No reference** is made to LGBT people
Vietnam	*Relevance:* **high** **Little reference** to ethnic and other minorities is made in the country analysis. The response strategy has a stronger focus, mainly on health and	*Relevance:* **medium,** *but Infections on the rise* Adequate **references** in the response strategy: HIV/AIDS as cross cutting issue, focus on risks and opportunities for combating HIV/AIDS in	*Relevance:* **medium** **No reference** made to persons with disabilities	*Relevance:* **medium** *No reference made to LGBT people*

	non-state actors.	individual programmes in the focal sectors		

Assessment of relevance was based on background information of UNHCR, Minority Rights, WHO/UNAIDS, Avert, International Disability Rights Monitor, ILGA.

Ethnic minorities: Own assessment according to aspects listed in the country information from Minority Rights and UNHCR.

See UNHCR: http://www.unhcr.org/refworld/category,COI,,,,,0.html, and Minority Rights*: www.minorityrights.org*.

HIV/AIDS: Countries with a relative prevalence of more than 5% according to the 2008 UNAIDS/WHO report on the global AIDS epidemic are rated as 'high'. 'Medium' relevance was assigned when infections were on the rise or relative prevalence was above the regional average.

See WHO/UNAIDS http://www.unaids.org/en/KnowledgeCentre/HIVData/GlobalReport/2008/2008_Global_report.asp, and Avert www.avert.org,

Disability: Systematic statistical data for persons with disabilities is insufficient and difficult to compare, according to WHO estimates prevalence in most countries is around 10%. Generally, poor countries tend to have a higher rate of persons with disabilities, and their access to social welfare is more limited than in richer countries. Therefore, relevance per se would be 'high' in every analysed country. However, in order to differentiate between the countries, 'medium' relevance was assigned to all countries with an average prevalence.

See International Disability Rights Monitor: www.idrmnet.org

LGBT: Relevance according to legal situation (punishment, no legislation, protection).

see ILGA: http://ilga.org/, and Avert.

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