TOWARDS A COHERENT AND COST EFFECTIVE POLICY RESPONSE TO CLIMATE CHANGE IN KENYA

HEINRICH BÖLL STIFTUNG

TOWARDS A COHERENT AND COST EFFECTIVE POLICY RESPONSE TO CLIMATE CHANGE IN KENYA

01
Introduction

KENYA HAS BEEN INTEGRATING climate considerations into various legal and governance instruments for some time. Notably, there has been progress made in planning and implementing policies, projects and programmes in key economic sectors in order to align Kenya with the international community's approach to reducing greenhouse gas emissions and promoting climate resilience. The scope of climate change governance in the country is encompassed in diverse, though interrelated, policy and regulatory frameworks that guide the coordination of various sectors dealing with the management of climate-sensitive natural resources. Examples of ongoing proactive policies, regulations or legislative initiatives include:

01 Constitutional recognition of sustainable development, public participation in environmental decision making and equal socioeconomic rights as contained in the Constitution of Kenya, 2010;

02 Development of a long-term national development blueprint to transform Kenya into an industrialised, middle-income country providing a high quality of life to all its citizens in a clean and secure environment pursuant to Vision 2030;

03 Preparation of the National Climate Change Response Strategy (NCCRS), which is focused on developing comprehensive and robust adaptation and mitigation interventions to address the adverse impacts of climate change in the country;

04 Development of the National Climate Change Action Plan to effectively implement and operationalise the NCCRS;

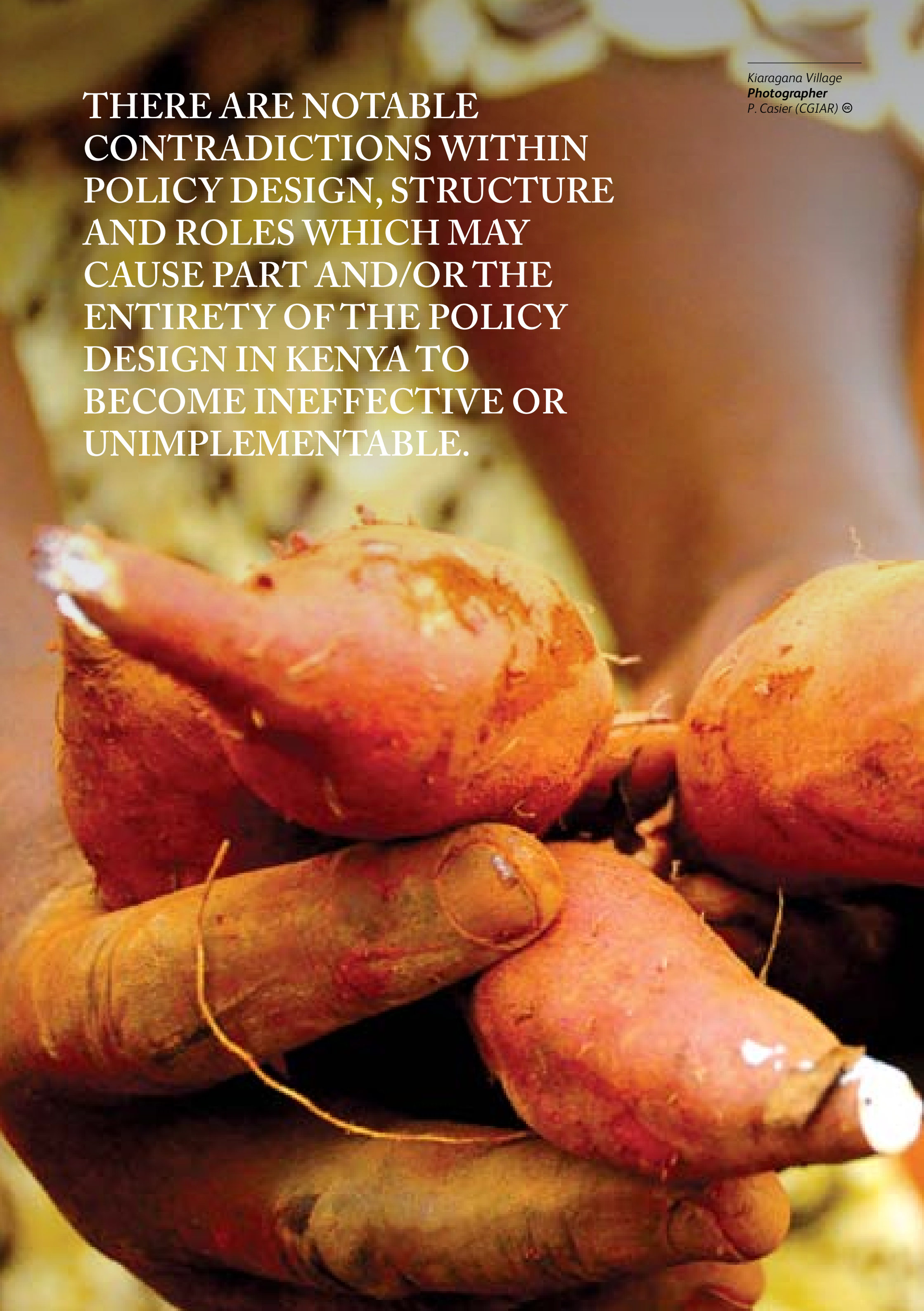
05 Enactment of the Environmental Management and Coordination Act (EMCA), Act No. 8 of 1999, the key legislative authority on environmental coordination and management in Kenya;

06 Development of a National Environment Policy, in its fifth draft as of July 2012; and

07 The recently gazetted Climate Change Authority Bill, 2012.

Nevertheless, there are notable contradictions within policy design, structure and roles which may cause part and/or the entirety of the policy design in Kenya to become ineffective or unimplementable. The Heinrich Böll Foundation, Regional Office for East Africa and the Horn of Africa, has thus commissioned a study to identify existing incoherence in key sectoral climate change–related policies and regulations and to provide recommendations for harmonisation where possible.

THERE ARE NOTABLE CONTRADICTIONS WITHIN POLICY DESIGN, STRUCTURE AND ROLES WHICH MAY CAUSE PART AND/OR THE ENTIRETY OF THE POLICY DESIGN IN KENYA TO BECOME INEFFECTIVE OR UNIMPLEMENTABLE.



Kiaragana Village
Photographer
P. Casier (CGIAR) ©

Farmer from Kenya
Photographer
P. Casier (CGIAR) ©

02
Economic impact of climate change in Kenya

CLIMATE CHANGE IMPACTS can be measured as an economic cost. This is particularly well suited to market impacts, for example changes in the physical conditions that are closely linked to market transactions and which directly affect Gross Domestic Product (GDP). Monetary measures of non-market impacts (for example impacts on human health and ecosystems) are more difficult to quantify. Knowledge gaps and uncertainty in climate models make such a determination especially difficult, a situation compounded by inherent vulnerability to climate change, limited adaptive capacity in human and natural systems, and unpredictable socioeconomic trends in developing countries.

A 2009 study by the Stockholm Environment Institute (SEI) has revealed significant potential impacts and economic costs of climate change on specific economic sectors in Kenya. For instance, the drought in 1998–2000 is estimated to have cost USD2.8 billion through loss and destruction of crops and livestock; forest fires; damage to fisheries; reduced hydro-power generation; reduced

industrial production; and diminished water supply services. The droughts in 2004, 2005 and more recently 2009 also affected millions of people and led to major economic costs, from restrictions on water and sanitation supply to energy insecurity. Furthermore, floods in 1997 and 1998 affected approximately 1 million people and are estimated to have had a total economic costs of between USD0.8 and 1.2 billion, arising from damage to physical infrastructure (for example roads, buildings, and communications structures), restriction of public health amenities, and loss of crops and livestock. The continued annual burden of extreme events, such as sporadic heavy flooding and prolonged drought, will lead to large economic costs (perhaps as much as USD0.5 billion per year, equivalent to around 2% of the GDP) and will negatively impact Kenya's long-term economic growth. The SEI projects that future economic costs of the impacts of climate change on market and non-market sectors might be close to 3% of GDP per year by 2030 and potentially much higher than this (in excess of 5% of GDP per year) by 2050.

03

Policy responce to climate change in Kenya

THE IMPACTS AND COSTS of climate change must, amongst other options, be addressed through coherent and effective climate change governance. However, available evidence suggests that environmental and climate change–relevant policy in developing countries remains mostly incoherent and not integrated with long-term national development plans and policies. Kenya is faced with diverse climate change and environmental challenges and has been struggling to resolve these. In the absence of a national climate change and environmental policy, Kenya has been operating with several sectoral policies and laws relating to the environment which are not harmonised with both the EMCA and the country's Constitution. These include policies concerning agriculture, water, forests, trade and industry, which have significant implications for the environment and the country's response to climate change.

Following the Rio Earth Summit of 1992, Kenya initiated the national environmental action plan (NEAP) process, which was completed in 1994. The process recommended the development of a national policy and law on the environment. The policy process culminated in the Draft Sessional Paper No. 6 of 1999 entitled 'Environment and Development'. It is this legislative process which gave rise to the EMCA (Act No. 8 of 1999) as Kenya's first framework environmental law. The Draft Policy and Act added to a large number of existing sectoral laws and policies dealing with various facets of the environment, such as water, forests, minerals and many others, creating a diffuse system of environmental laws and policies, some of whose provisions are not in harmony.

As Kenya's principal legal instrument on the environment, the EMCA is expected to address all aspects of the procedural and substantive process in relation to environmental protection and development, compliance, enforcement and monitoring through its sole administrative body, the National Environment Management Authority. Strategies to effectively achieve the EMCA's mandate have not been fully developed or implemented and different factors have contributed to this situation, namely:

01 Lack of institutional capacity and resources to mobilise and link activities effectively within and between various economic sectors;

02 Deficient environmental and sectoral laws that do not adequately articulate the links between national development, population needs and environmental concerns, and often conflict with the EMCA and the Constitution; and

03 Limited budgetary provisions to finance the effective implementation of environmental projects and programmes to work in tandem with national development plans.

There is therefore a clear need for enhancement of the requisite capacity, targeted deployment of resources and development of coherent and rationalised environment and climate change policies. However, how to balance these with national socioeconomic development goals and targets is also a major challenge. Challenges also exist in ensuring that environment and climate change policy addresses the vulnerability of women and marginalised groups to the effects of climate change in a manner that is congruent with policy directions in other related development spheres. The disproportionate vulnerability of women (compared to men) to climate change is exacerbated by their: (i) dependence on climate-sensitive natural resources for their families' livelihoods and sustenance; (ii) responsibility for water and food procurement for their families; and (iii) increased risk of exposure during times of extreme weather events and related disasters due to existing patterns of gender discrimination which place men at an advantage when it comes to accessing early warning information and the resources needed to remove themselves from hazardous situations, among many other factors. The current environmental policy landscape in Kenya is sorely lacking in terms of responding to gender-mediated impacts of climate change. There is currently no broad policy direction towards integrating and mainstreaming gender considerations in existing sectoral climate response strategies and policies. A review of all the relevant regulatory and structural frameworks is therefore necessary in order to develop a strategically sustainable, gender-responsive, and effective climate change response policy framework and implementation strategy that will ensure efficient cross-sectoral linkages within the various sectors and government agencies.

ECONOMIC IMPACT OF CLIMATE

DROUGHT IN 1998 – 2000

is estimated to have cost
USD 2.8 BILLION
through loss and destruction of:

- Crops and livestock
- Fisheries
- Forest lines
- Reduced hydropower generation
- Reduced industrial production
- Diminished water supply services

DROUGHT IN 2004 – 2005 & 2009

Affected millions of people and led to major economic costs and disruptions to services including:

- Water restrictions
- Energy insecurity
- Restrictions on sanitation supply

CHANGE IN KENYA

Mount Kenya
Photographer
Joxeankoret ⓒⓒ

FLOODS IN 1998 – 2000

Affected approximately 1 million people with an estimated economic cost of:

USD 0.8 – 1.2 BILLION

arising from damage to:

- Physical infrastructure
- Crops and livestock
- Restriction of public health amenities

IN THE FUTURE

The continued annual burden of extreme events, such as sporadic heavy flooding and prolonged drought, will lead to large economic costs, perhaps as much as

USD 0.5 BILLION PER YEAR

EQUIVALENT TO AROUND 2% OF THE GDP

and will negatively impact Kenya's long-term economic growth. The SEI projects that future economic costs of the impacts of climate change on market and non-market sectors might be close to

3% OF GDP PER YEAR BY 2030

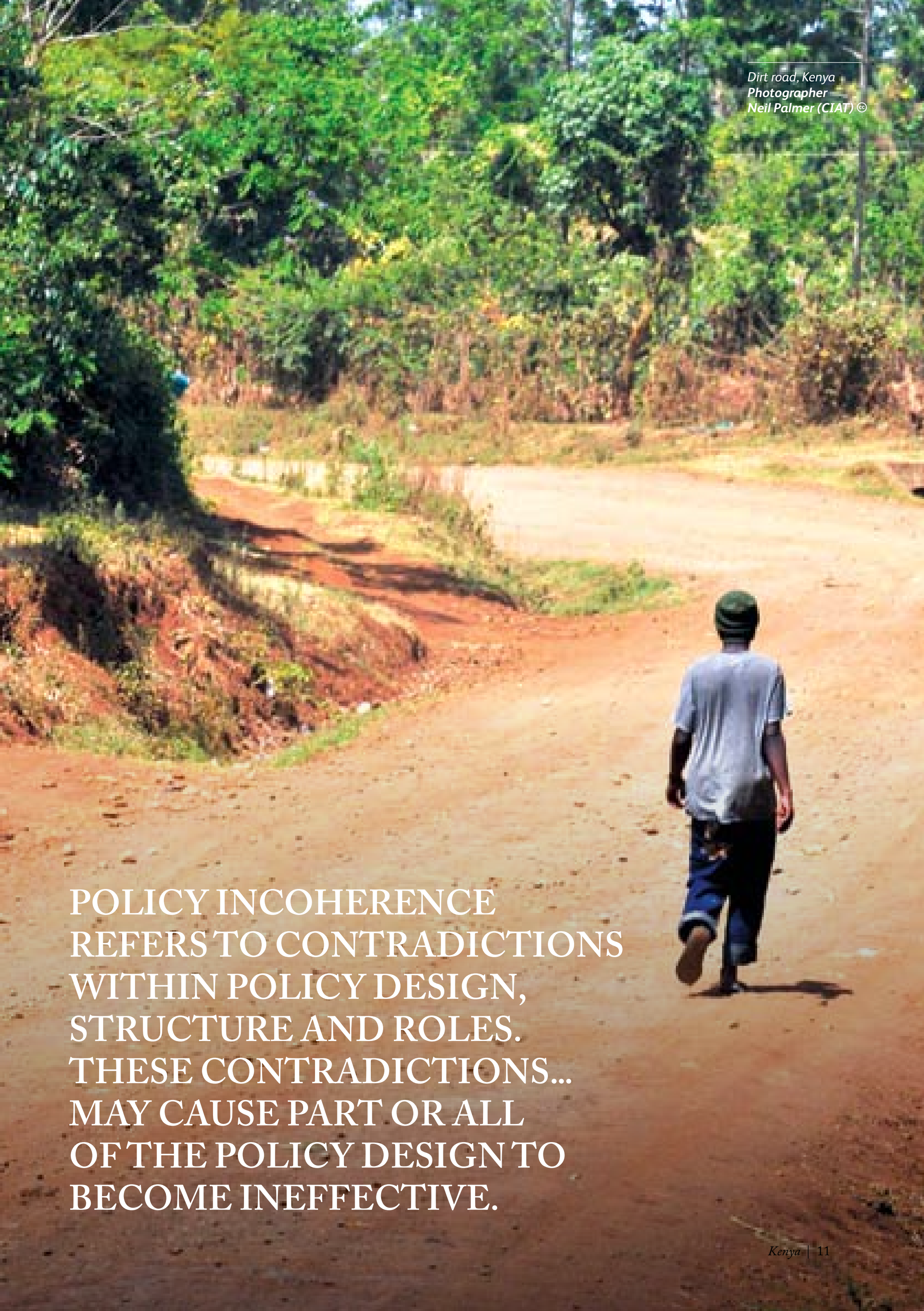
and potentially much higher than this, in excess of

5% OF GDP PER YEAR BY 2050

04
Understanding policy incoherence

POLICY INCOHERENCE refers to contradictions within policy design, structure and roles. These contradictions, both within and across sectors, may cause part or all of the policy design to become ineffective. In this regard, policy is broadly understood to include not only strategy but also organisational mandates, service delivery activities, funding flows and implementation capacity. Thus while policy incoherence primarily relates to the broader contradictions within policy frameworks that act as barriers to successful implementation, it may be taken also to include aspects of poor coordination and management. Contradictions in policy can be horizontal or vertical in nature. Horizontal incoherence relates to overlapping mandates and confused responsibilities among service providers and other public bodies. For example, in the Kenyan policy context horizontal incoherence has developed due to an ambitious water reform programme through the enactment of the Water Act, Act No. 8 of 2002, that established a further 13 new parastatals. The decentralisation of water resource management authorities further increased the number of autonomous regional bodies responsible for catchment management, stakeholder involvement, including private partnerships, and water resource users' associations (WRUAs) in the country. This has resulted in a proliferation of key actors and a large influx of funds opening up multiple opportunities for rent seeking and a 'scramble for resources'.

Vertical incoherence occurs where policies do not have clear implementation plans and/or funding resources. This can lead to weaknesses in the capacity to implement policies and regulations effectively. Vertical incoherence is evident in the government of Kenya's failure to meet fundamental rights commitments as prescribed in the Constitution 2010, due to the absence of resources for implementation of these constitutional provisions. For example, such failures include those related to the provision of human rights to: (i) accessible and adequate housing – the State does not currently maintain and/or provide State housing for its citizens); (ii) clean and safe water in adequate quantities – water remains a scarce resource, exacerbated by the fragmentation of coordination of the water sector and associated ineffective water resource management; and (iii) social security – the State does not make provision in the national budget to effectively facilitate this activity.



Dirt road, Kenya
Photographer
Neil Palmer (CIAT) ©

POLICY INCOHERENCE REFERS TO CONTRADICTIONS WITHIN POLICY DESIGN, STRUCTURE AND ROLES. THESE CONTRADICTIONS... MAY CAUSE PART OR ALL OF THE POLICY DESIGN TO BECOME INEFFECTIVE.

Landscape View, Eastern Kenya
Photographer
Olive Thiong'o (CCAFS)

05

Towards a coherent climate change response governance framework

THE ADVERSE IMPACTS of climate change are unmistakable in Kenya. Sectors that are vital to its socioeconomic security, such as agriculture, livestock, tourism, forestry, and fisheries, will be gravely affected. In addition, livelihoods will be severely disrupted, particularly among vulnerable groups. Against this background, Kenya currently faces significant challenges in integrating climate change responses into its national development plans, strategic policies and regulatory frameworks. This calls for the development of clear policy approaches to climate change issues, beginning with a comprehensive review of the existing fragmented and incoherent legal instruments across multiple economic sectors to ensure consistency. While it may be complex to quantify the true economic and developmental cost of a fragmented and incoherent approach to dealing with climate change,

what is clear is that there exists an urgent need to remedy the existing incoherent policy and institutional response to climate change in Kenya.

To this end the Kenyan government's Ministry of Environment and Mineral Resources has instituted a process for the preparation of a Draft Legal Policy Assessment Report (LPAR) to review the foundations of Kenya's environment and climate-related policy and regulatory frameworks. Among the aims of the LPAR is to identify and recommend actions for remedying existing sectoral policy conflicts, incoherence and inconsistencies. Some key sectoral and cross-sectoral issues that will have to be observed in this review to ensure the development of a fully harmonised and effective national climate change response governance framework are given on the following page.

Karwe Village, Kenya
Photographer
P. Casier (CGIAR)

KENYA HAS MADE GREAT ADVANCES IN THE WATER SECTOR, WITH CURRENT POLICIES PROMOTING DECENTRALISED MANAGEMENT OF WATER RESOURCES AND THE INVOLVEMENT OF MULTIPLE STAKEHOLDERS...

01 Although agricultural activities are highly susceptible to climate change, they also contribute to the release of GHGs to the atmosphere. Effective policies are needed that balance the need to increase productivity with the reduction of emissions.

02 Kenya has made great advances in the water sector, with current policies promoting decentralised management of water resources and the involvement of multiple stakeholders; however, there is need to harmonize vertical institutional mandates with horizontal ones to avoid a scramble for resources at the expense of enhanced water conservation, distribution and delivery.

03 There exists an urgent need for the Kenyan government to put in place coherent cross-sector policies that promote investment in sustainable energy development, as the majority of Kenyans depend on biomass energy (firewood, charcoal and agri-waste) for their domestic energy needs.

04 A gender-oriented review of all the relevant regulatory and institutional structures comprising Kenya's climate change response is necessary in order to develop a socioeconomically sustainable, gender-responsive, equitable and effective national climate change response policy framework.

HEINRICH
BÖLL
STIFTUNG

The Heinrich Böll Stiftung, associated with the German Green Party, is a legally autonomous and intellectually open political foundation. Its foremost task is civic education in Germany and abroad with the aim of promoting informed democratic opinion, socio-political commitment and mutual understanding. In addition, the Heinrich Böll Stiftung supports artistic and cultural, as well as scholarly projects, and co-operation in the development field. The political values of ecology, democracy, gender democracy, solidarity and non-violence are the foundation's chief points of reference. Heinrich Böll's belief in, and promotion of citizen participation in politics is the model for the foundation's work.

Contact us

Heinrich Böll Stiftung
East & Horn of Africa
Forest Road
P.O. Box 10799-001 GPO
Nairobi
Kenya
Tel: + 254 (0) 20 268 0747
+ 254 (0) 20 261 3992
+ 254 (0) 20 261 3997
ke-info@ke.boell.org
www.ke.boell.org

Publication designed by Make Content - www.make-content.com
Printed on recycled paper

HEINRICH BÖLL STIFTUNG