

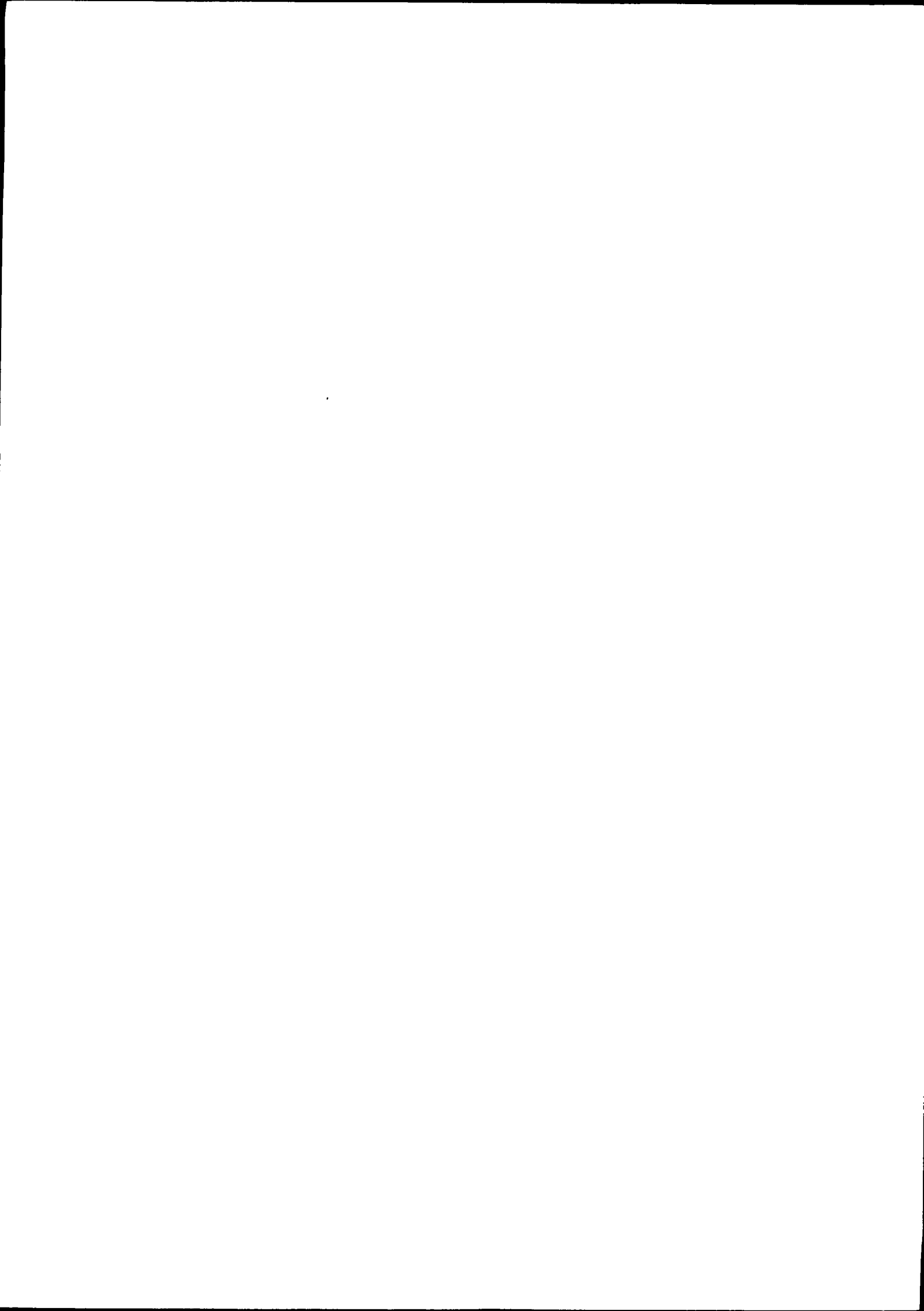
Høringssvar til DMR-strategien

Organisationer

- Den danske UNESCO-kommission
- Folkekirkens Nødhjælp
- Dansk Røde Kors
- IBIS
- Dansk Ungdoms Fællesråd
- Freemuse
- Institut for Menneskerettigheder
- Amnesty International
- Dansk Kunstnerråd
- Dansk PEN
- Danske Handicaporganisationer
- International Dalit Solidarity Network
- International Media Support
- Landsforeningen for bøsser og lesbiske
- Transparency International
- Institute for Democracy and Electoral Assistance (IDEA)
- Advokatsamfundet

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Regeringens menneskerettighedsstrategi og udkast til strategi for fremme af demokrati og menneskerettigheder i udviklingssamarbejdet

25. marts 2009
Sags nr.:
076.381.061

På vegne af Den danske UNESCO-nationalkommission tillader jeg mig hermed at kommentere ovennævnte strategier inden for arbejdet for fremme af demokrati og menneskerettigheder, som Nationalkommissionen er blevet opmærksom på via Udenrigsministeriets nyhedstjeneste velvidende, at alene strategien for udviklingssamarbejde er til høring.

Nationalkommissionen er enig i, at vi står over for store udfordringer i arbejdet med at fremme og beskytte menneskerettighederne.

I dette arbejde kan og bør UNESCO spille en stor rolle, idet UNESCO's målsætning er: At bidrage til fred og sikkerhed gennem samarbejde inden for uddannelse, videnskab, kultur og kommunikation og i forlængelse heraf at fremme den universelle respekt for retfærdighed og menneskerettigheder uanset etnisk tilhørsforhold, køn, sprog og religion.

UNESCO's interesseområder er da også mangeartede, f.eks. ekstrem fattigdom, ulige adgang til livsvigtige ressourcer, klimaforandringer, etiske udfordringer og dilemmaer, som følge af den teknologiske udvikling, uligheder af politisk, religiøs og økonomisk karakter, arbejde for god regeringsførelse, frie medier, ligeberettigelse for kvinder. Dette konkretiseres gennem de fire programmets aktiviteter. Vi kan nævne indsatsen inden for Education for All, arbejdet med interkulturel forståelse og dialog, ytringsfrihed samt frie og mangfoldige medier.

Værdierne og principperne for arbejdet med menneskerettigheder er således kerneopgaver i UNESCO-arbejdet. Det er derfor med stor forundring, at UNESCO ikke nævnes direkte i menneskerettighedsstrategi-

en, selv ikke under afsnittet om det multilaterale arbejde og aktuelle fokusområder.

Det samme gør sig gældende i udkast til strategi for udviklingssamarbejde, hvor f.eks. frie og mangfoldige medier og ligestilling er væsentlige indsatsområder.

Danmark kandiderer til en plads i UNESCO's Styrelseråd ved valget på UNESCO's 35. Generalkonference i oktober måned. Herved gives der Danmark en unik rolle i arbejdet for at fremme og styrke menneskerettighederne. Det er derfor vigtigt, at samtlige UNESCO-aktører udnytter de muligheder, som UNESCO rummer i sit arbejde for fred, demokrati og menneskerettigheder.

Nationalkommissionen vil gerne uddybe ovenstående ved et møde med Udenrigsministeriet.

Med venlig hilsen

Linda Nielsen
Formand for Den danske UNESCO-nationalkommission

Folkekirkens Nødhjælps hørings svar til "Draft Strategy for Democratisation and Human Rights for the Benefit of the People."

Generelle Kommentarer

FKN finder det positivt at:

- strategien er kritisk over for det nuværende arbejde med menneskerettigheder og demokrati:
- DANIDA ser et behov for et langtidsperspektiv og at menneskerettigheder, demokrati og god regeringsførelse ikke bliver betragtet som "technical fixes" men som langtrækkende politiske processer
- DANIDA vil sikre links mellem stat og civilsamfundet – således at der ikke sker ændringer i lovgivnings- og retssystemer uden at sikre at de fattigste kender deres rettigheder og lov eller at de har mulighed for at få adgang til retssystemet
- DANIDA vil forstærke den politiske dialog omkring menneskerettigheder med regeringer i modtagerlande også inden for rammerne af Paris-deklarationen. For det er meget vigtigt at menneskerettigheder og lighed mellem kønnene ikke bliver kørt ud på et sidespor i harmoniseringsprocesserne.
- at man anerkender at demokrati ikke kun handler om valgprocesser og afstemninger.

Strategiens mål er at konsolidere den nuværende politik til at forbedre kvaliteten af dansk udviklings samarbejde angående demokrati og menneskerettigheder. Men det faktum at UM har opdelt governance strategien i to underliggende strategier er afgjort ikke med til at sikre en konsolidering. Det er ikke klart hvordan korruption og decentralisering i UM's første governance strategi "Accountable Public Sector Management" vil mainstreame menneskerettigheds problematikker (f.eks. retten til information eller fokus på public administration law), eller hvordan korruptions- og decentraliseringsspørgsmål fra nævnte strategi vil blive behandlet under denne strategi til fremme af demokrati og menneskerettigheder (f.eks. korruption i parlamenter og i retssystemer). Strategien giver ikke en retningsvisning på hvordan menneskerettigheder skal mainstreames i andre sektorer inden for udviklingsbistand, som nævnt under 1. Key Messages og senere gentaget i indledningen til kapitel 6.

I øvrigt, savner FKN i papiret overvejelser om hvordan UM vil drage menneskerettigheders hensyn og standarder ind i andre vigtige samarbejdsrelationer med partner regeringer inden for handel og sikkerheds politikker. Det samme gælder i samarbejdsrelationer med virksomheder der opererer i DANIDA partnerlande. Det nævnes som vigtigt i UM's Politik for Det Internationale Menneskerettighedsarbejde, men hvordan integreres disse hensyn i MR og Demokratiserings strategien? FKN savner også overvejelser omkring, hvordan Danmark vil sikre at danske støttede indsatser i partnerlande overholder Danmark's MR forpligtelser i partnerlande: "extraterritorial obligations". Med det øgede internationale fokus på "donor accountability" vil et sådant fokus være ønskeligt. Ydermere er det også uklart hvordan UM vil sikre en bedre integrering af MR og MR principper i MDG érne.

Specifikke Kommentarer

Manglende økonomiske, sociale og politiske rettigheder

FKN ønsker et stærkere fokus i strategien på økonomiske, social og kulturelle rettigheder (ESC). Specielt Kapitel 4 viser en ikke tidssvarende refleksion over menneskerettigheder, primært fokuserende på civile og

politiske rettigheder. Fremhævelsen af økonomiske, sociale og kulturelle rettigheder er en udmærket metode til at promovere demokratisering uden at tale specifikt om retten til deltagelse osv. Det er en effektiv metode til at bringe menneskerettigheder ud til de fattigste og mest marginaliserede og har vist også at være central i kampen mod kønsuligheder og andre former for diskrimination. Dette manglende fokus virker endnu mere overraskende når man læser i UMs Politik for Det Internationale Menneskerettighedsarbejde at "Menneskerettigheder er udelelige.....dermed er alle lande forpligtet til at beskytte og fremme alle menneskerettigheder (side 8 i Det Internationale Menneskerettighedsarbejde)

Manglende strategisk retningsvisning

Det er skuffende at strategien ikke fastlægger en mere strategisk retning og klare prioriteringer. Strategien er ikke konsekvent og i mange tilfælde er det svært at se mange af de positive tilsagn inkluderet i konkrete prioriteringer. Strategien virker mere som et akademisk papir der fokuserer på hvad menneskerettigheder er og hvad forbindelsen mellem menneskerettigheder og demokrati er. Specielt Kapitel 6 skuffer ved ikke i tilstrækkelig grad at angive disse klare strategiske prioriteringer.

De tre niveauer: "norms", "practices" og "political participation/accessibility" som er foreslået under "Deepening Democracy" and "Realising Human Rights" er en interessant tilgang men det ser ikke ud til at de tre niveauer er blevet konsekvent inkluderet i strategien. Der mangler i høj grad overordnede overvejelser på hvordan man vil sikre at, de tre niveauer spiller sammen for at fremme ændringer. Praksis ændringer uden ændringer i normer/lov er sjældent bæredygtige; og ændringer i praksis og normer/regler uden krav og forbedret adgang for fattige mænd og kvinder vil ikke sikre forbedringer ift. mindre fattigdom, mere lighed og bedre respekt for menneskerettigheder.

FKN ønsker derfor tydeligere prioriteringer og en klar fokus i strategien på, hvordan UM vil arbejde for at sikre koordination/strategiske indsatser der forbinder støtte til norm, praksis og institutions ændringer med at sikre deltagelse af civilsamfundet og fattige mennesker. Det kan for eksempel dreje sig om at støtte til nationale MR institutioner har vist sig at være ineffektivt ift. til at styrke fattige og de marginaliseredes menneskerettigheder – hvis man ikke sikrer, at civilsamfundet og de fattige/marginaliserede bruger disse mekanismer. Desuden ønskes også et stærkere fokus på økonomiske, sociale og kulturelle rettigheder indenfor disse institutioner.

Et andet eksempel kunne være hvordan støtte til parlamentariske processer kunne blive koordineret med en stærkere viden og overvågning af civilsamfundet/borgere af disse processer og aktører. Det er heller ikke klart i strategien: afsnittet om "participation" refererer for eksempel ikke til dette "link". Det kunne være en vigtig strategisk indsats for at sikre, at valg ikke bliver en "one-off event". Der er gode eksempler fra praksis i for eksempel Uganda om, hvordan civilsamfundet kan overvåge nationalbudget processer eller udvikle "score cards" ,der vurderer MPs performance osv.

FKN savner og ønsker nogle strategiske overvejelser omkring støtte til valg processer og til medie. Papiret begrænser sig til noget meget overordnede tilsagn: også i Kapitel 6.

NGO Lovgivning

FKN savner og ønsker en klar henvisning til hvordan UM vil modvirke NGO-lovgivning, der bliver brugt i stigende grad i mange forskellige lande rundt i verden, inkl. Danmarks samarbejdslande, til at formindske det politiske råderum for civilsamfundet, til at indskrænke en rettighedsbaseret tilgang, arbejde med lighed mellem køn og blandt etniske grupper osv. Denne nye udvikling er en væsentlig hindring for at civilsamfundet kan spille den "watchdog role" som UM så tit refererer til. Sådant et fokus vil også være i tråd med Danmarks Politik for det Internationale Menneskerettighedsarbejde, hvor der er et erklæret fokus på at tage forholdene

for menneskerettigheds forkæmpere op i den bilaterale dialog med partnerlande. (Det Internationale Menneskerettighedsarbejde Side 20).

Skrøbelige Stater

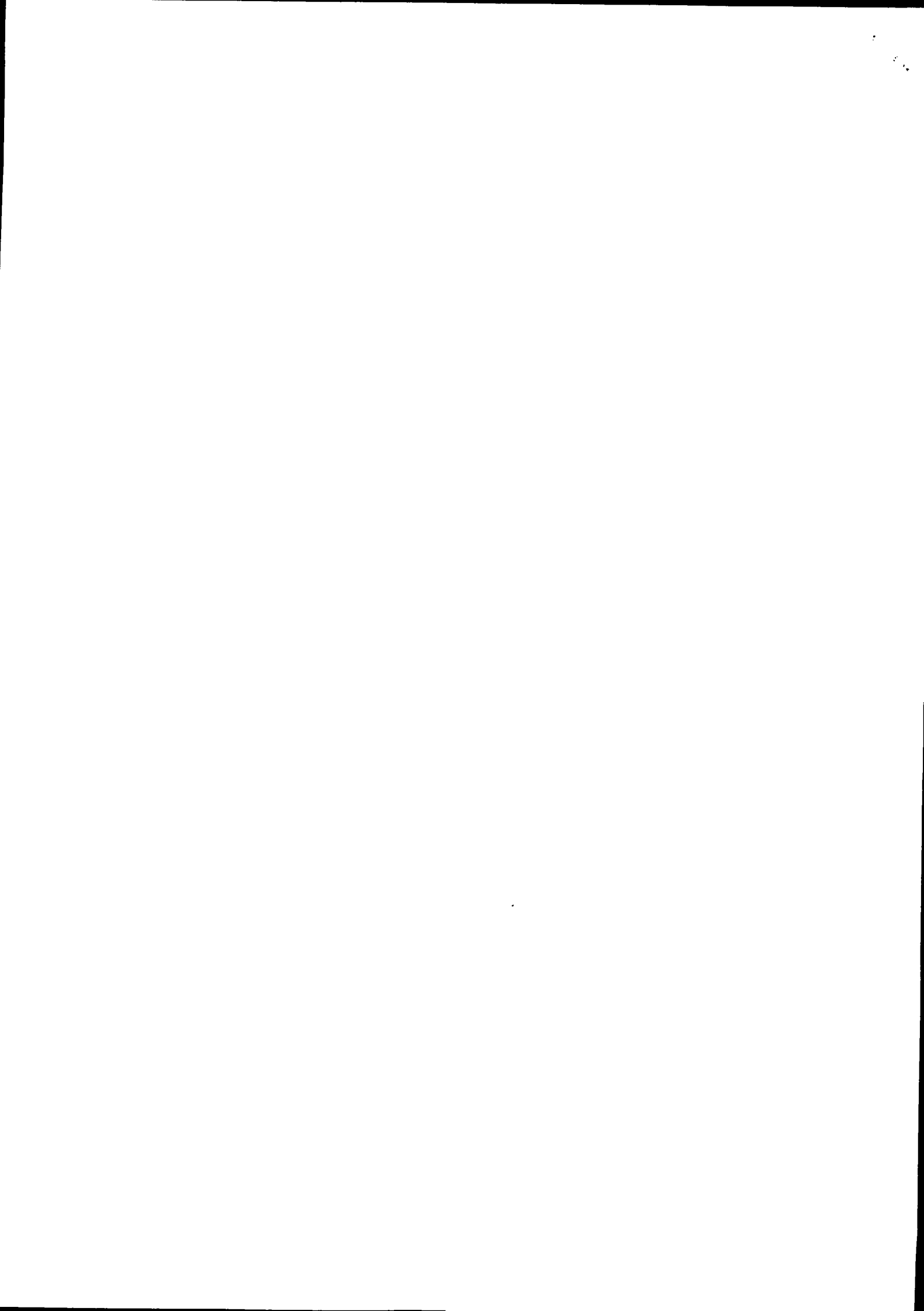
Der er en meget svag fokus i denne strategi i forhold til arbejdet med skrøbelige stater. Dette arbejde ser ud til at være begrænset til "building societies based on the rule of law and justice". FKN ønsker at arbejdet med skrøbelige stater og Danmarks strategiske overvejelser i forhold til dette udfoldes mere i andre dele af strategien ud over Afsnit 6.3.1 (Building Societies Base don the Rule of Law and Justice). Der er for eksempel muligheder for at arbejde med "access to justice" (Afsnit 6.3.3) i skrøbelige stater og også under "Deepening Democracy", hvor indsatsen i skrøbelige stater er ikke nævnt.

Svag fokus på diskrimination og køn

FKN savner et mere målrettet fokus i strategien med diskrimination og diskriminerede grupper. Aktiv eller passiv diskrimination er tit en vigtig årsag til fattigdom blandt specifikke grupper og i denne anledning er kapitel 4 svagt. Kapitlet omhandler for eksempel ikke initiativer i forhold til f.eks. "affirmative action" der kan være nødvendigt i forhold til at sikre menneskerettigheder for diskriminerede og marginaliserede grupper. At behandle alle lige fører ikke automatisk til lige muligheder for alle i samfund med stor ulighed. FKN ønsker et stærkere fokus på diskrimination og politisk dialog omkring diskrimination i denne strategi. Kapitel 6 mainstreamer ikke i tilstrækkelig grad diskriminationsspørgsmål på tværs af indsatsområder. Man kunne for eksempel fremhæve arbejdet med at sikre/fremme en stærkere deltagelse af kvinder og andre marginaliserede grupper i politiske partier/parlamentet.

Strategien er svag indenfor køn og ligestilling, både analysedelen og i forhold til strategiplanlægning. Strategien integrerer i et vist omfang ligestillings anliggender, men uden konkrete forslag til aktiviteter eller konkrete anvisninger på hvordan man vil forbedre ligestilling. Der er desuden en tendens i strategien til primært at betragte kvinder primært som marginaliserede og som ofre og ikke se på hvordan kvinder selv spiller en aktiv rolle. Strategien giver endvidere det indtryk at alle kvinder er marginaliserede og overser samtidigt behovet for også at adressere ligestilling blandt diskriminerede grupper f. eks kønsproblemstillinger blandt oprindelige folk.

FKN ønsker et stærkere ligestillingsfokus konsekvent mainstreamet ind i strategien og at dette følges op med konkrete anvisninger på hvordan man vil arbejde frem mod øget ligestilling. FKN ønsker endvidere at køn og ligestilling ses i sammenhæng med andre former for systematisk diskrimination.



Democratisation and Human Rights for the benefit of the people Strategic Priorities for Danish Support for Good Governance

DRAFT, 3 March 2009

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1. Key messages

The Danish Government will:

- Promote human rights as part of a universal value system that provides a shared normative framework for dialogue and cooperation.
- Assert that human rights are central objectives of development and instrumental for sustainable development, poverty reduction, peace and security.
- Maintain the promotion of democracy and respect for human rights as key priorities in Danish development cooperation.
- Strengthen efforts to support democratic societies based on justice and the rule of law, by:
 - o Supporting the development of pluralist political systems.
 - o Increasing its focus on parliamentary development.
 - o Increasing its focus on national human rights institutions.
 - o Increasing its focus on informal systems of justice that respect human rights.
- Address the particular challenges of fragile states and fragile situations.
- Maintain a strong commitment to mainstream human rights and democracy in all

development cooperation.

- Increase the synergies between bilateral programming in partner countries and engagement in multilateral forums.
- Increase cooperation with regional human rights bodies.
- Increase cooperation with the EU and International Financial Institutions in support for human rights and democratisation.
- Promote and apply the principles of the Paris Declaration and the Accra Agenda for Action with a view to strengthening human rights and democratic processes in partner countries.

Could also include:

- Work against NGO legislations that restricts activity in human and democratic rights, gender or ethnic equality, conflict resolution, the strengthening of judicial practices or law enforcement.

- Support human rights sensitive discourse – such as media activities and education material for facilitating inclusive perceptions and rights-sensitive attitudes – especially supporting the rights and interests of discriminated and marginalized groups.

2. Background

Human rights are part of a universal value system and human rights and democracy are closely linked. The Danish Government believes that human rights are best assured by democratic societies based on justice and the rule of law, which provide the best opportunities for the people and for reducing poverty and promoting sustainable human development, peace and security. The promotion of democracy and human rights therefore is not only of benefit to the individual human being, but also to the entire community, locally and at global level.

The Danish Government, after its re-election in November 2007, underlined its commitment to democracy and human rights by promulgating the elaboration of a new strategy for Danish development cooperation on democracy and the rule of law. The intention was to institute a value based approach to development policy on democracy and human rights which, at the same time, embraced the on-going Danish support and pointed to new focus areas for the future.

A key task for the international community is to support the promotion of democracy and respect for human rights within a comprehensive and long-term perspective. Although progress is and will be uneven and flexibility is needed to adapt and respond to changing circumstances, new opportunities and challenges, the Danish Government is determined to make the most of these opportunities and to meet new challenges that may arise.

The Danish Government is committed to contributing to the **deepening of democracy** and the **realisation of human rights** in developing countries for the benefit of poor and marginalised people. In fact, democratisation and the realisation of human rights have been priority areas of Danish development cooperation for two decades. Our commitment remains strong and to this end, the Danish Government will:

- Support human rights and democratisation as objectives in their own right and as means of reducing poverty and promoting peace and security.
- Apply a comprehensive and long-term approach.

- Address the political character of the issues involved.
- Promote a dynamic interaction between state and civil society.
- Address the particular challenges of fragile states and fragile situations.

New areas of support will include:

- Support for the development of pluralist political systems.
- Increased focus on parliamentary development.
- Increased focus on national human rights institutions.
- Increased focus on informal systems of justice that respect human rights.

Denmark is actively engaged in multilateral cooperation on human rights and democratisation, particularly with the United Nations, and will strive to increase the synergies between bilateral programmes and multilateral frameworks. In this regard, the Danish Government will:

- Encourage ratification of human rights conventions.

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- Use human rights conventions ratified by governments in partner countries when designing and implementing Danish support for human rights and democratisation.
- Use decisions and recommendations of the international community related to human rights and democratisation in bilateral development cooperation.
- Use the human rights indicators produced by United Nations treaty bodies in political dialogues with governments in partner countries and in monitoring of programmes.
- Increase cooperation with regional human rights bodies in bilateral development cooperation.

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3. Purpose

This paper underpins Denmark's human rights strategy for international cooperation and is one of two documents prepared by the Ministry of Foreign Affairs setting out Denmark's strategic priorities for support for good governance in developing countries. It sets out:

- The overall **vision and values** that permeate Denmark's development cooperation throughout the field of human rights and democratisation.
- A set of **strategic priorities** for Danish development cooperation in this field.
- **Guiding principles** relating to vision and values, strategic priorities, and Danish engagement with global actors.

The purpose of the paper is to consolidate the current development policy line and enhance the effect and quality of Danish development cooperation in pursuit of democratisation and human rights. The strategy will be further operationalised by the elaboration of a number of future "how-to-notes" on selected issues. The priorities and principles set out in it will focus and strengthen Danish development cooperation in:

- The main partner countries of Danish bilateral assistance;
- Other countries receiving Danish development assistance (including fragile states); and
- Multilateral frameworks.

The vision, values, priorities and principles will also be the basis for:

- **Dialogue** with partners in development, including:

- o Governments of partner countries;
- o Civil society organisations and other non-state actors; and
- o Other donors and actors in national and international forums.

- **Improved links** between bilateral and multilateral engagements (including links between development policy and foreign, security and trade policy).

Further Reading

The Ministry of Foreign Affairs launched the first paper in 2007. It deals with strategic priorities for good governance and is entitled 'Effective and Accountable Public-Sector Management – Strategic Priorities for Danish Support for Good Governance'.

This paper and other important documents related to democracy and human rights are included in the list of documents in **Chapter 10 –**

References

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4. Vision and values

Overall guiding principles, vision and values

This section seems to ignore the important developments around ESC rights and the criticism that human rights are gender-blind! Need a much stronger emphasis on ESC ~~ese~~ rights, gender rights and the rights of discriminated groups and indigenous peoples reflected in this vision and values!!! While agree that human rights are part of a universal value system, I wonder how strategic it is as the first statement....!!!

There is no mention in this chapter, for example, on the role and type of special measures (affirmative action) that may be needed to facilitate the enjoyment of human rights for historically discriminated and excluded groups, including women, certain castes, certain ethnic groups, indigenous groups etc. Treating all equally does not lead to equal opportunities for all in very unequal societies.

Denmark will:

- Promote democratisation, human rights, the rule of law and justice as fundamental values and principles for how societies should function.
- Support democratisation and human rights as objectives in their own right and as means of reducing poverty.
- Apply a comprehensive and long-term perspective to deepening democracy and realising human rights.
- Promote dynamic interaction between the state, civil society and other non-state actors.
- Take into account that fragile states and fragile situations require support that addresses their particular challenges and that is complex and comprehensive.
- Promote and apply the 'principles of aid effectiveness' in the Paris Declaration and the Accra Agenda for Action with a view to strengthening democracy and human rights.

'We will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights. Unless all these causes are advanced, none will succeed.' (United

Nations. In Larger Freedom: Towards Development, Security and Human Rights for All)

Human rights are part of a universal value system and provide a framework for our interaction with each other, how we live together, and how we organise our societies. They also create a framework of predictability and responsibility in society, ensuring people have the security and

freedom to realise their potential and take decisions about their lives. And they provide people with the trust and confidence to act.

Human rights do not have to be earned and they belong to everyone, regardless of whom they are or where they live. As stated in Article 1 of the Universal Declaration of Human Rights (UDHR), accepted by every member of the United Nations:

'All human beings are born free and equal in dignity and rights'.

Respect for human rights is a prerequisite for ensuring people are protected from abuse and deprivation - and human rights are important tools for addressing contemporary development problems. International instruments (like the UDHR) bind **states** to respect and promote human rights. Most of these instruments also require **individuals** to respect the rights of others and some create duties on individuals related to their communities.

Human rights and democracy are closely linked. For example, the UDHR states that "the will of the people shall be the basis of the authority of government" (Article 21).

The importance of human rights and democracy, and the link between them, is also recognised in numerous United Nations declarations and General Assembly statements – including the Vienna Declaration and Programme of Action (adopted at the 1993 World Conference on Human Rights) which:

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– Reaffirmed that all human rights are universal, inalienable, indivisible, interdependent and interrelated.

– Stressed that democracy, development and respect for human rights are mutually reinforcing.

The UN General Assembly confirmed the approach in the Vienna Declaration at the 2005 World Summit - which recognised that the full enjoyment of human rights is essential for development, peace and security. World leaders at the Summit also agreed that the best way of assuring human rights is through democratic and participatory governance based on the will of the people.

Despite this recognition, the task remains to ensure that every man, woman and child is able to live in freedom and with respect for their rights and dignity regardless of where they live. This paper focuses in particular on the challenges in building respect for and protection of human rights and democracy in developing countries.

The Danish Government is convinced that human rights are best assured by democratic societies based on justice and the **rule of law**. In turn, democratic societies are critical for ensuring respect for human rights since they provide the best opportunities for promoting sustainable human development, peace and security.

People's rights to **equality and non-discrimination**, to express their views, to choose their government, to a fair trial, and to the full enjoyment of all human rights cannot

be sustained without democracy. Democracy also ensures that everyone has the opportunity to exercise their rights and to participate politically, economically, socially and culturally in society. In turn, the equal participation of all people ~~women and men~~ and their active use of their rights (with respect for the rights of others) help to increase democracy by ensuring the **accountability** and **legitimacy** of the state.

Just as importantly, states are expected to be **transparent** in their actions and in decision-making processes to

Human rights principles

Universal and inalienable. Everyone is entitled to the protection of human rights, no matter where they live, what they do or who they are. Human rights may never be taken away (although they can sometimes be limited).

Indivisible. Rights cannot be separated from each other and violations of one right often violate other rights as well. For example, when torture is used on someone, their right to be free from torture **and** their right to human dignity are violated.

Interdependent and interrelated.

Human rights depend on each other. For example, freedom of expression interrelates with the freedom of assembly.

Key concepts

Rule of law. The 'rule of law' means that all people, organisations, institutions and the state itself are accountable under laws that are publicly promulgated; equally enforced; independently adjudicated; and consistent with international human rights law.

Equality and non-discrimination are key 'building blocks' for democracy. They ensure that everyone is able to participate equally in society – including groups that are often marginalised (such as women, indigenous peoples and the poor).

Accountability exists between all stakeholders in society. The main relationship though is between the state and its people - where the state responds to the needs and respects the rights of the people when exercising its power, where all people have a **voice** in decision-making, and where the people are able to hold the state to account.

(Continued on next page)

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ensure the free flow of information and support the right to freedom of opinion and expression.

Democratic societies require sustained **political commitment** by those in power to promoting and respecting human rights and to deepening democracy.

This means that those in power must agree to be bound by the rules that regulate democratic societies – the ‘rules of the game’. They must be prepared to accept the will of the people, even if it means political defeat, and to accommodate divergent views and needs in society.

Capacity is essential to perform the functions of an accountable and legitimate state – but capacity is often limited in developing countries. For people to be able to claim their rights and make demands:

- Civil society must be able to support poor people to acquire a voice in decision-making.
- The judiciary must uphold (and be able to uphold) justice and the rule of law.
- Political parties and parliaments must exercise (and be able to exercise) their role as formal representatives of the people and be able to provide checks and balances on government power.

Human rights and democracy are sensitive issues that go to the heart of power relations and politics. They are simultaneously under pressure and in demand. Increased democracy and realisation of human rights can limit power structures and lead to loss of influence and resources for powerful individuals and groups in society. This in turn can lead to opposition and resistance to change. It is crucial to understand these forces and to acknowledge the political character of the issues involved while still maintaining a clear vision of the importance of democracy and human rights.

Human rights are not realised overnight, and democratic societies are not built by the mere adherence to basic principles. Both are continuous processes:

- Democracy must be constantly deepened and adapted to meet challenges in society, and cannot be confined to a single model.
- Human rights must be continuously respected and promoted according to international and national obligations.

Denmark is determined to contribute to the **promotion and deepening of democracy** and the **realisation of human rights** in developing countries - both as objectives in their own right

and as means of reducing poverty and promoting peace and security. Denmark recognises that these processes must be driven by a country’s people and must be rooted in the local society. This is a lengthy process and in recognition of this, Denmark will apply a comprehensive and

Key concepts (continued)

Legitimacy comes from many sources.

Governments get their legitimacy first and foremost from being democratically elected, but also from their ability to provide security, respect for the rule of law, ensuring equal access to justice, and by supplying basic public services, such as health care and education.

Transparency involves the free flow of information between people and the state to ensure that well-informed decisions are made about how to respond to people’s

needs. Equally important, individuals, civil society and other non-state actors need access to information to take decisions for themselves and to hold their government to account.

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long-term perspective - recognising that progress may be uneven and that backlashes may occur.

The deepening of democracy and the realisation of human rights must be pursued with in-depth knowledge and understanding of the overall governance situation and how this is shaped by the general development of each country and domestic and international influences. These factors must be taken into account throughout the design and implementation of Danish development assistance to ensure that the most adequate means are constantly applied.

AOPP

The Action-Oriented Policy Paper on Human Rights and Development (AOPP) was adopted by all DAC members in February 2007. Through the AOPP, DAC members have committed themselves to enhancing their support for the protection and promotion of human rights and to integrating human rights more systematically into development assistance processes.

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5. Peace and development, poverty and good governance

Lasting peace, security, stability and development can only be achieved through respect for human rights and democratic principles.

Reducing poverty

The relationship between democracy, human rights and poverty is multi-dimensional. For example, some of the underlying causes of poverty include human rights abuses, failure to promote socio-economic rights, lack of access to justice, powerlessness and exclusion. Although the promotion and protection of democracy and human rights are not prerequisites for economic growth, they are central to **sustained** economic growth and ensuring and maintaining high levels of human development.

Promoting and deepening democracy and protecting human rights:

- Leads to a reduction of inequality and improvements in income distribution and education for all members of society.
- Encourages the establishment of institutions, legal guarantees, and protections for the full exercise of human rights - which in turn creates a stable and secure environment and greater opportunities for individuals to flourish.

For **women living in poverty or marginalisation**, the most important challenges are ensuring their equal rights,

equal access to influence and services, freedom to make decisions about their own lives and protection against violence, a

~~greater say equality in public affairs, affairs~~ and equality in property rights and family law.

~~And protection against violence.~~

Furthermore, the gender equality wording could be stronger. E.g. it should be stressed that there should be equal participation of women and men in decision-making and women's political influence at all levels of society should be strengthened.

Good governance

Good governance is about more than public sector management and institutions. Democratic principles and human rights are vital to good governance - they provide a framework of rules and principles that govern the relationships between the state and individuals, and between individual members of society.

The interdependence between good governance, democracy and human rights was confirmed by the following definition of 'good governance' adopted by Denmark (and based on the Cotonou Agreement between the EU and the African, Caribbean and Pacific States - June 2000):

'Good governance is the transparent and accountable management of human, natural and economic and financial resources for the purposes of equitable and sustainable development, in the context of a political and institutional environment that upholds human rights, democratic principles and the rule of law.'

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Working in fragile states

Human rights violations, poor governance and a lack of democracy are common in fragile states and fragile situations. At the same time, human rights violations and poor governance (including corruption and a lack of democracy) contribute to state fragility and instability and therefore become an obstacle to development, peace and security. The degree of promotion of and respect for human rights and democratic principles are therefore key indicators of progress or deterioration in fragile states and regional destabilisation.

Efforts to improve democracy and respect for human rights also contribute to instability and fragility. For example, the redistribution of power, new awareness and increased expectations stemming from democratisation and the realisation of human rights often leads to resistance from those who stand to lose resources or influence. This in turn creates resistance and tensions in society.

Because of this, the promotion of democracy and human rights in fragile states requires a willingness to take and manage risks, and flexibility in planning and implementation to respond to developments and take advantage of possible windows of opportunity. Good examples of how efforts must be adapted to dynamic political realities – both in time and geographically – are provided by the current Danish support to Afghanistan and Nepal.

Civil society

'Civil society' is made up of:

- Non-governmental organisations (NGOs)
- Community-based organisations (CBOs)
- Faith-based organisations (FBOs)
- Labour unions
- Informal institutions, networks and groups

Other **non-state actors** (NSAs) also play important roles in improving democracy and compliance with human rights. These include political parties, the media, universities and the private sector.

Dynamic interaction between the state, civil society and other NSAs is essential for deepening democracy and realising human rights. With all their diversity and complexity, civil society

organisations and NSAs provide a crucial link between the state and the people. Depending on their roles and mandates, these organisations and institutions are able to:

- Demand accountability from the state on behalf of the people.
- Advocate around the rights and needs of poor ~~people~~ women and men, thus ~~giving poor people~~ increasing their a voice.
- Empower poor ~~people~~ women and men to make demands for themselves.

A strong, independent and diverse civil society also contributes to creating dynamic social cohesion. In countries where states show little interest in deepening democracy and realising human rights, civil society is often the key partner in strengthening reform-oriented forces and promoting a bottom-up approach to change.

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Support for civil society in developing countries has its own challenges though. Some NSAs have been known to commit human rights violations, and not all civil society organisations have a membership base and their legitimacy and accountability should also not be taken for granted.

Denmark will continue to support civil society in accordance with the goals set out in the *Strategy for Danish Support to Civil Society in Developing Countries (December 2008)*.

Aid effectiveness

The 2005 Paris Declaration on Aid Effectiveness (commonly known as 'the Paris Declaration') is an international agreement that commits donors and development partners to increasing efforts to harmonise, align and manage aid for results, with a set of monitorable actions and indicators. In keeping with the Paris Declaration, efforts are based on national strategies and priorities and undertaken in close cooperation with partner countries. This approach requires a certain degree of discretion to be given to local actors when deciding on relevant initiatives in any given country.

The 2008 Accra Agenda for Action (AAA) aims to accelerate and deepen the implementation of the Paris Declaration. The AAA contains a strong political commitment that:

"Developing countries and donors will ensure that their respective development policies and

programmes are designed and implemented in ways consistent with agreed international commitments on gender equality, human rights, disability and environmental sustainability."

(AAA, 13 (c)).

Implementing the principles and commitments of the Paris Declaration and the AAA will advance human rights and democratisation by improving the effectiveness of development cooperation in these areas. At the same time, applying human rights and democratic principles to development will advance the implementation of the Paris Declaration and the AAA by building on experiences and approaches from these fields - thereby further anchoring the development process with the very people it aims to support, especially with regard to

ownership and mutual accountability.

For example, both donor and developing countries can support broad-based, national ownership of the development agenda by including parliaments and by ensuring that adequate funds are allocated to capacity development for civil society (especially those organisations representing minorities, marginalised and vulnerable groups). This will improve inclusive participation in decision-making and broaden and deepen ownership of development processes.

Donors and developing countries can also use existing human rights standards and institutions to help develop concepts and practices of mutual accountability. The human rights framework is essentially a global accountability framework which should be drawn upon during this process. It represents an opportunity for framing the concept of accountability on mutually agreed standards within an internationally recognised normative framework. Furthermore,

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human rights accountability processes demonstrate that public accountability can be most effectively achieved by engaging a broad range of stakeholders.

The principles of aid effectiveness will continue to govern Denmark's support for democratisation and human rights.

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6. Strategic priorities for Danish support

With regard to fragile states, it seems that this is limited to work under 6.3.1 ie building societies based on the rule of law and justice and to transitional justice. We believe that we should argue for more mainstreaming of the fragile states work in the document or at least for work with informal justice systems in fragile states where work at national level may be difficult.

The strategy could also have benefitted from a direct mentioning of how to work against NGO legislations that limit the political space of civil society and restrict activity in human and democratic rights, gender or ethnic equality, conflict resolution and the strengthening of judicial practices or law enforcement.

6.1 Thematic areas and strategic priorities

In the sections that follow, we look at the strategic priorities and guiding principles for the two **thematic areas** of Danish engagement:

- Deepening democracy; and
- Realising human rights.

The **strategic priorities** dealt with below relate to Danish bilateral assistance - both with regard to thematic programmes in support of democratisation and human rights, and mainstreaming of crosscutting issues in sector programmes. They also serve to support political dialogue in partner countries, and dialogue and cooperation with multilateral actors.

Focusing on the strategic priorities listed in this paper does not rule out Danish financial support to other areas of democratisation and human rights. Joint donor funding of broader programmes is correctly increasing in partner countries. Such financing will continue to take place on the basis of country-specific needs, programme design, and funding modalities (amongst other criteria).

The strategic priorities outlined in this paper are complemented by other Danish papers supporting effective and accountable public sector management, gender equality, indigenous peoples' rights, children and youth, and civil society. The current paper builds on the strategic guidance in these other papers but focuses on the overall agenda of deepening democracy and realising human rights.

6.2 Deepening democracy

For two decades, Denmark has provided substantial support for the promotion of democracy in all partner countries selected for programme cooperation, and in other countries receiving Danish development assistance (such as those undergoing a transition and fragile states). This support has focused on:

- Constitution-building
- Electoral systems and parliaments
- Promoting popular participation
- The inclusion of women and marginalised groups
- Civic education

Denmark's experience in these areas provides a good vantage point for future Danish engagement in deepening democracy.

Further Reading

A full list of these publications appears in Chapter 10 - References.

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Efforts to deepen democracy focus on three levels:

- The **rules and norms** of political conduct;
- How these rules are practised by **institutions**; and
- **Popular participation** and ways of ensuring people have a voice and exert influence in decision-making – for example, by claiming their rights and making demands on government.

The first level (rules and norms) is usually dealt with in a country's constitution and other legislation dealing with the rules of democracy, such as legislation governing elections. This level is usually supported by donors with legal traditions similar to those of the developing country in question and, historically, Danish development cooperation has been less inclined to engage in this area.

Denmark's support to deepening of democracy focuses on the second and third of the three levels – and on the strategic priorities in which Denmark has gained the most extensive experience:

- Promotion of democratic political practices by **institutions**; and
- Promotion of **popular participation** and ensuring a voice for poor and marginalised groups.

The three levels are closely interlinked though and initiatives at one level cannot be implemented or become sustainable without due consideration of, and linkages to, the other levels. It is therefore necessary to engage in continuous political dialogue with partner countries and other development partners on the fundamental values, norms and priorities that guide political practice and how these affect people's participation and voice.

To ensure sustainability, Danish support will be linked to wider efforts to deepen democracy rather than evolving in isolation.

6.2.1 Institutions and political practice

Guiding principles – institutions and political practice

Denmark will:

- Promote the strengthening of democratic institutions, their accountability and political practice.

- Support the development of pluralist political systems based on accountable and legitimate political parties.
- Support parliamentary development as a key domestic mechanism of democracy.

Various **processes** and **institutions** make up the political practice in a particular country.

These processes and institutions include parliamentary work, political parties, electoral processes, civil society, the media, local governance, independent mechanisms of accountability and gender equality.

Denmark will seek to strengthen processes and institutions that enforce political practices based on non-discrimination, accountability, legitimacy and transparency within a framework of respect for the rule of law and human rights.

Experiences and challenges

For many years, democratisation was seen as a matter of supporting the establishment of formal institutions, such as election commissions to run free and fair elections, parliament and a free media. Donors have traditionally also considered civil society as a crucial representative of the poor and marginalised and as an actor in development that can strengthen and create new paths for people's participation and voice. This view was based on an understanding of democratisation as a linear course of development with occasional minor setbacks.

It is now recognised that democratisation is about processes of political change. Democratisation affects how power is distributed, used, contested and controlled, and it is most often based on compromises between different elites and socio-economic interests in society. Some individuals and groups in society may also resist changes to the rules of the game. Apart from establishing formal institutions, democratisation requires the development of political practices by institutions that allow for accountability mechanisms and participation in decision-making by all segments of society. To ensure non-discrimination, accountability, legitimacy and transparency, the development of a democratic political practice must address various levels and actors. Key elements are the interplay between the state and the people and their respective roles and responsibilities. Democratisation is a process that occurs over long periods of time and this long-term perspective should therefore also apply to development cooperation.

While donors have traditionally supported civil society, there has recently been a growing recognition of the vital role played by parliaments and political parties in democratisation. Not

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only do these connect people with their government, they also provide a forum for representing and expressing the will of the people through a formalised accountability mechanism. It is now widely recognised that support for parliaments, political parties and civil society should complement and reinforce each other.

However, previous support to parliaments and political parties has not enabled them to meet the challenges they face. This is partly because of a lack of coherent and locally owned strategies, a short-term focus by donors, and a tendency to prefer standard approaches like training and seminars. A great deal of sensitivity also surrounds these institutions and actors because of their political character and the tendency of donors to focus on partner governments in their dialogue and agreements.

Kommentar [eg1]: Also a question of political will, on problems of patron-client relationships: that is why capacity building in itself is not enough.

New avenues must therefore be found to ensure effective support to developing pluralist political systems in partner countries. Lessons point to the need:

- For a realistic vision of the roles, potential and needs of parliaments and political parties;
- For a clear strategic focus on the political character of the process; and
- To address the political incentive structures and behaviour.

Support to the strengthening of political parties must be based on a non-exclusive approach and clear criteria, including respect for human rights. It must also promote dialogue and cooperation between political parties. Donor coordination is also important for development cooperation to be effective in this field.

Possible entry points for engagement include:

- Capacity development of parliamentary staff and politicians to perform basic functions and improve their effectiveness in the face of powerful executives.
- Inter-party dialogue to promote cooperation between political parties.
- Improved engagement with voters, media relations and good governance to increase the public legitimacy and accountability of parliaments and political parties.

Against this background, the Danish government specifically intends engaging political parties in the Danish parliament to assist in promoting political dialogue in partner countries. The Government will establish a new, independent institution for multiparty dialogue to cooperate with parties (or groups of parties) in partner countries in strengthening various aspects of party work - including multiparty dialogue, capacity development of parties, party legislation and promoting gender equality.

At the same time, the Danish Government will:

- Increase its support to strengthening parliaments in partner countries (where there is demand for Danish support) and in strategically important international organisations.
- Ensure that parliamentary strengthening is addressed in other areas of Danish (sector) support and political dialogue. In particular, Denmark will actively seek to ensure that the support of the international community as a whole contributes to strengthening the role of

18 parliaments, and actively considers parliamentary involvement in key decision making processes on national policy plans and strategies. ~~ECareol - extremely importantt... good! But maybe some examples here would keep in on the radar!~~

Formateret: Ikke Fremhævning

Formateret: Ikke Fremhævning

Local governance also has a major impact on democratisation. Local governance concerns not only technical matters but also changes in decision-making processes and the control over resources at the national and local level. Efforts regarding local governance and democratisation must be closely coordinated to mutually support each other. Furthermore, experience shows that local governance based on popular participation and accountability may give more voice to women and marginalised groups and promote democratisation from the bottom up. It thus becomes an important vehicle for political change, local ownership and overall democratisation.

Corruption – be it political or administrative – has severe consequences for the legitimacy, transparency and accountability of the state. Particular challenges in this regard include the financing of political parties, and the incentive structures of politics, government and public institutions.

~~Very academic. These last two paragraphs on local governance is very unclear and highly academic. What will they strategically do? Here is where there could be a role for civil society as~~

Formateret: Ikke Fremhævning

a watch dog in parliamentary processes---strengthening links to MPs, MP scorecards (as done in Uganda), governance assessments as done in Zambia... Political party dialogue and training will not create an accountable parliament without the civil society watch dog function..Here it would be good to look at supporting as well present or potential women parliamentarians or parliamentarians from minority groups in terms of capacity, exposure etc....

6.2.2 Participation and voice

Guiding principles – participation and voice

Denmark will:

- !! Promote formal and informal processes and institutions that:
 - o Support the participation of poor and marginalised groups in formulating and voicing their demands; and
 - o Empower them to engage in democracy and take decisions regarding their own lives.
- Support free and fair elections in pursuit of long-term democratisation.
- Support a free and diverse media as a watchdog and platform for democratic debate.
- Promote the equal participation and voice of women and men in all aspects of democracy.

The participation and voice of all people in society, including the poor and marginalised groups, is at the heart of democratisation. Efforts to support participation and voice should make individuals aware of their rights and strengthen processes/mechanisms by which they can claim and access their rights and entitlements, thereby empowering them to participate and voice their

demands to their political leaders, to improve their lives, and to influence the actions of government. Support in this area encompasses:

- The pursuit of independent accountability mechanisms and a free and diverse media (including alternative means of freedom of expression).
- The right to hold an opinion and to gain access to information.
- Awareness of these and other rights.
- Advocacy by civil society.
- Civic education.
- Promotion of the rights of women, indigenous peoples, people with disabilities, children and other marginalised groups.

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Experiences and challenges

It is usually very difficult for poor people to influence the shaping of political priorities and to demand action from the state. Participation in itself does not ensure that their voice is taken into account in the political process. The challenge is therefore to ensure that poor people have both the opportunity to participate **and** the means to and channels for ~~to~~ asserting their voice and influence.

Denmark will promote the participation, ~~and~~ voice and influence of poor and marginalised women and men ~~people and marginalised groups~~ in society, thus promoting democratisation based on non-discrimination, accountability, legitimacy and transparency.

Civil society plays an important role in democratic societies - especially where its actors are able

to involve poor people and provide them with opportunities to protect their rights and make their voices heard. But some local institutions and processes may already allow the participation

1. and voice of poor people and marginalised groups. Examples here would be good to know what is being referred to...if it is local decentralised structures/particularly the elected structures then good!!!

Formateret: Punkttopstilling

Provided that they do not discriminate against certain groups, the work of these institutions and processes should therefore also be taken into account.

Elections are central processes for managing competing interests, allowing people to choose their representatives, and providing legitimacy to those holding political office. Elections are thus both a matter of processes and institutions **and** of people's participation and voice.

Elections should not be seen as one-off events, but rather as part of a long-term process of deepening democracy. (Great statement but what concretely does this mean for Danida support. Fully agree... Can one therefore imagine that there is more focus on the role of MPs between elections etc, strengthening their interaction with voters etc... This would be a welcome shift from only election monitoring and civic education... linked to an election year)

The media is often regarded as a platform for democratic debate. It performs a variety of functions, including:

- Providing information for individuals to form their own opinions.
- Channelling the voice of people.
- Acting as a watchdog over other institutions.

The media is also a social, political and economic actor in its own right, defined by its own editorial positions, ownership, and the individual positions of the journalists and editors employed. Community radio in particular has been used to raise awareness and give voice to poor people and marginalised groups (although it has also been abused to incite violence and hate). The rapid increase in internet access and mobile phones provides new opportunities for informing and involving people that should also be considered - especially when trying to reach and give voice to young people. The Danish Government intends to strengthen efforts to support a free and capable media in partner countries that allows for diverse, nuanced, inclusive and transparent public debate.

Media activities and education material should play an important role in supporting human rights sensitive discourse - facilitating inclusive perceptions and rights-sensitive attitudes - especially supporting the rights and interests of discriminated and marginalized groups. It is not clear how a focus on internet and mobile phones in themselves can ensure this focus. This needs further developed, but they may strategically be used to promote a different discourse that can influence a more socially-minded middle class!!

Formateret: Ikke Fremhævning

Gender equality is and will continue to be a key priority of Danish development cooperation.

The participation of women in democracy is vital to ensuring that the needs of women and their children are taken into account by government. Denmark will continue to give high priority to the promotion of equal participation of men and women in all dimensions of democracy. Meager in action-orientation. Very broad. Political participation, gender sensitive discourse, systemic constraints? How, in which areas?

6.3 Realising human rights

Denmark has provided substantial support to the implementation of human rights in developing countries for two decades. This includes support to all partner countries selected for programme cooperation, as well as other countries receiving Danish development assistance (such as fragile states and countries undergoing transitions).

Danish support has included:

- Support to legal and judicial reform.
- Support to oversight bodies such as human rights commissions and ombudsmen.
- Promotion of access to justice.
- Creating enabling environments for non-state actors to monitor and advocate for human rights.

This experience provides a good vantage point for future Danish engagement in this area. As with Denmark's contribution to the deepening of democracy, support for realisation of human rights will also pursue a three-pronged approach:

1. A **rules and norms** level focusing on both international human rights law and national legislation.
2. An **institutional** level concentrating on how institutions practice these standards and obligations.
3. An **accessibility and accountability** level covering people's ability to claim their rights, obtain justice, and hold governments and other actors to account.

Number 3 is not the same as the earlier where the focus was on participation...some consistency of the three levels would be useful!!

Strategic priorities

The first level (rules and norms) is primarily addressed through Denmark's engagement with international and multilateral bodies. Here, Denmark will promote the vision and values stated in this paper and contained in the Danish Government's human rights strategy for international cooperation. Denmark will also strive to build robust synergies between multilateral and bilateral activities.

With regard to the institutional and accessibility and accountability levels, Denmark will provide support towards realising human rights in developing countries with a particular focus on support to:

- Securing the adherence of structures and institutions to human rights standards; and
- Relationships and processes that will empower individuals to claim their rights and access justice. Carol's comment: What exactly will Denmark do in this regard. Very broad formulation!

Even when states have ratified human rights treaties, implementation of these can be contested, uneven and long-term. Denmark acknowledges the long-term nature of these processes and will remain committed through political dialogue and development cooperation.

Denmark will focus on three major paths towards attaining human rights in developing countries:

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- Building societies based on the rule of law and justice. (This could be better explained)
- Strengthening national human rights oversight.
- Enabling access to justice for the poor and marginalised.

Denmark will support activities that are explicitly grounded in human rights commitments and obligations at the national level and that specifically refer to such commitments. This will include activities and efforts to:

- Promote gender equality.
- Protect and enforce, and improve compliance with the rights of the child and indigenous peoples.
- Fight against torture, wherever it occurs.
- Increase freedom of expression and greater tolerance, including issues related to combating all forms of discrimination:Strongly recommended that DANIDA considers to focus on right to information as a clear strategic priority. Would also link well up with the deepening democracy aspect. Also a much stronger focus than now is according to Combating Discrimination both in relation to civil and political rights but also in relation to economic, social and cultural rights. In general Danida should be challenged to there is a need to focus more on ese-E&S&C rights than this strategy currently does!

Danish support will also include support for corporate social responsibility.

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6.3.1. Building societies based on the rule of law and justice

Guiding principles – justice sector reform

Denmark will:

- Be guided by international human rights standards and obligations in its activities to support justice and the rule of law.
- Support sector-wide approaches to justice reform with due respect for the functional independence of the judiciary. This includes improving justice institutions and the linkages between them.
- Maintain a balanced approach to state, government and civil society. Where applicable, coalitions and partnerships will be built between the various stakeholders in the sector.

The 'justice sector' is a web of formal and informal justice delivery institutions, involving a broad range of state and non-state actors. It cuts across ministries and branches of government and includes:

- Parliaments and law reform commissions
- Ministries of justice and the interior
- Police and prison services
- Public prosecutors
- The judiciary and quasi-judicial institutions
- Bar associations and legal aid providers
- Civil society
- Law schools!!!!

← - - - **Formateret: Punkttopstilling**

The justice sector offers a means of resolving disputes and preventing conflicts. Providing support to this sector helps to build societies based on justice and the rule of law, which is one of the best ways of ensuring human rights are respected, protected and realised.

Experiences and challenges

Not everyone in a society has the same access to justice.

Research shows that justice matters to the poor and that disputes and conflicts burden them more than other groups – yet the formal justice system is expensive and inaccessible to them. Other marginalised groups - such as women, children, people with disabilities and indigenous peoples – also often lack

access and experience bias against them.

Corrupt judges and police officers also adversely affect the rule of law and peoples trust in the justice system. Legal and judicial reform is a crucial gateway to combating corruption and enabling just systems.

Civil society contributes to justice delivery in many ways (for example, through the provision of legal aid) and strong civil society involvement is also necessary to balance the focus on the

Voices of the Poor

The World Bank's Voices of the Poor research from 2000 surveyed over 60,000 poor people from 60 countries. It provides a unique insight into poor people's preoccupation with safety, security and justice issues – which they ranked at the same level of importance as hunger, unemployment and lack of safe drinking water. For more on this study, visit www.worldbank.org/poverty/voices/index.htm.

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supply of justice with appropriate attention to the demand side. Failing to consider justice reform holistically can marginalise civil society and limit their contribution.

To address the challenges in the justice sector, donors:

- Tend to favour sector-wide approaches – targeting formal and informal institutions, and covering both civil and criminal law.
- Define eligibility broadly to ensure that as wide a range of institutions as possible are included.
- Try to ensure that support to one part of the sector contributes to the effectiveness of the sector as a whole.
- Encourage reforms that are aligned with national plans and procedures and pay due regard to human rights.

Examples of sector-wide support include:

- Vision development and strategic sector planning based on human rights values and standards.
- Separation of powers and the maintenance of judicial independence – although care must be taken that 'judicial independence' is not used by the judiciary to oppose and obstruct reform.

In fragile states and fragile situations, support to **transitional justice** can lead to conciliation and help lay the groundwork for new credible and legitimate rule-of-law institutions. At the very least, support to transitional justice may prevent public confidence in the justice system from being undermined.

Establishing justice and the rule of law go to the heart of societal development. Recognising that justice sector reforms aimed at ensuring equal access to justice for all will face sensitive and complex issues of power, poverty and inequality, Denmark will place clear emphasis on poor people and marginalised groups in society in its sectoral approach.

Transitional justice

Transitional justice can take many forms - from international tribunals (such as the International Criminal Court), national prosecution, truth and reconciliation bodies, and traditional justice mechanisms.

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6.3.2. Strengthening national human rights oversight

Guiding principles – national human rights oversight

Denmark will:

- Promote autonomous and independent national human rights institutions to monitor and report on human rights issues.
- Encourage political commitment by states to ensuring national human rights institutions have the necessary mandate and adequate resources to perform their functions.
- Encourage national human rights institutions to cooperate with government and civil society, the UN and regional human rights bodies.

The implementation of human rights standards and obligations at the national level requires strong **national human rights institutions (NHRIs)**. These are quasi-governmental or statutory bodies with human rights as part of their mandates – the most common being:

- National human rights commissions.
- Ombudsmen.

– Thematic commissions - such as women's commissions, equal opportunity commissions and commissions for people living with HIV/AIDS.

Although they are established by the state, NHRIs are positioned between civil society and the executive branch of government. They therefore have the ability to bridge the divide between the state and government, on the one hand, and civil society on the other. They have access to government, civil society and the media, and can build alliances with these to respect, protect and promote human rights.

National human rights commissions are central to protecting, promoting and monitoring the realisation of rights in developing countries, fragile states and situations of fragility. They are usually mandated to:

- Monitor the state of human rights in their country.
- Investigate complaints of human rights violations.
- Advise government (for example, by reviewing draft legislation and policies for compliance with human rights).
- Work with civil society and the media to inform the public about human rights violations.
- Conduct public education and awareness on human rights.

Ombudsmen usually deal with matters of maladministration in the public sector. In some cases, they may also investigate complaints by individuals or groups about violations of their human rights.

Thematic commissions focus on monitoring and advocacy in relation to disadvantaged and marginalised groups.

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Denmark will continue to prioritise the national implementation of human rights standards by supporting domestic mechanisms that oversee the implementation process through human rights reporting and monitoring.

Experiences and challenges

NHRIs are on the increase around the world. But NHRIs in developing countries continue to face challenges and obstacles that donors can assist to address and overcome. For example:

- Levels of independence and impartiality vary greatly.
- Some countries set up NHRIs to create the illusion that they respect human rights. They then hamper their work by giving them narrow mandates and inadequate and unsustainable funding.
- In some cases, commissioners appointed to the institutions are political appointees or lack the required expertise.

The UN has prioritised NHRIs because of their potential to radically improve respect for and compliance with human rights at the domestic level. For example:

- The establishment and strengthening of NHRIs is a major priority of the Office of the High Commissioner for Human Rights, and the Office provides significant support in this area.
- The UN has developed criteria for the establishment of NHRIs (the Paris Principles), which aim to improve independence and impartiality **and** create a yardstick against which NHRIs may be measured.

The UN focus on NHRIs provides Denmark with the opportunity to cooperate with key multilateral partners in the field of human rights at the country level. It also allows Denmark to link experiences and dialogue at the national level with cooperation and dialogue at the international and normative levels.

NHRIs are part of a global movement that includes international, regional and national networks of human rights role players – including civil society and the media – that require support. Building linkages with civil society also strengthens human rights oversight at the national level and civil society should therefore also be supported - especially where NHRIs have yet to be established or are weak.

UN Paris Principles

The Paris Principles deal with the establishment, status and functioning of NHRIs. They were adopted by the UN General Assembly on 20 December 1993 and provide guidance to NHRIs on:

- Their competence and responsibilities.
- Composition and guarantees of independence and pluralism.
- Methods of operation.

What will the Danish government's strategy be to address these weaknesses? Again experience suggests that these institutions are not used as effectively as they can be by the poor. How can this aspect be improved so that they do not remain as institutions that are not effectively linked with civil society organisations working with the poor and marginalised. How can their accessibility to the poor/discriminated be facilitated? Transferring institutions to contexts where population not aware of rights and governments not sensitive to HRH likely to fail.²⁶

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6.3.3. Enabling access to justice for the poor and marginalised

Guiding principles – access to justice

Denmark will:

□ Support access to justice for the poor and marginalised, with a particular focus on women and children.

□ Increase focus on informal justice systems that respect human rights or can be strengthened to respect human rights. Many do not but experience seems to suggest that one can influence the practice of traditional leaders that administer customary justices or have an influence on customary law practices...

□ Support civil society organisations to assist people to formulate their demands, carry out advocacy and provide legal assistance to poor and disadvantaged groups.

Limiting anyone's access to justice is in effect a denial of justice. Without ensuring that all members of society enjoy equal access to justice, donor support to strengthening the rule of law may only reinforce the privileges of those who can afford its costs. Poor and marginalised groups in particular are often discriminated against and excluded by formal justice institutions. Improving access to justice therefore often requires discrimination and exclusion to be addressed and overcome. Discrimination and exclusion are key causes of poverty, conflict and fragility – but by focusing rigorously on access to justice, the disadvantaged (including women, indigenous peoples and the poor) can be supported to:

- Claim and protect their rights through the formal **and** informal systems of justice.
- Make effective demands.
- Trust the system enough to make use of it.

Denmark will pay particular attention to the obstacles the poor face when trying to access just solutions. This will include support to:

- Accessible legal services (lawyers, paralegals, and mediators) that respect human rights.
- Defendants.
- Victims of crime.
- Parties to civil disputes over family relations, inheritance and land tenure

Because the formal system is often inaccessible, ignoring the **informal system** may exclude large segments of society from any access to justice. Support to informal systems must be context-driven and could include paralegal representation and human rights awareness-raising activities for traditional leaders. Support to alternative dispute resolution and rights-aligned community mediation also helps to bridge the gap between the formal and informal systems of justice.

Here it would be good with more focus on the actors in the systems, particularly judges and lawyers (formal systems) rather than the rules and procedures and the traditional leaders... Peer exposure to good practices etc...

Support could also be given through court monitoring programs where advocates or community members organize themselves to observe court proceedings in a systematic way recording and making public the results of those observations. The monitoring and documentation can be an important part of judicial reform, lobbying, media relations, and community education campaigns.

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Experiences and challenges

To ensure a pro-poor approach, activities supporting access to justice must specifically target the poor and marginalised. These groups face major barriers to justice, including:

- Remote, slow, expensive, discriminatory and unfair services.
- Lack of awareness of their rights
- Intimidating and complex justice institutions and processes.

In many developing countries, only a small percentage of the population have access to courts in urban centres and informal justice systems are often far more accessible. Promoting alternatives to the formal judiciary as a vehicle for conflict resolution improves access to justice, reduces its costs, and helps to alleviate the burden on the formal system. The overriding focus should not be on cost but on accessing justice!!!

However, international actors are still coming to terms with the linkages between the formal and informal justice systems and examples of good practice remain few and far between. Supplementing support to the formal justice system with support to the informal system can lead to real dilemmas for donors. Although various strategies are being tried, it will take time before attempts to address these dilemmas can be measured against results on the ground. Customary law in particular is a difficult area riddled with dilemmas and contradictions - its rules and norms are seldom reduced to writing and are subject to manipulation, creating potential battlefields of power and violating human rights. Yes... but a focus on the actors ie traditional leaders can at times lead to change... The most usual ~~usual divide~~ widespread form of systemic discrimination is on the basis of its gender, and

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as a result, women (and their children) often lose out in the administration of customary law. To address this, Denmark will only support informal systems of justice that respect human Rights and gender equality Would suggest that Denmark supports those informal systems where there is potential for more human rights and gender sensitivity... if one only supports those that respect rights and gender equality, few will be found and the change is limited...

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Statutory law too is often biased against women or gender-insensitive, obstructing access to justice for women in many countries. Even where there is formal legal equality, women often face institutional bias in state and non-state justice institutions and prejudice and discrimination from justice sector personnel. Structural inequalities (such as lack of time and access to resources and education) also affect women's ability to use justice institutions. These concerns need to be addressed in the design of justice interventions to ensure that the rights of both women and men are realised. Denmark will pay particular attention to the challenges faced by women in relation to gaining access to property and land. 1-Again increased focus on the justice operators (police, judges, lawyers) through capacity-building and monitoring...
What about personal security and gender based violence?

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7. Making better use of global actors

Guiding principles – global actors

Denmark will:

- Actively promote the vision and values outlined in this paper and in the Danish Government's human rights strategy for international cooperation in relevant international and regional forums - such as the UN, EU, CoF, OSCE, OECD-DAC and international financial institutions (particularly the World Bank).
- Create linkages between efforts at the multilateral level, such as the UN and the EU, and efforts to promote democratisation and human rights at country level.
- Include observations and recommendations from UN treaty bodies and special procedures in Danish bilateral assistance.
- Support international bodies (such as UN development organisations) to strengthen their human rights service, capacities and coordination.

The United Nations (UN), regional human rights bodies and civil society movements work across boundaries and straddle national territories. This gives human rights and democratisation

a unique position as global themes with global actors. It also creates the potential for deepening democracy and realising human rights through mutually reinforcing efforts at global, regional and local levels.

United Nations

Multilateral institutions such as the UN (particularly the UN Office of the High Commissioner for Human Rights and Human Rights Council) are responsible for setting standards and promoting human rights and fundamental freedoms. Decisions and recommendations by the international community are important for deepening democracy and realising human rights and must be used in both multilateral and bilateral development cooperation with partner countries.

UN organisations, funds and programmes play an important role in advancing the objectives described in this paper at the operational level. This is especially true of the United Nations Development Programme (UNDP), which directly and indirectly supports institutions and programming approaches aimed at strengthening the protection of human rights and democratic governance.

The comparative advantages of the UN system are its universality, legitimacy and global presence. These must be taken into account when designing and implementing Danish support for democratisation and human rights. Denmark will therefore maintain its commitment to the human rights and democratisation efforts of the UN in a development context by:

- Continued and focused financial contributions to the UN, its funds and programmes (including working to ensure that the UN is able to carry out its mandate at the country level); and

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- Taking part in joint donor coordination and formulation of UN priorities and strategies. This will be done through continued dialogue at all levels and active Danish participation in the boards of individual funds and programmes.

Treaty bodies and other UN entities produce analyses and recommendations that donors can use to inspire political dialogue, guide the design of programmes and set the framework for monitoring activities. Denmark will make use of such observations and recommendations in support of human rights and democratisation.

The Office of the High Commissioner for Human Rights (OHCHR) has regional and country offices that monitor human rights on the ground and implement projects.

Where relevant, Denmark will strengthen synergies between bilateral and multilateral activities by cooperating more closely with the OHCHR in each country. Country-specific recommendations will also provide guidance on implementation and monitoring of progress.

What are the Danish governments priorities in this regard? What issues will they bring up in these fora as their "markesager" ... We would ~~ould~~ really like to see the Danish government playing a stronger role on ESC rights!!!!

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European Union

The European Union (EU) is a key international actor in the field of democratisation and human rights. The EU:

- Have a human rights policy and a variety of guidelines.
 - Is engaged in human rights and political dialogue with various countries.
 - Supports human rights and democratisation in many countries within the framework of the Communication on Governance in the European Consensus on Development and the European Initiative for Democracy and Human Rights (EIDHR).
- Denmark will increasingly engage in dialogue and cooperation on matters of human rights and democratisation with the European Commission and other member states within the framework of the EU. Strategic priorities for this cooperation will include:
- Further harmonisation of development cooperation between Member States and the Commission in partner countries.
 - Strengthening EU assistance to governance, democratisation and human rights.
 - Continued strong Danish engagement in the EU's political dialogue with partner countries.
 - Support to on-going, cross-pillar efforts to improve synergy and coordination on issues of human rights and democratisation in the EU's external relations.

Denmark will also increase synergies between our efforts in relevant forums in the EU and our bilateral programmes.

UN monitoring mechanisms and bodies

The UN system has various human rights monitoring mechanisms and bodies. These include the Human Rights Council (and the special procedures on country situations or thematic issues established by it) and the newly established Universal Periodic Review of the Human Rights Council.

Independent treaty-based bodies also monitor the implementation of core international human rights treaties.

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Regional Institutions

Africa and Latin America in particular have established regional institutions with mandates to promote democratisation and human rights. These include:

- The African Commission on Human and Peoples' Rights.
- The African Court on Human and Peoples' Rights.
- The Inter-American Commission on Human Rights.
- The Inter-American Court of Human Rights.

Where such regional bodies exist, they will be actively taken into account in programmes supported by Denmark.

What does that mean...taken into account??? How can the Danish government strengthen these mechanisms and their judgements...important that the judgements from these

institutions are taken up as well in the political dialogue with partner governments to increase the legitimacy and weight of these institutions

European Institutions

The Council of Europe and the Organisation for Security and Cooperation in Europe are also crucial regional actors.

- The **Council of Europe (CoE)** promotes and monitors human rights, democracy and the rule of law through its monitoring mechanisms and programme activities. The European Convention on Human Rights and the case law of the European Court of Human Rights also play an important role in this context.
- The **Organisation for Security and Cooperation in Europe (OSCE)** promotes human rights, democratisation and the rule of law in its member states. The OSCE's Office for Democratic Institutions and Human Rights has a particular focus on election support and minority rights.

Denmark will continue to engage in dialogue and cooperation on matters of human rights and democratisation with these bodies

In what areas will there be priority???

International Financial Institutions

International Financial Institutions are major actors at the country level. These include:

- The African Development Bank
- The Asian Development Bank
- The Inter-American Development Bank
- The World Bank

Although having an economic mandate, these institutions have the potential to play an important role in promoting human rights and democratisation and, at minimum, in ensuring that no harm is caused in these areas in the pursuit of other objectives. Denmark will work to influence International Financial Institutions to this effect, particularly the World Bank, where Denmark has played a central role in establishing a Trust Fund for human rights together with other Nordic countries. The mandate of the Trust Fund will be to ensure that human rights are reflected in the Bank's analyses and operations. W-Again what priorities???

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8. Danish capacity for support for human rights and democracy

Effective partnership requires a donor who:

- Is capable of competently engaging in technical issues;
- Has country-specific knowledge of the sectors and areas in which support is provided; and
- Has knowledge of the political economy and of relevant contextual factors in individual partner countries.

Denmark will strive to live up to its responsibility as a competent and relevant donor in various ways. In particular, we will strengthen our technical and professional knowledge and competencies in areas relevant for the strategic priorities set out in this paper, such as:

- Political dialogue on democratisation and human rights.
- Development of pluralist political systems.
- Parliamentary development.
- Legal and judicial reform (of both the formal and informal systems).

- Creating synergies between the UN human rights system and bilateral programmes.
- Capacity development.
- Domestically-based governance assessments and political stakeholder analysis.

This will be done through:

- 'How to notes' on selected issues to operationalise and guide implementation.
- Ensuring specialised capacity in the field of human rights and democracy.
- Developing the competence of staff at Embassies and Headquarters - where possible through joint training with other donors.
- Intensified participation in relevant international and regional forums, such as OECD DAC, to share experiences, undertake joint analytical work, engage in partnership dialogue and influence behaviour change among donors.
- Workshops and seminars in Denmark on key issues of human rights and democratisation for consultants, NGO officials, researchers and Ministry of Foreign Affairs staff.
- Active networking and communication, through our websites (www.um.dk/en and www.danidadevforum.um.dk/en) and in seminars and conferences.

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9. Monitoring

The implementation of the present paper will be monitored:

- As an integral part of existing monitoring performed by the Ministry of Foreign Affairs.
- As part of monitoring systems that may exist in individual partner countries.

Monitoring will cover:

1) Assessments of the implementation of the main elements of this paper through:

- Assessments by Embassies and Headquarters according to their performance contracts. This includes country assessments and assessments of progress in sector programmes submitted on an annual basis and in connection with reviews.
- Thematic reviews and evaluations.
- Including information from these sources in various annual reports of the Ministry of Foreign Affairs regarding Denmark's development cooperation.

2) Benchmarking and monitoring of governance performance in partner countries (including issues of democratisation and human rights) through a set of country- and context-specific indicators. Benchmarking and monitoring of governance performance should preferably be conducted jointly with other development partners and partner countries.

Monitoring sources will include:

- Domestically-based governance assessments.
- Reports and recommendations from UN treaty bodies.
- Reports from UN special procedures.
- EU Governance Profiles.
- EU Country Human Rights Fact Sheets.
- World Bank Institute 'Governance Matters' indicators.
- OECD Metagora.
- IDEA, State of Democracy assessments.
- UNESCO media development indicators.

Programme specific indicators will be addressed in the 'how-to' notes that will underpin this paper.

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Strategy for Danish Support to Civil Society in Developing Countries.

Fra: Ulla Godtfredsen [mailto:ulg@drk.dk]

Sendt: 14. april 2009 11:01

Til: UDV

Cc: Mia Steninge; Karin Poulsen; Jesper Gerner Jensen; Anders Ladekar; Preben Søgaard Hansen

Emne: Dansk Røde Kors Høringssvar, Strategi for demokrati og MR i udv.arb.

Til Udenrigsministeriet, Menneskerettighedsenheden.


Dansk Røde Kors takker for modtagelsen d. 4 marts af udkast til offentlig høring af "Strategi for demokrati og menneskerettigheder i udviklingssamarbejdet". Vi har flg. kommentar:

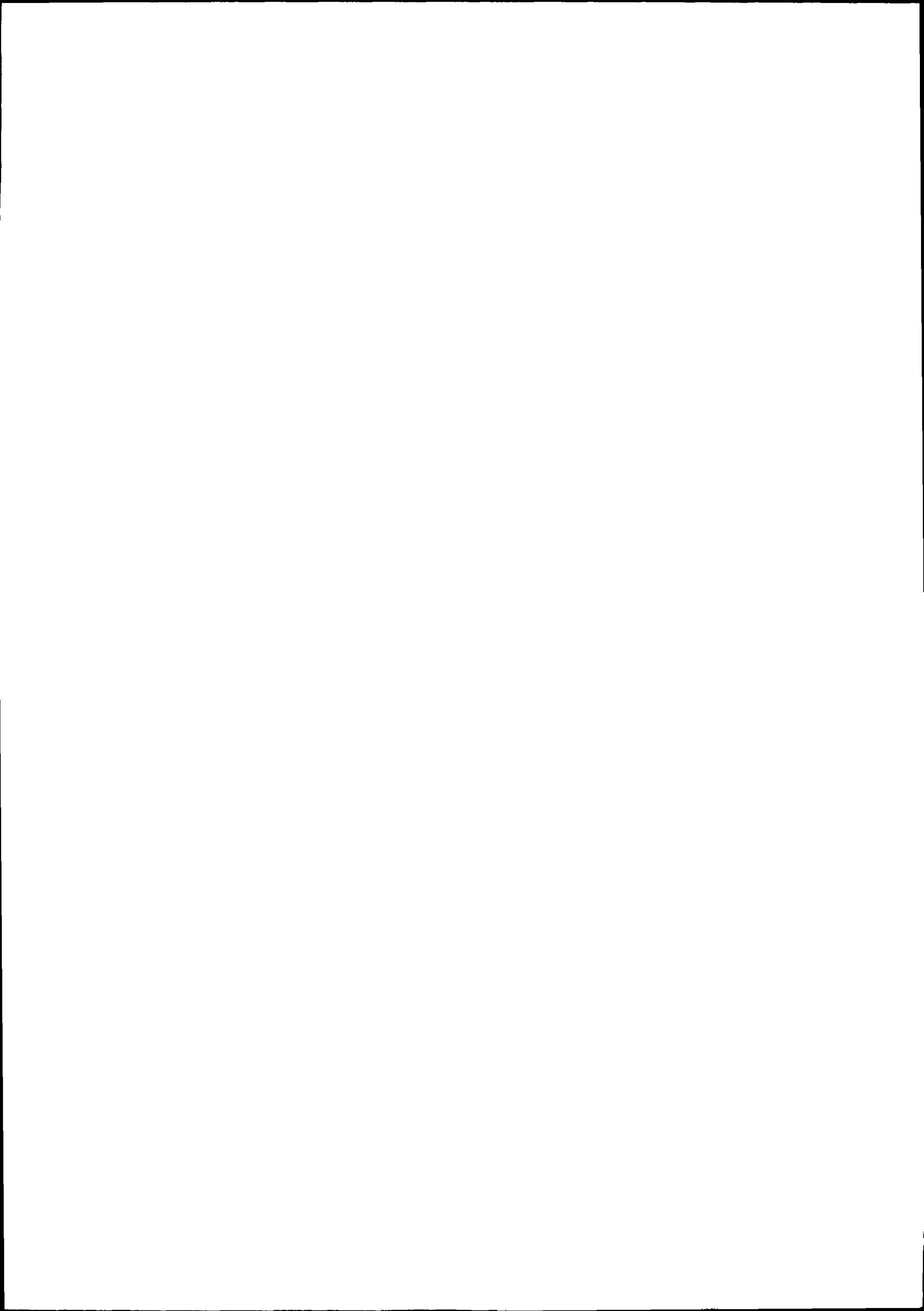
Til første afsnit i kap. 5, s. 10, foreslår vi flg. tilføjelse:

“Lasting peace, security, stability and development can only be achieved through respect for democratic principles **and international law including human rights, international humanitarian law and refugee law**”.

Mvh,

Ulla Godtfredsen (Mrs.)
Deputy International Director/
Head of Int. Policy and Planning Unit
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IBIS kommentarer til Danida Democracy and HR Strategy

Overordnet finder vi strategioplægget vigtigt og oplægget har mange gode og relevante betragtninger og retninger. Vi beklager på linie med det brev skrevet af en gruppe danske NGOer til Ministeren, at høringsprocessen har været ringere end man kunne forvente.

Ligeledes vil vi gerne understrege, at vi finder det er en snæver definition af menneskerettighedsbegrebet der ligger til grund for strategien. Det er primært de borgerlige og politiske rettigheder, mens sociale, økonomiske og kulturelle rettigheder stort set er udeladt af strategien. Der kan nærmest set som et opgør med en rettighedsbaseret udviklingstankegang, der ellers har vundet bredt frem i det danske og internationale udviklingsmiljø gennem de sidste år.

Demokrati definitionen: Det er uklart hvilken type demokrati strategien læner sig op ad. Man taler om "deepening democracy", men det er uklart hvad der menes hermed. Men i og med at der i oplægget fokuseres på "equality and non-discrimination" og "Capacity" for fattige til at gøre deres stemme gældende, samtidig med at man baserer sig på et repræsentativt system med politiske partier, er den implicite demokratitilgang en tillempet liberal demokratimodel, hvor der er fokus på inklusion og rettigheder. Det ville klæde dokumentet, hvis man definerede denne demokratimodel klarere, herunder lagde vægt på de participatoriske elementer. Hvis denne strategi sammenholdes med civilsamfundsstrategien fremkommer der en participatorisk demokratimodel, hvor man ikke blot er fokuseret på at fremme det repræsentative demokrati med frie og fair valg, men også lægger vægt på det inklusive og participatoriske, der skal give fattige mennesker en stemme og vægt i beslutningsprocesser.

Generelt er der ikke meget reference til borgere som rettighedshavere og regeringer som duty-bærere. Denne rettighedsorienterede tilgang, også til det demokrati og governance ville styrke forståelsen i strategien for samspillet mellem borgere og stat.

Demokratisk ejerskab: Efter Aid Effectiveness konferencen i Accra i 2008 står nationalt og demokratisk ejerskab som udgangspunktet for effektiv bistand. Det ville klæde strategien at reflektere dette klarere og klart tage udgangspunkt i Accra Agenda for Action §13 & §20 og ikke mindst den danske støtte til demokratisk ejerskab. Det indebærer at bistand skal gives til nationalt og demokratisk udviklede strategier, hvor det nationale og participatoriske element spiller en central rolle. Parlater og civilsamfund skal inddrages og høres. Dette er både en forudsætning for at skabe et reelt demokratisk ejerskab, men skal også forstås som en støtte til at skabe og udvikle demokratiske systemer, hvor de fattige får en stærkere stemme.

Demokratiets krise? Det ville være relevant at analysere den krise demokratiet i sin repræsentative og liberale form gennemlever i mange udviklingslande. I Afrika er der store vanskeligheder med overhovedet at implementere en meningsfuld demokratisk model. Dette reflekteres kun lidt i oplægget hvordan det kan håndteres. Nyere tænkning og forskning fra Fx Overseas Development Institute analyserer hvordan de kulturelle, etniske og patrimonielle mønstre vanskeliggør et demokrati efter vestligt forbillede.

I Latinamerika er demokratiet i dyb krise eller i hvert fald bliver der sat store spørgsmål ved demokratierne i regionen fra brede befolkningsgrupper, primært fordi det ikke har leveret sociale fremskridt for store dele af befolkningerne. Det har skabt et kombineret opgør med både den neoliberale økonomiske model og det liberale demokrati, som opfattes som en integreret del af den

økonomiske model. I dette opgør er demokratiet ved at blive kastet med ud med badevandet. Dette reflekteres ikke i strategien.

Det bør reflekteres klarere i strategien, at den demokratiske model (participatoriske og inklusive liberale demokrati) som Danmark arbejder for, er vanskelig at implementere i centrale samarbejdslande, møder stor modstand fra vigtige samfundsgrupper og ofte ikke reflekterer den eksisterende samfundsorden og kultur. Konkrete tiltag til at imødegå dette bør fremhæves i strategien.

Oprindelige folk, territorier customary law: Formuleringerne i oplægget om oprindelige folk er hæmmet af, at selve strategien for oprindelige folk trænger til en opdatering.

Der hvor oprindelige folk nævnes er det som marginaliseret minoritetsgruppe på linie med handicappede, kvinder og andre, der må beskyttes, mere end de opfattes som befolkningsgrupper med krav og internationale konventioner, der tillægger dem rettigheder. Denne opfattelse af oprindelige folk i dokumentet må ændres til en anerkendelse af dem som folk med rettigheder, der desuden kan bidrage til en uddybning af demokratiet. Oprindelige folk må anerkendes som retssubjekter med kollektive rettigheder. Og deres autonomi og territorielle selvstyre – som Danida har været en aktiv støtte til i fx Bolivia og Nicaragua – må anerkendes som et vigtigt bidrag til et fungerende demokrati.

Det bliver først rigtig alvorligt under 6.3.3 hvor man søger at definere formel - uformel rettighedssystemer, indirekte relateret til oprindelige folk, alene ud fra den hovedpine det giver donorer, snarere end at søge definitioner og problemstillinger set fra de samme folks perspektiv. *"Customary law in particular is a difficult area riddled with dilemmas and contradictions - its rules and norms are seldom reduced to writing and are subject to manipulation, creating potential battlefields of power and violating human rights . The most usual divide is gender and as a result , women ... often loose out in the administration of customary law . To address this Denmark will only support informal systems of justice that respect human rights."*

Denne tekst trænger til en revision i udkastet. Ud fra anerkendt forskning, debat og praksis inden for sædvaneret fremgår det, at det er forholdet mellem kollektive rettigheder og individuelle rettigheder, der præciserer nødvendigheden af et symbiotisk liv mellem de to definitioner og følgende retspraksis. Og der er masser af praksis, særligt fra Latinamerika, hvor disse diskussioner står højt på dagsorden i lande som Bolivia, Ecuador, Guatemala, m.fl. I Guatemala søger man at se de to systemer komplementært, hvor de oprindelige folk lever med sædvaneret og officiel retspraksis side om side. Denne erfaring har Danmark selv fra Grønland. Emblematiske sager er der, hvor statens retssystem har taget sædvaneretskendelser som udgangspunkt for videre retsforfølgelse dvs. godkende sædvaneret som en del af et integreret restsystem.

Hvad gender angår må teksten simpelthen ændres inden for ovennævnte tekst. Gender er et klart korrektiv til kollektive rettigheder, hvor de kollektive rettigheder ikke sikrer en tydeliggørelse af kvindens manglende ligestilling, men igen med udgangspunkt i de samme udelelige kollektive rettigheder.

Disse kommentarer bygger delvist på konsultationer med IBIS ansatte i Latinamerika, mens det inden for dem korte frist for svar ikke har været muligt at konsultere partnere eller tage en bredere diskussion af strategien i organisationen.

Kommentarerne er sammenskrevet af Lars Koch, 31. marts 2009

København, den 3. april 2009

DUFs kommentarer til strategioplæg 'Democratisation and Human Rights for the Benefit of the People'

DUF bifalder en demokratiserings- og menneskerettighedsstrategi for dansk bistand. DUF finder dog, at nærværende udkast bør forbedres markant. Dette er kommunikeret i et fælles brev til Ulla Tørnæs fra en række NGOer, herunder DUF.

Vi vil gerne pointere, at de største udfordringer med nærværende oplæg dels er en manglende forankring af menneskerettigheder og demokrati i de debatter, der er foregået over de seneste år - herunder klare definitioner af centrale begreber - og dels er en mangel på anvisninger til, *hvordan* der skal arbejdes med menneskerettigheder og demokrati.

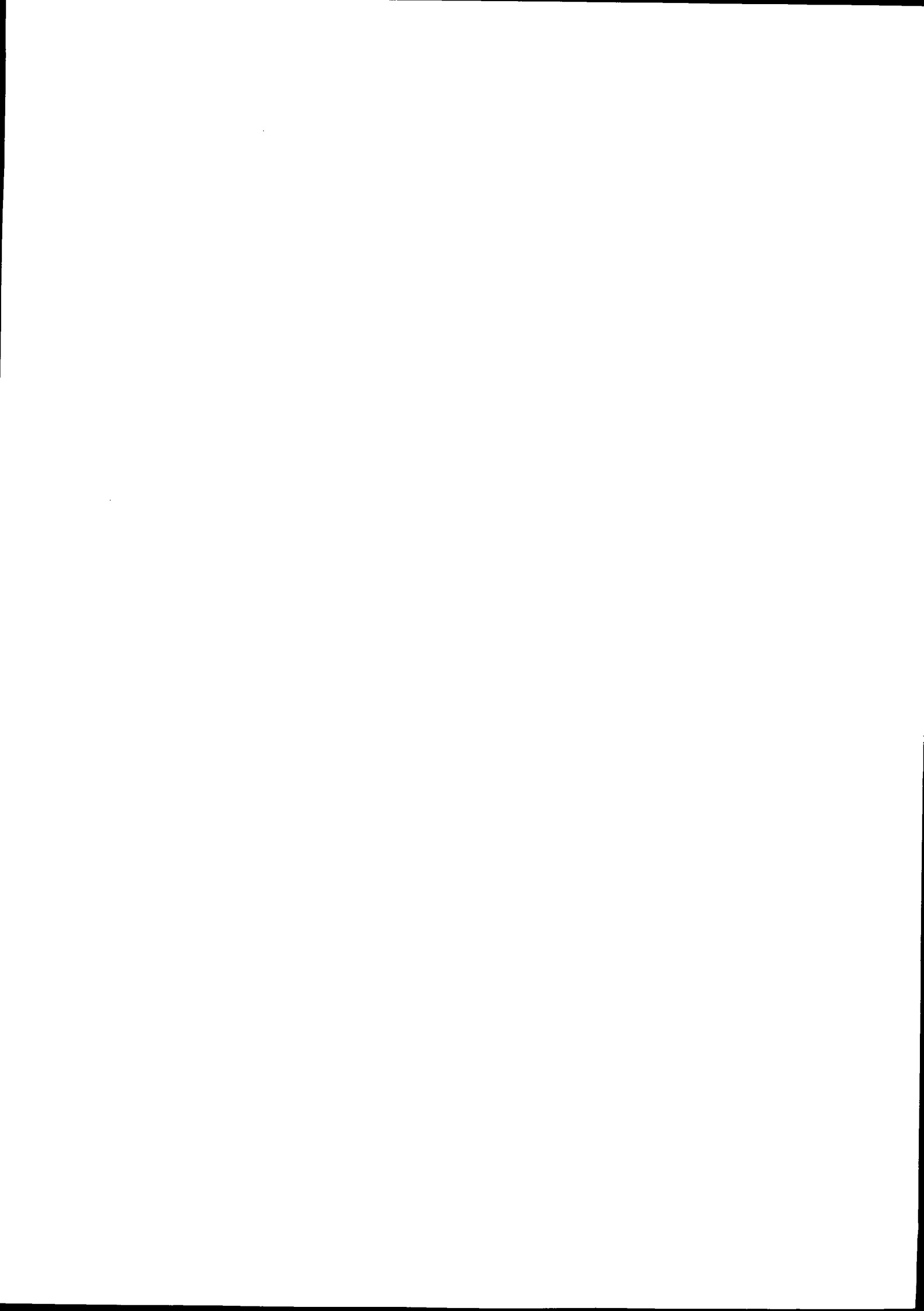
DUF finder det yderst bekymrende, at unge ikke har nogen plads i udkastet og opfordrer ministeriet til at inddrage børne- og ungeperspektivet i den endelige strategi. Unge er en kæmpe, men i stor grad utappet, ressource i udviklingslandene. Som morgendagens ledere og beslutningstagere bør de være centrale aktører i enhver strategiudvikling der sigter mod bæredygtige forandringer. Unge står samtidig over for store udfordringer i udviklingslandene: stor arbejdsløshed, manglende organisering, ressource-fattige ungdomsorganisationer, og lav social status. Tabes store grupper af unge på gulvet, har demokrati og menneskerettigheder ringe vilkår. Ved i stedet at inddrage unge og opbygge deres demokratiske kompetencer kan der skabes langsigtede, strukturelle forandringer.

DUF forslår således, at den endelige strategi:

- Anerkender unge som en vigtig aktør i udviklingen af demokrati og sikringen af menneskerettigheder
- Definerer støtte til unges organisering i civilsamfundet (ungdomsorganisationer, -netværk og -råd) som et strategisk indsatsområde
- Sætter fokus på inddragelse af unge i 'deepening democracy', gennem deres aktive deltagelse i demokratiet
- Inkluderer politiske ungdomsorganisationer og -grene i støtten til politiske systemer.

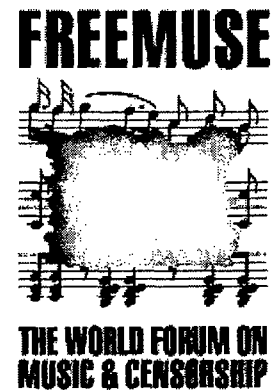
Med venlig hilsen

Julie Koch
International chef



Udenrigsministeriet
Asiatisk Plads 2
Danida

e-mail: udv@um.dk



Copenhagen, 23-03-2009

Re: Input regarding Democratisation and Human Rights for the benefit of the people

Freemuse welcomes the Danida draft "Democratisation and Human Rights for the benefit of the people".

Freemuse is the only international organisation advocating freedom of expression for musicians and composers worldwide. The secretariat is based in Copenhagen.

We would like to share with you a few comments and suggestions:

As Denmark has ratified the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions it seems important that the intentions of the convention are integrated in your strategy.

We would further like to stress the importance that freedom of expression for artists is highlighted and supported in your policy paper as artists play a particular role in developing countries.

Our proposals and comments relate to:

Current draft:

6.2.2 Participation and voice

Guiding principles – participation and voice

Denmark will:page 18

ADDITIONAL PROPOSAL:

6.2.2

Support and stimulate cultural diversity and freedom of cultural expressions

FREEMUSE

Nytorv 17, 3rd floor 1450 Copenhagen Denmark

tel +45 33 32 10 27 email freemuse@freemuse.org web www.freemuse.org

Background:

Denmark has ratified the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. It is a clear intention that the convention is integrated in various policies including freedom of expression.

As artists in developing countries often represent the 'voice of the voiceless' it is particularly necessary to support, promote and guarantee their freedom of expression.

Current draft, same page

Support in this area encompasses:

- The pursuit of independent accountability
- Promotion of the rights of women, indigenous peoples, people with disabilities, children and other marginalised groups.

ADDITIONAL PROPOSAL:

- promotion of cultural diversity and freedom of expression of artists

Background:

Artistic expressions reflect the cultural identities of many peoples. Artists can play an essential role in development, democratisation and creation of identity. Freedom of artistic expression is essential for a democratic society. Denmark - in line with the UNESCO Convention – can more actively support the protection and development of freedom of artistic expression.

Similarly diversity of cultural expressions includes minorities' rights to express themselves.

By mentioning cultural diversity in the policy papers Denmark not only shows a way forward of understanding the role of artists' role in democracies and free speech but equally points out that the UNESCO convention is an essential instrument of human rights

Current draft:

7. Making better use of global actors

Guiding principles – global actors

Denmark will:

Actively promote the vision and values outlined in this paper and in the Danish Government's human rights.....

Support international bodies (such as UN development organisations) to strengthen their human rights service, capacities and coordination.

ADDITIONAL PROPOSAL:

Support essential international/global organisations documenting violations of human rights and advocating freedom of expression

Background:

Independent international organisations such as International Pen, Freemuse and Index on Censorship are collecting substantial documentation of violations of freedom of speech of artists advocating their rights to freedom of expression and monitoring the effects of repression.

Independent Human Rights organisations play an essential role globally, but are increasingly facing difficulties in obtaining global funding. The risk is that the current focus national funding and activity funding removes an essential foundation for international NGO's

Freemuse welcomes any questions and further dialogue.

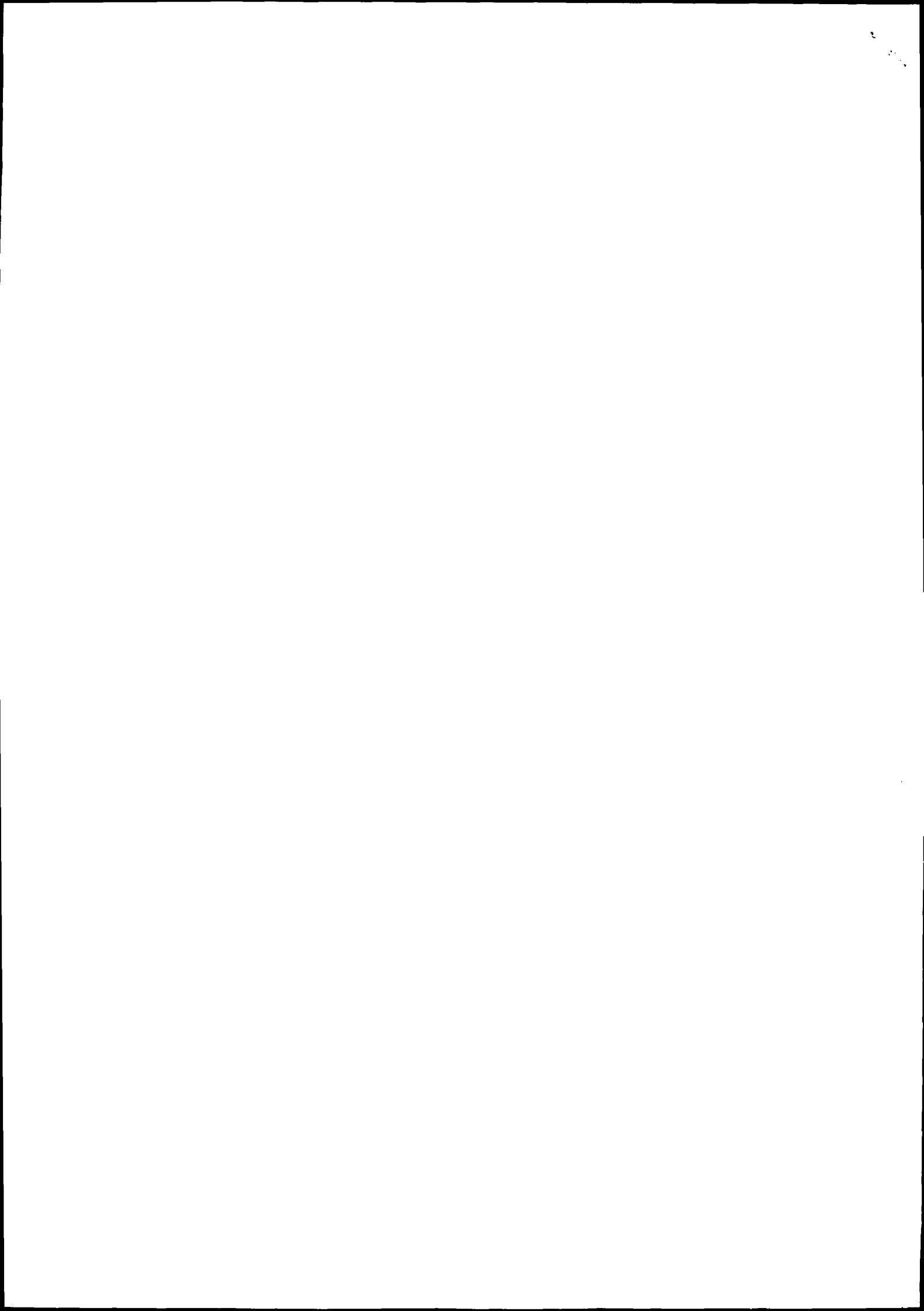
Yours sincerely

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**Hearing response from the Danish Institute for Human Rights
on the draft strategy “Democratisation and human rights for the benefit of the people, strategic
priorities for Danish support for good governance”**

Main points

- Strengthen link between meaningful popular participation and democracy.
- Welcome holistic approach to the administration of justice and focus on NHRIs.
- *In relation to informal justice systems, the focus should be on rendering them compliant.*
- Include focus on building, documenting and sharing knowledge, including across regions.
- Stronger emphasis on equal treatment and non-discrimination.
- Stronger focus on implementation of substantive rights, including economic, social and cultural rights.
- Strengthen emphasis on access to authorities and public services.

1. Overall comments

First of all, DIHR would like to welcome the development of the strategy and the opportunity for providing a hearing response to the draft. Overall, we find the draft strategy to be a good and thorough document that points to a number of areas of intervention that DIHR also considers to be of paramount importance for the effective realization of human rights. DIHR looks forward to further discussing the strategy and ways of implementation at a later stage.

DIHR believes that the four focus areas of the strategy, democracy and participation, justice sector reform, access to justice, and national human rights oversight are important and interlinked intervention areas. Justice is a fundamental element of democratic societies built on the rule of law and respecting human rights. Addressing justice reform benefits from a multi-string approach where all sectors of society are addressed and involved. In this, government, state institutions, relevant civil society organisations, legal aid providers, and monitoring and complaints-handling institutions such as NHRIs play a pivotal role, as does the legislature which has the responsibility for law-making and its processes.

Hence, DIHR sees a clear link between the four focus areas where civil society is strengthened to advocate and participate in democratic processes and in promoting legal and rights empowerment of society, and in monitoring the human rights situation on the ground; where NHRIs are supported in strengthening their position as legitimate cooperators with and brokers between the sectors of society and as monitoring bodies of the national human rights situation; where justice reform and the daily administration of justice is approached both from the top-down and the bottom-up, and where participation, democracy, accountability, justice and good governance are mutually enforcing aspects of implementing human rights.

The long-term perspective expressed in the draft strategy, as well as the focus on local ownership and contextualization of human rights, correspond very well with DIHR's experience with the implementation of human rights internationally. The long term perspective is vital in the light of the still young states in which we are often working, where the rule of law and a civic social contract, especially one based on democracy, is far from fully consolidated. Ownership and contextualization involve discussion, negotiation and translation of the international standards and rights to make them relevant in the national context. In this, participatory processes are key to a broad understanding, acceptance and ownership of human rights. This again points to the need to build

democracy, participation, justice and human rights from the top-down, strengthening the legitimacy of state institutions and from the bottom-up, empowering society to take part in these processes.

DIHR considers the above to be elements in an approach that, complementing the strategic decision to focus on the administration of justice, also focuses on access to public services and in this progressive/effective implementation of human rights, utilizes the international and regional human rights systems as a vehicle.

Democracy and participation

Civil society networks both disseminate information, mobilize for action (rights empowerment) and collect on-the-ground data on the human rights situation. Through the common feature of working to promote popular organization, democracy and human rights, such networks can advocate and thus feed constructively into the various democratic processes, increasing popular participation. It is DIHR's view and experience that the link between this 'rights advocacy' and the political level of democracy in parliament (or in provincial and communal assemblies) and its interaction with government and the judiciary is very important for strengthening popular participation, democratic representativeness and good governance. Issue based campaigns can often be the vehicle for increasing popular participation.

DIHR agrees that strengthening parliaments including their administrations is an important element in promoting democracy, and our experience shows that approaching this issue in relation to the issues of popular participation and strengthening of political parties can support representativeness both in the composition of parliaments and in the democratic processes, e.g. law-making, hence strengthening political governance, participation and good governance. We also welcome the mention of access to information as a prerequisite for this. In this regard, DIHR believes that it is important to explicitly differentiate between support to process and machinery on one hand, and to substance on the other.

In sum, in order to move from outputs to impacts in this area, it is necessary to focus not only on the individual elements of a programme (support to parliaments or civil society advocacy for example), but on their cumulative momentum.

Justice sector reform and access to justice

DIHR notes positively the strategy's focus on justice and on approaching justice reform in a holistic way, both bottom-up and top-down. This is complemented by a focus on participatory and consultative law-making processes and a holistic approach to their implementation.

DIHR would like to commend also the inclusion of elements such as primary legal services, paralegalism, and working with informal justice systems to comply with human rights. Access to justice should be seen together with the basic necessity of access to state services and authorities, as the most pressing needs of poor people frequently do not reach the level of legal claims or rights amenable to determination as a matter of justice.

DIHR sees support to informal justice mechanisms and processes as one of a range of approaches for making justice more accessible that should aim towards complementarity, and seen within the overall framework of the host state's obligation to provide justice. DIHR views a peremptory requirement that informal justice systems conform to human rights in order to be able to benefit from Danish support as problematic. The focus should rather be on the will to and prospect of