

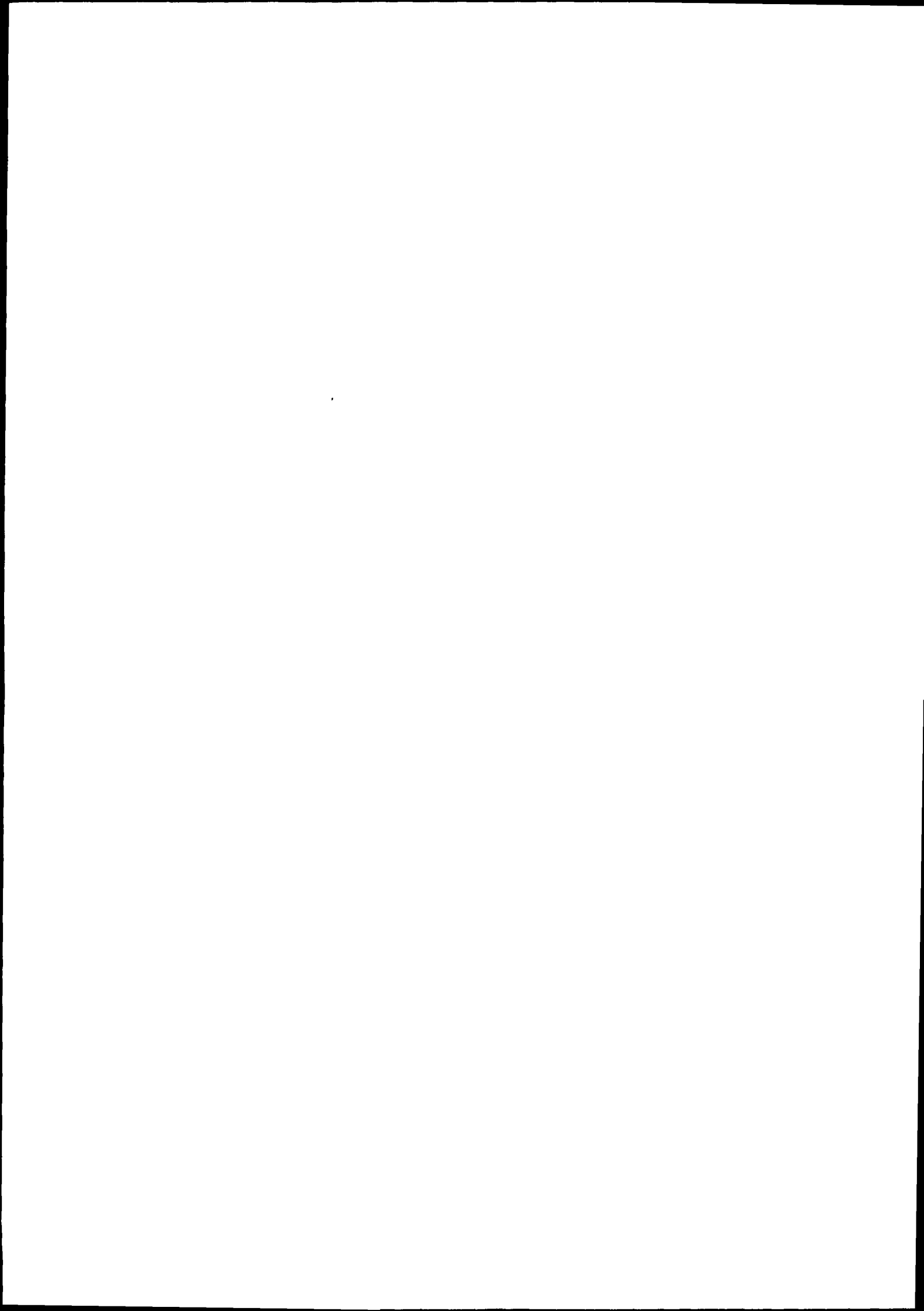
Hørings svar til DMR-strategien

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 Styrelsesråd 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 høringssvar 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 menneskerettighedens 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

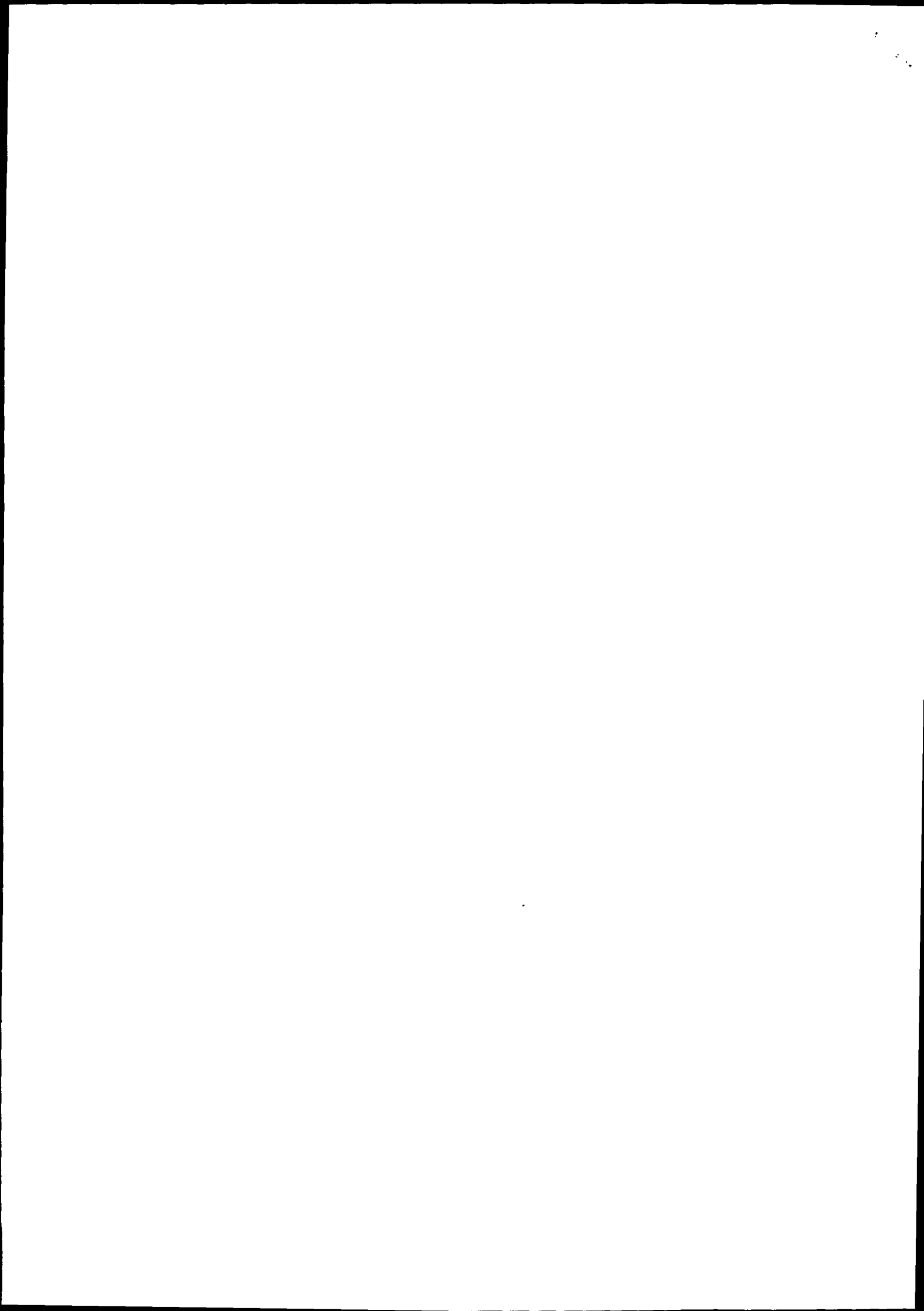
Der er en meget svag fokus i denne strategi i forhold til arbejdet med skrøbelige stater. Dette arbejde ser ud til at være begrænset til "building societies based on the rule of law and justice". FKN ønsker at arbejdet med skrøbelige stater og Danmarks strategiske overvejelser i forhold til dette udfoldes 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 indsatser 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:

- o Support human rights and democratisation as objectives in their own right and as means of reducing poverty and promoting peace and security.
- o 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:

- Governments of partner countries;
- Civil society organisations and other non-state actors; and
- 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 PSC rights and the criticism that human rights are gender-blind! Need a much stronger emphasis on PSC, esp. 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

17 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.

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.

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

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 important... 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:
- Support the participation of poor and marginalised groups in formulating and voicing their demands; and
- 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: Punktopstilling

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 usefull!

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 E-ESC 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: Punktopstilling

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.

And what will the Danish government's strategy be to address these weaknesses? EA 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 HR# 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 divide~~ widespread form of systemic discrimination is on the basis of 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. I ~~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, CoL, 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 "marksager"? ... 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 Ladekarl; 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:

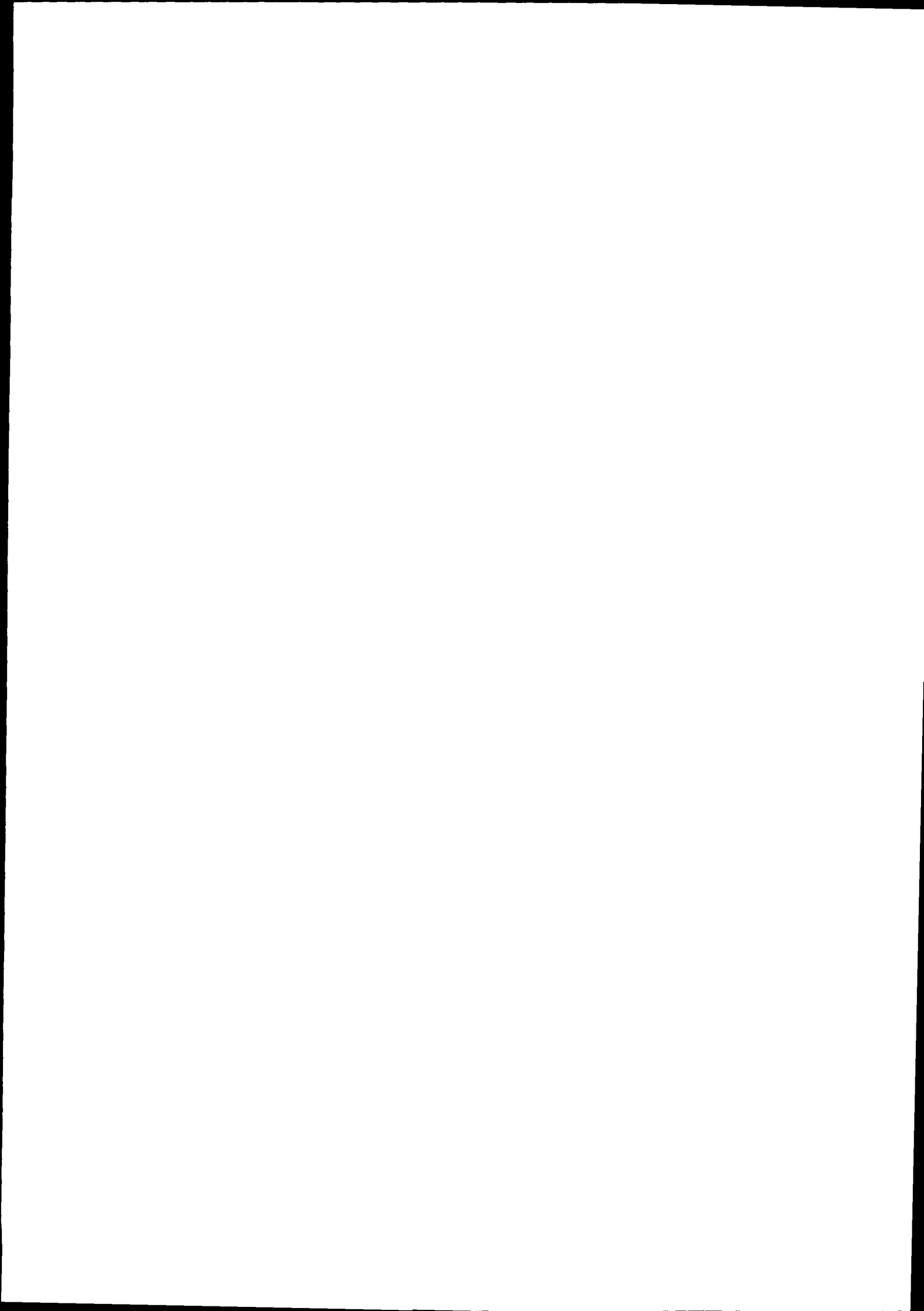
Til første afsnit i kap. 5, s. 10, foreslår vi flg. tilføjelse:

“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
Danish Red Cross
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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 NGO'er 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 territoriale 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.

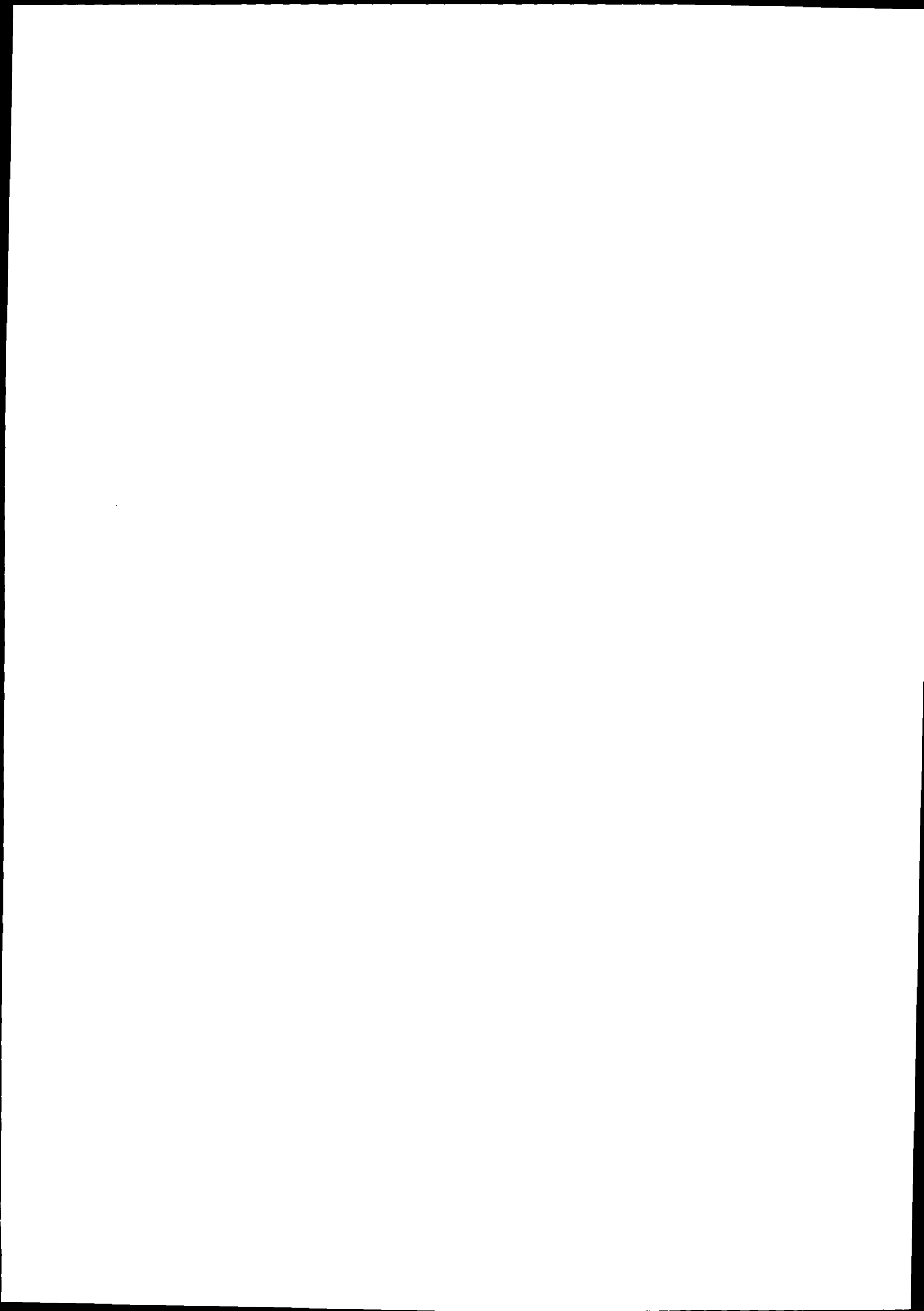
DUF finder det yderst bekymrende, at unge ikke har nogen plads i udkastet og opfordrer ministeriet til at inddrage børne- og ungeperspektivet i den endelige strategi. Unge er en kæmpe, men i stor grad utappet, ressource i udviklingslandene. Som morgendagens ledere og beslutningstagere bør de være centrale 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.

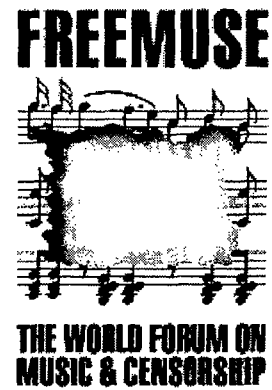
Med venlig hilsen

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.

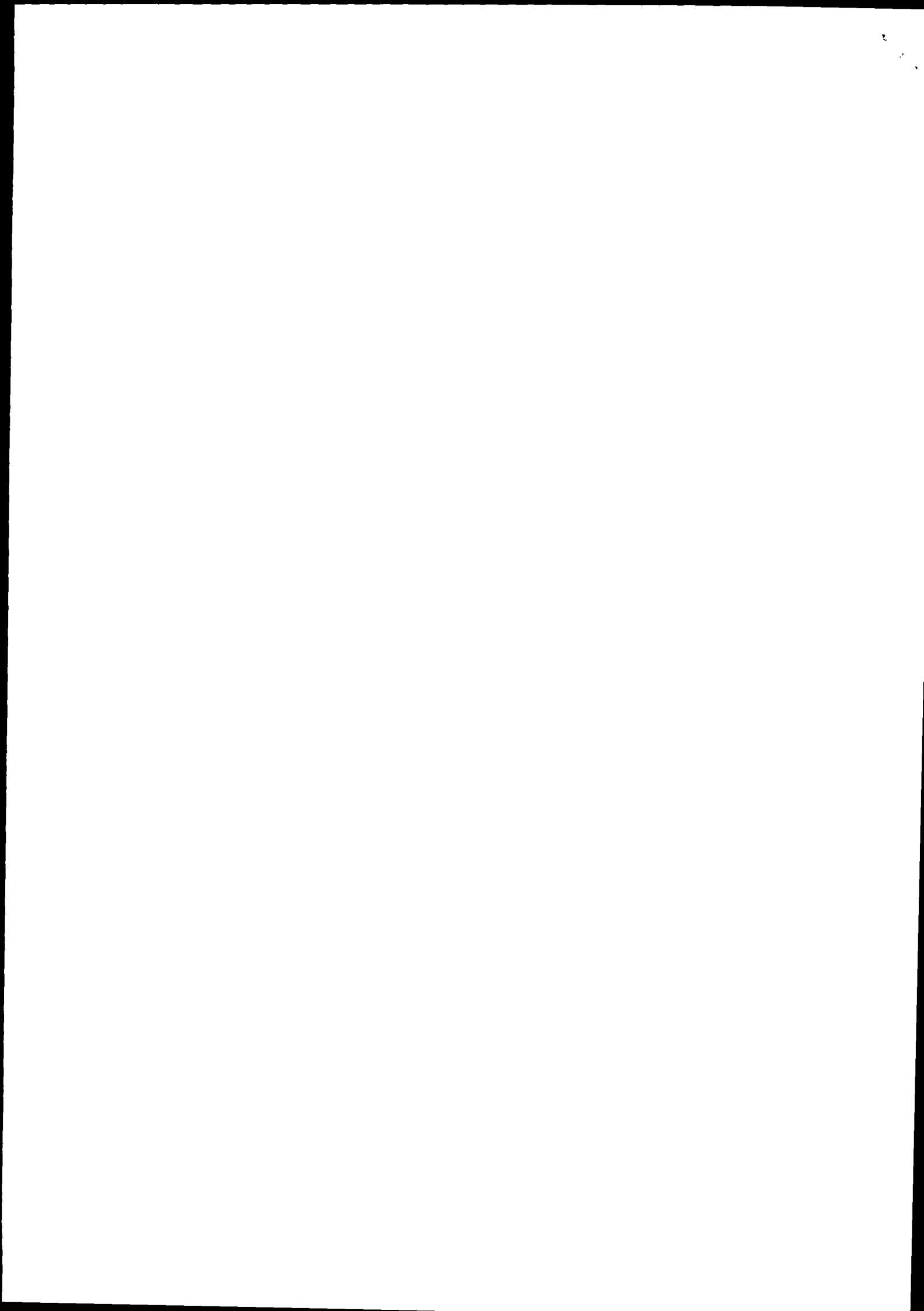
Yours sincerely

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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

moving towards conformity. This is actually the premise for support to formal systems, which most often violate human rights. More is said on this in the specific comments below.

The point of departure for any justice reform must be the constitution, and the legal and judicial reform efforts must be linked to international human rights law. In this regard, DIHR considers it important to use the UN human rights reporting system so that it becomes a source of inspiration and a vehicle for the country in question to set its priorities with regard to implementing human rights. The holistic, sector wide approach is important in all legal fields, including administrative justice and it is important that efforts to strengthen the rule of law and reform justice go hand in hand with strengthening access to justice and legal empowerment, while ensuring that reform processes are participatory.

Human rights-based legal analysis of areas of law can be done and linked to both the constitution, national legislation and relevant international obligations. This approach provides a solid knowledge-base for dialogue between government, state and civil society, and can be linked to the UN human rights reporting system if so desired, hence providing an effective tool for situation analysis, facts-based dialogue, and implementation of recommendations through human rights implementation plans.

While the various elements in the strategy in relation to the administration of justice are well chosen and mutually supporting, the aspect of inter-relatedness will be very important in the context of operationalisation. The links between legal and political governance, between democracy and human rights, between transparency, participation, and accountability, among civil, political, economic social and cultural rights, are well-established. For the poor, the distinction between participation, in section 6.2.2, and access to justice, in section 6.3.3 of the paper, may frequently be abstract and distant, when the most pressing need is for some rather basic form of state assistance.

National oversight

DIHR welcomes the focus on national oversight and especially on NHRIs. DIHR considers it to be important that focus is given to strengthening the broad anchoring of NHRIs within society and thereby supporting their legitimacy in monitoring and reporting on the national human rights situation and in cooperating with the state, civil society and the international community, as stressed in the UN Paris Principles. This emphasis also highlights that the implementation of human rights must take place nationally while constructively utilizing the international and regional rights systems in setting the national human rights agenda.

Likewise, the international human rights system depends for its relevance on the existence of national monitoring, reporting and advisory systems, and for its effectiveness on programmatic and implementation structures. It is important to see the various actors and steps in human rights monitoring as mutually reinforcing. The UPR process has already shown signs of bearing fruit in terms of a trend towards strengthening NHRIs in countries.

Fragile states

As the overall definition of fragile states is closely connected to an inability or unwillingness of the state to provide basic services and security for its citizens, interventions in fragile states should be targeted at vertical relations and accountability measures as part of 'state-building' – with a focus on both civil and political rights and economic, social, and cultural rights. In the large portion of fragile states that are affected by violent conflict, human rights and democratization interventions should draw on lessons learned and methodology developed within the peace building field. These include

ways of addressing ethnic polarization and inequality and promoting structural accommodation of diversity, and provision of access to justice that is timely and appropriate, not only with regard to past abuses but also with regard to every day disputes and administrative issues that in a post conflict setting are much more likely to quickly deteriorate into a re-polarisation and resumption of violence. More operational lessons and tools may need to be developed (beyond flexibility in funding schemes), that will guide those dealing with the human rights and democratization challenges of fragile states.

General issues – areas for greater emphasis

The draft strategy contains a number of assumptions that DIHR would suggest be further analyzed, and in this regard, DIHR would suggest that the strategy contain a stronger focus on production and sharing of knowledge, e.g. through research, analyses and education activities. DIHR has seen how human rights education has paid off and how important knowledge-based information and education is for the implementation of human rights. While the internet and electronic communications have been pivotal in the growth of human rights over the past fifteen years, the lack of access to materials and sources of inspiration remains pronounced in non-English speaking countries and contexts.

In this regard, DIHR considers it important to support an increased focus on exchanging knowledge and knowhow between regions, and enabling this exchange through common activities, through support to research, analyses and documentation, and through education and capacity development efforts.

DIHR would welcome a stronger emphasis in the strategy on equality and non-discrimination and in this a reference to the Ministry's strategy on HIV/AIDS, which states that human rights are an important component in the fights against HIV/AIDS. There would seem to be a particular gap in relation to combating discrimination based on factors other than gender.

DIHR would welcome a stronger focus on economic, social and cultural rights in the strategy. While these areas of rights can be addressed through the participation and accountability mechanisms and processes in the strategy, the paper would benefit from a more explicit consideration of them. Rights based approaches to development are relevant in this regard.

Given the strategic focus on democratization, participation and political governance, more attention could be given to HR defenders, perhaps through a reference to the Ministry's civil society strategy, which addresses this as well as other issues related to support to civil society (e.g. freedom of assembly, NGO laws, etc.)

As mentioned above, DIHR is of course available for further input to and discussions of the strategy and its implementation.

3. Specific comments

DIHR has a number of specific comments that we have organised according to the structure of the draft strategy and that we hope can serve as inspiration to strengthening the strategy further.

Section 4

DIHR welcomes the specific inclusion of the right to access to information in the draft strategy but would like to stress that this is both a right in itself and a catalyst for the fulfillment of various other rights. DIHR regards access to information as the legal tool to achieve transparency, accountability and participation and therefore links up also to deepening democracy and good governance.

Section 5

In relation to reducing poverty and good governance, DIHR believes that citizen/client/public service charters is an excellent vehicle to ensure that the central and local public service provision is in accordance with the public's legitimate expectations, and is therefore strengthens local and central governance, assures accountability and addresses the economic and social rights of people, hence addressing issues of poverty and inequality.

Section 5, page 10 after "individual members of society":

Good governance is vital at many levels: in international organizations, among donors, as regards centralized state institutions, and at the level of local decentralized rule. In regimes based on centralized state control, the strengthening of local governance through decentralization is also a potential pathway to the strengthening of human rights implementation at a level close to poor and marginalized populations.

Section 5 page number 11

DIHR suggests the addition of the following sentence:

Danish support may be made available to civil society organizations that demonstrate a clear commitment to equality, human rights and democratic values.

Comment to section 5 page number 11 in the paragraph starting: "A strong independent and diverse civil society also contributes to creating social cohesion.

While agreeing with the text of the paper in this area, DIHR observes that the ability of civil society organizations to cooperate and form networks and coalitions is often a key factor carrying out successful advocacy for reforms, by creating a true human rights movement. Full respect for freedom of association is necessary for such bottom-up mobilization to thrive. The UNGA resolution on human rights defenders, and the appointment of special rapporteurs on the subject at the UN and AU levels, were useful steps forward in this regard. These mechanisms need to be given renewed impetus and support by Denmark and other donor countries.

DIHR thus proposes the addition of the following text:

"The ability of civil society organizations to cooperate and form networks and coalitions – and thus creating a true human rights movement - is often a key factor in carrying out successful advocacy for reforms,. For this, a legislative and administrative environment that fully enables freedom of association is required. Denmark will fully support the full enjoyment of these freedoms."

Section 6.2

The draft strategy explicitly prioritizes not to focus on supporting the rules and norms of political conduct. DIHR agrees that a number of actors have expertise within the area but at the same time our experience shows that strengthening the rule of law often implies entering into the area of constitutionalism and constitutional reform.

Section 6.2.2

The section talks about the need to support the participation of the poor in formulating and voicing their demands and reference is made to the pursuit of independent accountability mechanisms, to awareness of rights and to promotion of the rights of women, indigenous peoples, people with

disabilities, children and other marginalised groups. Civil society is mentioned as one of the actors in this respect.

Proposed text changes: After first sentence, new text could be added saying:

“Voice and participation are particularly important to poor people in relation to issues that affect their right to earn a livelihood and to economic, social and cultural rights including access to health and education services, and public infrastructure including for example water provision and roads. Rights based instruments and mechanisms to make provision of these services more accountable, such as public service charters can both improve lives and make government more accountable and democratic.”

DIHR would also like to propose some additions and changes and additions to the text:

Support in this area encompasses:

- The pursuit of independent accountability mechanisms (including through NHRIs) (including alternative means of freedom of expression).
- Participatory processes to develop local accountability instruments and mechanisms in respect of basic services.
- The right to hold an opinion and to gain access to information.
- Awareness of these rights and empowerment of people to claim their rights.
- People-centered and expert based advocacy by civil society
- Support for and development of civil society rights based networks and coalitions on national and regional scale
- Promotion of the rights of women, indigenous peoples, people with disabilities, children and other marginalized groups.”
- Support for and development of civil society rights networks and coalitions for women, indigenous peoples, people with disabilities, children and other marginalized groups
- Development of fact based democratic dialogue on human rights and inclusion of all citizens in societal life between civil society and the states.

Comment: In terms of substance, voice and participation are particularly important to poor people in relation to issues that affect their right to earn a livelihood and to economic, social and cultural rights including access to health and education services, and public infrastructure including for example water provision and roads. Mechanisms to make provision of these services more accountable, such as public service charters, that take a rights based point of departure, can both improve lives and make government more accountable and democratic.

The Paris Principles emphasise the importance of NHRI cooperation with civil society. In light of the clearly stated intention of increasing the focus on NHRIs, (cf. p. 2), it could be considered to mention also NRHIs as an important potential actor in respect, both as an independent accountability mechanism and as an important actor with respect to awareness raising and the promotion of the rights of marginalised groups, in cooperation with civil society. Through promoting transparency and accountability processes such as Public Service Charters, NHRIs can contribute

Page 19: Re.: Paragraph on gender equality. DIHR suggests placing the paragraph on gender equality in the context of some text on equality more generally. This is in line with the choice of combating all forms of discrimination as a strategic priority (section 6.3, p. 21).

Proposed text changes: At the end of the paragraph, add text saying:

“More generally, equal treatment of all members of society and non-discrimination is a fundamental human rights principle. Denmark will continue to support full respect for its realisation.”

Section 6.3

DIHR welcomes the emphasis on securing an adequate legal framework and our experience tells us that supporting human rights-based law revision and reform as well as strengthening participatory law-making processes is an important area of intervention, not least connected to the international human rights system as described above.

We suggest that “access to information” be added on page 21 last bullet after “freedom of expression”.

Section 6.3.2

DIHR welcomes that commissions working with HIV/AIDS are explicitly mentioned but it seems unclear which type of commissions are referred to. It should be noted that a number of NHRIs focus on working with HIV/AIDS and that DIHR is involved in this work in cooperation with among others UNAIDS, UNDP and OHCHR.

We refer to the earlier comment on the importance of fostering effective cooperation with civil society in relation to the various NHRI roles.

Proposed changes: The examples of thematic commissions could usefully include mention of mechanisms to monitor places of detention, with specific reference to the Optional Protocol to the UN Convention against Torture (OPCAT), and independent mechanisms to handle complaints against police and security forces. These are especially relevant in the light of the choice of combating torture as a strategic Danish priority (section 6.3, page 21).

The list of the normal mandates areas of NHRIs on p. 24, does not currently include the role of NHRIs with respect to international cooperation and interaction with global and regional actors, such as the UN organs. We would suggest that this be changed.

Section 6.3.3

While the section correctly states that support to justice systems and institutions is of limited benefit in the absence of effective access, the guiding principles of the section could benefit from a clearer outset in the **obligations of the state to make justice accessible**.¹ In addition, this section is the one where the main target group of Danida, the poor and the marginalized populations, are most in focus. However, the approach included in the section is “access to justice”. As an alternative, the heading of the section could be Empowerment and Enabling Access to justice for the Poor and the Marginalized. A key problem for poor and marginalized populations in realizing their rights is not only access to justice, but access to authorities in general. To most of the poor, the notion of authorities is either linked to fear, oppression, corruption, distance or ignorance. The Danida Civil Society Strategy

¹ States are obliged under international human rights law to provide: (i) remedies for violations of rights committed by the state or its agents, (ii) the possibility of a fair hearing to determine the “civil rights and obligations in a suit at law” of all persons, including in many civil cases and (iii) protection against violations of rights (usually crimes) committed by private persons (rights to bodily integrity, freedom and property), and the parallel obligation to treat those accused of such crimes according to fair trial standards. Such obligations are to be respected without any form of discrimination, and are particularly stringent where children are concerned. Particular instruments, including CEDAW and the Maputo Protocol in Africa place a particular emphasis on women’s access to justice.

emphasizes support for the capacity of civil society to engage in a critical dialogue with relevant authorities. Such process of empowerment could well be reflected in this section.

Generally, we see three strategies that are relevant under the proposed heading

- Access to justice
- Accessing authorities generally
- Access to services

Access to Justice

States are obliged to secure access to justice (understood as effective remedies for violations of rights under international law, national legislation and private legal obligations), in respect of many matters of criminal, civil and administrative law. The state obligation remains even when it relies on informal mechanisms to actually deliver some forms of justice.

DIHR welcomes the emphasis on diversified delivery models (page 26, third paragraph) for the provision of legal services, including partnerships with civil society partners and encouraging of an engaged role on the part of the legal profession. The section could perhaps benefit from an explicitly **holistic view** of access to justice and legal services, drawing from "**legal empowerment**" approaches and starting with legal education and information, and progressing through simple forms of assistance (including accompaniment, advice and mediation) to legal representation, including class actions and strategic litigation.

While the section mentions criminal cases and civil disputes, it does not specifically mention access to justice in **administrative cases or matters**. We suggest that this be added, as it is extremely relevant to the protection of a wide range of human rights, including particularly the rights to property and to a livelihood (for example inheritance, land use, permits to engage in economic activity) family life (custody of children and the rights of children to education, recognition of civil status etc) to the rights to work, travel, or found companies or organizations etc. Access to administrative justice is also of course a key way of ensuring good governance (accountability) - see section 5.

Before moving to informal justice systems as one of the possible solutions to a lack of access to justice, it would be good if the strategy explicitly placed this solution in the context of **other approaches to making justice more accessible, on both supply and demand sides**, including simplification of language and procedures, providing legal aid services and legal literacy programmes, conducting of some cases in vernacular languages, cadastral land registration schemes, birth and marriage registration campaigns and mechanisms, establishing small-claims courts, making increased use of diversion and non-custodial sentencing in criminal cases, introducing or strengthening public service mediation, etc.

DIHR welcomes the increased focus on the issue of **informal justice systems (IJS)** in the context of strengthening efforts to support democratic societies based on justice and the rule of law. The paper could benefit from an initial recognition of the variety of systems covered under the broad category of IJS, including traditional systems often based on the hereditary authority of chiefs, semi-state systems conducted by elected or appointed authorities, systems based on religious norms, and "modern" systems of community mediation sometimes linked to legal service NGOs or development CBOs.

DIHR considers the formulation to the effect that "Denmark will only support informal systems of justice that respect human rights" (p.27) to be problematic in a development context, since most informal justice systems are known not to be in compliance with human rights on all accounts. This,

combined with the acknowledged significance of IJS as a source of justice provision for poor and vulnerable people in developing countries, makes it important to work with them – not only despite their non-compliance with human rights, but precisely because of it.

Instead of shying away from non-compliant systems, DIHR proposes that Danish engagement with IJS continues to operate from the basic premise that it is the (partner) sovereign state's responsibility to protect and fulfil human rights within its jurisdiction, also when IJS play a role. States have a double obligation: to ensure that IJS do not violate the rights of their people and to facilitate forms of justice provision that are capable of satisfying the demand for justice according to international standards. Danish assistance should be premised on assisting the state to satisfy these obligations and assisting IJS, where they are capable of living up to key standards, to achieve these ends.

As is recognized in the strategy paper, current non-compliance, combined with a will and a capability to improve, is frequently the reason why for Danish support to formal justice sector institutions and actors; the purpose being to enhance their compliance with human rights. Human rights standards and rights-based approaches to development are often aspirational, seeking to get governments to progressively move toward acting in accordance with such standards rather than demanding immediate compliance. The same approach should apply to working with informal justice systems. While recognizing that there is a limit to which IJS Denmark can work with or try to address. The criteria for this limit could on the one hand be based on the gravity of non-compliance with human rights and on the other hand, and, more importantly, on the willingness of the IJS to operate with an understanding, that the aim is to enhance human rights compliance and in doing so certain practices of the IJS may have to be modified. The types of engagement with IJS can gradually change and develop as greater compliance is achieved.

Access to authorities

Rights-based civil society organizations are of vital importance in the domestication of human rights. Through their professional work, human rights is given meaning and local importance. They serve to create linkages between local remote populations and the authorities. A growing number of local organizations work with a human rights agenda, whether from the perspective of individual rights or from a more general human rights perspective. Women's organizations are often vital in this regard.

The support for these initiatives relate therefore to

- capacity development generally including networking and advocacy training
- rights-based strategy development, how to present demands, how to be effective in terms of advocacy, and how to deal with authorities

Access to public services

We have already noted this element in the introductory comments to Chapter 5 of the strategy. If closer linkages are established between poverty and human rights in Chapter 6 of the strategy as a strategic priority, elaboration of the importance of Access to Services are relevant here.

This is the element where a strong overlap between economic, social and cultural rights and the poverty orientation is obvious. Access

Section 7

On p. 28 reference is made to UN, regional human rights bodies and civil society networks as actors crossing boundaries and straddling national territories. In line with this, the list of regional institutions contains only the organs with exclusively human rights mandates, such as the African Commission on Human and Peoples' Rights, the African Court on Human and Peoples' Rights and the

similar Inter-American institutions. Sub-regional human rights instruments have the potential to become an important part of the protection framework in Africa. There are a number of human rights related instruments adopted under the auspices of the African Union and even some sub-regional bodies have adopted human rights related instruments, such as the ECOWAS Democracy and Good Governance Protocol.

In Africa sub-regional bodies, such as the tribunal of the South African Development Cooperation (SADC) and the court of the Economic Community of West African States (ECOWAS), have taken on additional roles as adjudicators of human rights². The sub-regional communities such as SADC and ECOWAS are in general expected to support human rights and good governance in their regions, (see e.g. the role played by SADC with respect to Zimbabwe and ECOWAS' role in military interventions in member states). Consequently, it should be considered to include such sub-regional bodies among the bodies taken into account in this context. It should be noted that these bodies see themselves as playing a role similar to that of the EU in promoting European integration. They are generally highly aware of the importance of human rights protection as a driver of regional integration.

Furthermore, in light of Denmark's substantial support to the African Union over the years, it is somewhat surprising that the African Union is not mentioned in this context.

Section 9

In making better use of global actors, DIHR believes that utilizing the UN human rights reporting system is an important element, as also stressed in the draft strategy on pages 4 and 12. DIHR believes that utilizing the reporting obligation as a vehicle for addressing the issues referred to in section 6.3 – rules and norms, i.e. legal analysis based on human rights, the institutional level, i.e. how these rules and norms are implemented (if in accordance with human rights), and accessibility and accountability, which also includes a level of informed dialogue between the various actors of society, and which includes the political will and capacity to follow up on the recommendations from the UN human rights monitoring system.

This again links up to the section in national human rights oversight (section 6.3.2), as NHRIs can play an important role in facilitating such dialogues, in advising government as well as supporting civil society in their documentation efforts. The state reporting to the UN system is a governmental responsibility (which in some countries where DIHR works is done by human rights ministries) but can and should be done in dialogue with relevant actors in society.

Lastly, it is suggested that the OHCHR/Treaty body indicators are included in the list on p. 32.

² The ECOWAS Court by a specific protocol to this effect, and the SADC Tribunal by its jurisprudence.

Om udkast til strategi for demokrati og menneskerettigheder i udviklingsarbejdet

Ved mail af 4. marts 2009 har Udenrigsministeriet fremsendt ovennævnte udkast til forslag til strategi for fremme af demokrati og menneskerettigheder i udviklingssamarbejdet, til høring.

Overordnet set er Amnesty International tilfredse med udkastet, og ser det som en vigtig markering af, at overholdelse af menneskerettighederne er en væsentlig faktor i fattigdomsbekæmpelsen. Det er glædeligt, at Udenrigsministeriet udarbejder en strategi på området og Amnesty hilser det velkomment, at ministeriet ønsker at involvere NGO'erne i det videre arbejde.

Amnesty anser det for overordentligt positivt, at udkastet som overordnet mål kæder fattigdomsbekæmpelse og overholdelse af menneskerettighederne sammen, men savner i den forbindelse, at sammenkoblingen beskrives mere klart. I den forbindelse er det ikke tilstrækkeligt, at hovedvægten i strategien næsten udelukkende lægges på opretholdelsen og udviklingen af civile og politiske rettigheder. Arbejdet for opretholdelse af grundlæggende forpligtelser inden for de økonomiske og sociale rettigheder spiller en lige så vigtig rolle i en konsekvent menneskerettighedsstrategi inden for udviklingshjælpen, og ikke mindst at alle de grundlæggende rettigheder prioriteres med sikring mod diskrimination og med særlig hensyntagen til sårbare grupper. Det vil derfor være ønskeligt, hvis strategien tilpasses, således, at den mere direkte tager udgangspunkt i en rettighedsbaseret tilgang til fattigdomsbekæmpelse og udvikling.

Amnesty er enig i, at udviklingen af et frit, aktivt og ansvarligt civilsamfund er nødvendig for at kunne udvikle respekten for menneskerettighederne i alle led af samfundet. Strategien vil derfor efter vores opfattelse kunne styrkes betydeligt, hvis det element bliver uddybet yderligere. I den forbindelse vil betydningen af en rettighedsbaseret tilgang til fattigdomsbekæmpelsen være central, da det er i sammenkoblingen af civile og politiske og økonomiske

og sociale rettigheder, at menneskerettighedernes centrale betydning for udvikling i særlig grad bliver forståelig og betydningsfuld for fattige mennesker i udviklingslandene.

Videre er det positivt, at man fra dansk side henviser til at der er tale om en systematisk og langsigtet indsats, og vil arbejde på flere fronter og flere niveauer på samme tid. Amnesty er helt enig i, at menneskerettighederne skal tænkes ind både i planlægningsfasen, i monitoreringen af implementeringen og, ikke mindst, ved effektevalueringen af et givet projekt, og at dette arbejde skal udføres på forskellige niveauer. Strategien vil efter vores mening kunne vinde i styrke, hvis der ud over modtagerlandets ansvar for menneskerettighederne også er et uddybet strategiafsnit, der beskriver, hvordan Danmark som donor vil sikre, at menneskerettighedsdimensionen indarbejdes som tværgående element i alle de betydende udviklingsindsatser. I den forbindelse vil en uddybning af, hvordan Danmark vil sikre menneskerettighederne gennem Human Rights Impact Assessment ved indsatsformulering, monitorering og evaluering være ønskelig.

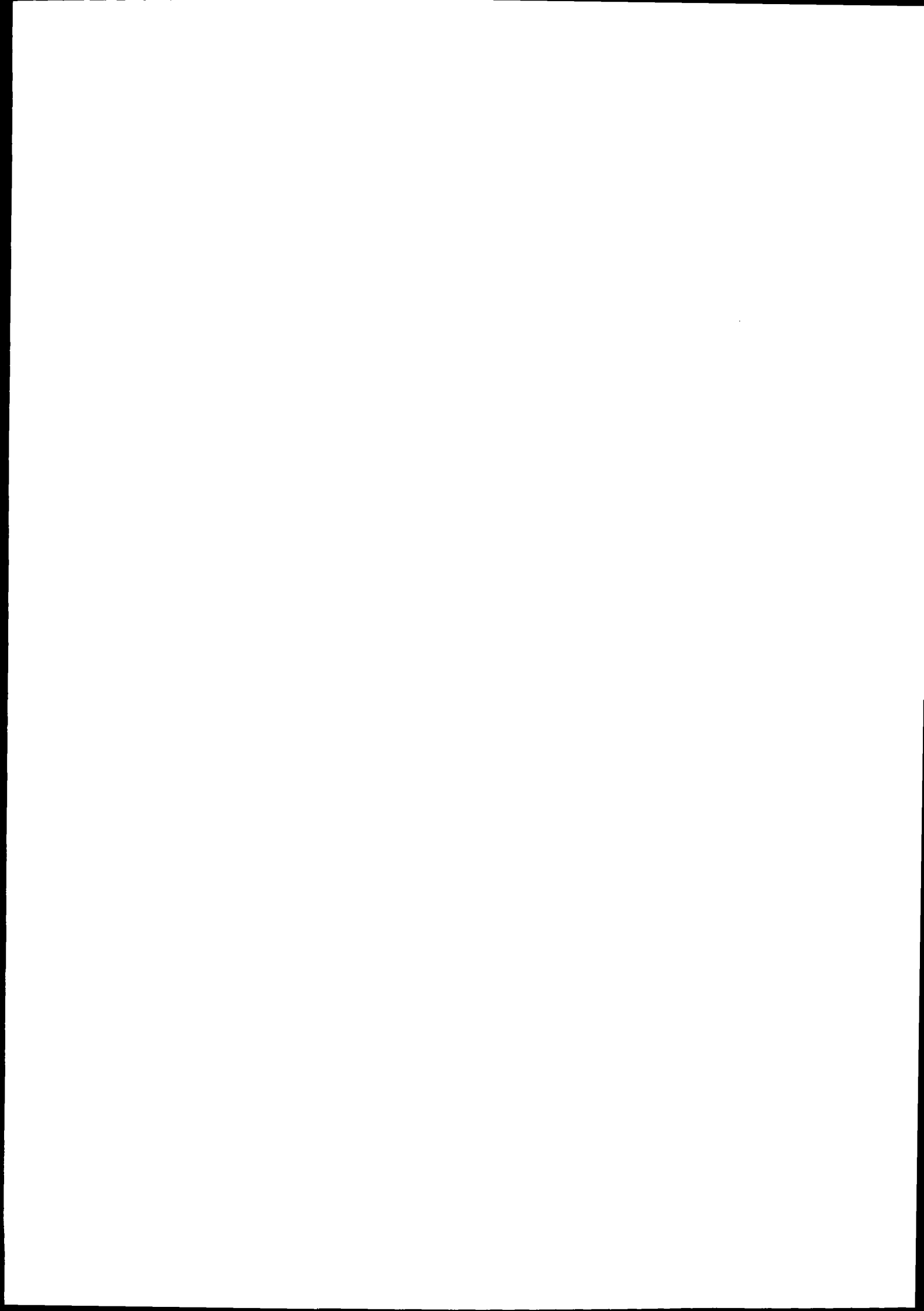
Af mere konkrete bemærkninger:

- anser Amnesty det for positivt, at regeringen vil sætte fokus på Verdensbanken og investeringsfondenes arbejde og deres betydning for menneskerettighedssituationen i de lande og de områder hvor de involverer sig.

- ligeledes finder Amnesty det positivt, at enigheden om "responsibility to protect" fra 2005 fortsat er vigtig indenfor FN arbejdet, således at stater er forpligtiget til at reagere når menneskerettighederne i et givent land er under massivt pres.

- Amnesty ser frem til de "how to notes" på udvalgte områder, der vil følge denne strategi i forventning om, at de vil være detaljerede og konkrete.

Amnesty International



104. A. 1. j

DANSK KUNSTNERRÅD

Udenrigsministeriet
Asiatisk Plads 2
1448 København K

København, d. 25. marts 2009

e-mail: udv@um.dk

30 MRS 2009

Vedr. høringen om udkast til strategi for fremme af demokrati og menneskerettigheder i udviklings samarbejdet

Som bekendt blev UNESCOs konvention for kulturel mangfoldighed (*UNESCO Convention for the Protection and Promotion of the Diversity of Cultural Expressions*) vedtaget på UNESCOs generalkonference i oktober 2005. Den trådte i kraft i marts 2007 efter at de første 30 lande (heriblandt Danmark) havde ratificeret den i december 2006. Konventionen er i dag tiltrådt af 96 lande, og dens intentioner bliver nu ført ud i livet af såvel nationale som internationale organer, bl.a. ved at integrere mangfoldighedsaspektet i øvrige politikområder.

Dansk Kunstnerråd, som samler 24 landsdækkende organisationer for professionelle kunstnere, finder derfor, at dette nye fokus på kulturel mangfoldighed også bør afspejles i Udenrigsministeriets strategi for fremme af demokrati og menneskerettigheder.

Konkret foreslår vi nogle tilføjelser i afsnit 6.2.2. *Guiding principles - participation and voice.*

Til den nuværende tekst:

Denmark will:

- *Promote formal and informal processes and institutions that:
Support the participation of poor and marginalised groups in formulating and voicing their demands; and
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.*

ønsker vi at tilføje følgende:

- *Support and stimulate cultural diversity and freedom of cultural expressions*

COUNCIL OF DANISH ARTISTS

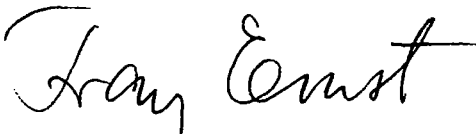
Borgergade 111 · 1300 København K

I de uddybende bemærkninger længere ned i afsnittet under *Support in this area encompasses*: vil vi tilføje:

- Promotion of cultural diversity and freedom of expression for artists

Kunsten og kunstnerne fungerer ofte som kulturelle repræsentanter og talerør for befolkningerne, herunder minoriteter og marginaliserede grupper, og kan derfor spille en vigtig rolle i udviklingen af demokratiske samfund, hvor kulturel og kunstnerisk frihed er hjørnestene.

Med venlig hilsen



Franz Ernst
formand

UDV. 104.4.1.j.

dansk
PEN

INTERNATIONAL PEN
A World Association of Writers

Udenrigsministeriet
Asiatisk Plads 2
1448 København K

e-mail: udv@um.dk

København 2. april 2009

Vedr. høringen om udkast til strategi for fremme af demokrati og menneskerettigheder i udviklingssamarbejdet.

Dansk PEN finder udkastet til "Strategi for fremme af demokrati og menneskerettigheder i udviklingssamarbejdet" meget positivt og konstruktivt.

Som dansk afdeling af "International PEN", der med centre i flere end 100 lande arbejder for kulturel og især litterær udveksling på tværs af grænser og for ytringsfrihed, vil vi gerne komme med to forslag til yderligere præcisering og målretning af strategien.

1) Vi finder, at strategien med fordel kan lægge vægt på kulturel mangfoldighed som udtrykt i UNESCO's 'Convention for the Protection and Promotion of the Diversity of Cultural Expression', som er trådt i kraft i 2007 efter bl.a. Danmarks ratificering af konventionen. Den er i dag ratificeret af næsten 100 stater.

Dansk PEN vil foreslå, at der til strategiens punkt 6.2.2 i boksen '*Guiding principles - participation and voice*' (side 18) tilføjes ét punkt:

" – Support and stimulate cultural diversity and freedom of cultural expressions, including free expression for artists"

I det efterfølgende afsnit 'Support in this area encompasses', vil vi med samme hensigt foreslå, at man indfører endnu et område:

"The right of artists to organize and participate in public debate."

2) Vi finder, at det i strategiens punkt 7 "Making better use of global actors" vil være naturligt også at lægge vægt på de internationale NGO'er som indlysende bidragsydere til fremme af demokrati og menneskerettigheder.

En lang række NGO'er har i mange år haft status som observatører i FN og internationalt samarbejde, hvor de bidrager konstruktivt såvel til international normsættende

udvikling som til fremme og beskyttelse af det civile samfund i enkelte stater og på tværs af grænser.

Dansk PEN vil derfor foreslå, at der til strategiens punkt 7 i boksen 'Guiding principles – global actors' (side 28) tilføjes ét punkt:

” – Include and promote cooperation of international NGOs to strengthen their role in facilitating the organization of artists and supporting their participation in developing and protecting civil society and cultural diversity.”

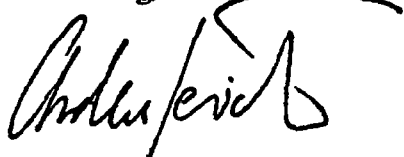
I dét øjemed vil Dansk PEN således foreslå et sidste afsnit til punkt 7 på side 30:

“International NGOs

Danmark will increasingly engage in the development of international cultural organizations Non-Governmental Organizations to facilitate the voice and protection of artists and mediapeople in global cooperation.

Denmark will support and strengthen the role of international NGOs in organizing artists and media people across borders to ensure the participation of civil society in international cooperation.”

På vegne af Dansk PEN



Anders Jerichow
Præsident



- for retten til lige muligheder



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Hvidovre, den 25. marts 2009

Sag 09/279 – Dok. 3563/09 /LFH

Hørings svar vedrørende regeringens udkast til Strategi for Demokrati og Menneskerettigheder i Udviklingssamarbejdet.

Danske Handicaporganisationer (DH) vil gerne takke Udenrigsministeriet for muligheden for at blive hørt i forbindelse med regeringens fremlæggelse af udkastet til Strategi for Demokrati og Menneskerettigheder i udviklingssamarbejdet.

Regeringens vægt på fremme af demokrati og menneskerettigheder hilses velkommen af DH, som også med tilfredshed har noteret sig, at ministeren i sin officielle omtale blandt andet lægger vægt på fattige og marginaliserende gruppers adgang til retssystemet. Adgang til et velfungerende retssystem er en af flere væsentlige forudsætninger for, at man som medborger kan nyde sine menneskerettigheder fuldt og helt.

I forhold til formuleringen om marginaliserede grupper er det DH's erfaring fra udviklingsarbejdet, at det vil styrke og fremme forståelsen, hvis de personer, der falder ind under betegnelsen marginaliserede grupper, nævnes eksplicit i teksten f.eks. kvinder, børn, ældre, personer med handicap, oprindelige folk m.v. DH vil derfor opfordre til, at dette skrives ind mere eksplicit, f.eks. er det oplagt at nævne personer med handicap i afsnit 6.3.3., hvor der i forvejen refereres til kvinder og oprindelige folk.

I samme afsnit på side 26 nævnes der også erfaringer og udfordringer i forhold til at få adgang til retssystemet. Udover det, der allerede er fremhævet i teksten, er en af de helt store udfordringer for personer med handicap, at de ofte ikke har mulighed for at benytte retssystemet på grund af den manglede fysiske tilgængelighed i forhold til retssystemet i udviklingslandene. Den fysiske tilgængelighed er også meget relevant for ældre mennesker i et retssamfund. DH vil derfor foreslå, at der skrives 'lack of physical accessibility' ind i strategien, da det vil give målgruppen mulighed for at nyde de samme rettigheder i relation til retssystemet, som deres øvrige medborgere.

DH har forgæves spejdet efter regeringens ambitioner på det handicappolitiske område i udgivelsen Strategi for regeringens tilgang til det internationale menneskerettighedsarbejde, og må med stor undren konstatere, at personer med handicap ikke er nævnt et eneste sted. Det kan næppe være forbigået Udenrigsministeriets og regeringens opmærksomhed, at Danmark netop i disse uger nærmer sig en ratifikation af konventionen om rettigheder for personer med handicap. DH vil i den forbindelse gerne henlede Udenrigsministeriets opmærksomhed på konventionens artikel 32, som beskæftiger sig med internationalt samarbejde.

bejde. Af artiklens stk. 1 a fremgår det, at deltagerstaterne skal sikre, at det internationale samarbejde, herunder internationale udviklingsprogrammer, er inkluderende over for og tilgængeligt for personer med handicap. DH betragter i den forbindelse begrebet strategi som omfattet af formuleringen internationalt samarbejde herunder internationale udviklingsprogrammer.

I udkastet til Strategi for Demokrati og Menneskerettigheder vil DH gerne kvittere for, at regeringen ser implementeringen af principperne i Pariserdeklarationen og i The 2008 Accra Agenda for Action (AAA) som fremmende for menneskerettigheder og demokrati. The 2008 Accra Agenda for Action (AAA) indeholder, som nævnt i udkastet, en stærk tilskyndelse til, at udviklingslande og donorlande skal sikre, at politikker og programmer er designede og implementerede i overensstemmelse med internationale forpligtelser i forhold til kønsligestilling, menneskerettigheder, handicap og bæredygtighed. I denne sammenhæng henvises, der også til civilsamfundet, deres organisationer samt marginaliserede grupper. DH opfordrer også her til, at de marginaliserede grupper foldes ud således, at det er tydeligt, hvilke grupper der er tale om. Samtidig vil det styrke strategien, hvis de civilsamfundsorganisationer, der henvises til omtales eksplicit i afsnittet f.eks. kvindeorganisationer, handicaporganisationer og organisationer for oprindelige folk, kasteløse mv.

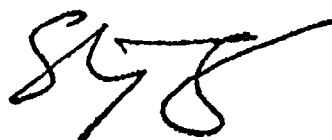
DH noterer sig desuden, at det i afsnit 6.1 slås fast, at der kan bevilges midler til andre områder, end de strategisk prioriterede indsatsområder. DH er af den opfattelse, at handicapområdet herunder virkeliggørelsen af visionen om, at personer med handicap skal kunne nyde alle menneskerettigheder og grundlæggende frihedsrettigheder på lige fod med alle andre, bør være et helt selvfølgelig element i en dansk strategi for demokrati og menneskerettigheder. Herigennem vil man fra dansk side samtidigt kunne bidrage aktivt til at bekæmpe fattigdom, som er den overordnede målsætning for dansk udviklingsbistand.

DH ser med stor interesse på regeringens ambition om at arbejde for at øge tilslutningen til internationale instrumenter på menneskerettighedsområdet. I forlængelse heraf forekommer det DH helt naturligt, men også paradoksalt, at den danske regering vil engagere sig i forhandlingerne om en klagemekanisme til FN's børnekonvention.

Naturligt, idet regeringen vil fremme børns rettigheder, hvilket et internationalt klageorgan må formodes at kunne bidrage til.

Paradoksalt, idet den danske regering afstår fra et lignende engagement, når det gælder fremme af personer med handicaps rettigheder via den allerede eksisterende klagemekanisme i tilknytning til konventionen om rettigheder for personer med handicap.

Med venlig hilsen



Stig Langvad
formand

Dalit Solidaritetsnetværket i Danmark



Mellemløst Samvirke
ms actionaid danmark



Udenrigsministeriet

Att. Karin Poulsen
Asiatisk Plads 2
1448 København K

23. marts 2009

DSN-DK høringssvar til den danske strategi på menneskerettigheder og demokratisering

Organisationerne i DSN-DK modtager positivt regeringens udspil til en dansk strategi på menneskerettigheder og demokratisering, især det overordnede fokus på lighed og anti-diskrimination samt marginaliserede grupper.

DSN-DK opfordrer regeringen til at inkludere dalitter på listen over marginaliserede grupper på lige fod med andre nævnte grupper såsom kvinder, oprindelige folk, personer med handicap og børn i afsnit 6.2.2. Kastediskrimination, som påvirker op imod 260 millioner dalitter på verdensplan, er af internationale menneskerettighedsorganisationer blevet kaldt et af verdens største menneskerettighedsproblemer, hvilket refererer både til omfanget og karakteren af krænkelse. Der er tale om en specifik form for marginalisering og diskrimination, som bør behandles særskilt fra de forhold som gør sig gældende for andre udsatte befolkningsgrupper hvis man ønsker at opnå den tiltænkte målsætning.

En reference til dalitters rettigheder i regeringens strategi vil som sådan ikke repræsentere et nyt fokus, men vil reflektere Danmarks eksisterende indsats imod kastediskrimination multilateralt såvel som bilateralt. Danmark har i de seneste år markeret sig som forgangland i fortalerarbejdet imod kastediskrimination på både EU og FN niveau. Herudover har Danida støttet gennemførelsen af et større regionalt studie om kastediskrimination i Sydøstasien i 2006-2007, samt støttet udviklingen af et tjekredskab for at forhindre kaste-diskrimination i den private sektor. Hertil kommer Danida's mangeårige bilaterale støtte til dalit-organisationer i kasteramte lande såsom Nepal. FNs menneskerettighedskomitéer har også adskillige gange anbefalet en styrket indsats imod kastediskrimination, hvilket ifølge regeringens nye strategi (s. 28) er anbefalinger der skal tages yderligere hensyn til i dansk bilateral bistand.

Det danske udenrigsudvalg holdt en folketingshøring om kastediskrimination den 24. september 2008. DSN-DK formulerede i denne sammenhæng et positionspapir som opfordrede den danske regering til at sætte kastediskrimination højt på den danske dagsorden. Næstformand Karsten Lauritzen anbefalede i sine konkluderende bemærkninger at diskrimination imod dalitter fortjente større opmærksomhed i dansk politik.

DSN-DKs anbefaling

DSN-DK anbefaler derfor at dalitter indgår i listen af udsatte grupper i strategien, bl.a. i afsnit 6.2.2. således at sidste sætning på side 18 lyder som følger:

"The participation and voice of all people in society, including the poor and marginalised groups, is at the heart of democratisation [...] Support in this area encompasses:

- [...]
- Promotion of the rights of women, indigenous peoples, people with disabilities, children, Dalits, and other marginalised groups."

Herudover anbefaler DSN-DK at dalitter sidestilles med andre udsatte grupper i følgende afsnit:

- Afsnit 6.3. på side 21 ("Denmark will support activities...")
- Afsnit 6.3.1. på side 22 ("Experiences and challenges")
- Afsnit 6.3.3. på side 26 ("Improving access to justice")

DSN-DK ser frem til en dialog om hvordan dette fokus kan fremstå stærkere i strategien. Denne anbefaling gælder for så vidt også udenrigsministeriets nye strategi for det internationale menneskerettighedsarbejde, som desværre ikke har været til høring hos civilsamfundsorganisationer før dens udgivelse i marts 2009. DSN-DK vil dog gerne bidrage til en fortsat drøftelse om hvordan prioriteringerne indenfor de enkelte områder i denne strategi vil komme til udtryk i dansk menneskerettighedsarbejde fremover.

Vedhæftet findes DSN-DKs positionspapir udarbejdet i forbindelse med folketingshøringen om kastediskrimination, samt et baggrundspapir på engelsk om kastediskrimination.

- Information om DSN-DK findes på www.dalit.dk
- Yderligere information om kastediskrimination findes på www.idsn.org

På vegne af DSN-DKs bestyrelse

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www.dalit.dk

**Response by International Media Support (IMS)
to the Danida Strategy Paper:**

**'Democratization and Human Rights for the Benefit of the People:
Strategic Priorities for Danish Support for Good Governance' (Draft, 3 March 09)**

25 March 2009

IMS welcomes the new Danida strategy paper and the strong role provided for the media in the promotion and deepening of democracy, and realization of human rights. In addition, the identification of the media as a non-state actor (NSA) for the defence of democracy and freedom of expression is also welcomed.

With the aim of providing a structured response to the strategy paper, IMS has given its comments below in line with the document structure, and is available for further discussion or clarifications on the issues raised.

6.2. Deepening Democracy

6.2.1. Institutions and political practice

As the 'fourth estate', the media plays a crucial role in facilitating dialogue and overseeing the actions of the authorities. These roles have been reflected in section 6.2.2, but IMS would recommend that consideration also be given under sections 6.2.1 to support for the functions of independent self-regulatory bodies (such as broadcasting licensing authorities and press complaints commissions) and independent public service broadcasters.

Such institutions are crucial components for the establishment and maintenance of unfettered media landscapes, only within which an independent and professional media community is able to properly function. In this context, a mature media landscape requires both strong policy and legislation, as well as institutions and practices. Direct and indirect censorship on the media by authorities and vested interest groups often comes through the manipulation of weak or politically controlled public media regulatory institutions. Likewise, where public service broadcasting does exist, models for strong independence from the executive are required, otherwise such public institutions may only serve as mouthpieces for the incumbent government.

6.2.2. Participation and voice

IMS welcomes the strong role given to support for free and diverse media as a watchdog and platform for democratic debate.

IMS finds that the inclusion of the role of the media in building democracy in post-conflict settings and fragile states (as mentioned on page 11 of the paper), both as a conflict reducing and resolving entity, would also be of importance. In contexts where the (re)building of democratic processes and institutions is underway, the media plays a vital role in informing the public and addressing grievances. In this regard, IMS would like to see included in the guiding principles for section 6.2.2, the 'role of the media in building inter-communal understanding and forming democratic practices, specifically in fragile and post-conflict states'.

6.3. Realizing human rights

IMS welcomes the mention of freedom of expression as the last bullet point under the strategic priorities in section 6.3, but would like to see this right being given greater prominence in the strategy.

As is well established, freedom of expression is a fundamental right essential for the realization and protection of all other human rights. It not only allows people to participate in democratic processes, but also facilitates their ability to attain development in other sectors, whether it is health care, religious freedom or protection of vulnerable groups. In this regard, IMS would argue that freedom of expression and its role as an essential guarantor of other rights deserves particular consideration within the Danida strategy.

6.3.2. Strengthening national human rights oversight

Although freedom of expression belongs to all, the media plays a particularly crucial role in the defence and assertion of this right. Section 6.3.2, dealing with strengthening national human rights oversight, mainly provides for support to national human rights institutions (NHRIs). IMS would argue that the media should be included in this section in its role as an essential independent non-governmental overseer and guarantor of public interests and human rights.

Without the media defending and expanding 'spaces for freedom of expression' and raising issues of public concern, the realization of all other rights would be significantly hindered and endangered. Targeted support to key individual media outlets (print, broadcast and new media) and media civil society institutions would strengthen the role of the media as the primary defender of freedom of expression and de facto overseer of all other rights.

Furthermore, the media provides for a complementary counterpart to NHRIs. In this regard, with the media creating a strong base for the realization of human rights, it is an important ally for NHRIs in their daily work. This mutually reinforcing and protective interrelationship between the media and NHRIs can ward off efforts to exert political influence over both, with NHRIs being able to raise cases of freedom of expression and press freedom violations, and the media overseeing the actions of NHRIs and their independence from government, political groups and vested interests. This in turn helps to create a stronger more durable framework for the promotion of human rights with mutual checks and balances.

Sendt: 21. marts 2009 14:09

Til: UDV

Cc: international@lbl.dk; strategiskforum@lbl.dk

Emne: Kommentarer til "Democratisation and Human Rights for the benefit of the people - Strategic priorities for Danish Support for Good Governance".

Til Udenrigsministeriet

Landsforeningen for bøsser og lesbiske har med interesse læst "Democratisation and Human Rights for the benefit of the people - Strategic priorities for Danish Support for Good Governance". Landsforeningen må dog med stor bekymring konstatere, at strategien ikke eksplicit berører rettighedsspørgsmål for bøsser, lesbiske, biseksuelle og transpersoner (LGBT).

LGBT-personer er i mange lande særligt udsat for overgreb af forskellig art. Danmark bør derfor i sit menneskerettighedsarbejde inkludere aktiviteter, der kan fremme LGBT-retigheder. Af samme grund anser Landsforeningen det for afgørende, at "Democratisation and Human Rights for the benefit of the people - Strategic priorities for Danish Support for Good Governance" omfatter menneskerettighedsarbejde for LBGT-personer. Lande, som Danmark normalt sammenligner sig med, har strategier for at sikre LGBT-retigheder via internationalt udviklingsarbejde.

Til inspiration kan fremhæves den nederlandske "Simply Gay"-strategi, hvoraf det fremgår: "In the summer of 2007 the Minister for Development Cooperation had a study conducted into the liability to punishment of homosexual acts in the 36 countries with which The Netherlands maintains a development cooperation relationship. Homosexual acts proved punishable in 18 of the 36 partner countries. The Dutch embassies have been asked to include the abolishment of liability to punishment in their dialogue with the authorities of the partner countries in question. In many of these countries the theme of homosexuality is a very sensitive one. However, efforts will still be made to discuss the issue with the local authorities in the context of broader human rights issues if there is a chance this could lead to useful results. In addition to the legal position, the social position of sexual minorities is also an area of attention for the Dutch embassies. For this purpose many embassies maintain contacts with gay advocacy groups in the countries in question. When necessary, embassies provide support by, for instance, closely monitoring court cases in which sexual orientation plays a role, like the recent case in Uganda."

Den nederlandske strategi fremhæver endvidere: "Other than by diplomatic means, the government also contributes to LGBT policy by means of financial support for LGBT advocacy groups in other countries. The capacity structuring of such organisations takes place, among others, via the Matra projects programme, which will see a project start up in 2007 in the area of LGBT emancipation and the rights of sexual minorities. The COC was promised a subsidy for a project with the Turkish organisation that represents gay rights. The government will make over 600,000 Euro available for this project."

Også Sverige inkluderer LGBT i den svenske udviklingspolitik: " In 2006, Sida launched its *Action plan for work on sexual orientation and gender identity in international co-operation 2007–2009*. The overall goal of this plan is to enable lesbian, gay, bisexual, transgender and intersex persons (henceforth referred to as LGBT persons) to improve their living conditions in the countries where Sweden is engaged in development cooperation."

På den baggrund vil Landsforeningen opfordre Udenrigsministeriet til, at der i "Democratisation and Human Rights for the benefit of the people - Strategic priorities for Danish Support for Good Governance" inkluderes LGBT-spørgsmål i tråd med blandt andet Sveriges og Nederlandenes strategier. Dette kan gøres ved blandt andet:

- at bringe LGBT-spørgsmål op i Udenrigsministeriets bilaterale kontakter med regeringer i lande, hvor LGBT-personer udsættes for overgreb
- at støtte organisationer i udlandet, der har et LGBT-fokus
- at arbejde for afkriminalisering af LGBT-personer i lande, der modtager danske udviklingsmidler.
- at indgå partnerskaber med blandt andre Nederlandene og Sverige om en fælles indsats for at forbedre LGBT-retigheder i landene, der er kendt for at krænke menneskerettighederne

Har I brug for uddybende oplysninger eller anden information, står vi naturligvis til rådighed.

Med venlig hilsen

Steffen Jensen

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**Comments by Transparency International on
DANIDA's Strategy on Democracy & Human Rights
April 2009**

Transparency International (TI) welcomes the draft strategy document (3 March 2009) developed by the Ministry of Foreign Affairs of Denmark. It is important step forward on the part of donors in making the linkages between governance, human rights and development in terms of funding and programme priorities.

TI is in strong agreement with the key messages, principles and proposed actions of the draft strategy. In our experience, in the field of corruption and governance, the complex interplay between poverty, corruption and (lack of) good governance is very apparent although a connection which is too often overlooked. TI has seen such issues being particularly acute in programming around extractive industries and public sector reform.

To strengthen and refine some of the draft strategy's points, we would like to make some suggestions and recommendations, which are based on the experiences of TI and its more than 90 chapters worldwide:

- p. 7, box with definition of accountability – we feel that the definition of accountability as “the people are able to hold the state to account” could be improved, e.g. by defining it as “the concept that individuals and agencies, whether operating in the public or private sector, are held responsible for executing their powers properly.”
 - The concept of accountability also should be further explained along the three areas that it is built: diagonally, horizontally and vertically.
 - Diagonal accountability is when citizens use government institutions to elicit better oversight of the state's actions, and in the process engage in policy-making, budgeting, expenditure tracking and other activities.
 - Horizontal accountability subjects public officials to restraint and oversight, or “checks and balances” by other government agencies (i.e. courts, ombudsman, auditing agencies, central banks) that can call into question, and eventually punish, an official for improper conduct.
 - Vertical accountability holds a public official accountable to the electorate or citizenry through elections, a free press, an active civil society and other similar channels.
- P. 8: The linkage between transparency and accountability needs to be better refined. TI views transparency as a pre-requisite for any accountability mechanism. Transparency provides for effective participation in political processes and to detect, prevent and avoid corruption.
 - For TI, transparency means “being clear, honest and open in the disclosure of information, rules, plans, processes and actions so that citizens can better understand their governments, company stakeholders can learn how firms operate, and authorities have reduced opportunities to abuse the system.”
- p. 12, first para – While we agree with the statement that “the legitimacy and accountability [of CSOs] should also not be taken for granted”, we feel that a more constructive perspective, which gives guidance on how DANIDA should engage with CSOs would strengthen this section.
 - TI commends DANIDA for its continued support of civil society initiatives prior to and in follow-up of the Accra Agenda for Action. TI views this engagement as essential to improving aid and development effectiveness. It is one of the primary reasons that the organisation has become a member of the Better Aid

- Coordinating Group, the CSO-led initiative to facilitate civil society dialogue with donors, partner governments, parliaments and other stakeholders.
- As part of the strategy, the linkages of DANIDA's work on aid effectiveness should be drawn out more clearly given their implications for achieving the commitments on rights.
 - For example, the AAA text on aid transparency and corruption (paragraph 24) and predictability (paragraph 26) are essential if parliaments and citizens are to have true ownership and decision-making power over development resources.
 - For example, the AAA text on civil society accountability and contributions to development (paragraph 20) could be better referenced in the strategy. DANIDA could refer to the need to assess civil society's accountability structures in the selection of civil society partners, and to support its civil society partners in the strengthening of their accountability and legitimacy basis.
 - p. 18, para 3 on corruption – TI fully agrees with the pervasive and negative effects of corruption on state legitimacy and also with the priority areas you listed. We also feel that a more forward-looking perspective, examining what Denmark could do in this regard would give this paragraph more emphasis.
 - Potential areas of involvement could be
 - support local civil society accountability mechanisms re: political corruption (e.g. Transparency International's CRINIS tool)
 - promote the ratification and implementation of UNCAC and other regional conventions.
 - support reformers in government and citizens in changing the incentive structures of politics, e.g. TI's Integrity Pacts.
 - address issues of conflict of interest and "revolving door" policies.
 - strengthen the role of national and sub-national legislative bodies in oversight.
 - p.18, para 4, bullet point on "the pursuit of independent accountability mechanisms". In our view, a more specific description of these mechanisms would give more clarity to this point. These mechanisms could either be public institutions (e.g. ombudsperson, anti-corruption agency) or non-governmental (e.g. civil society watchdogs).
 - p. 22 on building societies based on the rule of law and justice. TI welcomes the focus placed on corruption in the judiciary. This topic formed the focus of the TI Global Corruption Report in 2007 (http://www.transparency.org/publications/gcr/gcr_2007). Recommendations to address the problem included promoting decent judicial terms and conditions, enhancing judicial transparency, promoting judicial accountability and transparency, and promoting fairness in judicial appointments.
 - p. 28 and 29 on global actors: In our view, the United Nations Convention Against Corruption (UNCAC) should be mentioned here as a prime example of an international convention in the area of governance and accountability, which holds the promise (if supplied with a forceful monitoring mechanism) to significantly improve governance (and the delivery of basic services) for poor people worldwide.
 - p.32, para on monitoring sources: The listed monitoring sources are heavily focused on government monitoring, which, in the area of human rights and governance can be quite problematic. We would strongly encourage you to also draw on independent academic and civil society sources on governance, such as those provided by Global Integrity, Transparency International, the Bertelsmann Foundation and CIVICUS, which are among the best practice examples, particularly regarding their replicability, transparency and consultative approach.



Democratization and Human Rights for the Benefit of the People
Strategic Priorities for Danish Support for Good Governance

Comments and suggestions by International IDEA

- This well-written paper signals a much welcome prioritisation of democracy across foreign policy and development co-operation, and importantly captures the political nature of the issues. Development and human rights support are too often narrowed down to legal or technical approaches that do not effectively strengthen democratic institutions and processes. This paper signals a broader approach which can ultimately lead to improved impact in supporting sustainable democratic change.
- About the title: While democratisation and human rights are certainly inter-related and to some extent overlapping (democratisation can be defined as a way to translate civil and political rights into practice) their meaning is still distinct. The term “governance”, on its part, is sometimes used in relation to financial effectiveness and accountability and does not always imply democracy. To avoid any confusion, it is suggested that the title of the document could read “Democracy and Human Rights for the Benefit of the People – Strategic Priorities for Danish Support”.
- It is also suggested to substitute the term “good governance” by “democratic governance” wherever the former is used in the text.
- The draft covers a range of challenges and issues that need to be included in a comprehensive strategy to support democracy and human rights. Key messages and priorities selected to guide the definition of a specific Danish approach are clearly spelled-out in the first section.
- Democratisation processes are appropriately described as processes of political change (page 15) which reflects the emerging understanding in the international community. This understanding - which is rapidly gaining ground - should perhaps be emphasized at the very beginning of the document as part of the background section (page 3).
- It is also increasingly recognised today that processes in support of democratic political change, in order to be effective and sustainable need to be based on a long term engagement, to be nationally owned and context sensitive. In addition, they need to be perceived as delivering in terms of development and a better quality of life for the

Security" (2006). International IDEA is mainstreaming the conflict and security dimensions in its own HQ-based and country-based programmes and would be ready to share its experiences in that regard with the team in charge of finalizing the Danish strategy.

- In the section "Institutions and political practice" (page 15), the emphasis placed on parliaments and political parties is fully justified and so is the assessment of some shortcomings of earlier donors' support to these institutions (page 16). IDEA's findings point to the importance of combining specific support programmes to parliaments and political parties with the broadening of the political space for these institutions to participate in the definition of national development strategies in the framework of development assistance programmes. By helping parliaments and political parties to assume a more prominent consultative and oversight role in this area, donors could provide them with the necessary incentive to use their increased technical capacities (acquired through "capacity development programmes" already mentioned in the draft).
- In the section "Building societies based on the rule of law and justice" (page 20), access to justice is rightly identified as a major human rights problem, particularly for the poor and marginalised groups. In addition to the bullet points on page 21 that refer to different dimensions of justice sector reform, and the need to consider the application of transitional justice mechanisms in fragile states and situations (following paragraph), we suggest considering support to "traditional justice mechanisms" in countries where the latter exist and could effectively complement the work of formal institutions of the justice system. Useful references in that regard can be found in International IDEA's publication "Traditional Justice and Reconciliation After Violent Conflict – Learning from African Experiences" (2008)
- The section "Making better use of global actors" (page 26-28) rightly points to the role of regional institutions. However, besides the regional institutions already mentioned in the draft (regional commissions and courts for human rights), we think that the role of regional organisations such as the African Union, the Organisation of American States, the League of Arab States and ASEAN in support of democracy and human rights should also be acknowledged and supported, as appropriate. The African Union, in particular, has recently adopted the "African Charter on Democracy, Elections, and Governance" (International IDEA is supporting the AU in its dissemination, ratification and implementation).
- Relating to the same section: Since Denmark is a founding member of International IDEA, the only intergovernmental organisation with a specific mandate to support democracy-building and with a membership drawn from all continents, we would recommend pointing to International IDEA as an arena where Denmark can more actively support democracy-building initiatives. This is all the more adequate

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J.NR.: 03-0899-08-0293
REF.: lsg-lsg

Høringssvar vedrørende udkast til strategi for demokrati og menneskerettigheder i udviklings samarbejdet

Advokatrådet har gjort sig bekendt med ovennævnte udkast til strategi for demokrati og menneskerettigheder i udviklings samarbejdet.

Det er Advokatrådets opfattelse, at det danske retssamfund ikke er en isoleret ø i en globaliseret verden, men en integreret del af det internationale samfund, hvor der er et betydeligt behov for at velfungerende advokatsamfund, herunder det danske, bidrager til at opbygge retssystemerne i lande, som ønsker at udvikle sig til moderne retssamfund.

Advokatrådet deltager allerede i dag aktivt i dette arbejde. En delegation har således i samarbejde med Danida været i Vietnam i november 2008 for at bidrage til opbygningen af et nationalt advokatsamfund i Vietnam, og Advokatrådets næstformand, Søren Lyager, har via CCBE – sammenslutningen af advokatråd i Europa – deltaget i projekter til støtte for retssamfundene i henholdsvis Ukraine og Montenegro, som bl.a. har haft til opgave at illustrere advokatsamfundenes og advokaternes betydning for retsstaten. CCBE indtog endvidere i 2007 en ikke uvæsentlig rolle sammen med IBA – International Bar Association – i arbejdet med at få det polske retssystem på rette køl og udgav i den forbindelse rapporten Justice under Siege: a report on the rule of law in Poland, som i 2008 er blevet opdateret. Begge rapporter kan findes på www.ccbe.eu.

Advokatrådet modtager endvidere hvert år et større antal udenlandske delegationer til kortere eller længere undervisningsforløb vedrørende advokatsamfunds funktioner. Delegationerne består typisk af folk fra retsvæsenet (dommere, anklagere og advokater), som er inviteret på studieophold her i landet af offentlige myndigheder eller af Institut for Menneskerettigheder.

Advokatrådet finder det således positivt, at strategien udtrykkeligt anerkender den væsentlige rolle, som advokatsamfund og udbydere af retshjælp spiller i arbejdet med opbygning af/reform af retssystemer.

I lyset af de erfaringer Advokatrådet har draget af sit samarbejde med Udenrigsministeriet i Vietnam, kan vi tilslutte os, når der i udkastet sættes fokus på

Advokatrådet
Rådsformanden

støtte til initiativer, der vil indebære skabelse af tilgængelig retshjælp for fattige og marginaliserede befolkningsgrupper.

Ligeledes har Advokatrådet med glæde noteret sig, at et af regeringens fokusområder i henhold til den nye menneskerettighedsstrategi er beskyttelse af menneskerettighedsforkæmpere, hvilket Advokatrådet i dag bidrager til både gennem bilateralt samarbejde med sådanne og via CCBE, som i november 2008 gav sin menneskerettighedspris til den kinesiske menneskerettighedsforkæmper Li Heping.

Endelig benyttes lejligheden til at oplyse, at Advokatrådet den 16. april 2009 vil offentliggøre sit nye retssikkerhedsprogram, og at Advokatrådet også i den sammenhæng vil give udtryk for det ansvar, som ethvert nationalt advokatsamfund har for at medvirke til opbygning/reform af retssystemer i udlandet.

Med venlig hilsen



Sys Roving

Memo

From E. Gyimah-Boadi, CDD-Ghana and Afrobarometer

To: Ministry of Foreign Affairs of Denmark

Topic: Comments "Democratization and Human Rights for the Benefit of the People

Page | 1

Strategic Priorities for Danish Support for Good Governance"

- The document's strategic focus on democracy as intrinsically linked to the promotion of human rights and reduction of poverty and human security is very correct.
- The recognition that progress in achieving the end goals of democratization in partner countries is essentially a long term prospect (pp. 8-9) is also strategically correct.
- I agree that **dialogue with partners in development** (p.5) is essential. However, it is important to go beyond the traditional mode of stakeholder dialogue, which has tended to be bilateral/two-way in nature (donor-government; donor-civil society/private sector; donor-donor). Dialogue involving multiple and diverse stakeholder groups (donors, state/government, civil society/private sector etc) stakeholders is more helpful in confronting challenges in governance.
- The commitment to **continue to support civil society** (p. 12) is good. However, the suggestion that future focus on civil society will be based on "using it to reinforce and complement parliament and political parties" is problematic. First, it seems to take for granted the legal, constitutional and political space for civil society to work in partner societies. Second, it takes the technical and organizational capacity of Southern civil society for granted. And yet the growing actions and threats to curtail NGO/CSO activities in autocratic and even some "democratic" countries would suggest that priority be placed on helping to defend and protect the legal, constitutional space for civil society in partner countries and enhancing civil society capacities.
- **Aid effectiveness:** General Budget Support (GBS) is an important tool for aid harmonization and effectiveness. But it is also important that African nations benefiting from GBS are encouraged to reciprocate by significantly refining their internal budget process to enhance transparency and expand the involvement of and consultation with domestic non-state and private sector stakeholders. Securing local **ownership and mutual accountability** (p. 12) would require significant improvements in the quality of national-level dialogue over agreed GBS arrangements, targets and "triggers."
- "**Capacity development of parliamentary staff and politicians**" as an entry point for engagement (in page 17 under 6.2.1) is laudable. But it would require careful attention to understanding the culture of the institution, especially the extent to which technical merit/qualification guides staff recruitment; integrity in procuring technical services and supplies, as well as the constitutional position of parliament vis a vis the Executive Branch and the political parties. It will also be necessary to identify and place strategic emphasis on the sub-structures within national parliaments with the strongest potential to make the most impact on enhancing the capacity of legislature to oversight the executive branch and promote accountability.

- The continuing interest in **local governance** (page 18) is welcome. But note should be taken of the stalled progress in local government and decentralization reforms in partner countries. It may be strategically smart to shift attention from the supply side of decentralization reforms to the demand side: begin to focus on interventions to stimulate local/grassroots demand for participation in local decision making and local official accountability.
- **Realizing human rights (6.3)**: It omits to include the protection of the rights of persons with disability and countering the cultural stigmatization they suffer in partner countries. This must be addressed, with particular attention to helping to strengthen the advocacy capacity of persons with disability organizations, getting credible disability protection legislation passed and promoting compliance.
- **Building societies based on the rule of law and justice (6.3.1)**: The first encounter most people, especially the urban poor, have with the justice system is the police. In the rural areas it is the traditional rulers. It is important to enhance the sensitivity of the police and traditional rulers to democracy and human rights principles. It will also be useful to enhance avenues for ordinary citizens to lodge complaints against police and traditional ruler miscarriage of justice. Street law programs and effective rights-based civic education programs should help improve grassroots demand for justice.

Fra: Sushil Pyakurel [mailto:sushil.pyakurel@gmail.com]

Sendt: 13. april 2009 09:26

Til: Karin Poulsen

Cc: Kathmandu; Mia Steninge; Tania Schimmell; UDV; BFT

Emne: Re: Invitation for comments: Danish draft strategy for democracy and human rights

Dear Karin Poulsen

My apology for being delayed on providing comments to the Draft Strategy for Democracy and Human Rights. I have read the Paper in detail and found a well thought and written documents which cover the entire area of Human Rights and Democracy.

I must say it is an excellent Documents and need to be implemented effectively. Though this is a complete document but still I have few comments and suggestions based on my own experiences working as NGO activists, Commissioner of National Human Rights Institution and member of Civil Society.

· Though the Document have cover the wide area of Human Rights, Democracy and Good Governance but still I found the lack of methodology, how civil society is going to empower the voices of poor, How and who who will set the agendas about priority of the poor. Mostly in our part of the world NGO often are only seen as sole representative of Civil Society. I don't know how the independent Civil society will gate Danish Support and through which modalities. As per my own experiences at least in my country Nepal the Government often tries to impose control through many so called rules and regulations. If it get financial support needs to be registered as NGO or formal organisatioanl set up.

· My impression is that the Document while talking about democratic agenda it is by and large limited to institution building; but I think one should be aware that we have problem of building culture of democracy at society, community and family level which may go beyond official and formal institutions.

· I think the strategy Document should have long term plan of stability which is linked to social justice; and also strategy how it foresee the implementation of its strategy.

· The categorization of civil society needs to be broaden in our part like Nepal , professional organizations NBA (Nepal Bar Association), FNJ (Federation Journalists) , Teacher's Organization and similar representative Organizations are considered to crucial part of civil society.

· The Document has focused on deepening democracy which is very vague in our context; there is no absolute model of democracy. A capitalistic model of democracy which generally is incapable of addressing the problem of inequality and injustice? And in many cases so called socialist model of Democracy imposes restriction on the activities of independent Civil Society. I think it needs to be defined in a concrete terms at least the value and principal on which a

· I could not find the mechanism of how the poor people will have direct support so that Danish aid could empower them to work to make their local democratic organisations which could sustain through indigenous resources.

The document has talked about the support to National Institution , UN and EU but I think it should also support the initiatives on the regional cooperation Governmental and NGOs and independent movements to strengthen the cooperation and linkage among the regional population. I think at least South Asia is in dare need of meaning full cooperation not only to strengthen the Democratic system, Human Rights but also , which is more Important to protect our environment and access to natural resources.

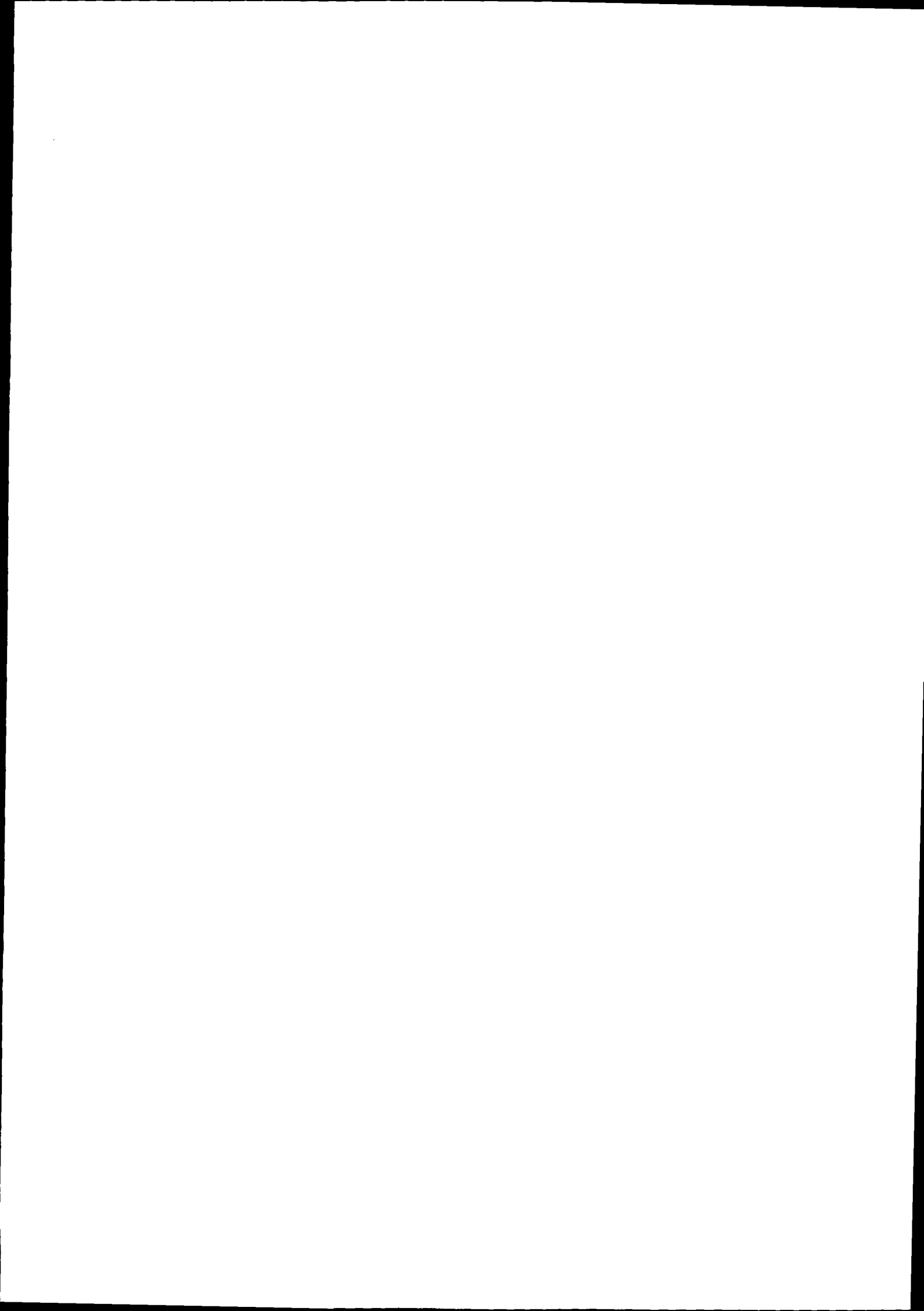
Lastly, I should strongly suggest the Danish support should must give priority to the issue of Accountability. The South Asian countries have massive problem with Accountability in our political, social, economic and developmental life.

Sorry if is too lengthy.

Thanks and congratulations for excellent Document and wish for effective implementation.

sincarely

sushil



Additional comments to MFA Draft Strategy on Human Rights and Democratisation

Hanne Lund Madsen, Macedonia, 22 March 2009

Re. Chapter 6

A relevant point of departure for supporting Human Rights and Democratisation in Cooperation Countries would be as a minimum

- Situation analysis and needs assessment
- National priorities within HR&D and international Treaty Body recommendations
- Past experience and priorities of other actions
- Synergies and linkages to Danish support to key sector programmes or reform measures

In Realizing Rights it is positive to see emphasis on non-discrimination. There is, however, a poorly argued focus on monitoring and justice mechanisms. While situation and cause analysis of the human rights situation in many countries do identify weak monitoring and justice mechanisms, the draft paper does not justify this focus properly. Why is Danish assistance not directed at facilitating, promoting and realizing the enjoyment of a number of substantive rights, but mainly focusing on the procedural rights to be exercised mainly once a violation has taken place? While important human rights safeguards may be improved through justice sector reform and improved access to justice, the majority of people in the programme countries are demanding both better enjoyment of rights and better grievance mechanisms. Of course improved access to justice will in turn improve accountability mechanisms and thereby likely improve the respect, promotion and facilitation of substantial rights. However, the paper is not clear on this point. Moreover, many interesting accountability mechanisms are now being used, which are likely to reduce the need for resorting to grievance mechanisms. This is not considered at all by the strategy. In any case it will be very important to stress in the strategy that Denmark will support initiatives that build on a justice chain perspective.

The UN Treaty Bodies and Special Mechanisms have several times clarified that **Realising Rights** imply that rights are respected, protected, promoted and fulfilled in order to be realized. The Danish strategy suggests concentrating on particular dimensions within the protection and justice regime without considering the other essential and necessary dimensions of respect, promotion and fulfillment.

If the MFA maintains the present focus a more accurate title will be **Protecting Rights**

In conclusion, it would be good to see a more direct investment in improving the human rights situation for the poor and marginalized in addition to enhancing monitoring and grievance mechanisms. We would like to see much more involvement in the promotion, facilitation and realization of substantive rights according to the needs and priorities of the particular country.

Considering specifically the need of improving human rights monitoring, it is inadequate to focus solely on the NHRI as the strategy presently does. It is important to support the monitoring undertaken by many other parties including the press, the NGOs and the development actors – national as international. It is not enough to encourage the NHRI to function as a bridge. There is urgent need to mainstream and coordinate the national monitoring and overcome the decade long division between human rights monitoring and development programme monitoring. The MDG reporting and other national monitoring need to be aligned to and coordinated with the TB monitoring and reporting. The question of monitoring cannot be approached without considering the protection of human rights defenders. Finally, the responsibilities resting on the MFA in monitoring and reporting on human rights violations or non-compliance as well as progress needs to be addressed by the strategy, if an focus on enhancing monitoring for improved human rights accountability is to be part of the strategy.

In Deepening Democracy it is positive to see an opening for enhancing the political practice so crucial for democratisation and human rights respect. However, the paper lacks a reflection on the current debate and experiences within deepening democracy and a justification of the suggested types of activities. The horizontal approach is very detrimental here and it is unfortunate that the deepening democracy component does not encompass link to local governance and decentralization efforts nor to overall rules of the game. (Presently included in the other Governance Strategy.)

The proposed intervention areas within capacity building, interparty dialogue and engagement with voters resemble pretty much the current programmes of NDI and the involvement of Danish Parliamentarians are already taking place through IPU, PA and other bodies. The work through International IDEA must also be considered. The suggestion to establish a new centre is too brief and unjustified to deserve comments.

The focus on voice and participation is well-intended, but the findings of the recent joint donor review of voice and accountability interventions are not reflected at all!

There is a need for an approach that encompass both the normative elements and reaches down to local democracy, that clearly supports the key human rights so essential for democratic political practice and which truly looks into the future with regard to new forms of electoral governance.

The Chapter finally mentions in the passing a number of crucial themes that need to be reworked substantially (children, IP, torture, freedom of expression, CSR).

Re. Chapter 7

It is positive to see that Denmark will include observations and recommendations from UN treaty bodies and special procedures in bilateral assistance, but reference is clearly not enough. The strategy needs to spell out how this new mandate will be effectuated especially in light of

the experiences – and difficulties - other donors (UNDP) have had in engaging more with the TB. The Trust Fund in the WB is also a positive measure. However, as mentioned in the outline this Chapter is poorly linked to the main intervention areas of the strategy and the intentions of creating more synergy and coherence are left in the open.

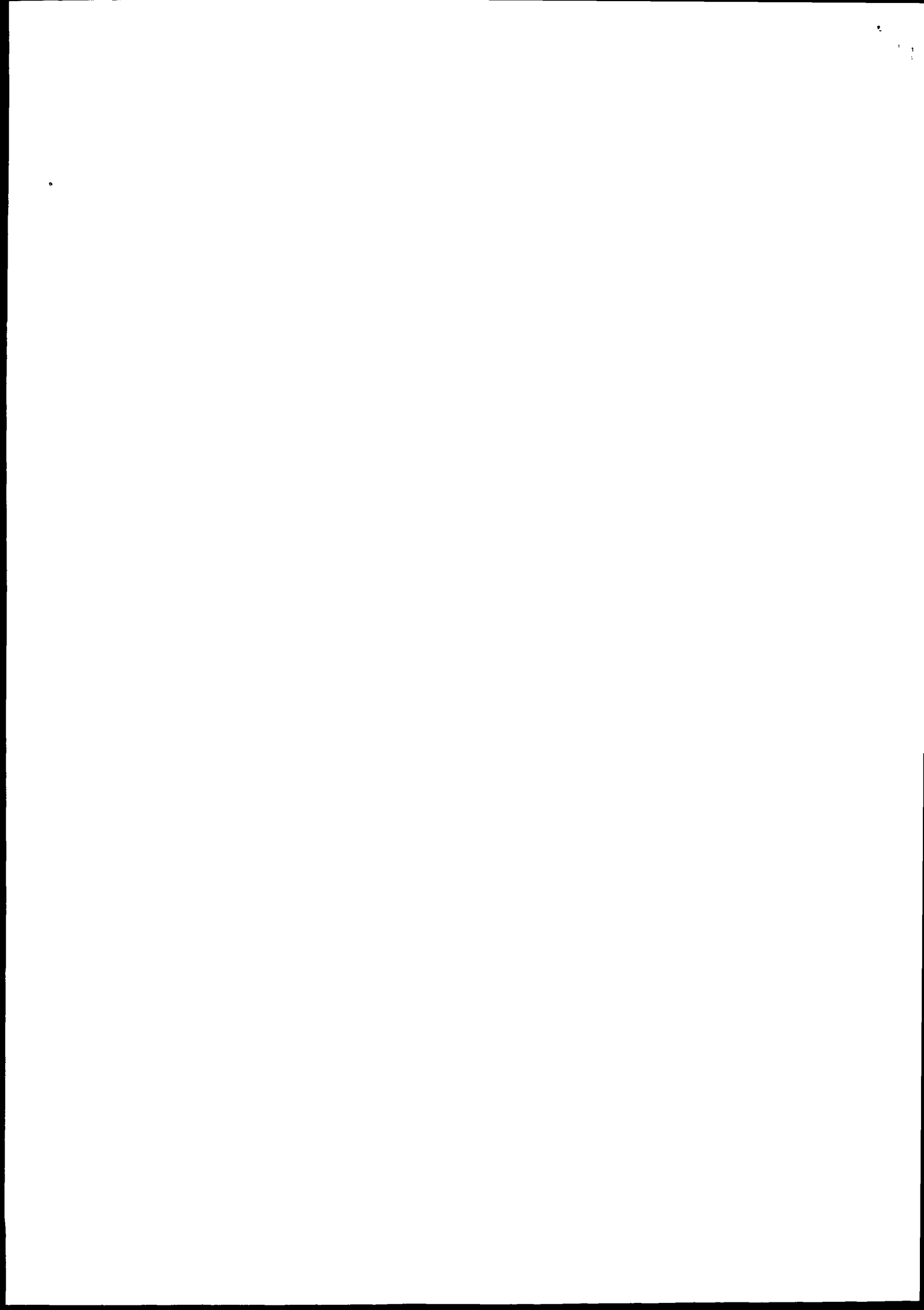
Re. Chapter 8

Two main remarks are warranted regarding this Chapter on Capacity. First of all the strategy needs to consider more the enhancement of capacity for human rights compliance in cooperation countries (Chapter 6) and at least indicate the overall approach applied in this regard. Secondly, the strategy needs to address the *institutional barriers and incentives* within the MFA to better support specific HR&D& Gov programmes, integration efforts, TB engagement, etc. in addition to the measures with competence building and communities of practice suggested here. Recent reviews provide suggestions in this regard.

Re. Chapter 9

The draft strategy needs to indicate implementation modalities and resources of the strategy in conjunction with the monitoring plan. Will we see new modalities of HR&D programmes? What will the alignment and coordination agenda in operational terms imply for how access to justice is supported?

As mentioned above the need to coordinate TB monitoring and reporting with development programme reporting must be addressed here. The MFA should also consider ways to feed the monitoring of the international efforts into the relevant TB and ways to benchmark not only partner governments but also performance of donors and IFIs according to international human rights obligations.



Debatmøde

UM's nye strategier på menneskerettigheder og demokratisering

Talepunkter

Strategiernes overordnede arkitektur og karakter – hvad vil de og hænger det sammen?

v/ Hanne Lund Madsen

Strategiernes fundament og sigte: Det er rigtig godt, at vi nu har fået strategier på MR&D området. Dog er begge strategier er noget uklare i deres fundament og sigte.

Den internationale strategi bekræfter hidtidig praksis og udstikker nogle nye vigtige prioriteringer så som MR hensyn i Verdensbankens arbejde, doktrinen om *responsibility to protect*, virksomhedernes sociale ansvar og større brug af FN mekanismerne i det bilaterale arbejde. Men ellers er der mest tale om en redegørelse. Den er langt fra en samtlende overordnet strategi for dansk indsats for menneskerettigheder. Strategien for MR&D i udviklingssamarbejdet siger indledningsvis, at formålet er at konsolidere tidligere politik på området og at forbedre effekten og kvaliteten af dansk bistand til MR&D. Herefter hører vi intet mere til hverken resultater eller kvalitet. Det mest foruroligende er, at der i begge strategier tales om en værdibaseret tilgang. De fleste regeringer og donorer arbejder nu med en rettighedsbaseret tilgang.

Visionen må være, at det danske engagement tager et solidt afsæt i Danmarks internationale forpligtelser og at fremtidig praksis er en udmøntning heraf. Kort sagt, at forpligtelsen, nævnt i forbifarten på side 12, trækkes frem som det helt centrale:

"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". (Accra Agenda for Action)

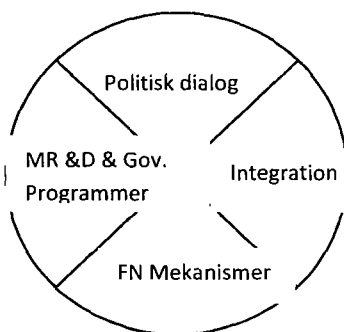
Dette udgangspunkt vil kræve fokus på selve tilrettelæggelsen af bistanden i lyset af internationale standarder og på Danmarks egen accountability mekanismer. Det vil sætte fokus på den såkaldte "extra-territorial obligation" (stateres MR forpligtelser i deres internationale praksis), som for nuværende blot nævnes i forbifarten i forbindelse med udstationeret personel. Det vil betyde brug af en lange række redskaber så som human rights impact assessments, etc. som slet ikke nævnes her.

Til folkets gavn? Udviklingsstrategiens titel er demokratisering og menneskerettigheder til gavn for folket. Enkelte steder nævnes fattige befolkningsgrupper eller udsatte befolkningsgrupper og der er andre steder en god fokus på marginalisering og diskrimination. Men strategien er ikke udarbejdet med klar fokus på hvilke resultater, der skal opnås for hvilke grupper og hvilke kvalitative forbedringer, der skal ske på menneskerettighedsområdet og i den demokratiske praksis. Visionen må være, at de menneskeretlige standarder og de demokratiske principper bruges i strategien selv til at angive målsætningerne (hvilket strategierne netop mener bør være tilfældet). MS og IMR vil i senere oplæg se nærmere på de specifikke indsatsområder.

Sammenhæng? Strategierne betoner sammenhæng og bedre sammenhæng end tidligere på en række områder. Det er meget relevant og nødvendigt. Men desværre er udformningen jo i sig selv næsten det modsatte. Først kom der sidste år en del-strategi på Governance, som omfattede decentralisering, anti-korruption og offentlig finansiel forvaltning. Så nu en del-strategi på MR&D for udviklingsbistanden ledsaget af en anden strategi for det internationale arbejde. Der laves enkelte krydshenvisninger, men det samlede billede er noget forvirrende og uden klar struktur. F.eks. indenfor "Deepening democracy" er local governance og decentralisering i høj grad aktuelt, men denne del ligger så uheldigvis i en anden strategi. Både den internationale strategi og udviklingsstrategien nævner ønsket om at bruge FN's MR mekanismer mere i bistandsarbejdet og bruge anbefalinger m.v. i udformningen. Men ikke et eneste bud gives på, hvorledes dette gøres. FN arbejdet og det bilaterale arbejde ligger fortsat adskilt. Strategien selv bruger ikke en eneste anbefaling fra FN eller regionale mekanismer. Og den tværgående integration i sektorprogrammerne er kun nævnt, ikke nærmere berørt.

De nye strategiers relation til civilsamfundsstrategierne, ligestillingsstrategierne, guidelines vedr. børn og unge, står også åbent.

Visionen må være, at få en *sammenhængende* MR&D politik og strategi, som omfatter Danmarks forpligtelser nationalt og internationalt. Dette er f.eks. tilfældet i Sverige, hvor de arbejder med en "helhetlig strategi". Indenfor den internationale dimension er det vigtigt, at arbejde aktivt med alle indsatsformer inkl. humanitær intervention og samspillet og synergien mellem nedenstående



Retningsgivende og anvisende? Er der egentlig tale om strategier. Strategierne har en meget lang række af såkaldte "statements of truth" om sammenhænge mellem demokrati, menneskerettigheder, udvikling. Der er gentagelser og indledende betragtninger, der ikke leder over i nogen konsekvens eller anvisning. De strategiske prioriteringer er primært præsenteret i kapitel 6, som indeholder indsatsområderne Realising Rights og Deepening Democracy i en meget kortfattet og ubegrundet form. Hvem er egentlig brugerne? Hvem vil kunne finde vejledning til at udmønte Danmarks prioriteringer? Eller bistå samarbejdslandene med at udvikle resultatorienterede og sammenhængende indsats for forbedring af menneskerettigheds- og demokratisituationen? De påtænkte "how to notes" vil nok kunne hjælpe visse steder.

Visionen og kravet må dog være, at strategien er mere anvendelig og retningsgivende og at den baseres på en solid situationsanalyse, en analyse af fremtidige udfordringer, en vurdering af hidtil praksis og DK's rolle i forhold til andre aktører og indeholder begrundelser for de indsats, der fokuseres på. Viden og erfaring (state of the art) indenfor MR&D må bruges aktivt. Indsætterne må tage udgangspunkt i de nationale planlægningsprocesser og strategien må indeholde anvisninger på, hvorledes dette realiseres.

Diverse? En lang række yderst centrale temaer og spørgsmål nævnes meget overfladisk, kort eller ude af kontekst. Hele kapitel 5 er en uhensigtsmæssig blanding af små afsnit om good governance, fred, fattigdom, skrøbelige stater, Paris deklARATIONEN og civilsamfund uden strategiske implikationer. Ligeledes finder vi på s. 21 en *diverse kategori* med

ligestilling, indfødte folk, børn, tortur, ytringsfrihed, anti-diskrimination, og CSR. Kapitel 7 om de internationale aktører i udviklingsstrategien hænger frit svævende uden egentlig angivelse af deres rolle i de fire indsatsområder.

Visionen må være, at strategierne formår at etablere et samlet strategilandskab, hvor de forskellige temaer finder deres naturlige plads og behandles substantielt og ikke blot som yderligere *add-ons* i en allerede lang liste af prioriterede temaer i dansk bistand. Der er brug for at sætte nogle arkitekter på strateg udviklingen.

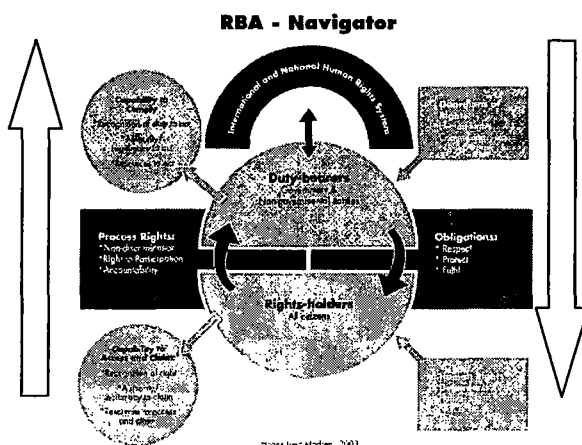
Indsatsniveauer? Både den internationale strategi og udviklingsstrategien arbejder med at niveaupdele indsatserne: En niveaudeling angår internationalt, regionalt, nationalt niveau. En anden niveaudeling på det nationale niveau går på hhv. norm, institutioner og civilsamfund. Indsatserne tænkes tilrettelagt *horisontalt* på de forskellige niveauer, således at en komponent angår støtte til en række nationale institutioner og aktører, mens en anden komponent angår støtte til civilsamfundet.

Level/Theme	Realising Rights	Deepening Democracy
Norms/Rules →	?other donors	?.....other donors
Institutions →	Justice Sector Reform NHRI	Institutions and political practice
Civil society →	Access to justice	Participation and voice

Relationen mellem niveauerne ses som vigtig. Men den horisontale tilgang er det styrende. Dette går stik i mod al evaluering foretaget af Danida selv og øvrige donorer. Menneskerettigheder og demokratisering udfolder sig i relationerne og derfor bør indsatserne tilrettelægges *vertikalt*: Det internationale og nationale skal kobles; institutionernes praksis skal knyttes til civilsamfundsindsatserne; justice sector reform skal programmeres sammen med access to justice, etc.

Visionen må være, at MR&D strategien bygger på erfaringerne med MR&D fremme og således programmerer *vertikalt*

med vægt på koblingerne mellem voice and accountability, mellem norm og praksis, mellem duty-bearers og rights-holders, mellem access og redress, mellem nationale og internationale instrumenter, etc. Visionen må være, at Danmark indskrives sig som en aktør i den internationale duty-bearer chain.



Hvilke rettigheder og hvilket demokrati?

Menneskerettigheder og demokratisering præsenteres som universelle værdier i strategien, men hvilken rettigheds- og demokratiforståelse lægges til grund? Vi kan gætte os frem. F.eks. er informal justice systems en prioritet. "Pluralist political systems" nævnes flere gange. Sociale og økonomiske

rettigheder synes helt ude af syne – bortset fra en bulletpoint på CSR - og implicit synes vægtningen at ligge på civil og politiske rettigheder. De særlige udfordringer som angår fremme, beskyttelse og sikring af sociale og økonomiske rettigheder ser strategien slet ikke på.

Visionen må være, at strategien redegør for den rettigheds- og demokratiforståelse, som skal forfølges gennem samarbejdet og dermed også, hvilke resultater der skal opnås. En øget fokus på beskyttelse og sikring af sociale, økonomiske og kulturelle rettigheder må være eksplicit nævnt med tilhørende strategiske overvejelser og mål.

Implementering? Strategierne nævner ikke med et ord, hvorledes de skal implementeres, om vi f.eks. vil se en ny modalitet for de fire komponenter i samarbejdslandene eller for de mange løsevne temaer, om identifikationen vil ske i samarbejde med OHCHR/UNCT? Monitoreringen vil bygge på UM's eksisterende monitoreringpraksis koblet med governance reviews i samarbejde med øvrige donorer.

Visionen må være, at strategierne angiver, hvorledes de skal implementeres med indikation af proces, ressourcer og mere klare resultatmål. I øvrigt må monitoreringen i sig selv fokusere mere på at øge accountability særligt i samarbejdslandene og i fht. de internationale MR mekanismer, men også i Danmark.

Comments to

**Danida/Ministry of Foreign Affairs of Denmark:
Draft Strategy (March 3 2009) on Democratisation and Human Rights for the
benefit of the People: Strategic priorities for Danish Support to Good
Governance**

The draft strategy contains a number of useful and valid points and approaches to human rights in a developmental context particularly with regard to good governance and democratisation. These comments include suggestions and recommendations for expanding the draft strategy with regard to (A) **Corporate Social Responsibility (CSR)**, and (B) to include a new section on human rights as they are affected by the public administration, more specifically to strengthen **Justice in Administration**.

A.

The draft strategy refers to **Corporate Social Responsibility (CSR)** in a quite limited way (p. 21). It is proposed that the draft Strategy be expanded on the CSR, given the increased awareness of *human rights aspects of CSR* that have become apparent in numerous contexts in later years, including through the work of the UN Secretary General's Special Representative on Business and Human Rights (SRSG) and the partnership approach promoted i.a. by the UN Global Compact.

The work of the SRSG, including his 2008 report¹ which was presented to the UN Human Rights Council in June 2008 and unanimously welcomed by the Council, demonstrates that all types of human rights may be affected by companies, and that negative corporate impact on human rights is often a result of governance gaps.

In addition to human rights violations resulting from governance gaps, corporations may on their own account contribute to addressing developmental needs of a human rights character, e.g. through providing for continuous improvement of working conditions and occupational standards, contributing to the elimination of child labour and the development of sustainable and human rights compliant alternatives, etc.²

Therefore, CSR has human rights related developmental relevance in at least two ways:

The need for CSR in many cases comes about due to governance gaps. Addressing governance gaps through improving good governance with public authorities at all levels may decrease the need for

¹ *Protect, respect and remedy: A framework for business and human rights*. Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie (UN Doc. A/HRC/8/5 (2008))

² For further references and more detailed discussion, reference is made to Buhmann, Karin (2007) A poverty perspective on business and Human Rights, in Margot Solomon, Arne Tostesen and Wouter Vandenhole (eds.) *Casting the Net Wider: Human Rights, Development and New Duty-Bearers*, Intersentia Publishing, pp. 245-263; and Buhmann, Karin (2007) Corporate Social Responsibility and Human Rights responsibilities of business - Introductory chapter, in *Nordic Journal on Human Rights*, No. 4, special issue on Corporate Social Responsibility and Human Rights.

CSR to avoid negative corporate human rights impact, and at the same time contribute to better governance with other potential benefits for human rights of the poor and others.

Working directly with companies to promote CSR and particularly to increase the integration of human and labour rights in CSR policies, strategies and concrete action may contribute to increased knowledge about labour and related rights, to empowerment of poor communities and employees in relation to industrial or other companies and employers, and to promoting action and practices to raise work and community related human rights and labour standards above the minimum levels required by host state law.

The three-pronged 'protect, respect and remedy-framework' proposed by the SRSG in his 2008 report is recommended as a point of departure for operationalising areas of cooperation and support.

B.

The public administration (the executive at central, regional and local levels) and the quality of its case handling and general services have significant impact on people's lives and access to human rights of a social, economic, cultural as well as in many cases civil and political nature. Good governance and the quality of public administration are closely linked, but the human rights aspects may be strengthened by taking a Justice in Administration approach to specifically address procedural administrative law, its quality, comprehensiveness, respect, implementation and monitoring of observance. In this respect, it is proposed that the Strategy be expanded to include, for example under section 6.3. on 'Realising human rights', a subsection which could be headed '**Justice in Administration**' or 'Human Rights and Good Governance in the public administration'. Such a section is proposed to include, i.a., observations and recommendations along the following lines:

Clear rules and principles strengthen the certainty of law and reduce the possibility of arbitrariness. From this perspective, administrative law has a very significant role as a guarantor of human rights observance in national systems. Because domestic law is directed at individual natural and legal persons, whereas international human rights law is directed at states only, domestic administrative law becomes a key vehicle for the government's delivery of human rights related services, administration which impacts the exercise of civil and political rights such as the right of assembly, property or voting rights, and general provision of safeguards against the executive's abuse of power. Administrative law is simply a modality to ensure that human rights are observed and respected in a large proportion of the government's actions vis-à-vis individual natural and legal persons. Administrative law and remedies provide for checks and balances on the executive's exercise of its power and good governance. In addition, administrative remedies are often easier accessible to poor people than courts, both economically and physically.³

³ For further references and more detailed discussion, refer to Buhmann, Karin (2001) *Implementing Human Rights through Administrative Law Reforms: The Potential in China and Vietnam*, chapter 4, Copenhagen: DJØF Publishing.

Main areas of interaction between human rights and administrative law which may be strengthened through a human rights approach include but are not limited to:

Complementarity between human rights and administrative law

- administrative law and procedures may contribute to the implementation of human rights
- human rights law may contribute to better service delivery

Human rights issues:

- overarching principles
 - non-discrimination/equality before the law
 - legality

- specific rights, e.g.
 - security and integrity of person
 - security and integrity of property
 - access to justice
 - fair trial
 - education
 - health services
 - food
 - water
 - social welfare

Administrative law:

- enabling (legal basis for substantive tasks)
- restraining (legal requirements/obligations on administration to protect rights of individuals)

- substantive: basis for
 - service delivery (esp. social and economic rights)
 - issuance of permission, licences, etc. (esp. civil and political rights)
 - administration of leases and property use rights
 - collection of taxes and other fees
 - implementation, revocation
 - handling of complaints, reversal of decisions

Recommendations for specific measures to promote human rights through improved Justice in Administration could include strengthening the following types of administrative law:

Procedural administrative law, e.g.

- Provide for participation, transparency, information
- Protect rights of individuals (natural and legal persons) (abuse of power, neutrality/anti-bias rules)
- Provide for informed basis for decisions on complaints
- Provide for transparency and accountability
- Time limits, behavioural standards

Organisational administrative law, e.g. on

- Competences
- Hierarchies
- Complaints handling

Remedial administrative law, e.g. in the following areas

- Substantive, procedural, organisational
- Provide for transparency
- Provide for accountability
- Provide for compensation/reparation

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24 March 2009

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