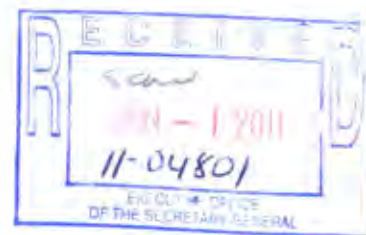


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PERMANENT MISSION OF DENMARK
TO THE UNITED NATIONS



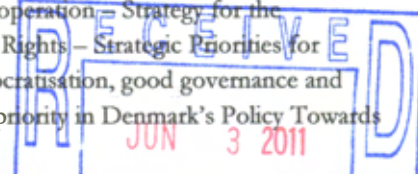
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The Permanent Mission of Denmark to the United Nations presents its compliments to the Secretary-General of the United Nations and, with expired 22 April 2011 due date, referring to the Secretary General's note of 24 February 2011, reference number EOSG/11-01093, has the honour to submit below the views of the Government of Denmark reflected in the Secretary-General's report to the sixty-sixth session of the General Assembly on the rule of law at the national and international levels. 31/05/11

The promotion of rule of law, access to justice and security are key objectives of Danish development cooperation.¹ A well-functioning justice system based on universal human rights is pursued as an objective in its own right. Denmark also believes that the rule of law has an instrumental value for achieving poverty alleviation and sustainable development as it promotes and protects people's social and economic rights, livelihoods, personal and property rights. A well functioning justice system also enables everyone to claim their rights and to seek compensation (both against the state and against others) where their rights have been infringed. It contributes to peace and security by providing mechanisms to manage and solve conflicts and disputes and respond to grievances and it also offers a system to end impunity.

On this background, Denmark supports long-term programs of a considerable size in most of its partner countries with the objective to improve access to justice and the rule of law. Recognizing that informal justice systems and dispute resolution

¹ The strategic framework for Danish support to rule of law is provided by i) the overall Strategy for Denmark's Development Cooperation (2010), in which freedom, democracy and human rights constitutes one of five thematic priority pillars; ii) International Human Rights Cooperation – Strategy for the Government's Approach (2209); and iii) Democratization and Human Rights – Strategic Priorities for Danish Support to Good Governance (2009). The promotion of democratisation, good governance and human rights, including the rule of law is, furthermore, identified as a priority in Denmark's Policy Towards Fragile States (2010).



mechanisms handle the majority of disputes in many of these countries, the programs often address both formal and informal structures, institutions and processes as well as state and non-state actors. The programs typically address one or several of the following elements: The development and implementation of sector- or institution-wide strategies and plans; constitutional or law reform; training of justice sector personnel; infrastructure development and modernization; legal and paralegal aid; civil society advocacy; alternative and informal dispute resolution mechanisms, including traditional and customary law systems, and their linkages with the formal justice system; and monitoring, documenting and reporting on the human rights situation by national human rights institutions and/or civil society organizations.

Countries in conflict or emerging from conflict face a number of specific justice and security challenges. Countries coming out of violent conflict need to address the past by initiating processes for reconciliation at national and community level as well as responding in different manners to war crimes, genocide, crimes against humanity and serious human rights violations. Processes to uncover and document “the truth”, identify the responsible, reconcile opposed groupings and provide compensation for past violations (transitional justice) are complex and need an array of different response mechanisms. In some cases, specific legal conflicts and crimes also arise as a direct or indirect consequence of violent conflicts, such as increased rates of violent crimes within communities that have had their social fabric destroyed; disputes over land posing persons and communities that stayed behind against those that were displaced; and the transitioning of previous militarized groupings into organized crime and violence.

These issues need to be addressed together with the often immense tasks related to renewed state-building processes and the need to ignite human and economic development. The reestablishment of national justice and security systems adhering to the principles of rule of law is an essential component of the state building agenda.

Denmark supports several initiatives that address issues related to both transitional justice and the establishment and strengthening of national justice and security systems firmly anchored in principles of local ownership and sustainability.

Examples of such engagement are the support to the Juba Peace Process in Northern Uganda which had a strong focus on transitional justice with provisions

on accountability and reconciliation followed up with the establishment of a War Crimes Division of the High Court; the International Commission against Impunity in Guatemala (CICIG) addressing crimes committed by illegal security forces and clandestine security organizations; conflict resolution mechanisms and access to justice at community level in Afghanistan, Southern Sudan and Somalia which will be strengthened in more encompassing new initiatives addressing needs at the community level and needs for capacity and institutional development of the justice and security sector through support to the strengthening of border management, including coast guards and regional peace keeping forces.

Denmark supports and advocates for the strengthening of the UN's engagement and capacity to strengthen and support national reconciliation processes and transitional justice mechanisms as well as the much needed reinforcement of national justice and security systems. This is critical as the UN often is the first international player on the ground in a position to support the initial steps in often painful and difficult peace and state building processes where the rule of law, human rights, access to justice and security need to take center stage to ensure the framework for human and economic development.

Promoting Domestic Capacity to Prosecute Crimes under the Jurisdiction of the International Criminal Court (ICC)

Since the establishment of the International Criminal Court (ICC), Denmark has been a strong supporter in terms of political, economic and practical assistance.

As focal point within ICC States Parties Assembly together with South Africa, Denmark has paid special attention to the topic of positive complementarity i.e. cooperation aimed at enhancing the domestic capacity of (developing) countries to prosecute crimes that are under the jurisdiction of the ICC, including genocide, war crimes and crimes against humanity.

With the ICC only prosecuting the most responsible, it is essential to strengthen the domestic judicial systems of developing countries and thereby making these capable of investigating and prosecuting genocide, war crimes and crimes against humanity committed by individuals not prosecuted by the ICC. Such an approach entails support to the strengthening of the judicial systems in general. If countries are able to prosecute these crimes themselves, potential ICC trials can be avoided. This link between international prosecution mechanisms and national legal systems is in

Denmark's view of great importance and makes sense both from a political and economic perspective.

The work on positive complementarity has already generated much interest from States, international and regional organizations as well as civil society, with inter alia the UN and the EU developing ways to operationalise complementarity in their own development work.

The Permanent Mission of Denmark avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

New York, 31 May 2011

