



The
Federal Government



Strategy of the Federal Government for promoting the rule of law

in the fields of crisis prevention, conflict resolution and peacebuilding



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1. Introduction

The Federal Government's strategy for promoting the rule of law aims to improve Germany's engagement to promote the rule of law in fragile contexts in order to improve crisis prevention, conflict resolution and peacebuilding. The main aim is to promote greater coherence and harmony between the respective ministries' conceptual understanding and action, and to harness synergies between different policy areas. In doing so, the Federal Government is fulfilling the responsibility it set itself in its 2017 Guidelines "Preventing Crises, Resolving Conflicts, Building Peace". However, promoting the rule of law is not only relevant in situations of crisis; it also facilitates sustainable development, the fight against corruption and the protection of fundamental human rights.

German actors are working in these fields in numerous countries around the world. In many places, people view the state of the rule of law in the Federal Republic of Germany as exemplary, and the country can look back on decades of experience in promoting the rule of law. Notable examples of successful cooperation include consultations on transforming the political and economic systems across Eastern Europe, the Southern Caucasus and Central Asia (in the 1990s); the German-Chinese and German-Vietnamese Rule of Law Dialogues (since 2000 and 2009, respectively); constitutional consultations, for instance in South Africa (1993-1996) and Tunisia (2011-2012); and numerous contributions to international missions on peacebuilding and promoting the rule of law led by the United Nations (UN), the European Union (EU) and the Organization for Security and Co-operation in Europe (OSCE).

In each case, Germany's contribution is guided by its own legal tradition and historical experience, but above all by international and local frameworks, which provide models and benchmarks. International agreements – notably at the level of the UN, the EU, the Council of Europe and the OSCE – outline fundamental requirements regarding the content and procedure of such processes. As a member of these organisations, Germany helps to further develop the applicable international rules and standards.

The local contexts in which this cooperation takes place are characterised by specific regulatory traditions and socio-economic and political circumstances; these must be taken into consideration at all times, along with the interests of the local populations.

In 2025, the Federal Government will review and, if necessary, amend this interministerial strategy for promoting the rule of law.

2. Conceptual foundations and principles of action

2.1. Interministerial understanding

The understanding of the rule of law within the United Nations

The basis is provided by the UN Charter (1945), the Universal Declaration of Human Rights (1948) and the Secretary-General's 2004 report entitled *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies* (S/2004/616). Member states reaffirm their commitment to the shared fundamental understanding of the rule of law in the Declaration of the High-level Meeting on the Rule of Law at the National and International Levels (A/Res/67/1 (2012)). The declaration further emphasises the importance of the rule of law in linking the three UN pillars of peace and security, human rights and development.

2.1.1. The concept of rule of law promotion

Germany's legal and constitutional traditions are shaped by the political currents and systems of recent German history, and these have given rise to a specific understanding of the concept of the rule of law. This particular understanding limits and commits state authority to safeguarding individual freedoms and material justice, in particular by recognising fundamental rights, ensuring the administration is subject to the law and effectively protecting individual rights by maintaining the independence of the courts.

A starting point for promoting the rule of law promotion at the international level is the shared understanding of the rule of law within the United Nations. In a 2004 report, then UN Secretary-General Kofi Annan defined the rule of law as follows:

“(..) a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.”

Within the framework of promoting the rule of law and according to the context, this widely recognised understanding of the rule of law is supplemented by the relevant terminology used by the Council of Europe, the EU and the OSCE.

Nevertheless, this broad understanding of the rule of law is increasingly being called into question and is at times abused to justify repressive laws which encroach on fundamental rights. In international debates, the Federal Government actively engages to defend the understanding that has existed to date, namely that the rule of law is linked to respect for and upholding of human rights.

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According to the modern Western view, the law contains certain fundamental, non-negotiable principles such as human rights. Beyond that however, the law is the individual result of a variety of specific factors – there is no ‘one size fits all’ solution for the future development of the law.” STEFAN

PÜRNER, GERMAN FOUNDATION FOR INTERNATIONAL LEGAL COOPERATION (IRZ)

When implementing measures, the different legal traditions and understandings of the rule of law in each cultural context and partner country must be taken into consideration. It is essential to understand this – and to adapt the approach according to the local perspectives and legal interpretations – to ensure that efforts to strengthen the rule of law are effective. Applying them enables strengthening the rule of law without simply transposing German law

or institutions. Nevertheless, specifically German expressions of the concept of the rule of law, for instance in administrative or constitutional jurisdictions, meet a great deal of interest in many partner countries.

2.1.2. Aims of promoting the rule of law

In addition to establishing and strengthening the rule of law in a narrow sense, promoting the rule of law is also a means of achieving broader aims. Setting political goals in this way is complemented by more evidence-based setting of operational goals (see Section 3.1.); and this in turn forms the basis of a process that is tailored to the context and agreed between the relevant ministries and implementing partners (see Section 4).

Crisis prevention, stabilisation and peacebuilding

Promoting the rule of law plays a crucial role in all three phases outlined in the Guidelines, namely by supporting a political process before, during and after an armed conflict. As noted in the 2016 White Paper on German Security Policy and the Future of the Bundeswehr, both foreign and security policy focus on preventive measures in order to de-escalate conflicts and crises at an early stage and, if possible, permanently resolve conflicts of interest.

Accordingly, in the context of latent conflict, the focus is on those elements of promoting the rule of law that serve crisis prevention. These include mechanisms that build confidence in the political system, the administration and the judiciary, and those that provide scope for resolving conflicts peacefully and thereby alleviate social, ethnic and cultural tensions.

In cases of acute violent conflict, promoting the rule of law primarily serves to stabilise the situation, and thus focuses on measures that can make a tangible contribution to creating a secure environment and improving living conditions in the short term in order to strengthen legitimate state institutions and put an end to violence.

Goal 16 of the 2030 Agenda

Development cannot be sustainable without good governance, and peaceful and inclusive societies. States affected by armed conflicts therefore have the furthest distance to cover in achieving the 2030 Agenda's Sustainable Development Goals (SDGs). By the same token, in many other countries, restoring peace and accountable institutions has made a significant contribution to achieving the SDGs.

SDG 16 calls for, inter alia, access to justice for all; effective, accountable and inclusive institutions at all levels; and efforts to combat organised crime, corruption and discrimination by 2030. SDG 16 is considered a catalyst and precursor for achieving all other SDGs.

Beyond this, it is necessary to promote the rule of law immediately after an armed conflict – to provide legal assistance during early-stage peace and reconciliation processes, ensure there is an immediate, visible 'peace dividend' and, in the longer-term, to prepare measures for reconstruction and reconciliation.

Sustainable development

Beyond its relevance to situations of latent or acute armed conflict, promoting the rule of law helps to promote sustainable development under the 2030 Agenda. In particular, SDG 16 of the Agenda expressly refers to access to justice and the rule of law.

To ensure that everyone benefits from the progress, everyone – including disadvantaged groups within society – should be able to assert their rights.

Promoting and establishing the rule of law is a goal in itself; beyond this, it is an essential catalyst and precursor for achieving all other SDGs. For instance, relevant rules and processes that establish the rule of law are pre-requisites for matters such as access to healthcare, education and water. At the same time, stable legal frameworks and legal certainty are needed for economic development and investment, job creation, protection of the environment and the

reduction of hunger and poverty, all of which create prospects for people to stay in their home countries and thereby help mitigate the causes of flight and irregular migration.

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Measures for fighting corruption are closely linked to good governance and rule-of-law reforms. There is a full arsenal of measures available for this: reforming the administration and the judiciary, removing red tape, setting up special commissions and tightening law enforcement. But the Federal Government should also consider new approaches to fighting corruption. For example, using Big Data tools to fight corruption offers great potential. Subject to legally determined conditions, such tools enable large data sets to be analysed for suspicious trends.” DANIEL HEILMANN,

HANNS-SEIDEL-STIFTUNG

Fighting corruption

Corruption is one of the greatest obstacles to development. It hampers efforts to overcome inequality and the appropriate distribution of scarce resources and therefore can also cause fragility and conflict. Promoting the rule and law and fighting corruption are closely linked. It is not possible to effectively fight corruption within the administration and business community without a functioning police and justice system. Equally, the police and justice system need to have integrity and be corruption-free to play this role and to protect public trust in government institutions. Promoting the rule of law thus strengthens the police and judiciary in the fight against corruption and establishes integrity.

Human rights and international humanitarian law

Resolution 1325

Resolution 1325 was unanimously adopted by the United Nations Security Council (UNSCR) on 31 October 2000. It contains comprehensive measures to prevent and prosecute sexual violence against women and girls in armed conflicts.

It also provides a framework for incorporating a gender perspective into conflict-resolution and peacebuilding processes. The Federal Government has committed to implementing Resolution 1325 through a range of measures.

Promoting the rule of law also entails improving the protection of human rights. The rule of law guarantees basic human rights and offers individuals the chance to assert these rights. In contexts of both peace and conflict, the focus is on measures for promoting the rule of law that uphold civil liberties and the right to bodily integrity, and that strengthen overall respect for, protection and fulfilment of human rights. In addition, in situations of armed conflict, efforts focus on promoting international humanitarian law ensuring it is adhered to.

There are also related tasks such as protecting disadvantaged groups of society, ensuring equal rights for men and women and combatting discrimination. These primarily take the form of promoting legislation that respects gender equality and upholding the rights of women, children and minorities, as well as protecting them from violence. Of particular relevance here is the role of women in conflicts and peace processes in line with UNSCR Resolution 1325.



Promoting democracy

The rule of law and democracy complement one another but the interplay between them can also be a source of tension. The rule of law makes it possible to exercise civil rights and also places limits on the scope of democratic decision-making by majority voting. A liberal democracy therefore needs to be based on the rule of law. The rule of law – and in particular an independent judiciary that guarantees citizens' freedoms and ability to participate in political processes – plays an important role in securing democratic structures. Efforts to promote the rule of law, especially in terms of supporting processes to create and reform constitutions, should therefore consider how best to anchor democratic principles in the system. Access to justice is an important building block for the population to enjoy political participation and to enable citizens to monitor government activity. This is particularly relevant in situations where democratic institutions and values are under threat.

Discussing understandings of the law and working together to further develop the law

Finally, promoting the rule of law also facilitates international and intercultural dialogue and exchange. Information and discussions about different understandings of law should promote mutual understanding and further develop the law (via best practices). Such exchange is particularly suitable with partner countries which already have a consolidated legal system in place.

2.2. Principles of action

2.2.1. Short, medium and long-term engagement

To successfully resolve conflicts and prevent crises, it is crucial to implement short, medium and long-term measures whose impact can be intensified through harmonious mutual reinforcement. Where circumstances allow, swift and flexible measures should be implemented to respond to windows of opportunity that open up at short notice during an acute armed conflict; such measures should be closely connected with medium and long-term peace-building measures prior to and following an armed conflict.

To this end, depending on the aim of the measures, it can be helpful for the responsible ministries, implementing organisations and other relevant actors to discuss specific coordination measures.

2.2.2. Cooperation with governmental and non-governmental actors

Informal justice systems (IJS)

The term 'informal justice system' covers a wide range of non-state or hybrid institutions such as village councils, tribal councils, councils of elders, chiefs and indigenous courts. In many countries and especially in fragile contexts, these institutions are often the only way large sections of the population can access justice and resolve disputes. They are sometimes recognised on the basis of tradition or religion, but for example also because of their knowledge of the local circumstances. In some cases, they are connected to the state justice system, which means it can be possible to appeal decisions in public courts. The problem with informal justice systems is that they often fail to implement human rights standards and procedural standards in part or in full. In addition, in many IJS, women and minorities play an insufficient or non-existent role, and access is either denied or made difficult for them.

Promoting the rule of law requires targeted engagement with both governmental and non-governmental actors.

In terms of governmental actors, this includes, in particular, cooperating with courts, councils of judges and magistrates, public prosecutors and, further, other bodies such as bar associations and notary associations.

Other governmental institutions must also be considered. When existing legislation or court sentences are not being properly implemented it often causes significant problems. Close cooperation with the legislature, judiciary and executive is needed to close such gaps in implementation. The executive also includes security forces, who can be taught about international humanitarian law, constitutional law and human rights through training programmes, for example.

The priority at the non-state level is cooperation with civil society. This includes international organisations as well as civil-society organisations that provide legal advice and other basic services.

In addition, where appropriate, engagement can include cooperating with informal justice systems, i.e. non-state, often traditional or religious actors who can help to resolve conflicts and solve social and legal problems. Informal justice systems are often problematic. If they are included in cooperation programmes, projects must always be set up to address their shortcomings – particularly in terms of respecting human rights, fair procedural standards, the rights of women, children, young people and minorities, and international law. As far as possible, efforts should be made to create formal links to legitimate public courts or administrative bodies. In instances where human rights standards are fundamentally rejected, cooperation should be avoided.



2.2.3. Context-sensitivity, ownership and the do-no-harm principle

Awareness of the context and conflict are essential to efforts for promoting the rule of law. This principle must be taken into account during every phase of action, i.e. from planning, to implementation and evaluation. A thorough and well-informed analysis of the context, accompanied by an openness to innovative methodologies, is crucial in order to successfully promote the rule of law.

Promote the rule of law, but do no harm

Numerous examples show that legal cooperation can cause damage. In the worst-case scenario, mistakes in constitutional consultations can lead to new crises. Inappropriate legislation can make it harder for the administration and the judiciary to issue appropriate rulings. Setting up new institutions can place an excessive strain on a fragile state's budget.

These problems can be avoided through impact assessments and human rights risk assessments, which critically analyse the potential effects of projects in various areas.

It is important to take a broad perspective that goes beyond national law in order to grasp the local normative understanding and the socio-economic and political circumstances. In certain contexts, a multidisciplinary approach is important. The user-centred approach – which uses participative methods to actively include representative groups in context analysis and project planning, implementation and evaluation – is well-suited to understanding the needs of the population in the areas of law and conflict resolution.

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Therefore, the most important question before implementing measures is to ask, 'What do people actually need?' What is needed is a form of 'user-centered design' approach to the rule of law. An approach that gives primacy to making the outcome of a measure or program usable and useful by focusing on the human user – in this case the justice seeker." YANNIC KÖRTGEN, DEUTSCHE GESELLSCHAFT FÜR INTERNATIONALE ZUSAMMENARBEIT (GIZ)

A key principle is that of ownership, which means that people involved in measures can identify with them and take on responsibility for implementing them successfully – at the political level as well as at the level of partner organisations and the specific project's target groups. This must be carefully balanced with the interests of the donor institution through ongoing dialogue, and processes must be transparent and inclusive. Cooperation on an equal

footing and political dialogue are the foundation of legitimate and successful efforts to promote the rule of law. The ownership principle also supports the do-no-harm principle by helping to prevent unintended, harmful effects on a specific group of the population, for example.

As a basic principle, measures for promoting the rule of law should be designed in accordance with the needs of the local populations and with a view to achieving the political goal of peacebuilding. The aim of rule of law promotion is not to unilaterally export legislation. For instance, in certain contexts, the legal tradition of restorative justice is far more prevalent than decision-making through court ruling.

Forces which unite society and build peace must be identified and given targeted support. In this regard it is important to take account of local absorption capacity – for example, in cases where there is already an oversupply of foreign legal advisors, bringing in more can create competition which makes the engagement less effective.

Finally, to avoid negative effects, it is important to ensure lawful conduct on the part of stakeholders involved in implementing the plan, through structures and processes that, for example, prevent corruption and abuse of power vis-à-vis male and female staff or third parties. Particularly in fragile situations, it is not enough to rely on local regulations and their implementation.

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Civil society has a decisive role to play in providing space for developing political ideas and concepts. Civil-society actors are vital in their role as watchdogs – when, for instance, from on the ground or abroad, they report violations of important standards related to democracy and the rule of law.” FRANZISKA

RINKE, KONRAD-ADENAUER-STIFTUNG

2.2.4. Political support, and coordination with local partners, civil society and international actors

Projects for promoting the rule of law impact existing power structures and can therefore easily encounter conflicting interests and other forms of resistance. As a result, a purely technical approach to consultations on reforming the rule of law is often insufficient. Rather, the political and strategic level must be connected to the implementation level. Action at both levels needs to be underpinned by political dialogue and diplomatic support to tease out and encourage the necessary political will needed for it to succeed on the side of the project partners.

As far as possible, measures should form part of a holistic approach which includes the national and sub-national levels. For example, projects and programmes to support reforms of the judiciary should not only target the superior judiciary but also lower-level courts and justice mechanisms, as well as civil society.

A human rights-based approach to promoting the rule of law

Efforts to develop and protect human rights are inter-dependent and mutually reinforcing – human rights are essential to shaping development processes in such a way as to provide the whole population with greater freedoms. For their part, development processes are an important pre-requisite for people to demand, exercise and assert their rights.

In the field of promoting the rule of law, this can, for example, mean providing better access to justice and dispute resolution for marginalised groups of the population and women, or helping bring the perpetrators of past human rights violations to account. Civil society participation and strengthening social control is particularly important in this regard.

In addition, it is crucial to closely coordinate with other donors and international organisations – in part to increase, where applicable, the impact of political messages and to create constructive and enhancing synergies between different measures.

The rule of law should also be promoted through closer exchange among experts ('communities of practice'), networks of important actors in countries of the Global South and more funding for civil-society activities, for example through foundations and NGOs, or directly.

2.2.5. A human rights-based approach

Promoting the rule of law takes place through a human rights-based approach. This means that, beyond the rule of law in a formal sense, it is important to consider the substance of the engagement. Depending on the context, measures for promoting the rule of law can also strengthen human rights, fair procedural rights and the principles of international humanitarian law. They can also introduce these elements in jurisdictions where they are insufficiently present or respected. It is therefore important to seek out critical dialogue with actors who do not share the international understanding of human rights.



3. Goals and instruments

3.1. Context-specific operational goals

Operational goals for promoting the rule of law are (secondary) goals which are set for specific contexts – such as a region, country or area – on the basis of a context analysis and in order to achieve overarching strategic aims. Methodologies such as the Theory of Change help to systematically identify mechanisms and to select the right operational goals and instruments for each context.

3.1.1. Building and improving the structures and procedures of state institutions

In many contexts, promoting the rule of law focuses primarily on building and/or improving the structures and procedures of institutions in all three branches of government. This also includes consultations on constitutional reforms, federalism and decentralisation.

3.1.2. Supporting legal reforms, closing gaps in implementation

Legal norms are largely set by parliaments, but they can also be set by the executive and other institutions with their own regulatory powers. Cooperation with actors involved in the legislative or regulatory process aims to raise the quality of legal norms (in terms of consideration for the context, systematically embedding norms in the legal system, and improving legal certainty and clarity of language) as well as improving the legislative process (for instance by including experts and civil society).

It is also possible to set goals to promote the rule of law within the executive, in particular with regard to strengthening equal implementation of the law. In many cases, there are adequate laws and regulations in place, but they are not, or not sufficiently, implemented in practice. Before promoting norm-setting processes, it is therefore necessary to establish which regulations are in

place, how they are implemented and how any gaps in implementation can be closed. As a general rule, implementing existing norms – where appropriate by adapting them to new goals and circumstances – through government institutions and in society (known as ‘activating them’) should be favoured over introducing new codification.

3.1.3. Access to justice and dispute resolution



Laws and institutions are more effective and responsive to public concerns when justice seekers are aware of their rights and know how to access public services. Legal empowerment not only helps citizens to engage with the authorities, but also contributes to building mutual trust and confidence in fragile and conflict affected situations.” ERWIN VAN DER BORGHT,

INTERNATIONAL DEVELOPMENT LAW ORGANISATION

Equal, fair and effective access to justice – in its broad sense that includes out-of-court dispute resolution – is a substantive component of promoting the rule of law, and is a key focus of SDG 16 of the 2030 Agenda. SDG 16 covers access to legal services, the state justice system and non-state justice institutions, including legal aid, legal counselling and non-governmental legal advice.

3.1.4. Strengthening the independence of the courts and integrity of the justice system

The term 'justice' refers first and foremost to jurisdiction. Accordingly, judicial reforms focus on clear and objective requirements regarding appointments, qualifications and performance of duties; improvements to the way courts are organised; and the practices, knowledge and capacity of judges. Strengthening the independence of judges is extremely important, because fair trials are only possible if rulings are free from undue influence. In conjunction with this, strengthening judges' integrity on the basis of the Bangalore Principles of Judicial Conduct is an important goal.

Bangalore Principles of Judicial Conduct

The 2002 Bangalore Principles of Judicial Conduct are globally recognised principles of judicial ethics and largely based on Article 11 of the United Nations Convention against Corruption. They contain six key ethical values: independence, impartiality, integrity, propriety, equality and competence. The principles were developed by the Judicial Integrity Group, a body of high-ranking judges from various continents. In Africa, South America and Asia in particular they have provided many countries with a model for developing ethical codes of conduct. They have been recognised by inter alia the United Nations Economic and Social Council (ECOSOC).

3.1.5. Establishing and strengthening the administration of justice and law enforcement

Alongside jurisdiction, public prosecution offices, bar associations and institutions with similar functions are important actors within the legal system; strengthening them can be an aim of cooperation on the rule of law. Here too, it can be useful to improve structures, processes and capacities. However, the levels of independence can differ – public prosecution offices tend to be part of the executive, yet must also be protected from becoming tools through which political power is exercised. Lawyers must also be protected in order to ensure they can carry out their duties without undue influence.

3.1.6. Binding the administration to the law and justice; disseminating the law

The German understanding of the rule of law provides for the fundamental principle of binding the administration to the law, and judicial control over administrative action. Often, these notions are not addressed by international actors and are therefore a natural focus of German engagement. It is not possible to effect real change within society by improving standard-setting processes, supporting the formulation of important laws, and training administrative and judicial personnel alone. It is also important to make laws visible and to disseminate them by raising awareness of them and explaining them in appropriate ways, including by teaching law in schools.

3.1.7. Strengthening key actors

It is also possible to aim to strengthen specific groups or individuals who are exposed to specific risks or who are particularly important when it comes to developing structures and processes linked to the rule of law. Those in particular need of protection include ethnic minorities, and activists who advocate for particular issues (e.g. women's or children's rights). In addition, support needs to be provided to stakeholders and forums that will play an important role in making important decisions. These include national human rights institutions, civil-society legal advice services, and decision-makers within the judiciary and administration who have integrity, and are influential and open to reform. In the medium and long term, actors such as lecturers in law and individuals of particular significance in their country can be crucial to educating the next generation.

3.1.8. Political participation and constructive relations between the state and society

Political participation in society and constructive relations between the state and society are particularly important to achieving the strategic goal of promoting democracy. The full range of measures covers supporting the right to vote and good election management, party and parliamentary law, and civil-society initiatives designed to increase public participation in important decision-making processes. Furthermore, civil society plays a key role in fighting corruption within the judiciary and administration.

3.2. Instruments

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German efforts to promote the rule of law must become more innovative if they are to remain effective in the future. For example, the Federal Government and its partners can significantly improve access to justice and dispute resolution through digital and other technological solutions.”

TILMANN RÖDER, RSF-HUB

Every medium and long-term form of engagement in promoting the rule of law must be based on a thorough and comprehensive analysis of the local context in order to achieve the desired results and avoid perverse effects. Short-term measures do require proper context analyses, too.

A variety of instruments serve to promote the rule of law. They should always be used reflexively, i.e. their impact should be continually monitored, including for negative effects, and measures should be adapted to changing circumstances. It is possible to predict impact using the knowledge acquired by systematically evaluating projects on the basis of whether the operational goals were achieved by the activities agreed and whether efforts were focused on achieving the intended strategic aims.

The Federal Government will therefore continually feed the results of impact monitoring and predictions into the political dialogue that supports the project.

Using technical innovation and digitalisation to strengthen the rule of law

Innovative technical and digital tools offer solutions for numerous approaches to promoting the rule of law. For instance, digitalising the judiciary (e.g. through electronic case management or filing systems) can make it more efficient and transparent. Furthermore, information about rights, institutions and procedures (for example legal aid or application processes) can be widely disseminated online.

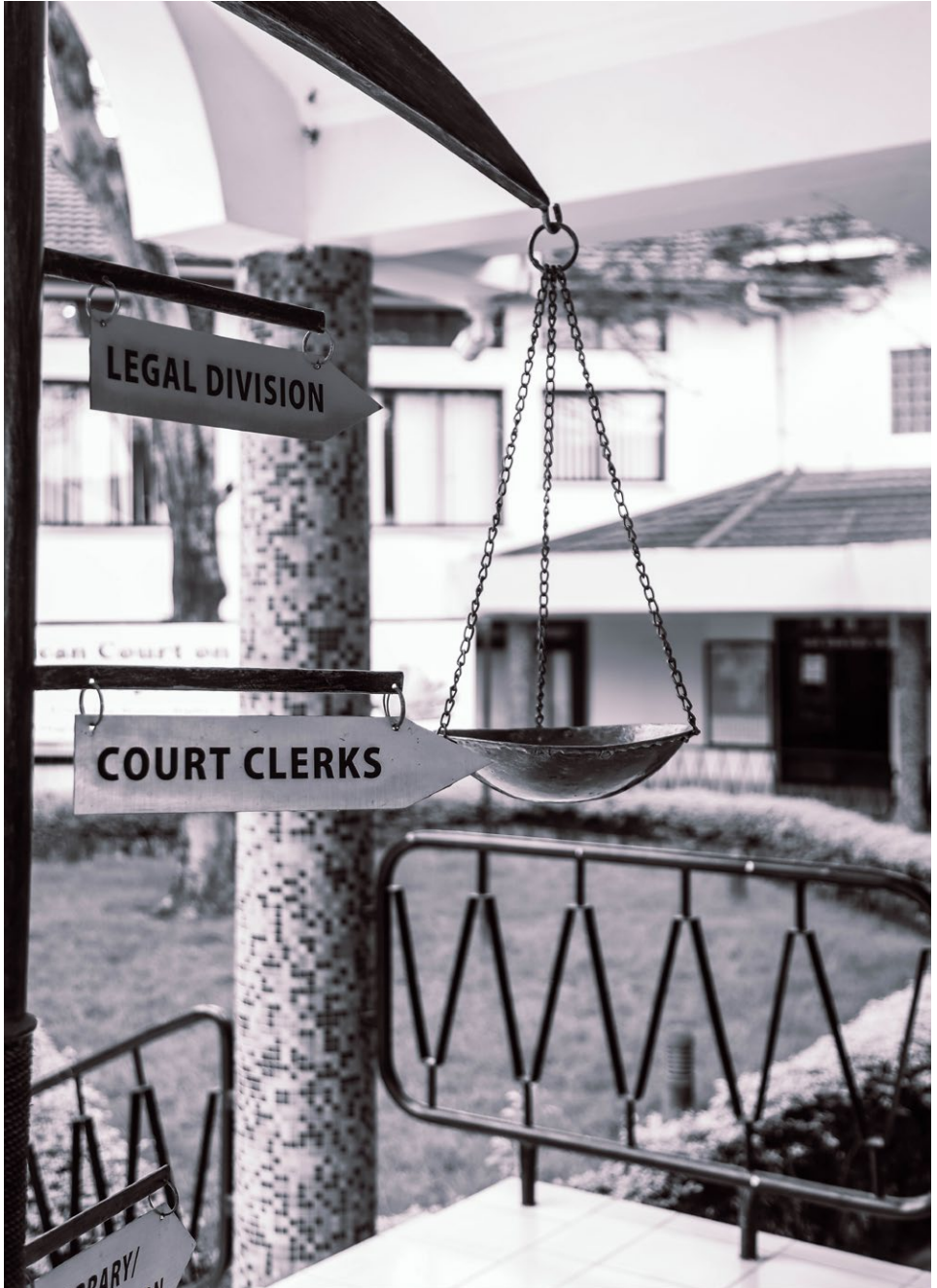
Digital technologies can even be used in situations of active conflict, for example to inform combatants of the rules of international humanitarian law or to collect evidence regarding war crimes. However, in fragile contexts, it is important to exercise greater caution with regard to data security and adherence to legal and ethical standards.

Furthermore, there must be constant openness to innovative methodologies for using instruments are used, for example in regions where state institutions are not fully present or in terms of using digital technology to increase inclusivity and efficiency.

As a general rule, instruments lend themselves to achieving various different goals rather than to being linked to specific goals. Below is a – non-exhaustive – list of important examples.

3.2.1. Training and professional development (advice on applying the law), material aid and exchange programmes

Providing education and professional training to people working in law, at times in conjunction with material aid, for example for court buildings or law schools, is necessary to equip decision-makers with the knowledge they require to perform their duties. Capacity-building measures are more effective if they are embedded within an overall set of measures and reforms. Moreover, experience shows that it is worth focusing on younger target groups because they are particularly open to applying the newly acquired knowledge in their early or future professional lives. It is therefore crucially important to strengthen legal education by training lecturers and updating law school curricula. Equally important measures in this regard include providing training routes similar to practical legal training to prepare practitioners for working life, and developing modern, context-specific teaching materials and exchange programmes for students and teachers. While these approaches may only start yielding results after several months or years, their longer-term nature often makes them all the more effective. The same goes for raising the awareness of the local population about important legal regulations and pathways to find access to justice and dispute resolution.



3.2.2. Consultations and secondment of experts

Consultations on constitutions, laws and other legal norms often form the foundation of engagement on the rule of law. It is important to note that the isolated transfer of knowledge does not lead to change within society; the knowledge needs to be sought by the partners, embedded in the relevant political context, and supported by educational and activation measures.

Experts can be seconded as part of, for example, UN, EU or OSCE peace-building and rule-of-law missions, or directly to local administrative or judicial institutions ('twinning').

3.2.3. Formats for dialogue

Multilateral, bilateral and intra-state dialogues constitute important tools.

Bilateral dialogue processes include comprehensive dialogues on the rule of law initiated at a high political level. In these, the collaboration between the various legal actors – the three branches of government, legal practitioners, civil society and universities – is coordinated by a government institution in Germany (the Federal Ministry of Justice and Consumer Protection) and one in the host country. This enables all actors to coordinate their action and resources to be deployed in a targeted manner; it also provides particular visibility at the political level, which affords the actors and individual measures involved a certain degree of protection. These types of dialogues on the rule of law have been conducted with China and Vietnam for many years.

Smaller-scale dialogues have also proven to be effective in facilitating exchanges on basic normative understandings, for instance with Islamic partners. They are valued as the start of cooperation on an equal footing and offer the opportunity to transfer knowledge. They also raise interest in approaches involving more direct intervention such as training courses and consultations, thereby creating scope for change.

Series of events such as meetings of chief justices and the Global Judicial Integrity Network set up by the UNODC facilitate multilateral exchange between representatives of different professional groups, such as judges.

In intra-state dialogues, German actors run forums and provide moderation. This enables them to avoid aligning with a certain party from the outset through cooperation with specific local stakeholders. Facilitating intra-state dialogue is particularly effective in societies where there is legal pluralism and where therefore various actors such as state and informal legal systems and religious authorities compete over the right to set and implement standards. They are particularly significant in deeply divided post-war societies.

Lastly, diplomatic preparation and support for planned and ongoing projects provides an important framework for a mutual understanding of legal principles and objectives once agreement has been reached on the state of implementation of specific projects. In addition, it protects the local and international stakeholders involved, particularly in countries where they have limited room for manoeuvre (e.g. due to restrictive legislation on NGOs).

3.2.4. Strengthening international jurisdictions and international legal policy

The Federal Government engages in a variety of international mechanisms, in particular those which aim to strengthen international jurisdictions. This includes promoting international criminal tribunals such as the International Criminal Court in The Hague.

The Federal Government also helps to strengthen international legal policy. This includes contributing to the formulation of rules and standards – for example within the framework of the UN, Council of Europe, EU or OSCE – which are binding for all member states, and supporting regional institutions such as the African Union (AU), the Organization of American States (OAS) and regional courts.

Support provided through diplomacy can also be an effective tool for promoting the rule of law when it comes to, for example, calling legislation, government action and court rulings to comply with international law.



3.3. Developing national and international partnerships

Rule of law promotion takes place at the international level (through multi-lateral initiatives, and international and regional organisations), national level (partner countries) and local level (sub-national).

3.3.1. The international level

One part of efforts to promote the rule of law entails multilateral and regional projects which are jointly planned and implemented by German and other national or international actors.

The European Union is an important international institution in this regard. Promoting the rule of law is often an element of cooperation programmes which also contain components aimed at improving governance (e.g. fighting corruption), security sector reform (SSR) and the disarmament, demobilisation

and reintegration (DDR) of ex-combatants. The EU's work seeks to take account of the close connection and inter-dependences between democracy, security and the justice system.

Alongside the European Commission (above all the EU Directorates-General DEVCO and NEAR for development cooperation and neighbourhood policy, but also the foreign contacts of the Directorate-General JUST for justice and consumers), the European External Action Service (EEAS) plays an important role in developing policy for promoting the rule of law. Furthermore, in the context of its joint foreign and security policy (CFSP), the EU has acquired many years of experience in advising and supporting legal systems through its Rule of Law Mission in Kosovo (EULEX).

Through its system of conventions – notably the European Convention on Human Rights and a further 220 conventions – the Council of Europe sets standards on human rights and the rule of law for the entire continent (with the exception of Belarus and Kosovo). Respect for each of these standards can be enforced by the European Court of Human Rights (ECtHR), whose rulings are legally binding for member states. This enables the ECtHR to influence legislation and legal practice in member states. Moreover, it runs individual programmes to further develop judicial practice in selected countries. Another important instrument is the European Commission for Democracy through Law (also known as the Venice Commission), which advises member states and neighbour countries on aligning their constitutions and laws with European standards on democracy, human rights and the rule of law.

The OSCE also supports its participating states in introducing and implementing standards related to the rule of law. Via its Office for Democratic Institutions and Human Rights (ODIHR), it advises on matters including judicial, legal and institutional reform, observes legal proceedings and promotes reform of criminal, civil and administrative law to enable implementation of rule-of-law principles.

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For rule of law assistance efforts to succeed, sustained political, technical, logistical and financial commitment is required. The UN needs strong mandates matched by adequate resources and the effective political engagement and leverage of key Member States such as Germany.” CHARLES

BRIEFEL, UNITED NATIONS (OROLSI)

Within the UN, the Office of Rule of Law and Security Institutions (OROLSI) is responsible for the field of the rule of law, at both the conceptual and operational levels. OROLSI sits within the Department of Peace Operations, and from there it supports measures for promoting the rule of law in peace-keeping missions and in the UN’s Special Political Missions (SPMs). The Federal Government collaborates closely with OROLSI and supports its Standing Police Capacity and Standing Justice and Corrections Capacity, which incorporate OROLSI’s expertise in UN missions at an early stage. Alongside this, the UN has specialised sub-organisations such as the United Nations Office on Drugs and Crime (UNDOC), whose tasks include fighting corruption within the judiciary.

Support for international peace missions (such as MINUSMA in Mali and UNAMA in Afghanistan) and rule-of-law missions (such as MACCIH in Honduras and CICIG in Guatemala) is provided through financial contributions, the secondment of experts, and other accompanying measures.

Regional and development funds generally comprise primarily financial support.

Implementation partnerships linked to SDG 16 of the 2030 Agenda are becoming increasingly significant. This is especially true of Pathfinders for Peaceful, Just and Inclusive Societies, an initiative which Germany joined in 2019.

In the future, cooperation with specialised international organisations such as the International Development Law Organisation (IDLO) should be strengthened.

3.3.2. The national level

German implementing organisations, political foundations, various non-governmental organisations, and professional associations such as the German Association of Judges, the German Bar Association, and lawyers' associations and notary chambers are important partners for the Federal Government when it comes to designing and implementing projects.

Academia also plays a major role in promoting the rule of law by acting as a project partner and providing critical comment. Academic research provides important insights into the effectiveness of individual instruments.

The *Länder* (German federal states) promote the rule of law through initiatives such as exchange programmes and partnerships between courts.

3.3.3. The local level

German implementing organisations plan and run numerous projects with local partners. In contrast, to date there have been few instances of direct support for implementing organisations in recipient countries.

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Huge amounts stay with the implementing organizations, which are usually based in the donor countries. A way out of this situation is to directly support local organizations. Ultimately this will save a lot of money and ensure Germany reaches its strategic aims.” LUTFORAHMAN SAEED, AFGHAN LEGAL

RESEARCH AND DEVELOPMENT ORGANISATION, KABUL

Triangular and South-South cooperation facilitates exchange and collaboration between actors who often face similar acute challenges.

4. Strengthening interministerial action

In order to foster its interministerial approach to promoting the rule of law, the Federal Government will promote links with civil society and academia, develop the expertise of the ministries involved, and embed and further develop processes of interministerial coordination, particularly in the areas of analysis, strategy development, monitoring and evaluation.

4.1. Setting up a cross-strategy working group

To strengthen interministerial action and implement this strategy, the Federal Government will continue the practical, interministerial discussion of Federal Government action in the fields of SSR, promotion of the rule of law, and dealing with the past and reconciliation by merging the three current strategy-specific working groups into a single cross-strategy working group.

The cross-strategy working group will become operational in 2019.

Its major tasks will include supporting the interministerial implementation of the courses of action formulated in the strategies for security sector reform, promotion of the rule of law, and dealing with the past and reconciliation (transitional justice), and driving interministerial action. In particular, it will aim to increase links with country-specific, interministerial task forces and with other relevant bodies and working groups and make their work more effective.

Instruments, approaches and initiatives should be further developed on the basis of learning experiences and in line with the professional debate at the national and international levels.

4.2. Promoting links with civil society and academia

The Federal Government seeks to strengthen its connections with national and international actors in the field of promoting the rule of law and to develop the corresponding consultation mechanisms. In particular, the contacts and networks established through the PeaceLab between academics, civil society, practitioners and political decision-makers ('community of practice') should also be used in future to further develop German engagement. The aim is to consolidate expert exchange on the risks and conditions for success of measures for promoting the rule of law based on up-to-date academic and practical insights. In addition, such consultation mechanisms should strengthen expert exchange between those involved in promotion of the rule of law, security sector reform and transitional justice.

The Federal Government will organise at least one expert exchange session per year, with representatives of international organisations, members of civil society, the academic community and practitioners.

4.3. Analysis: Strengthening interministerial understanding

The Federal Government is increasingly working on the basis of interministerial understanding when analysing country-specific contexts. Analyses conducted by the German diplomatic missions abroad and by relevant ministries, which set their own areas of focus according to their portfolio (e.g. analyses of actors, human rights risks and conflicts, and of the political and economic circumstances), form an important foundation for coordinated efforts to promote the rule of law. These country analyses should be merged and evaluated with greater orientation towards a rule-of-law perspective. To this end, and if required, relevant ministries can initiate the preparation of specific analyses on the rule of law which take into account the complexity and specific nature of legal systems in individual contexts and that, for example, shed light on the political framework conditions for reform in partner countries, access to justice for different groups within the population and how measures for promoting the rule of law could potentially affect

power and conflict structures in partner countries. The aim is to increasingly move towards a joint assessment of regional/country-specific needs for action, risks, and options for action. Furthermore, the competencies of international, national and local civil-society actors (e.g. international organisations, academia, non-governmental organisations and think tanks) and the implementing organisations' practical experiences should play a greater role in interministerial analyses. All the analyses listed should take into consideration the particular circumstances of women and children, and the various challenges and needs of all groups of the population.

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Despite the disproportionate impact of conflict on women, rule of law programs continue to do little in increasing the role of women in justice. In Libya, for example, development partners – notably Germany – supported the integration of women in local peace structures, comprised of tribal leaders and local administrators, to identify the causes of conflicts. The intervention enhanced women's role in mediating and resolving disputes between communities. It also empowered women to challenge the interpretation and application of discriminatory customary norms. Another successful method is enhancing legal awareness of women to increase their voice and social standing.” NOHA IBRAHIM ABDELGABAR, UNICEF, UND

PALL DAVIDSON, TRANSITION INTERNATIONAL

For selected countries in which multiple government departments are significantly engaged in promoting the rule of law, the Federal Government seeks to establish a basis for action coordinated between ministries through interministerial analyses based on contributions from respective ministries and potentially more in-depth analyses.

4.4. Interministerial strategy development

On the basis of joint assessments, the relevant ministries agree on joint targets in the context of promoting the rule of law and coordinate closely and consistently on measures in accordance with their specific responsibilities. As far as useful and possible, more detailed strategies for promoting the rule of law can also be developed for countries or regions (if appropriate in coordination with similar strategy processes on security sector reform, and transitional justice and reconciliation). This kind of understanding should help to improve the Federal Government's contribution to rule-of-law promotion by international organisations, and its own bilateral measures. It should also help to achieve, via interministerial measures for promoting the rule of law, the Federal Government's political targets for country contexts. Depending on the context in the country, strategies can include short, medium and long-term elements which – if necessary – pick up on measures coordinated with international organisations and partner countries, and illustrate the contribution made by the government departments in question.

In some cases, interministerial country strategies either already exist in countries where promoting the rule of law is necessary, or they are being developed in other Federal Government coordination forums. In these cases, the ministries involved help ensure that the strategies are supplemented by impact logic specific to promoting the rule of law and, if necessary, by impact indicators agreed upon between ministries and to which strategy-level monitoring and evaluation measures can be applied. Should short-term measures be deemed necessary in contexts of crisis and stabilisation, these are possible irrespective of the objectives formulated here.

The Federal Government will therefore develop joint objectives and/or strategies for promoting the rule of law in selected countries/regions in which multiple Federal Government ministries are significantly engaged.

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Anyone seeking to analyse the impact of possible approaches to promoting the rule of law must take the respective cultural, political and institutional contexts into account.”

GÜNTER MAIHOLD, STIFTUNG WISSENSCHAFT UND POLITIK - GERMAN INSTITUTE FOR INTERNATIONAL AND SECURITY AFFAIRS

4.5. Coordinating monitoring, evaluation, and impact observation and assessment between ministries

As a general rule, the respective ministries are responsible for monitoring, evaluation and the observation and assessment of the impact of their portfolio. To implement interministerial principles of action and goals in a coordinated manner, and to identify risks and the need to change course at an early stage, the ministries will increasingly ensure that their respective monitoring and evaluation processes apply comparable goals and uniform standards to facilitate overall comparability.

Moreover, the Federal Government will strengthen its approaches to interministerial monitoring of measures for promoting the rule of law in countries and regions where multiple ministries are significantly engaged. To this end, the ministries will increase the degree to which they swap relevant monitoring reports. In addition, the Federal Government is assessing whether in the future ministries could undertake cross-cutting monitoring missions in these countries and regions to jointly assess, with the partner countries, progress on implementing the Federal Government's measures for promoting the rule of law.

It is equally important to exchange methodologies and results of assessments – i.e. assess the achievement of project-specific goals in terms of the relevant context-specific operational goals (see 3.1) – and impact assessments – i.e. examine the general appropriateness of instruments for achieving context-specific operational and strategic goals (see 2.1.2.) – to jointly learn from experiences. In this regard, the government departments are working more closely with the academic community.

Published by

German Federal Foreign Office

Werderscher Markt 1

10117 Berlin

Phone: +49 30 1817-0

Find out more at: www.diplo.de

Email: poststelle@auswaertiges-amt.de

July 2019

Picture credits

Title: picture alliance/Photoshot

p. 12, 15: GIZ/Thomas Kelly

GIZ/Chris Lu Photography

Printed by

MKL Druck GmbH & Co. KG

Layout

www.kiono.de